

<h1>REPORT</h1> <p style="text-align: right;">To the Honorable Mayor and City Council From the City Manager</p>
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December 8, 2003

Subject

Resolution supporting placement of the proposed "Local Taxpayers and Public Safety Protection Act" on the November 2, 2004 statewide ballot

Recommendation

Adopt a resolution supporting placement of the proposed "Local Taxpayers and Public Safety Protection Act," a measure sponsored by the League of California Cities, on the November 2, 2004 statewide ballot

Background

In recent years, the State legislature and the governor have approved laws that divert, use, or "shift" local tax revenues away from local governments or in some cases delay the payment of local tax revenues to local governments.

The State's trend toward further confiscation of local tax revenues (that local governments use to provide essential services such as police and fire protection, emergency and public health care, roads, parks, libraries, and water delivery), extends back for more than a decade. Since 1991, the State has taken more than \$30 billion of local property taxes from cities, counties, and special districts. In just the last fiscal year, cities lost \$800 million of local funds in this manner, and nearly \$7 billion over the last 12 years. Remarkably, even in years of a State budget surplus, the State has continued to take these funds and use them to finance its constitutional funding obligation to education, thus allowing it to increase State general fund spending for other State programs.

Adding to the problem, in recent years the State has also shifted costs for State-sponsored programs and delayed constitutionally-required reimbursements to local governments for State-mandated programs and services. More specifically, in the last two years the State has "deferred" over \$1 billion in such constitutionally-required reimbursements to local governments.

It's abundantly clear that the State-local fiscal system is broken. With the lack of any effort by the legislature to address this worsening problem, the League of California Cities joined with the California State Association of Counties (CSAC) and the California Special Districts Association (CSDA) to sponsor a ballot initiative entitled the "Local Taxpayers and Public Safety Protection Act." This measure has been filed with the State Attorney General's office, and now the League and its partners must gather sufficient signatures to place the measure on the November, 2004 ballot.

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If placed on the ballot and approved by the electorate, this measure will give the voters the ultimate say on whether their local tax funds may be spent for State services. The measure will require a simple majority voter approval of any proposed State law that reduces the sales, property, or Vehicle License Fee (VLF) funds of cities, counties, or special districts. There is reasonable flexibility built-in to the measure which would allow a reduction in the VLF so long as it is replaced with substitute revenues, i.e., a "backfill."

This measure would also clarify the State's duty to reimburse local governments in a timely manner for new mandated programs or mandated higher levels of service, thus protecting local governments from hidden costs shifts.

This measure will not raise tax rates or fees; it will not repeal laws that the State has already passed; it will not require the return of property taxes already taken by the State, nor will it affect funding for education; and, it will not prevent structural reform of the fiscal system – in fact, it simply requires that needed structural changes be planned collaboratively by State and local leaders, and be approved by the voters.

The League is seeking active support for this measure from cities, counties, and special districts. Our early support for placing this measure on the November 2, 2004 ballot will help lend credibility and authority to the grassroots efforts being undertaken by the League and its partners to secure sufficient signatures to qualify for the ballot. It is hoped that our City's support, along with that of other local governments throughout California, will ultimately result in a successful ballot measure and a strong level of protection of our local funds from further depletion by the State.

Alternative

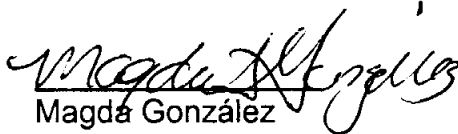
The Council could choose not to adopt this resolution and therefore not go on record in support of providing California voters with a viable means of protecting local funds from seizure by the State.

Fiscal Impact

There is no fiscal impact associated with the adoption of this resolution.



Malcolm Smith
Public Communications
Manager



Magda González
Assistant to the City Manager



Ed Everett
City Manager

Attachments

Draft Resolution

League of California Cities' questions and answers sheet about the proposed "Local Taxpayers and Public Safety Protection Act"

Text of the proposed "Local Taxpayers and Public Safety Protection Act"

RESOLUTION No. _____

**RESOLUTION SUPPORTING PLACEMENT OF THE
"LOCAL TAXPAYERS AND PUBLIC SAFETY
PROTECTION ACT" INITIATIVE ON THE NOVEMBER 2,
2004 STATEWIDE BALLOT, REQUIRING VOTER
APPROVAL BEFORE STATE GOVERNMENT MAY
CONFISCATE LOCAL TAX FUNDS**

WHEREAS, the State of California annually seizes \$824 million of city property tax funds (ERAF), seriously reducing resources available for vital local services such as public safety; and

WHEREAS, in adopting the FY 2003-04 state budget the Legislature and Governor confiscated a portion of the local vehicle license fee "backfill" and redevelopment property tax funds that are needed to finance critical city services such as public safety, housing and economic development; and

WHEREAS, the FY 2003-04 budget also relies on a deficit bond financing program, opposed by the League of California Cities, that is predicated on a local property and sales tax "swap" that leaves cities vulnerable to future losses if the state's economic condition fails to improve; and

WHEREAS, the adopted budget assumes the state will continue to face an ongoing structural budget deficit of at least \$8 billion, putting local government financial resources at severe risk in future years; and

WHEREAS, the State has repeatedly shifted costs for State-sponsored programs, and over the last two years has "deferred" over \$1 billion in constitutionally-required reimbursements to local governments for State-mandated programs and services; and

WHEREAS, it is abundantly clear that State leaders will continue to use local tax funds to balance the State budget unless the voters limit the power of the Legislature and Governor to do so; and

WHEREAS, research conducted by the League of California Cities in recent years indicates that an initiative that would require voter approval before the State government can confiscate local tax funds would likely be supported by an overwhelming number of voters; and

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WHEREAS, the voters of California should have the ability to make decisions on whether local funds traditionally used to finance valuable local community services should be diverted, confiscated, shifted or otherwise taken by the Legislature to finance an ever-expanding State government; and

WHEREAS, the Board of Directors of the League of California Cities by unanimous roll call vote at its July, 2003 meeting agreed to sponsor a statewide ballot initiative to empower the voters of California to limit the ability of State government to confiscate local tax funds to fund state government and to clarify the State's duty to reimburse local governments in a timely manner for State-mandated programs and services; and

WHEREAS, the Board has requested that cities across the state support and endorse the placement of such a measure on the November, 2004 statewide ballot.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF REDWOOD CITY DOES HEREBY:

1. Express its strong support for the placement of the "Local Taxpayers and Public Safety Protection Act" on the November 2, 2004 statewide ballot, to provide the voters of California the power to reestablish limitations on the power of the Legislature and Governor to seize local tax funds that finance vital local services, by providing for voter approval on whether local tax funds may be taken, confiscated, shifted, diverted, or otherwise used to fund State government operations and responsibilities;
2. Authorize the City Council and staff to provide impartial informational materials on the initiative as may be lawfully provided by the City's representatives, attentive to the fact that no public funds shall be used to campaign for or against the initiative;
3. Encourage the residents of Redwood City to become well-informed on the initiative and its possible impacts on the critical local services on which they rely.

2004 Local Taxpayers and Public Safety Protection Act ~ Q&AProvided by the League of California Cities ~ www.cacities.org**What would this measure do?**

The 2004 Local Taxpayers and Public Safety Protection Act would increase local control over our local tax dollars. This measure would let the voters have the final say on proposed actions by the State Legislature that would further reduce local government funding. It would protect the vital local services that California residents rely on each and every day – such as public safety and emergency care, roads, libraries, parks and transportation – by requiring voter approval before the State could reduce funding for local services or shift more costs for state programs to local governments.

Why is your measure needed?

For more than a decade, the California State Legislature has been taking away increasing amounts of local tax dollars that local governments use to provide essential services like police and fire protection, emergency and public health care, roads, parks, libraries and water delivery. In fact, through good times and bad, the State has been taking away billions in local tax dollars each year – forcing local governments to either raise local fees or taxes to maintain services, or cut back on critically needed services. The system is broken. Voters must act now to protect local services by protecting local revenues from being taken by the State.

When do you plan to put this on the ballot? How many signatures do you need to qualify?

Officially, we need 598,105 valid signatures to qualify the measure for the November 2004 ballot. We plan to collect a far greater number of signatures to ensure it qualifies and that the voters are given the opportunity to protect their local tax dollars and protect funding for local public safety, health and other essential local services.

Who supports this measure?

The principal sponsors of the 2004 Local Taxpayers and Public Safety Protection Act are the League of California Cities, California State Association of Counties and the California Special Districts Association. Now that we have filed the initiative, we expect to grow a broad and diverse coalition of public safety and health advocates, taxpayer and business groups, seniors, community leaders and others who all have an interest in supporting the voters' right to protect their local tax dollars and their local services.

Will this measure prevent state fiscal reform efforts?

No. In fact, a key element of State fiscal reform is drawing a clear line in the sand that prevents the State Legislature from using local revenues to solve its problems or as a means of increasing state spending at the expense of local services.

Will this measure raise taxes?

No. In fact, this measure will help decrease pressures for local fees and taxes by protecting local revenue sources from state legislative raids.

Does this measure increase revenues to local governments?

No. It simply prevents the State Legislature from further taking local government revenues without a vote of the people.

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How will the new Governor respond to this? Don't you think you should first give him a chance to correct the fiscal problems of the state?

First, we would like to thank the Governor-elect for his positive statements in the media and during his campaign and his pledge to protect local services. We look forward to working with Governor Schwarzenegger to achieve his stated goal of protecting local governments and allowing local governments to provide the services that CA residents rely on every day. The fact is, however, the voters deserve to have the final say on state actions that will erode their local tax dollars and local services – no matter who is the governor and what the composition of the legislature.

Why didn't you attempt to recollect lost ERAF property tax dollars?

This measure was intentionally drafted to draw a line in the sand and prevent future state legislative raids of local government funding. While local governments and services are still suffering from the continual state raid of property taxes, given the state of California's fiscal health, we believe a more responsible approach at this time is to "stop the bleeding" at current levels.

Will this measure erode funding for education?

No. This measure does not reduce state funding to schools and does not reduce funding that schools receive from local property taxes.

What about other state programs? Will your measure reduce funding for State programs like roads and prisons?

Again, our initiative simply prevents the State from taking LOCAL revenues without a vote of the people. The state still has flexibility over its own revenues.

Will this measure tie legislature's hands in passing a budget?

No. Our initiative does not tell the state how to spend its own revenues. It simply prevents the State from taking funds that are designated for local governments and local services, or shifting/imposing costs to locals -- unless first approved by a vote of the people.

Aren't we just adding to the state's fiscal woes by initiating further "ballot-box budgeting" that puts restrictions on how they can spend their revenues?

No. The initiative does not tell the state how to spend the state's own revenues (as some propositions have done). What it does do is prevent the state from taking local revenues for state purposes without a vote of the people. It essentially confirms that local tax revenues are for local government services unless the voters decide otherwise.

Does this measure prevent the new Governor or Legislature from rolling back the car tax?

No. It simply ensures that local governments will be kept "whole" through a backfill or some other means. If the legislature and/or Governor want to roll back the car tax without providing backfill to local governments, they are free to do so but must get the approval of the electorate.

THE LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT

SECTION ONE. Short Title.

These amendments to the California Constitution shall be known and may be cited as the LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT.

SECTION TWO. Findings and Purposes

(a) The People of the State of California find that restoring local control over local tax dollars is vital to insure that local tax dollars are used to provide critical local services including police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance. Reliable funding for these services is essential for the security, well-being and quality of life of all Californians.

(b) For many years, the Legislature has taken away local tax dollars used by local governments so that the State could control those local tax dollars. In fact, the Legislature has been taking away billions of local tax dollars each year, forcing local governments to either raise local fees or taxes to maintain services, or cut back on critically needed local services.

(c) The Legislature's diversion of local tax dollars from local governments harms local governments' ability to provide such specific services as police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance.

(d) In recognition of the harm caused by diversion of local tax dollars and the importance placed on voter control of major decisions concerning government finance, and consistent with existing provisions of the California Constitution that give the people the right to vote on fiscal changes, the People of the State of California want the right to vote upon actions by the State government that take local tax dollars from local governments.

(e) The Local Taxpayers and Public Safety Protection Act is designed to insure that the People of the State of California shall have the right to approve or reject the actions of state government to take away local revenues that fund vitally needed local services.

(f) The Local Taxpayers and Public Safety Protection Act strengthens the requirement that if the State mandates local governments to implement new or expanded programs, then the State shall reimburse local governments for the cost of those programs.

(g) The Local Taxpayers and Public Safety Protection Act does not amend or modify the School Funding Initiative, Proposition 98 (Article XVI, section 8 of the California Constitution).

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(h) Therefore, the People declare that the purposes of this Act are to:

- (1) require voter approval before the Legislature removes local tax dollars from the control of Local Government, as described in this measure;
- (2) insure that local tax dollars are dedicated to local governments to fund local public services;
- (3) insure that the Legislature reimburses local governments when the State mandates local governments to assume more financial responsibility for new or existing programs; and
- (4) prohibit the Legislature from deferring or delaying annual reimbursement to local governments for state-mandated programs.

SECTION THREE. Article XIII E is hereby added to the California Constitution to read as follows:

ARTICLE XIII E Local Taxpayers and Public Safety Protection Act

Section 1. State-wide Voter Approval Required

(a) Approval by a majority vote of the electorate, as provided for in this section, shall be required before any act of the Legislature takes effect that removes the following funding sources, or portions thereof, from the control of any Local Government as follows:

- (1) Reduces, or suspends or delays the receipt of, any Local Government's proportionate share of the Local Property Tax when the Legislature exercises its power to apportion the Local Property Tax; or requires any Local Government to remit Local Property Taxes to the State, a state-created fund, or, without the consent of the affected Local Governments, to another Local Government;
- (2) Reduces, or delays or suspends the receipt of, the Local Government Base Year Fund to any Local Government, without appropriating funds to offset the reduction, delay or suspension in an equal amount;
- (3) Restricts the authority to impose, or changes the method of distributing, the Local Sales Tax;
- (4) Reduces, or suspends or delays the receipt of, the 2003 Local Government Payment Deferral; or
- (5) Fails to reinstate the suspended Bradley-Burns Uniform Sales Tax Rate in accordance with Section 97.68 of the Revenue and Taxation Code added by Chapter 162 of 2003 Statutes; or reduces any Local Government's allocation of the Property Tax required by Section 97.68 while the Sales Tax Rate is suspended.

(b) A vote of the electorate, as provided in this section, shall also be required if an act of the Legislature that establishes classifications or exemptions from the Local Property Tax or the Local Sales Tax does not include a continuous appropriation to reimburse Local Governments for the actual loss of revenue from those classifications or exemptions.

(c) Prior to its submission to the electorate, an act subject to voter approval under this section must be approved by the same vote of the Legislature as is required to enact a budget bill and shall not take effect until approved by a majority of those voting on the measure at the next statewide election in accordance with subdivision (d).

(d) When an election is required by this section, the Secretary of State shall present the following question to the electorate: "Shall that action taken by the Legislature in [Chapter ___ of the Statutes of ___], which affects local revenues, be approved?"

Section 2. Definitions

(a) "Local Government" means any city, county, city and county, or special district.

(b) "Local Government Base Year Fund" means the amount of revenue appropriated in the 2002-2003 fiscal year in accordance with Chapters 1 through 5, commencing with section 10701 of Part 5 of Division 2 of the Revenue and Taxation Code, adjusted annually based upon the change in assessed valuation of vehicles that are subject to those provisions of law. In the event that the fees imposed by those provisions of law are repealed, then the Fund shall be adjusted annually on July 1 by an amount equal to the percentage change in per capita personal income and the change in population, as determined pursuant to Article XIIB.

(c) "2003 Local Government Payment Deferral" means the amount of revenues required to be transferred to Local Government from the General Fund specified in subparagraph D of paragraph 3 of subdivision (a) of section 10754 of the Revenue and Taxation Code in effect on August 11, 2003.

(d) "Local Property Tax" means any Local Government's January 1, 2003 proportionate share of ad valorem taxes on real property and tangible personal property apportioned pursuant to the Legislature's exercise of its power to apportion property taxes as specified in Article XIII A, section 1. "Local Property Tax" also means any Local Government's allocation of the ad valorem tax on real property and tangible personal property pursuant to Article XVI, section 16.

(e) "Local Sales Tax" means any sales and use tax imposed by any city, county, or city and county pursuant to the Bradley-Burns Uniform Sales and Use Tax (Chapter 1 of Part 1.5 of Division 2 of the Revenue and Taxation Code) in accordance with the law in effect on January 1, 2003.

(f) "Special District" means an agency of the State, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions with limited geographic boundaries, including redevelopment agencies, but not including school districts, community college districts, or county offices of education.

(g) "State" means the State of California.

Section 3. Interim Measures

(a) The operation and effect of any statute, or portion thereof, enacted between November 1, 2003 and the effective date of this Act, that would have required voter approval pursuant to Section 1 if enacted on or after the effective date of this Act (the "Interim Statute"), shall be suspended on that date and shall have no further force and effect until the date the Interim Statute is approved by the voters at the first statewide election following the effective date of this Act in the manner specified in Section 1. If the Interim Statute is not approved by the voters, it shall have no further force and effect.

(b) If the Interim Statute is approved by the voters, it shall nonetheless have no further force and effect during the period of suspension; provided, however, that the statute shall have force and effect during the period of suspension if the Interim Statute or separate act of the Legislature appropriates funds to affected local governments in an amount which is not less than the revenues affected by the Interim Statute.

SECTION FOUR. Article XIIB Section Six (6) is hereby amended as follows:

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall annually provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

- (a) (1) Legislative mandates requested by the local agency affected;
- (b) (2) Legislation defining a new crime or changing an existing definition of a crime; or
- (c) (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) The annual subvention of funds required by this section shall be transmitted to the local government within 180 days of the effective date of the statute or regulation or order by a State officer or agency that mandates a new program or higher level of service, or within 180 days of a final adjudication that a subvention of funds is required pursuant to this section. For purposes of this section, the Legislature or any State agency or officer mandates a new program or higher level of service when it creates a new program, requires services not previously required to be provided, increases the

frequency or duration of required services, increases the number of persons eligible for services, or transfers to local government complete or partial financial responsibility for a program for which the State previously had complete or partial financial responsibility.

(c) If during the fiscal year in which a claim for reimbursement is filed for a subvention of funds, the Legislature does not appropriate a subvention of funds that provides full reimbursement as required by subdivision (a), or does not appropriate a subvention of funds that provides full reimbursement as part of the state budget act in the fiscal year immediately following the filing of that claim for reimbursement, then a local government may elect one of the following options:

(1) Continue to perform the mandate. The local government shall receive reimbursement for its costs to perform the mandate through a subsequent appropriation and subvention of funds; or

(2) Suspend performance of the mandate during all or a portion of the fiscal year in which the election permitted by this subdivision is made. The local government may continue to suspend performance of the mandate during all or a portion of subsequent fiscal years until the fiscal year in which the Legislature appropriates the subvention of funds to provide full reimbursement as required by subdivision (a). A local government shall receive reimbursement for its costs for that portion of the fiscal year during which it performed the mandate through a subsequent appropriation and subvention of funds.

The terms of this subdivision do not apply, and a local government may not make the election provided for in this subdivision, for a mandate in effect on January 1, 2004 that either requires safe working conditions for local government employees or establishes procedural rights arising from and directly relating to local government employment.

(d) For purposes of this section, "mandate" means a statute, or action or order of any state agency, which has been determined by the Legislature, any court, or the Commission on State Mandates or its designated successor, to require reimbursement pursuant to this section.

SECTION FIVE. Construction.

(a) This measure shall be liberally construed to effectuate its purposes, including providing adequate funds to Local Government to fund local services such as police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance.

(b) This measure shall not be construed either to alter the apportionment of the ad valorem tax on real property pursuant to Section 1 of Article XIII A by any statute in effect prior to January 1, 2003 or to prevent the Legislature from altering that apportionment in compliance with the terms of this measure.

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(c) Except as provided in Section 3 of Article XIII E added by Section Three of this Act, the provisions of Section 1 of Article XIII E added by Section Three of this Act apply to all statutes adopted on or after the effective date of this Act.

SECTION SIX. If any part of this measure or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications that reasonably can be given effect without the invalid provision or application.