

TAXPAYER PROTECTION

and Government Accountability Act

GET THE FACTS

The **Taxpayer Protection and Government Accountability Act** will give voters the right to vote on all future state taxes and holds politicians accountable for new fees and other increased costs paid by working families and all Californians.

The measure increases accountability by requiring politicians to spend new or higher tax revenue on its intended purpose. It will provide much-needed relief to families, farmers, and business owners, helping them to combat the growing cost-of-living crisis facing all Californians.

The Act doesn't cut any current state or local government funding. It simply gives voters the right to vote on all future tax increases and stops working families from paying billions more in "hidden taxes" imposed by unelected bureaucrats.

The Problem

There is a cost-of-living crisis in California, and it's only getting worse. California's high cost of living not only contributes to the state's skyrocketing poverty, rampant homelessness, and rising crime, but it also pushes working families and job-providing businesses out of the state.

Californians pay the nation's highest state income tax, sales tax and gasoline tax. According to the Census Bureau, we pay more in combined state and local taxes than any other state in the nation. Taxes are only part of the reason for California's rising cost-of-living crisis. We also pay billions more in hidden "fees" passed through to consumers in the price they pay for products, services, food, fuel, transportation, utilities and housing.

But special interests keep demanding more from taxpayers and businesses. State tax revenue has more than doubled from 2011-12 to 2021-22, and politicians are spending every penny they can. Despite a massive state budget surplus of \$46 billion and growing, state legislators and special interests proposed more than \$234 billion in new and higher state taxes in 2021. In 2022, they've already proposed another \$100 billion more. Local governments have stated they will seek tens of billions in higher local taxes in the coming years.

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Taxpayer Protection & Government Accountability Act

GIVES VOTERS AN INCREASED VOICE ON ANY NEW AND HIGHER TAXES

Increases voters' voice on all statewide tax increases. The Act requires state legislation imposing any new or higher taxes to be approved by a majority of voters in a statewide election.

Closes tax loophole at the local level. The Act will reinstate the two-thirds approval requirement for any new or higher “special taxes” proposed by initiative in a local election, while still maintaining the current majority vote requirement for general tax increases. This loophole was created when the California courts undid decades of voter-approved tax law requiring a 2/3 vote for all special taxes.

DEMANDS ACCOUNTABILITY & TRANSPARENCY

Eliminates all “hidden taxes.” The Act reestablishes and clarifies what constitutes a tax or an exempt charge. It restricts the courts from punching new loopholes in Proposition 13 and Proposition 218 by requiring new revenues to be assigned to one of these two categories protected by the transparency and accountability provisions of the TPA. The Act prohibits unelected bureaucrats with no public accountability from imposing “hidden taxes” that could raise billions of dollars in revenue from working families and businesses. Under the measure, any revenue increase must be passed by either the voters or an elected body, making politicians accountable for cost increases on working families and businesses.

Provides improved transparency on how new and higher taxes and exempt charges will be used. The Act will require that all charges for products or services must be based on the *actual cost* to the government service of providing that product or service, and that those costs must also be reasonable, preventing politicians from placing additional franchise fees or other “hidden profit” onto private providers who ultimately pass them on to consumers. Simply put, government should not be making a “profit” off of the services it provides the people it serves.

Holds politicians accountable for truthful description of the new tax proposals. The Act will require that the Legislature and local governments include a legally enforceable, specific designation on the ballot for the use of proposed special taxes, the tax rate and the period the tax would be in effect (limited or in perpetuity). This provision will put an end to “bait and switch” taxes, where politicians say the new revenue will be used for one purpose, then redirect the funds after voters approve the new or increased tax.

Prevents politicians and special interests from circumventing the requirements of this measure. In order to ensure politicians and special interests do not flood the ballot with new and higher tax proposals or impose new or increased charges to before new protections are adopted in November, the Act requires all revenue proposals (taxes and exempt charges) adopted after January 1, 2022 to comply with the Act's new accountability and transparency requirements.

TAXPAYER PROTECTION

FREQUENTLY ASKED QUESTIONS

and Government Accountability Act

How are taxes raised now in California? What taxes can be raised by the Legislature?

Californians pay some of the highest taxes in the country. Tax revenue into state coffers has more than doubled (113%) since Fiscal Year 2010-11, growing from \$122.5 billion to \$261.5 billion in the FY 22-23 budget proposal. During that time, state tax revenue increased by 116% and state fees and other charges increased by 57%. In FY 22-23, taxpayers will pay \$231.4 billion in taxes to the state and an additional \$17.2 billion in fees. Despite this rapid increase in revenue, state expenditures have still grown faster, increasing 119% since 2010-11.

Under current law, the Legislature has authority to pass taxes on nearly everything that we need and use. Even those taxes for which there are current constitutional protections, including property taxes (via Prop. 13 in 1978) and food taxes for home use (via Prop. 163 in 1992), are still at risk from Legislative interference. While Prop. 13 secured the property tax rate, critically important components, including the definition of “new construction” and “transfer of property” were enacted via follow-up statutory language. These definitions can all be changed at the whim of the Legislature. With little to no support from the California courts, which have actively weakened existing taxpayer protections, there are few avenues to challenge efforts in the Legislature when they attempt to undermine even constitutionally protected taxes in California.

What new protections will taxpayers have under the Taxpayer Protection and Government Accountability Act?

The Taxpayer Protection and Government Accountability Act is a common-sense measure that gives California taxpayers the right to vote on *all* new and higher taxes and eliminates unelected bureaucrats’ ability to raise “hidden taxes” and fees without a vote of an elected body. Under the measure, taxpayers will have the final say on all proposed state tax measures after they have passed the Legislature with a 2/3 vote and the governor’s signature. At the local level, all taxes continue to require a vote of the electorate, consistent with current law. Importantly, at the local level, the Act restores critical components of Prop. 218 by requiring citizen-sponsored new or higher special tax ballot measures to pass with a 2/3 vote. In addition, the Act eliminates “hidden” taxes by prohibiting unelected bureaucrats at state or local agencies from passing new or increased fees or other costs. Under the Act, state regulations raising revenue through either fees or other charges must be approved by a majority of the Legislature and signed by the governor. Lastly, the Act provides additional accountability on taxes put on the ballot for voter-approval by requiring a *legally enforceable* use-of-funds, duration and rate each new or higher tax will be in effect to be included in the state tax statute or local tax ordinance.

What are “hidden taxes” and how does this measure impact them?

To avoid the political backlash of raising taxes or fees in the highest cost-of-living state in the country, California legislators pass vague, aspirational legislation that sets policy goals, but that also authorizes unelected bureaucrats like the California Air Resources Board to impose

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oppressive fees and taxes without a vote to achieve those goals. These bureaucratically imposed charges have raised billions of dollars in new revenue from hard working California families and small businesses. An example is the state's cap-and-trade program, which has raised billions of dollars from "hidden taxes" on gasoline and utilities, helping drive California gasoline and utility prices to the among the highest in the nation.

How have the California courts undermined current taxpayer protections?

Starting with Prop. 13 in 1978, and reaffirmed by Prop. 218 in 1996 and Prop. 26 in 2010, California voters have repeatedly and overwhelmingly voted to increase oversight and accountability on new and higher taxes. However, California courts have eroded these protections through cases such as *Cal Chamber v. California Air Resources Board*. In that case, the Court of Appeal created an entirely new, undefined category of revenue that could encompass almost anything and not be a "tax" that required a 2/3 vote of the Legislature or the electorate to implement. In a separate case, the California Court of Appeal struck down a major protection of Prop. 218 by ruling that a special tax increase placed on the ballot by an initiative petition required only a majority vote of the electorate to be adopted. This opens the door to collusion between local governments and special interest groups to effectively sidestep Prop. 218 with "citizen petition" that can be developed and publicized at public expense.

What about in an emergency? Will the state or local governments be able to raise revenue, if needed?

The Taxpayer Protection Act does not change how local governments raise revenue, other than requiring an additional transparency when drafting ballot language for voter approval. At the state level, under the Act, nothing prohibits the Legislature from calling a special election to place a revenue increase on the ballot, should funds to address an emergency be needed prior to the next general election.

Special interests have spent decades trying to undermine Prop. 13. How does the Taxpayer Protection Act affect those efforts, including future split-roll efforts?

Since its passage more than 40 years ago, special interests have spent millions attempting to undermine Prop. 13 in the Legislature, in the courts and at the ballot box. In 2020, special interests placed a \$15 billion split-roll property tax on the ballot. However, California voters, understanding its impact on the cost-of-living, voted down the measure. Undeterred, special interests continue to look for avenues to undermine Prop. 13. One of these tactics is to redirect property tax dollars, which is currently collected and distributed by local governments, and have the state reallocate the tax revenue for other purposes. The Taxpayer Protection Act prevents these efforts to undermine Prop. 13 by mandating that property tax revenue remain in the county in which it was collected.

Will the Taxpayer Protection Act cut current spending?

No. The Act does nothing to current spending or revenue collection. Under the Act, all existing taxes and "fees" will remain in effect. The Act only pertains to future new and increased tax revenue. The measure does require any tax measure placed before voters in 2022 to comply with its provisions in order to stop the state and local governments from attempting to raise revenue before the measure goes into effect.



January 19, 2022

Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional Taxpayer Protection and Government Accountability Act initiative (A.G. File No. 21-0042, Amendment #1).

Background

State Government

Taxes and Fees. This year's state budget spends over \$255 billion in state funds. Over 90 percent of the state budget is funded with revenues from taxes. These include, for example, sales taxes paid on goods and income taxes paid on wages and other sources of income. Much of the rest of the state budget is funded by fees and other charges. Examples include: (1) charges relating to regulatory activities; (2) charges for specific government services or products, like fees charged to drivers to improve roads; (3) charges for entering state property, such as a state park; and (4) judicial fines, penalties, and other charges. The State Constitution requires the state to set fees at a reasonable level, generally reflecting the costs of the services or benefits provided. The state uses revenue from taxes and fees to fund a variety of programs and services, including education, health care, transportation, and housing and homelessness services.

Current Requirements to Approve Taxes and Fees. Under the State Constitution, state tax increases require approval by two-thirds of each house of the Legislature or a majority vote of the statewide electorate. The Legislature can reduce taxes with a majority vote of each house, provided the change does not result in an increase in taxes paid by any single taxpayer. In many cases, the Legislature has enacted statutes that delegate its authority to adjust fees and other


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charges to administrative entities, like state departments. In these cases, these charges can be increased or changed by the department within certain limits.

Local Government

Taxes and Fees. The largest local government tax is the property tax, which raises roughly \$75 billion annually. Other local taxes include sales taxes, utility taxes, and hotel taxes. In addition to these taxes, local governments levy a variety of fees and other charges. Examples include parking meter fees, building permit fees, regulatory fees, and judicial fines and penalties. In order to be considered a fee, the charge cannot exceed the reasonable costs to the local government of providing the associated product or service. Local governments use revenues from taxes and fees to fund a variety of services, like fire and police, public works, and parks.

Current Requirements to Approve Taxes and Fees. State law requires increases in local taxes to receive approval of the local governing body—for example, a city council or county board of supervisors—as well as approval of voters in that local jurisdiction. Most proposed taxes require a two-thirds vote of the local governing board before being presented to the voters. Special taxes (those used for a specific purpose) require a two-thirds vote of the electorate while other types of taxes require a majority vote of the electorate. The majority-vote general taxes can be used for any purpose. Recent case law suggests that citizen initiative special taxes may be approved by majority vote, rather than a two-thirds vote. Currently, local governing bodies have the ability to delegate their authority to adjust fees and other charges to administrative entities, like city departments. In these cases, these charges can be increased or changed by the department within certain limits.

Proposal

This measure amends the State Constitution to change the rules for how the state and local governments can impose taxes, fees, and other charges.

State and Local Government Taxes

Expands Definition of Tax. The measure amends the State Constitution to expand the definition of taxes to include some charges that state and local governments currently treat as fees and other charges. For example, certain charges imposed for a benefit or privilege granted to a payer but not granted to those not charged would no longer be considered fees. As a result, the measure could increase the number of revenue proposals subject to the higher state and local vote requirements for taxes discussed below.

Requires Voter Approval for State Taxes. The measure increases the vote requirements for increasing state taxes. Specifically, the measure requires that legislatively proposed tax increases receive approval by two-thirds of each house *and* a majority vote of the statewide electorate. Voters would still be able to increase taxes by majority vote of the electorate without legislative action, however. Any state tax approved between January 1, 2022 and the effective date of this measure would be nullified unless it fulfills the requirements of the measure.

Requirements for Approving Local Taxes. Whether sought by the local governing body or the electorate, the measure establishes the same approval requirements for increasing local

special taxes. Any local tax approved between January 1, 2022 and the effective date of this measure would be nullified unless it fulfills the requirements of the measure.

Allowable Uses and Duration of State and Local Tax Revenues Must Be Specified. The measure requires state and local tax measures to identify the type and amount (or rate) of the tax and the duration of the tax. State and local government general tax measures must state that the revenue can be used for general purposes.

State and Local Government Fees

Requires the Legislature and Local Government Bodies to Impose State and Local Fees. Fees would have to be imposed by a majority vote of both houses of the Legislature or local governing bodies. The measure would restrict the ability of state and local governments to delegate fee changes to administrative entities. The extent of these restrictions would depend on future court decisions. Any fee approved between January 1, 2022 and the effective date of this measure would be nullified unless it fulfills the requirements of the measure.

Some New State and Local Fees Could Not Exceed Actual Costs. For some categories of fees, if the Legislature or a local governing body wished to impose a new fee or make changes to an existing fee, the measure generally would require that the charge be both reasonable and reflect the actual costs to the state or local government of providing the service. The measure also specifies that actual cost should not exceed “the minimum amount necessary.” In many cases, existing fees already reflect the government’s actual costs. In other cases, some fees would have to more closely approximate the payer’s actual costs in order to remain fees. If a fee payer challenged the charge, the state or local government would need to provide clear and convincing evidence that the fee meets this threshold. State and local governments also would bear the burden of providing clear and convincing evidence that the levy is a fee—which is not subject to a vote by the electorate—and not a tax under the new definition.

Fiscal Effects

Lower State Tax and Fee Revenue. By expanding the definition of a tax, increasing the vote requirements for approving taxes, and restricting administrative changes to fees, the measure makes it harder for the Legislature to increase nearly all types of state revenues. The extent to which revenues would be lower under the measure would depend on various factors, most notably future decisions made by the Legislature and voters. For example, requirements for legislative approval of fee increases currently set administratively could result in lower fee revenues, depending on future votes of the Legislature. That lower revenue could be particularly notable for some state programs largely funded by fees. Due to the uncertainty of these factors, we cannot estimate the amount of reduced state revenue, but it could be substantial.

Lower Local Government Tax and Fee Revenue. Compared to the state, local governments generally face greater restrictions to raising revenue. By expanding the definition of taxes and restricting administrative changes to fees, the measure would make it somewhat harder for local governments to raise revenue. Consequently, future local tax and fee revenue could be lower than they would be otherwise. The extent to which revenues would be lower is unknown, but

fees could be more impacted. The actual impact on local government revenue would depend on various factors, including future decisions by the courts, local governing bodies, and voters.

Possible Increased State and Local Administrative Costs to Change Some Fee Levels. In some cases, state and local departments would need to develop methods for setting fees to reflect actual costs if the Legislature or local governing bodies wanted to change those fees in the future. Estimating actual costs by program and fee source could involve some added workload for those state and local departments, which likely would be supported by fee revenue. The extent of these administrative costs would depend on (1) whether the state and local governments determine a fee increase is needed in order to maintain their current level of programs and services funded through fee revenue and (2) future court decisions.

Summary of Fiscal Effects. We estimate that this measure would have the following major fiscal effects:

- Lower annual state and local revenues, potentially substantially lower, depending on future actions of the Legislature, local governing bodies, voters, and the courts.

Sincerely,

for Gabriel Petek
Legislative Analyst

for Keely Martin Bosler
Director of Finance

The Taxpayer Protection and Government Accountability Act

[Deleted codified text is denoted in ~~strikeout~~. Added codified text is denoted by *italics and underline*.]

Section 1. Title

This Act shall be known, and may be cited as, the Taxpayer Protection and Government Accountability Act.

Section 2. Findings and Declarations

(a) Californians are overtaxed. We pay the nation's highest state income tax, sales tax, and gasoline tax. According to the U.S. Census Bureau, California's combined state and local tax burden is the highest in the nation. Despite this, and despite two consecutive years of obscene revenue surpluses, state politicians in 2021 alone introduced legislation to raise more than \$234 *billion* in new and higher taxes and fees.

(b) Taxes are only part of the reason for California's rising cost-of-living crisis. Californians pay billions more in hidden "fees" passed through to consumers in the price they pay for products, services, food, fuel, utilities and housing. Since 2010, government revenue from state and local "fees" has more than doubled.

(c) California's high cost of living not only contributes to the state's skyrocketing rates of poverty and homelessness, they are the pushing working families and job-providing businesses out of the state. The most recent Census showed that California's population dropped for the first time in history, costing us a seat in Congress. In the past four years, nearly 300 major corporations relocated to other states, not counting thousands more small businesses that were forced to move, sell or close.

(d) California voters have tried repeatedly, at great expense, to assert control over whether and how taxes and fees are raised. We have enacted a series of measures to make taxes more predictable, to limit what passes as a "fee," to require voter approval, and to guarantee transparency and accountability. These measures include Proposition 13 (1978), Proposition 62 (1986), Proposition 218 (1996), and Proposition 26 (2010).

(e) Contrary to the voters' intent, these measures that were designed to control taxes, spending and accountability, have been weakened and hamstrung by the Legislature, government lawyers, and the courts, making it necessary to pass yet another initiative to close loopholes and reverse hostile court decisions.

Section 3. Statement of Purpose

(a) In enacting this measure, the voters reassert their right to a voice and a vote on new and higher taxes by requiring any new or higher tax to be put before voters for approval. Voters also intend that all fees and other charges are passed or rejected by the voters themselves or a governing body elected by voters and not unelected and unaccountable bureaucrats.

(b) Furthermore, the purpose and intent of the voters in enacting this measure is to increase transparency and accountability over higher taxes and charges by requiring any tax measure placed on the ballot—

either at the state or local level—to clearly state the type and rate of any tax, how long it will be in effect, and the use of the revenue generated by the tax.

(c) Furthermore, the purpose and intent of the voters in enacting this measure is to clarify that any new or increased form of state government revenue, by any name or manner of extraction paid directly or indirectly by Californians, shall be authorized only by a vote of the Legislature and signature of the Governor to ensure that the purposes for such charges are broadly supported and transparently debated.

(d) Furthermore, the purpose and intent of the voters in enacting this measure is also to ensure that taxpayers have the right and ability to effectively balance new or increased taxes and other charges with the rapidly increasing costs Californians are already paying for housing, food, childcare, gasoline, energy, healthcare, education, and other basic costs of living, and to further protect the existing constitutional limit on property taxes and ensure that the revenue from such taxes remains local, without changing or superseding existing constitutional provisions contained in Section 1(c) of Article XIII A.

(e) In enacting this measure, the voters also additionally intend to reverse loopholes in the legislative two-thirds vote and voter approval requirements for government revenue increases created by the courts including, but not limited to, *Cannabis Coalition v. City of Upland*, *Chamber of Commerce v. Air Resources Board*, *Schmeer v. Los Angeles County*, *Johnson v. County of Mendocino*, *Citizens Assn. of Sunset Beach v. Orange County Local Agency Formation Commission*, and *Wilde v. City of Dunsmuir*.

Section 4. Section 3 of Article XIII A of the California Constitution is amended to read:

Sec. 3(a) Every levy, charge, or exaction of any kind imposed by state law is either a tax or an exempt charge.

(b)(1) (a) Any change in state statute law which results in any taxpayer paying a new or higher tax must be imposed by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, and submitted to the electorate and approved by a majority vote, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property, may be imposed. Each Act shall include:

(A) A specific duration of time that the tax will be imposed and an estimate of the annual amount expected to be derived from the tax.

(B) A specific and legally binding and enforceable limitation on how the revenue from the tax can be spent. If the revenue from the tax can be spent for unrestricted general revenue purposes, then a statement that the tax revenue can be spent for "unrestricted general revenue purposes" shall be included in a separate, stand-alone section. Any proposed change to the use of the revenue from the tax shall be adopted by a separate act that is passed by not less than two-thirds of all members elected to each of the two houses of the Legislature and submitted to the electorate and approved by a majority vote.

(2) The title and summary and ballot label or question required for a measure pursuant to the Elections Code shall, for each measure providing for the imposition of a tax, including a measure proposed by an elector pursuant to Article II, include:

(A) The type and amount or rate of the tax;

(B) The duration of the tax; and

(C) The use of the revenue derived from the tax.

(c) Any change in state law which results in any taxpayer paying a new or higher exempt charge must be imposed by an act passed by each of the two houses of the Legislature. Each act shall specify the type of exempt charge as provided in subdivision (e), and the amount or rate of the exempt charge to be imposed.

(d) ~~(b)~~ As used in this section and in Section 9 of Article II, "tax" means every ~~any~~ levy, charge, or exaction of any kind imposed by the State state law that is not an exempt charge, except the following:

(e) As used in this section, "exempt charge" means only the following:

~~(1) a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.~~

(1) ~~(2)~~ A reasonable charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the State of providing the service or product to the payor.

(2) ~~(3)~~ A charge imposed for the reasonable regulatory costs to the State incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(3) A levy, charge, or exaction collected from local units of government, health care providers or health care service plans that is primarily used by the State of California for the purposes of increasing reimbursement rates or payments under the Medi-Cal program, and the revenues of which are primarily used to finance the non-federal portion of Medi-Cal medical assistance expenditures.

(4) A reasonable charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.

(5) A fine, or penalty, ~~or other monetary charge~~ including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or the State, as a result of a state administrative enforcement agency pursuant to adjudicatory due process, to punish a violation of law.

(6) A levy, charge, assessment, or exaction collected for the promotion of California tourism pursuant to Chapter 1 (commencing with Section 13995) of Part 4.7 of Division 3 of Title 2 of the Government Code.

(f) ~~(e)~~ Any tax or exempt charge adopted after January 1, ~~2010~~ 2022, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(g) ~~(1) ~~(d)~~~~ The State bears the burden of proving by a preponderance of the clear and convincing evidence that a levy, charge, or other exaction is an exempt charge and not a tax. The State bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor. ~~that the amount is no more than necessary to cover the reasonable costs of the governmental activity and~~

that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by state law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind as being voluntary, or paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be a factor in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(h) As used in this section:

(1) "Actual cost" of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(2) "Extend" includes, but is not limited to, doing any of the following with respect to a tax or exempt charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

(3) "Impose" means adopt, enact, reenact, create, establish, collect, increase or extend.

(4) "State law" includes, but is not limited to, any state statute, state regulation, state executive order, state resolution, state ruling, state opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by the legislative or executive branches of state government. "State law" does not include actions taken by the Regents of the University of California, Trustees of the California State University, or the Board of Governors of the California Community Colleges.

Section 5. Section 1 of Article XIII C of the California Constitution is amended, to read:

Sec. 1. Definitions. As used in this article:

(a) "Actual cost" of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(b) "Extend" includes, but is not limited to, doing any of the following with respect to a tax, exempt charge, or Article XIII D assessment, fee, or charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

~~(c) (a)~~ "General tax" means any tax imposed for general governmental purposes.

~~(d)~~ "Impose" means adopt, enact, reenact, create, establish, collect, increase, or extend.

~~(e) (b)~~ "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity, or an elector pursuant to Article II or the initiative power provided by a charter or statute.

~~(f)~~ "Local law" includes, but is not limited to, any ordinance, resolution, regulation, ruling, opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by a local government.

~~(g) (c)~~ "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

~~(h) (d)~~ "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

~~(i) (e)~~ As used in this article, and in Section 9 of Article II, "tax" means every any-levy, charge, or exaction of any kind, imposed by a local government law that is not an exempt charge., except the following:

~~(i)~~ As used in this section, "exempt charge" means only the following:

~~(1)~~ A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

~~(1) (2)~~ A reasonable charge imposed for a specific local government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the local government of providing the service or product.

~~(2) (3)~~ A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

~~(3) (4)~~ A reasonable charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

~~(4) (5)~~ A fine, or penalty, or other monetary charge including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or a local government administrative enforcement agency pursuant to adjudicatory due process, as a result of to punish a violation of law.

~~(5) (6)~~ A charge imposed as a condition of property development. No levy, charge, or exaction regulating or related to vehicle miles traveled may be imposed as a condition of property development or occupancy.

~~(6) (7)~~ An Assessments and property related fees assessment, fee, or charge imposed in accordance with the provisions of subject to Article XIII D, or an assessment imposed upon a business in a tourism marketing district, a parking and business improvement area, or a property and business improvement district.

(7) A charge imposed for a specific health care service provided directly to the payor and that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the health care service. As used in this paragraph, a "health care service" means a service licensed or exempt from licensure by the state pursuant to Chapters 1, 1.3, or 2 of Division 2 of the Health and Safety Code.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

Section 6. Section 2 of Article XIII C of the California Constitution is amended to read:

Sec. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) Every levy, charge, or exaction of any kind imposed by local law is either a tax or an exempt charge. All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local ~~law government, whether proposed by the governing body or by an elector,~~ may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) ~~Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).~~ (d) No local ~~law government, whether proposed by the governing body or by an elector,~~ may impose, ~~extend, or increase~~ any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

(d) The title and summary and ballot label or question required for a measure pursuant to the Elections Code shall, for each measure providing for the imposition of a tax, include:

(1) The type and amount or rate of the tax;

(2) the duration of the tax; and

(3) The use of the revenue derived from the tax. If the proposed tax is a general tax, the phrase "for general government use" shall be required, and no advisory measure may appear on the same ballot that would indicate that the revenue from the general tax will, could, or should be used for a specific purpose.

(e) Only the governing body of a local government, other than an elector pursuant to Article II or the initiative power provided by a charter or statute, shall have the authority to impose any exempt charge. The governing body shall impose an exempt charge by an ordinance specifying the type of exempt charge

as provided in Section 1(j) and the amount or rate of the exempt charge to be imposed, and passed by the governing body. This subdivision shall not apply to charges specified in paragraph (7) of subdivision (j) of Section 1.

(f) No amendment to a Charter which provides for the imposition, extension, or increase of a tax or exempt charge shall be submitted to or approved by the electors, nor shall any such amendment to a Charter hereafter submitted to or approved by the electors become effective for any purpose.

(g) Any tax or exempt charge adopted after January 1, 2022, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted in compliance with the requirements of this section.

(h)(1) The local government bears the burden of proving by clear and convincing evidence that a levy, charge or exaction is an exempt charge and not a tax. The local government bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor.

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by a local law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind imposed by a local law as being paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be factors in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

Section 7. Section 3 of Article XIII D of the California Constitution is amended, to read:

Sec. 3. Property Taxes, Assessments, Fees and Charges Limited

(a) No tax, assessment, fee, ~~or~~ charge, or surcharge, including a surcharge based on the value of property, shall be assessed ~~by any agency~~ upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax ~~imposed pursuant to~~ described in Section 1(a) of Article XIII and Section 1(a) of Article XIII A, and described and enacted pursuant to the voter approval requirement in Section 1(b) of Article XIII A.

(2) Any special non-ad valorem tax receiving a two-thirds vote of qualified electors pursuant to Section 4 of Article XIII A, or after receiving a two-thirds vote of those authorized to vote in a community facilities district by the Legislature pursuant to statute as it existed on December 31, 2021.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

Section 8. Sections 1 and 14 of Article XIII are amended to read:

Sec. 1 Unless otherwise provided by this Constitution or the laws of the United States:

(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

(b) All property so assessed shall be taxed in proportion to its full value.

(c) All proceeds from the taxation of property shall be apportioned according to law to the districts within the counties.

Sec. 14. All property taxed by state or local government shall be assessed in the county, city, and district in which it is situated. Notwithstanding any other provision of law, such state or local property taxes shall be apportioned according to law to the districts within the counties.

Section 9. General Provisions

A. This Act shall be liberally construed in order to effectuate its purposes.

B. (1) In the event that this initiative measure and another initiative measure or measures relating to state or local requirements for the imposition, adoption, creation, or establishment of taxes, charges, and other revenue measures shall appear on the same statewide election ballot, the other initiative measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(2) In furtherance of this provision, the voters hereby declare that this measure conflicts with the provisions of the "Housing Affordability and Tax Cut Act of 2022" and "The Tax Cut and Housing Affordability Act," both of which would impose a new state property tax (called a "surcharge") on certain real property, and where the revenue derived from the tax is provided to the State, rather than retained in the county in which the property is situated and for the use of the county and cities and districts within the county, in direct violation of the provisions of this initiative.

(3) If this initiative measure is approved by the voters, but superseded in whole or in part by any other conflicting initiative measure approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

C. The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not

declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

D. If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of state or federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(1) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(2) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(3) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(4) Nothing in this section shall prohibit the proponents of this Act, or a bona fide taxpayers association, from intervening to defend this Act.