

This brief is being provided to inform the Board, staff and public of the details of an agenda item that requires action from the Board. The President of the Board will provide board members, staff, and the public the opportunity to ask questions about this topic when this agenda item is announced.

Date: May 9, 2022

Originator: Kim Seney

Purpose: Propose Resolution # 2021-22-13 to oppose State of CA INITIATIVE 21-0042A1

Supporting Documents Included: Yes / No Yes

Desired Action by the Board: Review the overview and position description of the CSDA relating to CA Initiative 21-0042A1. If the Board agrees with the position, pass a resolution indicating the GMCSDBoard of Directors opposition to the initiative so that we can join the coalition actively working to ensure this initiative is not passed as it is correctly drafted.

1. **Description:**

According to legislative analysis completed by the CSDA, the purported “Taxpayer Protection and Government Accountability Act,” a statewide initiative measure to amend the California Constitution sponsored by the [California Business Roundtable](#) (“CBRT”), is the most consequential proposal to limit the ability of the state and local governments to enact, modify, or expand taxes, assessments, fees, and property-related charges since the passage of Proposition 218 (1996) and Proposition 26 (2010)

Ballot Initiative [21-0042A1](#) would result in the loss of billions of dollars annually in critical state and local funding, restricting the ability of local agencies and the State of California to fund services and infrastructure by:

- Adopting new and stricter rules for raising taxes, fees, assessments, and property-related fees.
- Amending the State Constitution, including portions of Propositions 13, 218, and 26 among other provisions, to the advantage of the initiative’s proponents and plaintiffs; creating new grounds to challenge these funding sources and disrupting fiscal certainty.
- Restricting the ability of local governments to issue fines and penalties to corporations and property owners that violate local environmental, water quality, public health, public safety, fair housing, nuisance and other laws and ordinances.
- If enacted, public agencies could face a drastic rise in litigation that could severely restrict their ability to meet essential services and infrastructure needs.

Under the proposed initiative, with few exceptions, fees and charges shall not exceed the “actual cost” of providing the product or service for which the fee is charged. “Actual cost” is defined as the “...**minimum amount necessary**...less other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds.” It will be the burden on the local government

District/Agency to prove the fee or charge does not exceed “actual cost” is heightened from the current “preponderance of the evidence” to “clear and convincing evidence”. This burden shift would be quite impactful to any future fee increases or rate cases.

In addition to limiting fees and charges to the actual cost to the local government for providing the service, fees and charges must also be **“reasonable” to the payor themselves**. The current language does not provide definition for this new subjective reasonableness test that is separate and apart from the test as to how closely the fee or charge is related to the cost of service. The payor is left in the position to determine whether the fee or rate seems “reasonable”. Defines all sources of revenue as either taxes or “exempt charges.”

The initiative also includes provisions that would retroactively void *all* state and local taxes or fees adopted after January 1, 2022 if they did not align with the provisions of this initiative. This may also affect indexed fees that adjust over time for inflation or other factors. Effectively, it would allow voters throughout California to invalidate the prior actions of local voters, undermining local control and voter-approved decisions about investments needed in their communities.

In order to qualify for the ballot, proponents must collect 997,139 valid signatures from California voters. As of this writing, the signatures have not yet been presented to the State. The last day for measures to be certified for the ballot or withdrawn from the ballot is June 30, 2022. Opponents of the initiative intend to maintain momentum should the signature drive succeed and the Initiative is placed on the fall ballots in its current form.

The full text of the proposed initiative and additional background and analysis can be viewed on the CSDA website: <https://www.csdanet.org/advocate/take-action/voterlimitations>

2. **Reason for Recommended Board Action - (Consider compliance, cost savings, fixing a problem):** By supporting the opposition coalition against this initiative, GMCSO will demonstrate active concern for a potential bill that would have significant, far reaching and long-lasting impact on GMCSO. As written, the initiative would restrict rate and fee increases, which could have operational and service delivery consequences over time.
3. **Anticipated Impacts to the District (negative and/or positive) - (Consider financial impact, change in procedures, customer and staff communication and effect if recommendations are not adopted):** Passing this Resolution has no immediate financial, procedural, or customer impacts. It may in the long run however, ensure that the District has the ability to raise the needed revenue to continue to operate the District.
4. **Anticipated Impacts to the Customer – Standby, Residential, Commercial:** No impact in passing resolution. If the Initiative is passed in its current format, the level of service to GMCSO customers could eventually be impacted.
5. **Recommendation (s):** Review, Discuss, Approve Resolution # 2021-22-13 to oppose **INITIATIVE 21-0042A1** and send to CSDA to be recorded as officially opposing this initiative.

PROPOSED RESOLUTION #2021-22-13 TO OPPOSE INITIATIVE 21-0042A1

WHEREAS, an association representing California's wealthiest corporations and developers is spending millions to push a deceptive proposition aimed for the November 2022 statewide ballot; and

WHEREAS, the proposed proposition, Initiative 21-0042A1, has received the official title: "LIMITS ABILITY OF VOTERS AND STATE AND LOCAL GOVERNMENTS TO RAISE REVENUES FOR GOVERNMENT SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT."

WHEREAS, the measure includes provisions that would make it more difficult for local voters to pass measures needed to fund local services and infrastructure, and would limit voter input by prohibiting local advisory measures where voters provide direction on how they want their local tax dollars spent; and

WHEREAS, the measure exposes taxpayers to a new wave of costly litigation, limits the discretion and flexibility of locally elected boards to respond to the needs of their communities, and injects uncertainty into the financing and sustainability of critical infrastructure; and

WHEREAS, the measure severely restricts state and local officials' ability to protect our environment, public health and safety, and our neighborhoods against corporations and others who violate the law; and

WHEREAS, the measure creates new constitutional loopholes that would allow corporations to pay less than their fair share for the impacts they impose on our communities, including local infrastructure, our environment, water quality, air quality, and natural resources; and

WHEREAS, the measure threatens billions of dollars currently dedicated to state and local services, and could force cuts Gold Mountain CSD as well as public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to address homelessness, mental health services, and more; and

WHEREAS, the measure would also reduce funding for critical infrastructure like streets and roads, public transportation, ports, drinking water, sanitation, utilities, and more.

THEREFORE, BE IT RESOLVED that the Gold Mountain CSD opposes Initiative 21-0042A1;

BE IT FURTHER RESOLVED, that the Gold Mountain CSD will join the No on Initiative 21-0042A1 coalition, a growing coalition of public safety, labor, local government, infrastructure advocates, and other organizations throughout the state.

We direct staff to email a copy of this adopted resolution to the California Special Districts Association at advocacy@csda.net.

PASSED, APPROVED, AND ADOPTED this day ____ of ____, 2022.