



Willows City Council Regular Meeting

City Council
Gary Hansen, Mayor
Evan Hutson, Vice Mayor
Rick Thomas, Council Member
Forrest Sprague, Council Member
David Vodden, Council Member

February 27, 2024
Willows City Hall
Closed Session: 5:30 PM
Regular Session: 6:00 PM

City Manager
Marti Brown

City Clerk
Amos Hoover

201 North Lassen Street
Willows, CA 95988
(530) 934-7041

Agenda

Watch the Council meeting online via Zoom (Passcode 95988):

<https://us06web.zoom.us/j/81747854309?pwd=MTaaNA0aOlwfvUoJHmH49YTyXAag.1>

Remote viewing of the City Council meeting for members of the public is provided for convenience only. In the event that the remote viewing connection malfunctions for any reason, the City Council reserves the right to conduct the meeting without remote viewing.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **CHANGES TO THE AGENDA**
5. **CLOSED SESSION**

Pursuant to Government Code Sections §54954.3, the public will have an opportunity to directly address the legislative body on the item below prior to the Council convening into closed session. Public Comments are generally restricted to three minutes.

- a. **Conference with Legal Counsel – Substantial Risk of Litigation**
Potential exposure to litigation pursuant to § 54956.9(b)

6. **PUBLIC COMMENT & CONSENT CALENDAR FORUM**

All matters on the Consent Calendar are considered routine and are approved by one motion and vote, unless Councilmembers or the City Manager first requests that a matter be removed for separate discussion and action. Individuals wishing to address the City Council concerning Consent Calendar items or regarding matters that are not already on the agenda are invited to make oral comments of up to three minutes at this time. Please address your comments to the Mayor and Councilmembers, and not to staff and/or the audience. By State law, the Council is not permitted to undertake any action or discussion on any item not appearing on the posted agenda. If you have any documentation that you would like distributed to the City Council, please mail it to the City Clerk at 201 North Lassen Street, Willows, CA 95988 or email it to: ahoover@cityofwillows.org.

- a. **Register Approval**
Recommended Action: Approve general checking, payroll, and direct deposit check registers.
Contact: Amos Hoover, City Clerk, ahoover@cityofwillows.org
- b. **Minutes Approval**
Recommended Action: Approve the February 13, 2024, meeting minutes.

Contact: Amos Hoover, City Clerk, ahoover@cityofwillows.org

7. DISCUSSION & ACTION CALENDAR

All matters in this section of the agenda are discussed and will be acted on individually. Individuals wishing to address the City Council concerning any of these items are invited to make oral comments of up to three minutes at this time. Please address your comments to the Mayor and Councilmembers, and not to staff and/or the audience. When the Mayor calls for public comment, please raise your hand to be acknowledged. While not required, the City requests that you please state your name clearly for the audio recording. By State law, the Council is not permitted to undertake any action or discussion on any item not appearing on the posted agenda. If you have any documentation that you would like distributed to the City Council, please mail it to the City Clerk at 201 North Lassen Street, Willows, CA 95988 or email it to: ahoover@cityofwillows.org.

a. **Emergency Repair and Routine Vehicle Maintenance of Utility 8 Fire Truck**

Recommended Action: Adopt a resolution authorizing a budget amendment of \$9,000 to account 301-150-43000 for emergency repairs of fire department apparatus and other routine vehicle maintenance.

Contact: Nate Monck, Fire Chief, nmonck@cityofwillows.org

b. **Proposed Sales Tax Policy Statement, Ordinance & Resolution**

Recommendation: Discuss a potential policy statement regarding how revenue generated from a 1.5% sales tax would or could be used and start discussions regarding the policy implications of and response to Initiative 21-0042A1. As determined, provide initial direct staff to include any key policy statements in the preparation of the 2024 1.5% sales tax ballot measure ordinance and resolution.

Contact: Marti Brown, City Manager, mbrown@cityofwillows.org

8. COMMENTS & REPORTS

- a. Council Correspondence
- b. City Council Comments & Reports
- c. City Manager's Report

9. CLOSED SESSION

Pursuant to Government Code Sections §54954.3, the public will have an opportunity to directly address the legislative body on the item below prior to the Council convening into closed session. Public Comments are generally restricted to three minutes.

a. **Conference with Labor Negotiators (§54957.6)**

Agency Designated Representatives:

Marti Brown, City Manager and Carolyn Walker, City Attorney

Employee Organizations: WEA, UPEC, and Management

b. **Conference with Legal Counsel – Existing Litigation (§54956.9)**

Name of Case: Forbes v. County of Glenn

c. **Conference with Legal Counsel – Existing Litigation (§54956.9)**

Name of Case: Willows Residents for Due Process vs. Respondent,

Willows Unified School District

d. **Public Employee Performance Evaluation (§ 54957)**

Title: City Manager

10. **ADJOURNMENT**

This agenda was posted on February 23, 2024.

Amos Hoover, City Clerk

A complete agenda packet, including staff reports and back-up information, is available for public inspection during normal work hours at City Hall or the Willows Public Library at 201 North Lassen Street in Willows or on the City's website at www.cityofwillows.org.

In compliance with the Americans with Disabilities Act, the City of Willows will make available to members of the public any special assistance necessary to participate in this meeting. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132). The public should contact the City Clerk's office at 934-7041 to make such a request. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

The City of Willows is an Equal Opportunity Provider.



CLOSED SESSION



PUBLIC COMMENT & CONSENT CALENDAR FORUM



	<u>PERIOD</u>		
	2/2/2024	TO	2/21/2024
Payroll	397	TO	431
Payroll Check Register	40878	TO	40882
Check Register	54094	TO	54179

APPROVAL DATE 2/27/2024

APPROVED _____



City of Willows

Payroll Check Register

Employee Pay Summary

Pay Period: 1/15/2024-1/28/2024

Packet: PYPKT00169 - Payroll 1-15-24 to 1-28-24

Payroll Set: Payroll Set 01 - 01

Employee	Employee #	Payment Date	Number	Earnings
ABOLD, STEVEN B	ABO00	02/02/2024	423	2,130.11
ARELLANES, ASHLEY MARIE	ARE00	02/02/2024	408	1,334.13
BEATTY, RYAN	BEA00	02/02/2024	40878	84.00
BETTENCOURT, JOSEPH	BETO1	02/02/2024	429	4,750.61
BOBADILLA, TAVIAN	BOB02	02/02/2024	415	164.00
BOBADILLA, PEDRO D	BOB00	02/02/2024	414	50.00
BRIONES, BRENDA VALENZU	BRI00	02/02/2024	409	320.00
BROWN, MARTHA	BRO01	02/02/2024	401	5,676.92
CANO, GABRIELA M	CAN01	02/02/2024	40879	168.00
CANO, ILIANNA	CAN00	02/02/2024	40880	168.00
CORTES-LOSOYA, MARIA	COR00	02/02/2024	424	240.00
EHORN, CAITLIN A	EHO02	02/02/2024	410	1,468.00
EHORN, MARIA ANNETTE	EHO00	02/02/2024	404	50.00
ENOS, KYLE	ENO00	02/02/2024	419	3,379.10
FLOWERDEW, NICK	FLO00	02/02/2024	418	164.00
FUENTES, JAIME	FUE01	02/02/2024	420	2,389.10
GAMBOA, YADIRA	GAM00	02/02/2024	411	352.00
HANSEN, GARY L	HAN02	02/02/2024	397	250.00
HOOVER, AMOS	HOO00	02/02/2024	402	2,388.00
HUTSON, KRISTINA RENEE	HUTO4	02/02/2024	416	90.00
HUTSON, EVAN C	HUTO1	02/02/2024	421	250.00
LOMBARD, TYLER JOSEPH	LOM00	02/02/2024	422	1,071.73
MCDERMOTT, ELLA G	MCDE01	02/02/2024	40881	168.00
MINGS, MICHAEL E	MIN00	02/02/2024	425	1,933.69
MONCK, NATHANIAL T	MON00	02/02/2024	430	10,890.25
MOORE, JOANNE	MOO01	02/02/2024	403	4,040.16
MYERS, HOLLY	MEY00	02/02/2024	405	50.00
PALAFOX-SAN, NYLA	PAL03	02/02/2024	40882	84.00
PFYL, NATISA N	PFY00	02/02/2024	431	3,001.51
RANDOLPH, MATTHEW	RAN01	02/02/2024	426	1,676.15
RAYGOZA, RODRIGO	RAY00	02/02/2024	417	184.50
REED, JOSHUA	REE00	02/02/2024	427	1,676.15
RUSTENHOVEN, TARA L	RUS01	02/02/2024	407	2,446.92
SPENCE, KYLIEGH C	SPE02	02/02/2024	412	544.00
SPRAGUE, FORREST	SPR00	02/02/2024	398	250.00
THOMAS, RICHARD	THO00	02/02/2024	399	250.00
VALENCIA, LLANIRA	VAL01	02/02/2024	406	50.00
VARGAS, GIOVANI	VAR00	02/02/2024	413	504.00
VASQUEZ, PEDRO CEASAR	VAS01	02/02/2024	428	2,596.76
VODDEN, DAVID	VOD00	02/02/2024	400	250.00
			Totals:	57,533.79



By Check Number

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
Bank Code: Gen Chk-General Checking						
1008	A.T.& T.	02/07/2024	Regular	0.00	1,112.48	54094
1052	AMAZON CAPITAL SERVICES	02/07/2024	Regular	0.00	761.59	54095
1082	ARAMARK	02/07/2024	Regular	0.00	151.16	54096
1102	BADAWI & ASSOCIATES	02/07/2024	Regular	0.00	3,000.00	54097
1172	CALIFORNIA WATER SERVICE	02/07/2024	Regular	0.00	3,920.39	54098
1211	CASCADE FIRE EQUIPMENT	02/07/2024	Regular	0.00	4,059.51	54099
1252	CLEARWAY ENERGY LLC	02/07/2024	Regular	0.00	5,219.62	54100
1255	COASTLAND CIVIL ENGINEERI	02/07/2024	Regular	0.00	37,220.30	54101
1261	COMCAST CABLE	02/07/2024	Regular	0.00	157.69	54102
1275	CORBIN WILLITS SYSTEMS	02/07/2024	Regular	0.00	480.52	54103
1278	CORNING FORD MERCURY	02/07/2024	Regular	0.00	364.34	54104
1277	CORNING LUMBER WILLOWS	02/07/2024	Regular	0.00	192.08	54105
1412	EVAN HUTSON	02/07/2024	Regular	0.00	1,402.90	54106
1429	FEDEX	02/07/2024	Regular	0.00	96.34	54107
1463	GANDY-STALEY OIL CO.	02/07/2024	Regular	0.00	2,854.10	54108
1467	GAYNOR TELESYSTEMS, INC.	02/07/2024	Regular	0.00	105.00	54109
1496	GLENN MEDICAL CENTER	02/07/2024	Regular	0.00	8,212.00	54110
1519	GREAT NORTHERN EQUIPMENT	02/07/2024	Regular	0.00	390.10	54111
1577	INTERSTATE BATTERIES OF THE ROG	02/07/2024	Regular	0.00	501.33	54112
1606	JEREMY'S PEST STOMPERS	02/07/2024	Regular	0.00	95.00	54113
2381	JOANNE MOORE	02/07/2024	Regular	0.00	335.38	54114
1975	JOSHUA REED	02/07/2024	Regular	0.00	100.00	54115
1665	KNIFE RIVER CONSTRUCTION	02/07/2024	Regular	0.00	1,290.61	54116
2363	LACO Associates	02/07/2024	Regular	0.00	16,161.73	54117
2401	LASSEN COMMUNITY COLLEGE	02/07/2024	Regular	0.00	425.75	54118
1689	LEAGUE OF CA. CITIES	02/07/2024	Regular	0.00	100.00	54119
1710	LIFE ASSIST	02/07/2024	Regular	0.00	109.92	54120
1150	MARTHA BROWN	02/07/2024	Regular	0.00	185.00	54121
1770	MENDES SUPPLY COMPANY	02/07/2024	Regular	0.00	218.90	54122
2312	NAPA AUTO PARTS	02/07/2024	Regular	0.00	884.55	54123
2373	ODP Business Solutions	02/07/2024	Regular	0.00	85.56	54124
2402	OVERDRIVE, INC	02/07/2024	Regular	0.00	4,924.37	54125
2390	QUENCH USA, INC	02/07/2024	Regular	0.00	63.28	54126
1978	REGIONAL GOVERNMENT SERVI	02/07/2024	Regular	0.00	3,257.85	54127
2041	SACRAMENTO VALLEY MIRROR	02/07/2024	Regular	0.00	119.60	54128
2044	SAFETY TIRE SERVICE	02/07/2024	Regular	0.00	244.21	54129
1439	THE FIRST CHOICE COFFEE S	02/07/2024	Regular	0.00	45.00	54130
1567	THE INKWELL	02/07/2024	Regular	0.00	1,076.75	54131
2194	TRACTOR SUPPLY CREDIT PLA	02/07/2024	Regular	0.00	53.61	54132
2395	US BANK CORPORATE PAYMENT SYS	02/07/2024	Regular	0.00	2,835.94	54133

Bank Code Gen Chk Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	87	40	0.00	102,814.46
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	87	40	0.00	102,814.46



City of Willows

Check Register

Packet: APPKT00174 - AP Chk 02.21.24

By Check Number

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
Bank Code: Gen Chk-General Checking						
1017	ACI SPECIALTY BENEFITS	02/21/2024	Regular	0.00	115.68	54134
1068	ANDY HEATH FINANCIAL SERV	02/21/2024	Regular	0.00	2,640.00	54135
1082	ARAMARK	02/21/2024	Regular	0.00	947.60	54136
1103	BAKER & TAYLOR BOOKS	02/21/2024	Regular	0.00	767.31	54137
1118	BENNETT ENGINEERING SERVI	02/21/2024	Regular	0.00	4,296.25	54138
1196	CALIFORNIA DEPT. OF JUSTI	02/21/2024	Regular	0.00	15.00	54139
1277	CORNING LUMBER WILLOWS	02/21/2024	Regular	0.00	142.54	54140
1282	COUNTY OF GLENN	02/21/2024	Regular	0.00	299.00	54141
1338	DEPT. OF FORESTRY & FIRE	02/21/2024	Regular	0.00	16,632.99	54142
1415	EWING IRRIG. PRODUCTS,INC	02/21/2024	Regular	0.00	720.95	54143
1434	FGL ENVIRONMENTAL	02/21/2024	Regular	0.00	26.00	54144
1517	GRAY ROCK TRUCKING	02/21/2024	Regular	0.00	525.00	54145
1606	JEREMY'S PEST STOMPERS	02/21/2024	Regular	0.00	55.00	54146
1665	KNIFE RIVER CONSTRUCTION	02/21/2024	Regular	0.00	457.91	54147
1670	L & T TOWING	02/21/2024	Regular	0.00	1,197.91	54148
1150	MARTHA BROWN	02/21/2024	Regular	0.00	93.63	54149
1792	MJB WELDING SUPPLY, INC.	02/21/2024	Regular	0.00	53.32	54150
1815	MYRECDEPT.COM	02/21/2024	Regular	0.00	2,850.00	54151
2312	NAPA AUTO PARTS	02/21/2024	Regular	0.00	265.63	54152
1851	NORTH STATE WATER TREATME	02/21/2024	Regular	0.00	150.00	54153
1852	NORTHERN CALIF. GLOVES	02/21/2024	Regular	0.00	119.63	54154
1904	PEARSON EDUCATION, INC.	02/21/2024	Regular	0.00	2,549.70	54155
1917	PG & E	02/21/2024	Regular	0.00	11,916.89	54156
	Void	02/21/2024	Regular	0.00	0.00	54157
	Void	02/21/2024	Regular	0.00	0.00	54158
2332	Prentice Long, PC	02/21/2024	Regular	0.00	11,853.66	54159
1978	REGIONAL GOVERNMENT SERVI	02/21/2024	Regular	0.00	5,488.14	54160
2041	SACRAMENTO VALLEY MIRROR	02/21/2024	Regular	0.00	55.20	54161
2044	SAFETY TIRE SERVICE	02/21/2024	Regular	0.00	57.43	54162
2132	SUN LIFE FINANCIAL	02/21/2024	Regular	0.00	3,660.84	54163
2133	SUNRISE ENVIRONMENTAL	02/21/2024	Regular	0.00	479.23	54164
2368	Tyler Business Forms	02/21/2024	Regular	0.00	694.70	54165
2233	US BANK ST. PAUL CM-9703	02/21/2024	Regular	0.00	2,800.00	54166
2238	VALLEY ROCK PRODUCTS	02/21/2024	Regular	0.00	447.27	54167
2248	VERIZON WIRELESS	02/21/2024	Regular	0.00	410.58	54168
2284	WILLDAN	02/21/2024	Regular	0.00	7,080.00	54169
2295	WILLOWS ACE HARDWARE	02/21/2024	Regular	0.00	1,768.78	54170
	Void	02/21/2024	Regular	0.00	0.00	54171
2306	WILLOWS CHAMBER	02/21/2024	Regular	0.00	40.00	54172
2282	WILLOWS HARDWARE, INC.	02/21/2024	Regular	0.00	663.94	54173
2403	WULFF, HANSEN & CO	02/21/2024	Regular	0.00	3,600.00	54174

Check Register

Packet: APPKT00174-AP Chk 02.21.24

Vendor Number 1902	Vendor Name WYATT PAXTON	Payment Date 02/21/2024	Payment Type Regular	Discount Amount 0.00	Payment Amount 3,826.25	Number 54175
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Bank Code Gen Chk Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	101	39	0.00	89,763.96
Manual Checks	0	0	0.00	0.00
Voided Checks	0	3	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	101	42	0.00	89,763.96



City of Willows

Check Register

Packet: APPKT00175 - PAYROLL AP CHECK RUN

By Check Number

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
Bank Code: Gen Chk-General Checking						
1029	AFLAC- FLEX ONE	02/21/2024	Regular	0.00	792.48	54176
1194	CALIFORNIA STATE DISBURSE	02/21/2024	Regular	0.00	325.84	54177
1650	FIRE RISK MANAGEMENT SERVICES	02/21/2024	Regular	0.00	18,959.92	54178
1551	HUMANA DENTAL/VISION	02/21/2024	Regular	0.00	1,154.17	54179

Bank Code Gen Chk Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	26	4	0.00	21,232.41
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	26	4	0.00	21,232.41



Willows City Council Regular Meeting Action Minutes

Agenda Item #6b.

City Council
Gary Hansen, Mayor
Evan Hutson, Vice Mayor
Rick Thomas, Council Member
Forrest Sprague, Council Member
David Vodden, Council Member

February 13, 2024
Willows City Hall
Closed Session: 5:30 PM
Regular Session: 6:00 PM

City Manager
Marti Brown

City Clerk
Amos Hoover

201 North Lassen Street
Willows, CA 95988
(530) 934-7041

1. CALL TO ORDER – 5:31 PM

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Councilmembers Present: Mayor Hansen, Vice Mayor Hutson and Councilmembers Thomas, Sprague, and Vodden

Councilmembers Absent: None

4. CHANGES TO THE AGENDA

5. CLOSED SESSION

a. Conference with Legal Counsel – Substantial Risk of Litigation

Report Out: No reportable action item received from staff.

6. PRESENTATION

a. Annual Fire Department Report

Action: Fire Chief Nate Monck Presented the Willows Fire Department annual activity report.

7. PUBLIC COMMENT & CONSENT CALENDAR FORUM

a. Register Approval

Action: Approved general checking, payroll, and direct deposit check registers.

b. Minutes Approval

Action: Approved the January 17 and January 23, 2024, meeting minutes.

c. Facilities Use Agreement with Willows Unified School District

for the 2024 City of Willows Summer Swim Season – Pulled by Councilmember Vodden

Action: Authorized the City Manager, or her designee, to execute a Facilities Use Agreement with the Willows Unified School District to use the School District's swimming pool during the 2024 summer swim season for an amount not to exceed \$20,000.

Moved/Seconded: Councilmembers Thomas and Sprague

Yes: Councilmembers Thomas, Sprague, and Vodden, Vice Mayor Hutson, and Mayor Hansen

No: None

- d. **Council Protocol Manual Update** – Pulled by Councilmember Sprague
Action: Approved the proposed update to the Council Protocol Manual.

Moved/Seconded: Councilmembers Thomas and Vodden

Yes: Councilmembers Thomas, and Vodden, Vice Mayor Hutson, and Mayor Hansen

No: Councilmember Sprague

- e. **Letter of Opposition: Withdraw Telecommunications Carrier Designation and Carrier of Last Resort Obligation**

Action: Authorized the City Manager to execute a letter opposing AT&T's application to the California Public Utilities Commission (CPUC) to withdraw their Carrier of Last Resort (COLR) Obligation and Eligible Telecommunications Carrier (ETC) Designation.

- f. **Contract Award – Civic Center HVAC Cleaning Services**

Action: Authorized the City Manager to execute an agreement with North Valley Cleaning to clean the HVAC ducts in the Civic Center, in an amount not to exceed \$15,000.

- g. **Landscape and Lighting Special Assessment District**

Action: Adopted a Resolution appointing Coastland Civil Engineering as the Engineer of Work for the City of Willows Landscape and Lighting Special Assessment District and direct the preparation of the Annual FY 2024-25 Engineer's Report.

Approval of items a,b,e,f, and g

Moved/Seconded: Councilmember Vodden and Vice Mayor Hutson

Yes: Councilmembers Thomas, Sprague, and Vodden, Vice Mayor Hutson, and Mayor Hansen

No: None

8. PUBLIC HEARING

- a. **Appeal of MUP23-03 (File#AP-24-01)**

Action: Held a public hearing and overturned the Planning Commission's determination of his Major Use Permit (MUP) application, approving the project and permit.

Councilmember Sprague and Vice Mayor Hutson recused themselves from the public hearing due to potential conflicts of interest.

Hearing Opened: 7:38PM

Hearing Closed: 8:24PM

Public Comment

Richard Harriman, Randy Garner, Anita White, Carolina Cabral, Bruce Lopez, Sherry Brott, April Hine, Ernesto DeLaRosa, Harrish Banger, Lorri Pride, Karen Johnson

Moved/Seconded: Councilmembers Thomas and Vodden

Yes: Councilmembers Thomas and Vodden, and Mayor Hansen

No: None

9. DISCUSSION AND ACTION CALENDAR

a. 2023 Community Development Block Grant Application Project Selection

Action: Continued to a future meeting.

b. Glenn Groundwater Authority - Prop 218 Study

Action: Continued to a future meeting.

c. Use of Façade Improvement Funds

Action: Continued to a future meeting.

10. COMMENTS & REPORTS

- a. Council Correspondence
- b. City Council Comments & Reports
- c. City Manager's Report

11. CLOSED SESSION

a. Conference with Legal Counsel – Existing Litigation (§54956.9)

Continued to a future meeting.

b. Public Employee Performance Evaluation (§ 54957)

Continued to a future meeting.

12. ADJOURNMENT - 9:40PM

Amos Hoover, City Clerk



DISCUSSION & ACTION CALENDAR



Date: February 27, 2024
To: Honorable Mayor and Councilmembers
From: Nate Monck, Fire Chief
Marti Brown, City Manager
Subject: Emergency Repair and Routine Vehicle Maintenance of Utility 8 Fire Truck

Recommendation:

Adopt a resolution authorizing a budget amendment of \$9,000 to account 301-150-43000 for emergency repairs of fire department apparatus and other routine vehicle maintenance.

Rationale for Recommendation:

The provision of public safety is the primary function of local government, it is imperative that City Emergency Response apparatus is repaired when inoperable to ensure the City of Willows has adequate equipment for career and volunteer firefighters to use in their mission to protect and enhance life, property and environment.

Background:

During an early morning flood event on February 5, 2024, the Fire Department's apparatus, Utility 8 (2018 Ford F-250) received water damaged during a water rescue.

Discussion & Analysis:

After the damage occurred, Utility 8 was towed to the City of Orland Public Works Department for repair (as the City of Willows Mechanic is currently unavailable). The City of Orland Fire Mechanic determined the level of damage and the required parts to repair the vehicle would be \$5244. The parts are estimated to be delivered by February 28, 2024.

While the City of Orland Fire Mechanic was originally scheduled to repair Utility 8, in accordance with the City's agreement with Orland, the Mechanic has since resigned. With his departure, the City of Orland no longer has the capacity to complete the repairs. Since then, however, Harris Truck Repair has been sourced repair the vehicle. The total cost to repair Utility-8, including parts and labor, is approximately \$8,000.

Since this is the second unbudgeted major repair required this fiscal year, staff is also requesting to allocate an additional \$1,000 dollars to the Fire Department's Vehicle Maintenance Fund. The additional funds should ensure there are monies available for routine maintenance for the remainder of the fiscal year.

Fiscal Impact:

These crucial repairs will require an additional \$9,000 from the General Fund. That said, staff anticipates a large percentage of the expense will be offset by unanticipated revenue generated by the recent pre-position assignments which were funded by the State's Office of Emergency Services (e.g., salary savings, unused per diem, fuel costs, administrative rate). To date, staff estimates that an additional \$7,500 -\$10,000 has been generated by the recent 15 days of state funded pre-position assignments.

Attachment:

- Attachment 1: Resolution – XX-2024



**City of Willows
Resolution XX-2024**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILLOWS AUTHORIZING A BUDGET AMENDMENT OF \$9,000 FOR UNANTICIPATED EMERGENCY REPAIRS OF FIRE DEPARTMENT APPARATUS AND OTHER ROUTINE VEHICLE MAINTENANCE OF EMERGENCY VEHICLES

WHEREAS, the primary function of local government is the provision of public safety; and

WHEREAS, in the course of protecting life and property, an unexpected adverse event caused damage to critical emergency response equipment; and

WHEREAS, this repair is emergent and must be completed as soon as possible; and

WHEREAS, there is not sufficient funds currently budgeted in the vehicle maintenance account 301-150-43000 to adequately fund timely repair and future routine maintenance.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Willows does hereby authorize an additional \$9,000 of general fund monies be allocated to account 301-150-43000 for the purpose of repairing utility 8 and other routine maintenance of fire department emergency response apparatus.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council on this 27th day of February 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTESTED:

Gary Hansen, Mayor

Amos Hoover, City Clerk



Date: February 27, 2024
To: Honorable Mayor and Councilmembers
From: Carolyn Walker, City Attorney
Marti Brown, City Manager
Subject: Proposed Sales Tax Policy Statement, Ordinance & Resolution

Recommendation:

Discuss a potential policy statement regarding how revenue generated from a 1.5% sales tax would or could be used and start discussions regarding the policy implications of and response to Initiative 21-0042A1. As determined, provide initial direction to staff to include any key policy statements in the preparation of the 2024 1.5% sales tax ballot measure ordinance and resolution.

Rationale for Recommendation:

On January 23, 2024, the Council directed staff to prepare a 1.5% sales tax ballot measure ordinance and resolution, as well as a policy statement (e.g., in a resolution, in an ordinance, as a separate statement) regarding how revenues from a new sales tax measure might be spent. This staff report and the accompanying attachments provide policy options for the Council to consider.

In addition, more information has come to light regarding Initiative 21-0042A1 that may impact the Council's policy direction given at the January 23, 2024, City Council meeting.

Background:

The City faces a long-term structural deficit of approximately \$1.3 million annually starting in fiscal year 2025-26. However, by June 2025, the City's General Fund Reserves will be exhausted with less than 1% remaining. The City Council started discussing the City's ongoing deficit in April 2023 seeking remedies to resolve it and improve revenues. In October 2023, the majority of the Council determined that a sales tax measure would be necessary and started taking steps to include a ballot measure as part of an upcoming local election.

At the January 23, 2024, City Council meeting, the Council determined and directed staff to include specific policy statements in the sales tax ordinance and resolution and to return to the Council in early spring with a draft ordinance and resolution for final consideration and approval (which staff is preparing to do).

Concurrently, there continues to be concerns regarding Initiative 21-0042A1 and how it may fiscally impact local jurisdictions. A topic the Council initially reviewed and discussed at its September 12, 2023, City Council meeting (Attachment 1).

Discussion & Analysis:

Potential Policy Statement to Accompany Sales Tax Ballot Measure

The City Attorney prepared a legal opinion (Attachment 2) answering the following question: *Can the City's proposed sales tax ordinance include a statement regarding intent to use the funds? Can the City issue a statement of intent regarding Funds from Sales Tax if not?*

In summary, it is possible to develop a very carefully crafted policy statement as illustrated by the attached sample resolution from the City of Benicia (Attachment 3) without jeopardizing the "General Sales Tax" status of the ballot measure. Therefore, staff seeks Council direction on how to proceed regarding any potential policy statement.

Initiative 21-0042A1

As previously stated, the League of California Cities (among other organizations) continues to share strong concerns and opposition to Initiative 21-0042A1 (Attachment 2 and 3). For example, should it be approved by the voters at the November 2024 ballot, all sales tax measures approved after January 1, 2022, would require an expiration date – directly contradicting the Council's January 23 policy direction to draft an "evergreen" sales tax measure for the November 2024 election with no expiration date.

As a result, many experts are recommending that any new sales tax measures be drafted and placed on the November ballot in such a manner that the proposed measure already complies with the Initiative in the event that it is approved by the voters. Otherwise, any voter approved sales tax measure that does not comply with Initiative 21-0042A1 may become null and void.

Since Initiative 21-0042A1 may be successful at the ballot box, staff recommends starting the discussion regarding its potential impact on the city's proposed sales tax measure, as well as providing any initial direction in crafting the sales tax ordinance/resolution, until the City Attorney returns to the Council with a full set of recommendations that may maximize the city's chances of compliance with Initiative 21-0042A1 (should it be approved by the voters in November 2024) and increase its defensibility.

Fiscal Impact:

There is no fiscal impact.

Attachments:

- Attachment 1: September 12, 2023, Staff Report, Initiative 21-0042A1
- Attachment 2: City Attorney Legal Opinion, Policy Statement - Intent to Use Sales Tax Funds
- Attachment 3: Sample Resolution from City of Benicia, CA
- Attachment 4: League of California Cities, Analysis of Initiative 21-0042A1
- Attachment 5: California City Finance, Fiscal Impacts of Initiative 21-0042A1



Date: September 12, 2023
To: Honorable Mayor and Councilmembers
From: Marti Brown, City Manager
Subject: Opposition to Initiative No. 21-0042A1, The Taxpayer Protection and Government Accountability Act

Recommendation:

Approve a resolution opposing Initiative No. 21-0042A1, the Taxpayer Protection and Government Accountability Act.

Rationale for Recommendation:

The Taxpayer Protection and Government Accountability Act would amend the California Constitution with provisions that limit voters' authority and input, adopt new and stricter rules for raising taxes and fees, and may make it more difficult to impose fines and penalties for violation of state and local laws. The measure puts billions of local government tax and fee revenues at risk statewide with related core public service impacts. The measure would have significant negative impacts on city operations and core service delivery.

Background:

On January 4, 2022, the California Business Roundtable filed the "Taxpayer Protection and Government Accountability Act" or AG# 21-0042A1. On February 1, 2023, the measure qualified for the November 2024 ballot. The League of California Cities, along with a broad coalition of local governments, labor and public safety leaders, infrastructure advocates, and businesses, strongly oppose this initiative. Local government revenue-raising authority is currently substantially restricted by state statute and constitutional provisions, including the voter approved provisions of Proposition 13 of 1978, Proposition 218 of 1996, and Proposition 26 of 2010. The Taxpayer Protection and Government Accountability Act adds and expands restrictions on voters and local government tax and fee authority.

Discussion & Analysis:

Major provisions of the initiative include:

Fees and Charges:

- Except for licensing and other regulatory fees, fees and charges may not exceed the “actual cost” of providing the product or service for which the fee is charged. “Actual cost” is the “minimum amount necessary.” The burden to prove the fee or charge does not exceed “actual cost” is changed to “clear and convincing” evidence.
- Requires fees and charges paid for the use of local and state government property and the amount paid to purchase or rent government property to be “reasonable.” These fees and charges are currently allowed to be market-based. Whether the amount is “reasonable” (introducing a new legal standard aiming to force below market fee and charge amounts) must be proven by “clear and convincing evidence.” The standard may significantly reduce the amount large companies (e.g., oil, utilities, gas, railroads, garbage/refuse, cable, and other corporations) will pay for the use of local public property.
- Prohibits fees on new development based on vehicle miles traveled.

Taxes:

- Taxes and fees adopted after January 1, 2022, that do not comply with the new rules, are void unless reenacted.
- Invalidates *Upland* decision that allows a majority of local voters to pass special taxes. The measure specifies that taxes proposed by the initiative are subject to the same rules as taxes placed on the ballot by a city council.
- Expressly prohibits local advisory measures which allow local voters to express a preference for how local general tax dollars should be spent.
- Requires voter approval to expand existing taxes (e.g., Utility, Transient Occupancy) to new territory (e.g., annexations) or to expand the tax base (e.g., new utility service).
- New taxes can only be imposed for a specific period of time.
- City charters may not be amended to include a tax or fee.
- All State taxes require majority voter approval.

Fines and Penalties:

- May require voter approval of fines, penalties, and levies for corporations and property owners that violate state and local laws unless a new, undefined adjudicatory process is used to impose the fines and penalties.

Fiscal Impact:

The Taxpayer Protection and Government Accountability Act will take billions of dollars away from local government services statewide and will directly impact the ability of the city to propose or implement updated fees and taxes potentially impeding core public services.

Attachments:

- Attachment 1: Resolution XX-2023



RESOLUTION NO. XX-2023

A RESOLUTION OF THE CITY COUNCIL OPPOSING THE TAXPAYER PROTECTION AND GOVERNMENT ACCOUNTABILITY ACT

WHEREAS, an association representing California’s wealthiest corporations and developers is spending millions to push a deceptive proposition aimed for the November 2024 statewide ballot; and

WHEREAS, the measure includes undemocratic 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 creates new constitutional loopholes that allow corporations to pay far less than their fair share for the impacts they have on our communities, including local infrastructure and our environment; and

WHEREAS, the measure may make it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods; and

WHEREAS, the measure puts billions of dollars currently dedicated to local services at risk and could force cuts to fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services, and more.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILLOWS AS FOLLOWS:

1. The City of Willows opposes Initiative 21-0042A1.
2. The City of Willows will join the No on Initiative 21-0042A1 coalition, a growing coalition of public safety, education, labor, local government, and infrastructure groups throughout the state.

PASSED AND ADOPTED by the City Council of the City of Willows this 12th day of September, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTESTED:

Richard Thomas, Mayor

Amos Hoover, City Clerk

A LAW FIRM FOUNDED ON THE
PRINCIPLE OF SERVICE

MEMORANDUM

To: Marti Brown

From: Carolyn Walker

Date: February 16, 2024

Re: Can the City's proposed sales tax ordinance include a statement regarding intent to use the funds? Can the City issue a statement of intent regarding Funds from Sales Tax if not?

City Council and City Manager have requested guidance regarding whether the city may 1) include a statement of intent of the funds use in the general sales tax ordinance, and 2) If not, can the City issue a statement publically of the council's intent to use the funds of a general sales tax. The following memorandum discusses this issue.

When Proposition 219 is read along with Proposition 218, the result is clear. When a local government asks the voters to approve a tax, it must decide whether to ask for a general tax or a special tax. If it asks for a general tax, only majority approval is required; but the local government must forgo any electoral advantage that might be gained from limiting the use of revenues to specific purposes. If the local government asks the voters to approve a special tax, it might gain an electoral advantage; but a two-thirds vote is required for approval. Such a measure must be placed before the voters on an all-or-nothing basis. *Howard Jarvis Taxpayers Assn. v. City of Roseville* (2003) 106 Cal. App. 4th 1178, 1189.

A general tax is a tax under which revenues are placed into a city's general fund and are available for expenditure for *any and all* governmental purposes. *City of Oxnard v. Starr* (2023) 87 Cal. App. 5th

731. Where a sales tax has a specific purpose (i.e., it is earmarked for a special, limited purpose), it is a special tax and must be passed by two-third vote. *Rider v. County of San Diego* (1991) 1 Cal. 4th 1, 15.

Given these distinctions, the city should be careful not to specify any particular use of the sales tax in the ordinance if they want it to be a general tax. Instead, they should specifically state that the tax would be a general tax for which the revenues would be deposited into the general fund to be available for unrestricted general revenue purposes. They are able to note that such funds would be available for general needs such as essential (like public safety and rebuilding reserves) and any other general purposes. A good example of such a resolution is attached.

Should they want to issue a statement of intent publically, the key is to make it expressly clear that the tax would be for any and all general purposes, including the examples that they have identified, but not limited to those purposes.

RESOLUTION NO. 23- 140

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CALLING AND ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF BENICIA A BALLOT MEASURE TO INCREASE THE GENERAL PURPOSE TRANSACTION AND USE (“SALES”) TAX BY THREE FOURTHS OF ONE CENT AT THE PRIMARY ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2024

WHEREAS, unlike many cities of similar size in the Bay Area, Benicia is a full service city, equipped with its own City-run police, fire, park, library and water and wastewater services; and

WHEREAS, the health and safety of all residents in the City of Benicia (“the City”) is the City’s top priority; and

WHEREAS, the City of Benicia faces a structural budget deficit that it is trying to solve; and

WHEREAS, as part of the City’s effort to meet the service needs of the community, maintain the status as a full-service city, and address millions of dollars in unfunded capital infrastructure the City is looking to move forward with adding a General Sales Tax measure to the March 5, 2024, election ballot; and

WHEREAS, the general fund pays for important City services such as police, fire, and paramedic services; 911 emergency response; emergency street repairs and maintenance; neighborhood park and recreation services; and general municipal services to the public; and

WHEREAS, the City proposes an increase in the amount of three-fourths of one cent to the existing Transaction and Use Tax (Sales Tax) as directed by City Council; and

WHEREAS, the proposed, locally enacted, Sales Tax measure is projected to generate general fund revenue of approximately \$5.4 million annually for a three-fourths of one cent increase; and

WHEREAS, the proposed revenue measure has a sunset date of 12 years and Council will review the measure again in 10 years; and

WHEREAS, a three-fourths of one cent increase in sales tax would cost the average resident \$10/month; and

WHEREAS, local, voter-approved funding for essential services will provide a guaranteed source of funding for the City of Benicia that cannot be taken by Sacramento or Washington D.C. as all funds will be legally required to be spent in Benicia; and

WHEREAS, the proposed measure will include strict accountability requirements such as public disclosure of all spending; annual independent financial audits that ensure funds are used

effectively and as promised and only to benefit the Benicia community; and an Independent Citizen's Oversight Committee; and

WHEREAS, pursuant to California Revenue and Taxation Code Section 7285.9 the City of Benicia ("City") has the authority to levy a Transactions and Use ("Sales") Tax for general purposes, and subject to voter approval; and

WHEREAS, the general rule is that a general tax must be placed on a regularly scheduled general election for members of the City Council, unless the City Council adopts a resolution proclaiming a fiscal emergency; and

WHEREAS, at the November 7, 2023 Council meeting, by unanimous vote, Council declared a fiscal emergency; and

WHEREAS, if Benicia's measure passes, then the City of Benicia's sales tax rate will be 9.125% which is similar to many jurisdictions to the south; and

WHEREAS, to qualify for the ballot, 2/3 of the City Council (4 members) are required to vote affirmatively for the sales tax ordinance. If a council member is absent from the meeting, 4 City Council Members are still required to vote affirmatively for the item to qualify for the ballot; and

WHEREAS, if so approved by the Council, and then passed by the voters on Tuesday, March 5, 2024 with a majority of voters (50% plus 1) supporting the measure, it would go into effect on October 1, 2024; and

WHEREAS, the City Council also desires, on its own motion, to submit to the voters at the March 5, 2024 Statewide Primary Election a question relating to the imposition of a three-quarter of one cent transactions and use ("sales") tax for general purposes.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does resolve, declare, determine and order as follows, that:

SECTION 1. The City Council pursuant to its right and authority, does order to be submitted to the voters at a Primary Election the following question:

THE BENICIA SALES TAX MEASURE

Benicia Public Safety and Essential Services Measure

To protect Benicia’s essential public safety, city services, and facilities including:

- maintaining police services,
- protecting 911 and fire emergency response times,
- maintaining local parks
- preserving recreation and library services,
- sustaining other vital city programs,

shall the City of Benicia enact a measure, by adopting a 3/4 cent sales tax, for general government purposes, providing approximately \$5,400,000 annually, under local control, with citizens' oversight and annual audits, with a sunset date of twelve years?

YES

NO

SECTION 2. The proposed measure submitted to the voters is as attached in Exhibit A to this Resolution, which is incorporated herein by this reference.

SECTION 3. The City will reimburse the county for the actual cost incurred in conducting the election upon receipt of a bill stating the amount due as determined by the elections official.

SECTION 4. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 5. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 6. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk within ten (10) days of the adoption of this Resolution.

SECTION 7. Arguments for or against this measure shall be submitted not later than 5 p.m. on December 15, 2023 to the City Clerk.

SECTION 8. The City Council adopts the provisions of subdivision (a) of Section 9285 of the Elections Code to permit rebuttal arguments if arguments have been filed in favor of and against the measure which is being submitted to the voters of the City at this special election. Rebuttal arguments shall be filed not later than 5:00 p.m. on December 19, 2023.

SECTION 9. The City Clerk is hereby directed to file a certified copy of this Resolution with the Solano County Board of Supervisors and the Solano County Registrar of Voters.

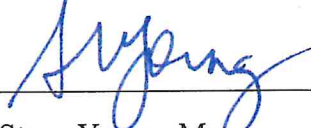
On motion of Council Member **Birdseye**, seconded by Council Member **Scott**, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 21st day of November 2023 by the following vote:

Ayes: **Council Members Birdseye, Campbell, Macenski, Scott, and Mayor Young**

Noes: **None**


Absent: **None**

Abstain: **None**



Steve Young, Mayor


Attest:



Lisa Wolfe, City Clerk

November 27, 2023
Date

I, Lisa Wolfe, City Clerk of the City of Benicia, County of Solano, State of California, hereby certify that the foregoing Resolution was adopted by the City Council of the City of Benicia at a regular meeting held the 21st day of November 2023.



Lisa Wolfe, City Clerk

Exhibit A
Proposed Sales Tax Measure Submitted to the Voters
[see next page]

**Proposed Language for New Sales Tax Measure
Statewide Primary Election on March 5, 2024
THE BENICIA SALES TAX MEASURE**

Benicia Public Safety and Essential Services Measure

To protect Benicia’s essential public safety, city services, and facilities including:

- maintaining police services,
- protecting 911 and fire emergency response times,
- maintaining local parks
- preserving recreation and library services,
- sustaining other vital city programs,

shall the City of Benicia enact a measure, by adopting a 3/4 cent sales tax, for general government purposes, providing approximately \$5,400,000 annually, under local control, with citizens' oversight and annual audits, with a sunset date of twelve years?

YES

NO

The Taxpayer Protection and Government Accountability Act
Initiative No. 21-0042A1
January 21, 2022

Summary: The measure limits the voters' input, adopts new and stricter rules for raising taxes and fees, and makes it more difficult to hold state and local law violators accountable.

Limiting Voter Authority and Accountability

- Limits voter input. Prohibits local voters from providing direction on how local tax dollars should be spent by prohibiting local advisory measures.
- Invalidates Upland decision that allows majority of local voters to pass special taxes. Taxes proposed by the Initiative are subject to the same rules as taxes placed on the ballot by a city council. All measures passed between January 2022 and November 2022 would be invalidated unless reenacted within 12 months.

Restricting Local Fee Authority to Provide Local Services

- Franchise fees. Sets new standard for fees and charges paid for the use of local and state government property. The standard may significantly restrict the amount oil companies, utilities, gas companies, railroads, garbage companies, cable companies, and other corporations pay for the use of local public property. Rental and sale of local government property must be "reasonable" which must be proved by "clear and convincing evidence."
- Except for licensing and other regulatory fees, fees and charges may not exceed the "actual cost" of providing the product or service for which the fee is charged. "Actual cost" is the "minimum amount necessary." The burden to prove the fee or charge does not exceed "actual cost" is changed to "clear and convincing" evidence.

Restricting Authority of State and Local Governments to Issue Fines and Penalties for Violations of Law.

- Requires voter approval of fines, penalties, and levies for corporations and property owners that violate state and local laws unless a new, undefined adjudicatory process is used to impose the fines and penalties.

Restricting Local Tax Authority to Provide Local Services

- Expanding existing taxes (e.g., UUT, use tax, TOT) to new territory (e.g., annexation) or expanding the base (e.g., new utility service) requires voter approval.
- City charters may not be amended to include a tax or fee.
- New taxes can be imposed only for a specific time period.
- Taxes adopted after January 1, 2022, that do not comply with the new rules, are void unless reenacted.
- All state taxes require majority voter approval.
- Prohibits any surcharge on property tax rate and allocation of property tax to state.

Other Changes

- No fee or charge or exaction regulating vehicle miles traveled can be imposed as a condition of property development or occupancy.

Fiscal and Program Effects of Initiative 21-0042A1 on Local Governments

If Initiative 21-0042A1 is placed on the ballot and passed by voters, it will result in:

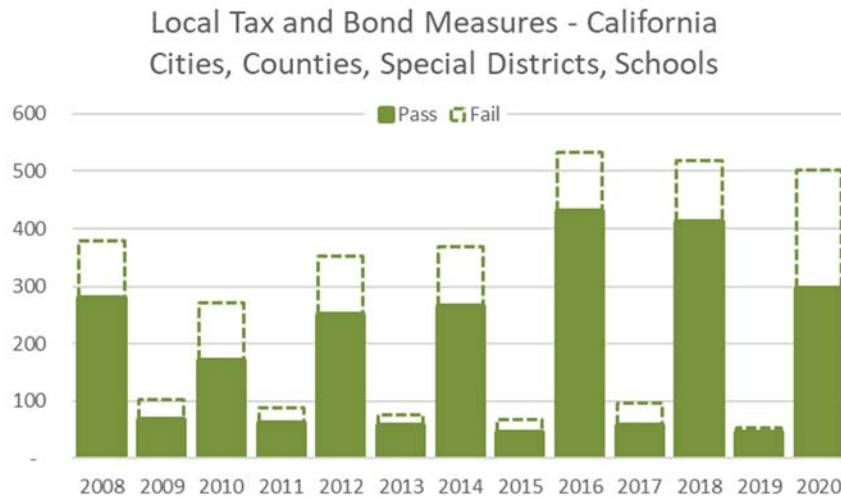
- Billions of local government fee and charge revenues placed at heightened legal peril. Related public service reductions across virtually every aspect of city, county, special district, and school services especially for transportation, and public facility use.
- Hundreds of millions of dollars of annual revenues from dozens of tax and bond measures approved by voters between January 1, 2022 and November 9, 2022 subject to additional voter approval if not in compliance with the initiative.
- Indeterminable legal and administrative burdens and costs on local government from new and more empowered legal challenges, and bureaucratic cost tracking requirements.
- The delay and deterrence of municipal annexations and associated impacts on housing and commercial development.
- Service and infrastructure impacts including in fire and emergency response, law enforcement, public health, drinking water, sewer sanitation, parks, libraries, public schools, affordable housing, homelessness prevention and mental health services.

1. Local Government Taxes and Services Threatened

With regard to taxes, Initiative 21-0042A1:

- Prohibits advisory, non-binding measures as to use of tax proceeds on the same ballot.
 - Voters may be less informed and more likely to vote against measures.
- Eliminates the ability of special tax measures proposed by citizen initiative to be enacted by majority voter approval (*Upland*).
 - Because the case law regarding citizen initiative special taxes approved by majority vote (Upland) is so recent, it is unknown how common these sorts of measures might be in the future. This initiative would prohibit such measures after the effective date of the initiative. Any such measures adopted after January 1, 2022 through November 8, 2022 would be void after November 9, 2023.
- Requires that tax measures include a specific duration of time that the tax will be imposed. This seems to require that all tax increases or extensions contain a sunset (end date).
 - This would require additional tax measures to extend previously approved taxes at additional cost to taxpayers.
- Requires that a tax or bond measure adopted after January 1, 2022 and before the effective date of the initiative (November 9, 2022) that was not adopted in accordance with the measure be readopted in compliance with the measure or will be void twelve months after the effective date of the initiative (November 9, 2023).
 - If past election patterns are an indication, dozens of tax and bond measures approving hundreds of millions of annual revenues may not be in compliance and would be subject to reenactment. Most will be taxes without a specific end date. Because there is no regularly scheduled election within the 12 months following the effective date of the initiative, measures not in compliance would need to be placed on a special election ballot for approval before November 9, 2023 or the tax will be void after that date. General tax measures would require declaration of emergency and unanimous vote of the governing board.

- Requires voter approval to expand an existing tax to new territory (annexations). This would require additional tax measures and would deter annexations and land development in cities.
 - If a tax is "extended" to an annexed area without a vote after January 1, 2022, it will be void 12 months later until brought into compliance. Because there is no regularly scheduled election within the 12 months following the effective date of the initiative, such extensions for general taxes would, under current law, each require unanimous vote of the agency board to be placed on a special election ballot or would be void after November 9, 2023.



1.a. Number of Measures and Value of Local Taxes at Risk¹

In 2020, voters in California approved 293 local tax and bond measures for cities, counties, special districts and schools (95 in March and 198 in November). The approved measures enacted \$3.85 billion in new annual taxes including \$1.3 billion for cities, \$302 million for counties, \$208 million for special districts (fire, wastewater, open space and transit districts), and \$2.037 billion for schools (including for school bonds).

Most tax measures go to the ballot during a presidential or gubernatorial primary or general election in an even year. However, some tax measures are decided at other times. During 2019, there were 45 approved tax and bond measures (24 city, 14 special district, 7 school) adopting \$154.0 million in new annual taxes (\$124.0 million city, \$10.5 million special district and \$19.2 million school).

Most tax and bond measures comply with the new rules in Initiative 21-0042Amdt#1 except:

- Dozens of taxes would require end dates. This would require additional measures in future years to extend the taxes further. Very few extensions of existing local taxes fail.
- Majority vote general tax measures could not be accompanied on the same ballot with an advisory, non-binding measure as to use of tax proceeds.
- Special taxes placed on the ballot via citizen initiative would require two-thirds voter approval.

Bond measures have fixed terms. Historically, about 20 percent of other tax measures have included specific durations (i.e. sunsets). Advisory measures as to use of revenues are uncommon. I do not expect the provisions of 21-0042A1 to have any substantial effect on passage rates. However, some 2022 approved measures would likely have to put back on the ballot.

Based on history, a reasonable estimate of the annualized tax revenues estimated to be approved by

¹ Source: Compilation and summary of data from County elections offices.

voters in 2022 and placed at risk by this initiative is at least **\$1.5 billion, including \$1.0 billion from cities and \$500 million from counties and special districts.**²

1.b. Additional Costs and Public Service Effects of the Tax Provisions

In addition to service delays and disruption due to new tax revenues placed at greater legal risk, there will be substantial additional costs for legal defense. The deterrence of taxes for annexations will delay and deter municipal annexations.

2. “Exempt Charges” (fees and charges that are not taxes) and Services Threatened

With regard to fees and charges adopted after January 1, 2022, Initiative 21-0042A1:

- Subjects new fees and charges for a product or service to a new "actual cost" test defined as "(i) the minimum amount necessary to reimburse the government for the cost of providing the service to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In addition, subjects these same charges to a new, undefined, "reasonable" standard.
- Subjects fees and charges for entrance to local government property; and rental and sale of local government property to a new, undefined, "reasonable" test.
- Subjects a challenged fee or charge to new, higher burdens of proof if legally challenged.
- Prohibits a levy, charge or exaction regulating or related to vehicle miles traveled, imposed as a condition of property development or occupancy.

2.a. Value on New Local Government Fees and Charges at Risk³

Virtually every city, county, and special district must regularly (e.g., annually) adopt increases to fee rates and charges and revise rate schedules to accommodate new users and activities. Most of these would be subject to new standards and limitations under threat of legal challenge. Based on the current volume of fees and charges imposed by local agencies and increases in those fees simply to accommodate inflation, the amount of local government fee and charge revenue placed at risk is about **\$1 billion per year including those adopted since January 1, 2022. Of this \$1 billion, about \$570 million is for special districts, \$450 million is cities, and \$260 million is counties.**⁴

Major examples of affected fees and charges are:

1. Nuisance abatement charges - such as for weed, rubbish and general nuisance abatement to fund community safety, code enforcement, and neighborhood cleanup programs.
2. Commercial franchise fees.
3. Emergency response fees - such as in connection with DUI.
4. Advanced Life Support (ALS) transport charges.
5. Document processing and duplication fees.
6. Transit fees, tolls, parking fees, public airport and harbor use fees.
7. Facility use charges, fees for parks and recreation services, garbage disposal tipping fees.

In addition to fees and charges, the measure puts fines and penalties assessed for the violation of state and

² This does not include citizen initiative special tax approved by majority but not two-thirds. Because this approach is new, the number of these measures and amount of revenue involved cannot be estimated.

³ Source: California State Controller Annual Reports of Financial Transactions concerning cities, counties and special districts, summarized with an assumed growth due to fee rate increases (not population) of 2 percent annually.

⁴ School fees are also affected but the amount is negligible by comparison.

local law at risk, making them taxes subject to voter approval under certain circumstances.

2.b. Additional Costs and Public Service Effects of the Fee/Charge Provisions

In addition to service delays and disruptions due to fee and charge revenues placed at greater legal risk, there would be substantial additional costs for legal defense. The risk to fees and charges will make infrastructure financing more difficult and will deter new residential and commercial development.

mc



COMMENTS AND REPORTS



CLOSED SESSION