

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: John Brand, Senior Management Analyst 

DATE: December 9, 2009 (CC Meeting of 12/16/2009)

SUBJECT: Consider Resolution Supporting the Local Taxpayer, Public Safety and Transportation Protection Act of 2010

SUMMARY

The Council is being asked to approve a resolution supporting the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, a proposed constitutional amendment that will be presented for voter approval on the November 2010 statewide ballot.

DISCUSSION

As Council is aware, the state legislature is increasingly relying on taking local government revenue to reduce its budget imbalances year after year. The loss of revenue is impairing the ability of many local agencies to deliver their basic services. Major cutbacks in all areas and the elimination of public services are becoming commonplace across the state. Many agencies, including the City of Moorpark, have had to spend reserve funds to maintain essential services. A coalition has formed to protect the revenues of local governments.

Attached are materials on the proposed state constitutional amendment. These were distributed at a League of California Cities board meeting in connection with the coalition's ballot measure, the Local Taxpayer, Public Safety and Transportation Protection Act of 2010. The materials include:

1. November 9, 2009 Update on the League-Supported Measure as well as the proposals by Repair California and California Forward.
2. A one-page overview of the measure.
3. A set of commonly asked questions and answers about the measure.

Persons interested in visiting the campaign web site from their personal computer may go to: <http://www.savelocalservices.com/>. Many other materials on the campaign are available there.

FISCAL IMPACT

None associated with adopting the resolution. Critically significant fiscal impacts may be possible if the state continues to take revenue from local government.

STAFF RECOMMENDATION

1. Adopt Resolution No. 2009-_____
2. Direct staff to forward copies of this resolution to the League of California Cities and the campaign offices.

Attachments

- Attachment 1: Nov. 9 League Ballot Measure Update
Attachment 2: A one-page overview of the measure.
Attachment 3: A set of commonly asked questions and answers about the measure
Attachment 4: Resolution 2009-_____



1400 K Street, Suite 400 • Sacramento, California 95814
 Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

TO: City Officials
FROM: Chris McKenzie, Executive Director
DATE: November 9, 2009
RE: Update on League-Supported Revenue Protection Measure; Other "Reform" Measures Emerge

EXECUTIVE SUMMARY: Now that the Secretary of State's recommended deadline has come and gone for the filing of initiative ballot measures for the November 2010 ballot, the work of two other groups, California Forward and Repair California, may get confused with the League-supported initiative. The purpose of this memo is to provide you with some basic background on the measures. Since it has already been unanimously supported by the League General Assembly at the League's Annual Conference in September, city officials may want to pass resolutions of support for the League-sponsored measure (see below) when you are ready. Your Regional Public Affairs Manager can give you a copy of a sample resolution. However, we urge your city not to take a formal position on any of the other measures until they have been reviewed and acted on early next year by the relevant League policy committees and the League board of directors.

League-Supported Ballot Measure

The League, the California Alliance for Jobs, and the California Transit Association filed two similar versions of the *Local Taxpayer, Public Safety, and Transportation Protection Act of 2010* with the Attorney General on Tuesday, October 20, 2009. In early December, after receipt of the Attorney General's Title and Summary for the measure, the campaign may proceed with collecting the more than one million signatures necessary to qualify a constitutional amendment for the statewide ballot. During the period leading up to mid-December League staff and city officials are working with our coalition partners to lay the groundwork for a successful signature gathering and fundraising effort. The board will be asking the membership for input before beginning the next stage of the campaign. Here is what the measure covers:

<i>Key Provisions</i>	<i>Local Taxpayer, Public Safety and Transportation Protection Act of 2010</i>
Protects Locally Imposed Taxes (e.g., parcel UUT, TOT, sales, etc?)	Yes. Legislature may not take or borrow or direct how <u>local taxes</u> may be spent. Property tax treated under Art. XIII, Sec. 25.5.
Prohibits Property Tax Borrowing?	Yes. Repeals state authority to borrow under Art. XIII, Sec. 25.5 after 2009-10.
Prohibits Reallocation of Prop. Tax or VLF to Pay for State Mandates	Yes.
Prohibits Borrowing or Stealing of the HUTA Gas Tax?	Yes, and provides same protections to any replacement revenues and requires hearings and study before state and local shares changed.

<i>Key Provisions</i>	<i>Local Taxpayer, Public Safety and Transportation Protection Act of 2010</i>
Prohibits Borrowing or Stealing of Prop. 42 Gas Tax?	Yes, and provides same protections to any replacement revenues and requires hearings and study before state and local shares changed.
Prohibits Borrowing or Stealing of Public Transit Account (PTA) funds?	Yes. Also restricts use of PTA revenues for transportation planning and mass transportation purposes only and requires “Spillover” sales tax to be deposited into the PTA and split evenly between State and local transportation agencies.
Prohibits Taking, Borrowing or Directing Spending of RDA Funds?	Yes. Prohibits state from requiring RDAs to pay tax increment to a state or another local agency or require an agency to use its tax increment for any State purpose, except affordable housing and pass-through payments.
Remedy if State Violates Constitution and Repayment Due?	Yes. If court finds state has taken funds illegally, repayment is continuously appropriated to repay amount taken illegally.
Repeal of Conflicting Statutes?	Yes. Any conflicting statute enacted between Oct. 21, 2009 and November 2, 2010 is automatically repealed.

California Forward

California Forward is a government reform organization now headed by former Assembly Speaker Bob Hertzberg. It recently filed two initiative ballot measures:

- (1) State Budget Reform. The first measure includes state fiscal reforms, such as lowering the vote threshold to a simple majority to approve a state budget, performance based budgeting and restrictions on use of one-time spikes in revenues; and
- (2) New Countywide Sales Tax and Limited Local Government Revenue Protections. The second measure would:
 - a. *Additional Local Sales Tax; Redistribution of Local Government Revenues*. Authorize a new one-cent sales tax at the county level—approved by a simple majority vote of the local electorate—to support schools, cities, counties and special districts to implement a new countywide strategic plan. If the tax is approved, cities and counties would be required to transfer to schools the equivalent of 50% of the new sales tax they receive from their existing property tax, sales tax, etc. in accordance with a plan adopted by the county.
 - b. *Local Revenue Protections*. League attorneys are still studying the CA Forward measure to determine the scope of the local revenue protections it would provide. But upon initial review it’s clear the measure provides no protections against state borrowing of the HUTA gas tax and public transit funding, and it also appears to allow continued borrowing of city property taxes. (In contrast, the League-supported measure explicitly prohibits State borrowing of local property taxes, HUTA and public transit funds and repeals the existing constitutional provisions allowing it). Unlike the League-supported measure, CA Forward measure does not contain language that would repeal any new legislation --passed between now and November 2010 -- that would take the revenues protected by the measure.

Repair California

Repair California, the group advocating for calling a Constitutional Convention, led by the Bay Area Council, recently filed two initiative ballot measures as follows:

- (1) Voter-Called Constitutional Conventions. The first measure amends the constitution to allow the voters to call a constitutional convention every 10 years by initiative and to limit the issues the convention can discuss; and
- (2) Call for Convention. The second is a statutory measure that calls the convention and limits the subjects of discussion and action to: (a) Government Effectiveness, (b) Elections and Reduction of Special Interest Influence, (c) Spending and Budgeting, and Governance.
 - a. *How Delegates Will Be Chosen*. Approximately half would be chosen at the county level by committees made up of county supervisors (2), city officials in counties with cities (mayors who are chair and vice chair of city selection committee), and school districts (1). The other half would consist of three delegates elected from each Assembly district from a group of 50 potential delegates in each Assembly district that was randomly chosen by the State Auditor from a pool of 400 possible delegates randomly chosen by the State Auditor in each Assembly district. Delegates are not required to be registered voters.
 - b. *Role of the FPPC*. The appointed Fair Political Practices Commission (FPPC) that currently enforces the Political Reform Act would serve as the Constitutional Convention Commission, an influential steering committee responsible for deciding all matters concerning delegate qualifications, hiring the Clerk of the Commission, determining the place and date of the meeting of the Convention, training the delegates, and overseeing all other matters.

The next few months will tell whether these measures go into circulation for signatures.

What's Next?

We invite you to help us in our pre-signature gathering effort for the ***Local Taxpayer, Public Safety, and Transportation Protection Act of 2010***. When your Regional Representative calls you, please respond and lend a hand. Our success depends on your leadership. Using your personal computer, you can find additional information at <http://savelocalservices.com/>.

What About Passing City Resolutions?

Since it has already been unanimously supported by the League General Assembly at the September Annual Conference, city officials are encouraged to pass resolutions of support for the League-supported measure when you are ready. Your Regional Public Affairs Manager can give you a copy. Since the ballot measures proposed by California Forward and Repair California have not been analyzed or acted upon by the League policy committees or board of directors, we recommend that you delay any action on the other measures until they have been reviewed and acted on early next year by the relevant League policy committees and the League board of directors.



www.savelocalservices.com

YES to Protect Local Taxpayers and Funding for Public Safety, Transportation & Other Vital Local Services from State Raids

THE PROBLEM: STATE RAIDS AND BORROWING ARE JEOPARDIZING PUBLIC SAFETY, EMERGENCY RESPONSE, TRANSPORTATION, TRANSIT AND OTHER VITAL LOCAL SERVICES.

California voters have overwhelmingly passed separate ballot measures to dedicate local funding sources to essential local services and to prevent the State from shifting or raiding local government, transit and transportation funds. Despite this, the State recently passed a budget that borrowes and takes approximately \$5 billion in city, county, transit, redevelopment and special district funds this year. This year's raids and previous, ongoing state raids and borrowing are jeopardizing the services Californians need most:

- X *Police, fire and emergency 911 services have been cut.*
- X *Healthcare services for children, seniors and the disabled are being slashed.*
- X *Road repair and maintenance, congestion relief and safety improvements are constantly at risk.*
- X *Public transit like buses, commuter rail and shuttles are being slashed and fares are being raised.*
- X *Parks and libraries are closing, and other local government services critical to protect our neighborhoods and improve our quality of life are shutting down.*
- X *Vital community economic development and job creation projects are being shut down.*

State raids of local funds are fiscally irresponsible. The fiscally irresponsible practice of borrowing local taxpayer and transportation funds makes our budget problems worse down the line because local government and transportation funds have to be repaid, with interest. Additionally, many of the outright raids are ultimately rejected by the courts, creating even larger state budget deficits down the line.

THE SOLUTION: PROHIBIT THE STATE FROM RAIDING LOCAL GOVERNMENT, TRANSIT AND TRANSPORTATION FUNDS.

The Local Taxpayer, Public Safety and Transportation Protection Act, scheduled for the November 2010 statewide ballot, would:

- ✓ **Prohibit the State from taking, borrowing or redirecting local taxpayer funds dedicated to public safety, emergency response and other vital local government services.** The measure would close loopholes to prevent the taking of local taxpayer funds currently dedicated to cities, counties, special districts and redevelopment agencies. It would also revoke the State's authority to borrow local government property tax funds.
- ✓ **Protect vital, dedicated transportation and public transit funds from state raids.** The measure would prevent State borrowing, taking or redirecting of the state sales tax on gasoline (Prop 42 funds) and Highway User Tax on gasoline (HUTA) funds that are dedicated to transportation maintenance and improvements. It would also prevent the State from redirecting or taking public transit funds.
- ✓ **Protect local taxpayers** by keeping more of our local tax dollars local where there's more accountability to voters, and by ensuring once and for all that our gas taxes go to fund road improvements. The measure also reduces pressure for local tax and fee increases that become necessary when the State redirects local funds.
- ✓ **Reform state government and enhance fiscal accountability.** This measure is a key step in reforming California's broken budget system by restoring more local control and accountability. It also stops the irresponsible practice of the State borrowing special funds that have to be repaid with interest, which only puts our State further in debt.



Questions & Answers About the Local Taxpayer, Public Safety and Transportation Protection Act

WHAT IS YOUR MEASURE AND WHAT DOES IT PROPOSE TO DO?

The Local Taxpayer, Public Safety and Transportation Protection Act is a constitutional amendment that we are working to place on California's November 2010 statewide ballot. The initiative would stop the State from raiding or borrowing funding for local public safety, transportation, transit and other essential local government services. Specifically, the measure would:

- ✓ **Prohibit the State from taking, borrowing or redirecting local taxpayer funds dedicated to public safety, emergency response and other vital local government services.** The measure would close loopholes to prevent the taking of funds currently dedicated to cities, counties, special districts and redevelopment agencies. It would also end the State's fiscally irresponsible practice of borrowing local government property tax funds.
- ✓ **Protect vital, dedicated transportation and public transit funds from State raids.** The measure would prevent State borrowing, taking or redirecting of the state sales tax on gasoline (Prop 42 funds) and Highway User Tax on gasoline (HUTA) funds that voters have dedicated to transportation maintenance and improvements. It would also prevent the State from redirecting or taking public transit funds.
- ✓ **Protect local taxpayers** by keeping more of our local tax dollars local where there's more accountability to voters, and by ensuring once and for all that our gas taxes go to fund road improvements. The measure also reduces pressure for local tax and fee increases that become necessary when the State redirects local funds.

WHY IS IT NEEDED?

Unfortunately, the State has continued its irresponsible practice of taking and borrowing local taxpayer dollars and dedicated transportation funds. The 2009/10 state budget borrows and takes approximately \$5 billion in city, county, transit, redevelopment and special district funds this year despite the fact that voters have overwhelmingly passed ballot measures to keep local funding at the local level to provide essential local services. This year's raids and previous, ongoing state raids and borrowing jeopardize the services Californians need most, including police, fire and emergency 911 services; local economic development and redevelopment; mass transit like buses and commuter rail; and transportation improvements like road repairs and congestion relief. We need to pass this measure to protect these vital local services from State raids and borrowing.

ISN'T FUNDING FOR LOCAL GOVERNMENT AND TRANSPORTATION ALREADY PROTECTED FROM STATE RAIDS?

California voters have overwhelmingly passed separate measures to prevent the State from raiding local government and transportation funds. However, each and every year the State attempts to take or borrow local government, transportation and transit funding using loopholes, or illegal funding diversions that have only been stopped after expensive and lengthy court battles. This year alone, the Legislature:

- Borrowed approximately \$2 billion in property taxes from local governments, despite no clear path to repay these funds.

- Took \$2.05 billion in local redevelopment funds, despite a recent Superior Court ruling that says these types of raids are unconstitutional.
- Shifted \$910 million in transit funding away from local transit agencies. The courts have since ruled these types of raids are unconstitutional.
- Voted to take more than \$1 billion of the local government share of the Highway User Tax (HUTA) to repay state bond debt (but the measure stalled in Assembly). These are funds that have always been used to finance local road repairs and maintenance.
- Took action to eliminate the state sales tax on gasoline (Prop 42 funds) and HUTA and replace with a gasoline “fee” that would have no constitutional protection from future raids by the legislature (the Governor ultimately vetoed this measure).
- Threatened to borrow Prop 42 transportation funds to address the State’s deficit.

Our measure would close loopholes in current law that the legislature has exploited to take or divert local funds. And it would tighten sections of the law to prevent illegal State funding raids of local government and transportation funds before they happen.

WHY DOES YOUR MEASURE PREVENT THE STATE FROM BORROWING LOCAL GOVERNMENT AND TRANSPORTATION FUNDS?

The local government revenue protection measure in 2004 (Prop 1A) and the transportation revenue protection measure in 2006 (Prop 1A) included provisions that allow the State to borrow these funds during fiscal emergencies. However, after several budget cycles it is clear that these borrowing provisions are not only bad for local governments and transportation services, but fiscally irresponsible for the State. Borrowing these dedicated funds only plunges our state deeper into debt because the funds must be repaid, *with interest* within three years.

The borrowing was meant to provide an outlet in short-term budget emergencies, but it’s instead being used to paper over structural budget problems. For example, the State has no clear way to pay back the \$2 billion plus interest in local property taxes that the State is borrowing as part of this year’s 2009-2010 State budget, yet lawmakers borrowed these funds anyway.

What’s more, because the State has the authority to borrow local government and transportation funds, it creates mass uncertainty for cities and counties who need to plan and pass their local budgets, and for transportation and transit planners who aren’t sure if they can rely on these revenues in any given year.

DOES THIS MEASURE INCREASE OR DECREASE REVENUES FOR LOCAL GOVERNMENTS OR FOR TRANSPORTATION AND TRANSIT?

This measure does not increase or decrease the existing revenues that are dedicated to local government, transportation and transit funds. It simply prevents the State from borrowing or raiding *existing* local government, transportation and transit revenues that voters have dedicated to these services.

WON’T THIS MAKE OUR STATE’S BUDGET SYSTEM EVEN WORSE BY FURTHER PUTTING A LOCK BOX ON BILLIONS OF DOLLARS IN FUNDING?

First, these are revenues that have historically been dedicated to cities, counties and special districts to fund local government services. It’s fiscally irresponsible for State Government to raid funds from local governments.

Second, it’s important to remember that these are funds that voters have ALREADY dedicated to local government, transportation and transit services. We are not dedicating any NEW funding for these services, but instead ensuring

that the will of voters is upheld by protecting local government and transportation funds from further State raids and borrowing.

This reform is fiscally responsible and a key step in long-term reform for California. The State has gotten itself into this deep fiscal mess in large part because lawmakers have relied on budget gimmicks like tapping into voter-protected funds and borrowing which only pushes our problems into the future.

HOW DOES THIS MEASURE FIT INTO THE NEED FOR BROAD REFORM OF STATE GOVERNMENT IN CALIFORNIA?

This measure is a necessary and responsible first step toward fiscal reform in California. Virtually everyone agrees that State reforms must include the restoration of more local control over local tax dollars, and moving services closer to the people at the local level. This measure ensures local control, predictability, and accountability for local tax dollars that are used to provide the most essential local services.

WILL THIS MEASURE IMPACT FUNDING FOR PUBLIC SCHOOLS, HEALTHCARE OR OTHER SERVICES?

No. This measure does not take away funding from schools or any other service funded by the State because it only protects EXISTING funds that are already dedicated to local services like public safety and transportation. And this measure in no-way alters Proposition 98, which guarantees funding levels for K-14 schools.

HOW WILL THIS MEASURE IMPACT TAXPAYERS?

This measure provides further protections for *existing* revenues that voters have already dedicated to local government, transportation and transit services. It does not increase taxes. In fact, this measure protects taxpayers by keeping more of our tax dollars local where they're more accountable. And this measure decreases pressure for local tax and fee increases at the local government level that become needed when the state takes local revenues and local governments are forced to look for new revenues to protect vital services.

Attachment 4

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, SUPPORTING THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010 ON THE NOVEMBER 2010 BALLOT

WHEREAS, the City of Moorpark is responsible for building and maintaining infrastructure that is essential to building and preserving the economic and social well-being of the residents and businesses of this city; and

WHEREAS, California voters have repeatedly and overwhelmingly passed separate ballot measures to stop State raids of local government funds, and to dedicate the taxes on gasoline to fund local and state transportation improvement projects; and

WHEREAS, these local government funds are critical to provide the police and fire, emergency response, parks, libraries, and other vital local services that residents rely upon every day, and gas tax funds are vital to maintain and improve local streets and roads, to make road safety improvements, relieve traffic congestion, and provide mass transit; and

WHEREAS, despite the fact that voters have repeatedly passed measures to prevent the State from taking these revenues dedicated to funding local government services and transportation improvement projects, the State Legislature has seized and borrowed billions of dollars in local government and transportation funds in the past few years; and

WHEREAS, this year's borrowing and raids of local government, redevelopment and transit funds, as well as previous, ongoing raids of local government and transportation funds have led to severe consequences, such as layoffs of police, fire and paramedic first responders, fire station closures, stalled economic development, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services; and

WHEREAS, State politicians in Sacramento have continued to ignore the will of the voters, and current law provides no penalties when state politicians take or borrow these locally-dedicated funds; and

WHEREAS, a coalition of local government, transportation and transit advocates recently filed a constitutional amendment with the California Attorney General, called the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010, for potential placement on California's November 2010 statewide ballot; and

WHEREAS, approval of this ballot initiative would close loopholes and change the constitution to further prevent State politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with tax revenues dedicated to funding local government services, including redevelopment, or dedicated to transportation improvement projects and mass transit.; and

WHEREAS, the League of California Cities is in strong support of the Local Taxpayer, Public Safety And Transportation Protection Act Of 2010, and views this measure as providing critically needed resources for California cities.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City hereby formally endorses the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, a proposed constitutional amendment which will be presented for voter approval on the November 2010 statewide ballot.

SECTION 2. The City Council and staff shall provide such educational materials on the possible impacts of such initiatives as may be lawfully provided by the city's representatives.

SECTION 3. The City Council authorizes the listing of the city of Moorpark in support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010.

SECTION 4. The City Clerk is directed to forward a copy of this resolution to the Executive Director of the League of California Cities.

SECTION 5. The City Clerk is further directed to fax a copy of this resolution to the campaign offices at 916.442.3510.

SECTION 6. The City Clerk shall certify to the adoption of the resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 16th day of December, 2009.

Janice S. Parvin, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk