

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** John Brand, Senior Management Analyst 

**DATE:** August 18, 2010 (CC Meeting of 9/01/2010)

**SUBJECT:** Consider Resolution Supporting Proposition 22- the Local Taxpayer, Public Safety and Transportation Protection Act of 2010

**SUMMARY**

The Council is being asked to approve a resolution supporting Proposition 22, 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.

**BACKGROUND**

On December 12, 2009 Council adopted Resolution 2009-2881, supporting the efforts of the League of California Cities (LOCC) and its partners who formed a coalition to qualify the Local Taxpayer, Public Safety and Transportation Protection Act of 2010 for the November ballot. Councilmembers and staff volunteered hours of their personal time to gather voter signatures to qualify the measure for the ballot. This grassroots effort was successful. On July 7, Council directed staff to bring for Council consideration a staff report on Proposition 22.

**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.

Prop. 22, the Local Taxpayer, Public Safety and Transportation Protection Act, will be on the November 2010 statewide ballot and is co-sponsored by the League, the Alliance for Jobs and the California Transit Association. Already, more than 500 groups and local governments including public safety, business, labor, taxpayer, environmental groups and many others have joined the coalition to support Prop. 22.

Among other provisions, the measure would stop the state from taking, borrowing or diverting local government revenues, including:

- Revoking the state's ability to borrow local government property tax funds.
- Preventing the state from redirecting or diverting locally levied taxes, including parcel taxes, sales taxes, utility user taxes, transit occupancy taxes and other locally imposed taxes that are currently passed by local governments and/or their voters and dedicated to cities, counties and special districts.
- Preventing the state from redirecting or diverting redevelopment tax increment funds.
- Prop. 22 also protects gas tax funds which should be used at the local level for road repair, congestion relief, and public transit services like buses and commuter rail.

On August 2, the League of California Cities filed a lawsuit against the summary of Proposition 22 created by the Legislative Analyst's Office (LAO), arguing that the text does not accurately represent the proposition's impact on local government finances.

Of the 58 words in the ballot summary, 51 words detail the impacts to the state, while only seven words contain a reference to local government revenues. The phrase "local government" is completely excluded, an omission the League said "leaves the impression that Prop. 22 has no fiscal impact on local government." To completely exclude or ignore the impact of Prop. 22 on local government in the fiscal summary is a disservice to voters and a failure of the LAO's obligation under the law, according to the League.

On Aug. 6, Sacramento Superior Court Judge Michael Kenny's ruling ordered changes to the Proposition 22 fiscal impact summary appearing in the official Title & Summary and Ballot Label. Judge Kenny agreed with the underlying argument made by the League, saying that the fiscal impact statement was "misleading and inconsistent with the requirements of the Election Code" and that "the condensed Fiscal Impact portion of the Ballot Label should contain some express reference to 'local' governments." Judge Kenny ordered the second bullet of the Fiscal Impact statement be changed to read:

- Comparable increases in funding for state and local transportation programs and local redevelopment.

The Legislative Analyst declined to appeal the ruling of Judge Kenny.

Support for Prop. 22 could be justified based on Legislative Platform statement 1.K.

1. **Local Government Finance**
- K. Support the establishment of a constitutionally-protected funding structure for local government.

Support for Proposition 22 comes from many cities and counties, the League of California Cities, California Fire Chiefs Association, California Police Chiefs Association, California Transit Association, the California Alliance for Jobs, the California Redevelopment Association, the California Special Districts Association, and the editorial board of local and regional newspapers.

Opponents of Proposition 22 include the California Teachers Association, Health Access California, the California Professional Firefighters, and the editorial board of the San Diego Union Tribune, which editorialized against the measure, saying that it will perpetuate the ballot-box budgeting that they believe plays a role in California's budget travails. Other opponents state that Proposition 22 would "create a wall that will prevent borrowing in times of economic crisis and would place an even greater burden of cuts on public education and the backs of our students", according to a spokesperson for the California Teachers Association. "By protecting one part of the budget, Proposition 22 puts health, education and other core services at greater risk," according the California Progress Report.

As indicated above, On December 12, 2009 the City adopted Resolution 2009-2881 supporting placing the Local Taxpayer, Public Safety and Transportation Protection Act on the ballot.

### **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. 2010-\_\_\_\_\_
2. Direct City Clerk's staff to forward copies of this resolution to the League of California Cities and the campaign offices.

### **Attachments**

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| Attachment 1: | A one-page overview of the measure.                    |
| Attachment 2: | Commonly asked questions and answers about the measure |
| Attachment 3: | Resolution No. 2010-_____                              |



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## 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.

Paid for by Californians to Protect Local Taxpayers and Vital Services, a coalition of taxpayers, public safety, local government, transportation, business and labor. 1121 L Street, #803 – Sacramento, CA 95814



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## 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 borrowes 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 to 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.

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Attachment 3

RESOLUTION NO. 2010-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, SUPPORTING PROPOSITION 22: THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010 ON THE NOVEMBER 2010 BALLOT

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 lead 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.

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

SECTION 1. The City hereby formally endorses Proposition 22: 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 authorizes the listing of the city of Moorpark in support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010.

SECTION 3. The City Clerk is directed to forward a copy of this resolution to the Executive Director of the League of California Cities.

SECTION 4. The City Clerk is further directed to fax a copy of this resolution to the campaign offices at 916.442.3510.

SECTION 5. 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 1<sup>st</sup> day of September, 2010.

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Janice S. Parvin, Mayor

ATTEST:

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Maureen Benson, Assistant City Clerk