



**To:** RCRC Board of Directors  
**From:** Paul A. Smith, Vice President Governmental Affairs  
**Date:** June 12, 2018  
**Re:** Tax Fairness, Transparency and Accountability Act of 2018 – **ACTION**

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### **Summary**

This memo provides an analysis of the “Tax Fairness, Transparency and Accountability Act of 2018,” which is slated for the November 2018 General Election ballot. RCRC staff is recommending the RCRC Board of Directors adopt an “Oppose” position on this measure.

### **Background**

Proposition 218, which was enacted in 1996, requires local governments to submit to the voters any ordinance to impose taxes for their approval and established the vote thresholds for general taxes (majority vote) and for special taxes (two-thirds), and requires general tax measures to be placed on regularly-scheduled election ballots.

Proposition 26, which was enacted in 2010 over the objections of RCRC, amended the California Constitution to define what constitutes a local tax. It provided that “tax” means “any levy, charge, or exaction of any kind imposed by a local government ...” This broad definition was accompanied by several exceptions, that covered many fees or charges that a local agency may want to impose and allows that imposition via unilateral action of the governing without requiring voter approval.

### **Issue**

The California Business Roundtable is the lead proponent of the “Tax Fairness, Transparency and Accountability Act of 2018” initiative that seeks to restrict the ability of state and local governments to generate new revenues through taxes and fees. At the local level, the proposal amends Proposition 26 and Proposition 218 to require supermajority voter approval on any new tax (as defined), or the extension of an existing tax. Specifically, the measure would:

- Require two-thirds voter approval for any local tax increase as well as two-thirds approval by the local legislative body to place a tax measure on the ballot.
- Require two-thirds voter approval to extend an existing tax to a new territory, new class of payer or expanded base.
- Broadens the definition of “tax” by deleting or narrowing for certain fees that do not presently require voter approval.

- Specify that payments made voluntarily, or in exchange for benefits or privileges, may be considered taxes subject to voter approval.
- Require those fees that remain exempt from voter approval to be approved by two-thirds of the local legislative body.
- Require any tax placed on the ballot to detail how the revenues will be spent.
- Require all tax measures to be placed on general election ballots.
- Require any initiative-based tax or fee proposal to be approved with two-thirds vote.
- Specify that a levy or charge payable to a non-governmental entity is a tax of the local government under certain circumstances.
- Require any fee to reflect “actual” instead of “reasonable” costs.
- Increase the legal burden of proof that a fee is not a tax.
- Apply the two-thirds voter approval requirement for all taxes and the ballot detail requirements retroactively to any tax measures approved after January 1, 2018.

### **Staff Recommendation**

RCRC staff recommends the Board of Directors adopt an “Oppose” position on the Tax Fairness, Transparency and Accountability Act of 2018. This proposal makes it more difficult to exercise a Board of Supervisors revenue-raising authority. Furthermore, staff is troubled by the measure’s retroactivity to January 1, 2018, which could impact a number of local measures that received voter approval in June and/or will receive voter approval in November.

### **Attachment**

- Copy of Tax Fairness, Transparency and Accountability Act of 2018