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October 1, 2021

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Anabel Renteria
Initiative Coordinator
Office of the Attorney General
State of California
PO Box 994255
Sacramento, CA 94244-25550

Re: Request for Title and Summary for Proposed Initiative

Dear Initiative Coordinator:

With this letter I submit a proposed statewide ballot measure, entitled The Taxpayer Protection and Government Accountability Act, in accordance with Article II of Section 10(d) of the California Constitution. I am the proponent of the measure and a registered voter in the State of California. Please prepare a circulating title and summary of the measure as provided by law.

Enclosed with this letter and text of the proposed measure is a check in the amount of \$2,000 and the affidavits required by the Elections Code.

For purposes of inquiries from the public and the media, please direct them as follows:

Thomas W. Hiltachk
455 Capitol Mall, Suite 600
Sacramento, CA 95814
916-442-7757

Thank you for your time and attention processing my request.

Sincerely,



Thomas W. Hiltachk

The Taxpayer Protection and Government Accountability Act

[Deleted codified text is denoted in ~~strikeout~~. Added codified text is denoted by *italics and underline*.]

Section 1. Title

This Act shall be known, and may be cited as, the Taxpayer Protection and Government Accountability Act.

Section 2. Findings and Declarations

(a) California's cost-of-living crisis is driving up the State's poverty rate, contributing to our ongoing homelessness crisis and driving lower- and middle-class families out of the state. State and local governments' appetite for new revenue adds to the rapidly rising costs of living that Californians face for housing, childcare, gasoline, food, energy, healthcare, and education. In the past 10 years alone, Personal Income Tax revenue into the State's General Fund has grown 129%. In fact, total tax revenue coming into the General Fund has more than doubled in the past 10 years, increasing by \$121 billion during that time and now topping \$240 billion. Tax revenue to local governments has also grown rapidly, again nearly doubling in the last 10 years. At the same time, unelected bureaucrats, empowered by politicians and the courts, have nearly unchecked ability to raise additional costs on consumers by imposing so-called "fees" and other costs without a vote of a single elected body. This growing cost burden is hurting California families who find themselves struggling to live paycheck to paycheck, and are being forced to make tough choices between paying for housing, food, or healthcare.

(b) Californians are already among the highest taxed people in the country and already pay the highest tax rates in the nation for the state personal income tax, sales taxes, and gasoline tax. From the most recent US Census Bureau data, California state and local government general revenues collected in 2019 from taxes, fees, charges, and other non-utility local sources were the highest in the nation at \$533 billion, making them the 6th highest on a per capita basis at \$13,503 per person. With 12 percent of the national population, US Census Bureau data shows that Californians in 2019 paid 16 percent of all taxes collected by the states including 13 percent of all general sales taxes, 16 percent of all vehicle license fees, 16 percent of all property taxes, 22 percent of all corporation taxes, and 22 percent of all personal income taxes. This growing tax burden, and the impact on the State's cost-of-living crisis, have not stopped politicians from demanding more. In 2021 alone, they introduced legislation to raise more than \$234 billion in new and higher taxes and fees.

(c) But the tax burden is only part of the story of California's cost crisis. Californians pay billions more in costs imposed by unelected bureaucrats through "fees" and other revenue-raising mechanisms. In fact, there are now more than 5,100 fees and other charges driving up the cost of living beyond the significant tax burden already placed on working families. What's worse, these fees and other charges don't go to pay for the services being provided; they go to cover overhead, labor and growing pension costs. Since 2010, state revenue from these "fees" has more than doubled. In 2022-23, the state expects to bring in more than \$21.5 billion in fee revenue alone. Working families cannot keep up with the rapid growth in taxes, fees and other costs. California now has the highest cost-adjusted poverty rate in the country.

(d) Californians have tried repeatedly to increase their voice in when and how taxes, fees and other costs are raised by enacting a series of measures to make taxes more predictable and guarantee transparency and accountability. Voter-approved ballot measures such as Proposition 13 (1978), Proposition 62 (1986), Proposition 218 (1996), and Proposition 26 (2010) required state and local governments to make their case to the voters on the need for increased government revenues.

(e) Contrary to the voters' intent, voter approval of government revenue increases and spending accountability measures have been weakened by the Legislature, the courts, and special interests, making it easier to raise government revenues in a variety of ways by only a simple majority of the Legislature and with no vote by the public who is expected to pay the costs.

(f) Now, thanks to consistent efforts to undermine the repeated will of the voters, politicians, state and local governments, and special interests promise that taxpayer money will be spent for a specific purpose, only to divert its use once the money is collected. Revenues that are supposed to improve education instead have been diverted to general salary and benefit increases. Revenues that were promised to improve and expand government services were instead diverted to pay down debts created by past government decisions. Recent major transportation improvements have seen cost overruns more than double their original estimate. Polling by the nonpartisan Public Policy Institute of California showed 88 percent of Californians believe state government wastes a lot or some of the money we pay in taxes and charges.

(g) Worse, court-created loopholes have enabled governments and their surrogates to become less transparent about how the funds taken from taxpayers are raised and spent. Loopholes have been created which are used by the Legislature, local governments and even special interest groups to: (1) pass vaguely-worded statutes allowing unelected bureaucrats to impose new fees and other charges on their own that increase the costs of goods and services in the state; (2) impose new taxes and other charges by hiding them and simply calling them by another name or even using the term "something else;" (3) shelter the revenues from voter approval by running the revenues through a nonprofit organization or another third party; and (4) encourage "divide and tax" by making it easier to raise taxes or charges on only a part of the population through simple majority votes in low turnout elections.

(h) Desperate for new revenue from working families, politicians now illegally campaign for new and higher taxes they put on the ballot by using taxpayer dollars. Poorly disguised as voter outreach or education, these politicians spend millions of taxpayer dollars to urge voters to support new tax measures. In one instance, a local government agreed to pay more than \$1 million to settle a claim that it illegally used taxpayer dollars to support a local tax increase.

Section 3. Statement of Purpose

(a) In enacting this measure, the voters reassert their right to a voice and a vote on new and higher taxes by requiring any new or higher tax to be put before voters for approval. Voters intend to ensure that all taxes and other charges are passed or rejected by either the voters themselves or a governing body elected by voters and not by unelected and unaccountable bureaucrats.

(b) Furthermore, the purpose and intent of the voters in enacting this measure is to increase transparency and accountability over higher taxes and charges by requiring any tax measure placed on the ballot—either at the state or local level—to clearly state if the tax is for general purposes or a specific and clearly

defined service or program, how long it will be in effect, and the estimated cost of the tax. The voters also intend to increase their ability to challenge the legality of a new tax or charge in court prior to the tax or charge being collected.

(c) Furthermore, the purpose and intent of the voters in enacting this measure is to clarify that any new or increased form of government revenue, by any name or manner of extraction paid directly or indirectly by Californians, shall be authorized only by a two-thirds vote of the Legislature and signature by the Governor to ensure that the purposes for such charges are broadly supported and transparently debated.

(d) Furthermore, the purpose and intent of the voters in enacting this measure is also to ensure that taxpayers have the right and ability to effectively balance new or increased taxes and other charges with the rapidly increasing costs Californians are already paying for housing, food, childcare, gasoline, energy, healthcare, education, and other basic costs of living.

(e) Furthermore, the purpose and intent of the voters in enacting this measure is to force transparency and accountability on how state and local revenues are utilized, so that revenues are used for their promised purposes, and not diverted to other uses.

(f) Furthermore, the purpose and intent of the voters in enacting this measure is to close loopholes currently exploited by local politicians by explicitly prohibiting taxpayer dollars from being used to campaign for any measure on the state or local ballot and holding politicians personally liable for any violation of the new law.

(g) In enacting this measure, the voters also additionally intend to reverse loopholes in the legislative two-thirds vote and voter approval requirements for government revenue increases created by the courts including, but not limited to, *Cannabis Coalition v. City of Upland*, *Chamber of Commerce v. Air Resources Board*, *Schmeer v. Los Angeles County* and *Wilde v. City of Dunsmuir*.

Section 4. Section 3 of Article XIII A of the California Constitution is amended to read:

Sec. 3(a) Every levy, charge, or exaction of any kind imposed by state law is either a tax or an exempt charge.

(b) ~~(a)~~ Any change in state statute law which results in any taxpayer paying a higher tax must be imposed by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, and submitted to the electorate and approved by a majority vote, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property, may be imposed. Each Act shall include:

(1) A specific duration of time that the tax will be imposed and an estimate of the annual amount expected to be derived from the tax.

(2) A specific and legally binding and enforceable limitation on how the revenue from the tax can be spent. If the revenue from the tax can be spent for unrestricted general revenue purposes, then a statement that the tax revenue can be spent for "unrestricted general revenue purposes" shall be included in the separate, stand-alone section required by paragraph (3). Any proposed change to the use of the revenue from the tax shall be adopted by a separate act that is passed by not less than two-thirds of all members elected to each of the two houses of the Legislature and submitted to the electorate and approved by a majority vote.

(3) A true and impartial statement of facts explicitly and affirmatively identifying each tax and the specific limitation on how the revenue therefrom can be spent is set forth in the state law as a separate, stand-alone section containing no other information.

(c) Any change in state law which results in any taxpayer paying an exempt charge must be imposed by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature. Each act shall specify the type of exempt charge as provided in subdivision (e), and the amount or rate of the exempt charge to be imposed.

(d) ~~(b)~~ As used in this section and in Section 9 of Article II, "tax" means every any levy, charge, or exaction of any kind imposed by the State state law that is not an exempt charge. except the following:

(e) As used in this section, "exempt charge" means only the following:

~~(1) a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.~~

(1) ~~(2)~~ A reasonable charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the State of providing the service or product to the payor.

(2) ~~(3)~~ A reasonable charge imposed for the reasonable which does not exceed the actual costs to the State for the regulatory costs to the State incident to of issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(3) A levy, charge, or exaction collected from health care providers or health care service plans that is primarily used by the State of California for the purposes of increasing reimbursement rates or payments under the Medicaid program and the revenues of which are permitted to be used for the Medicaid program pursuant to 42 U.S.C. section 1396b(w), or any successor statute.

(4) A reasonable charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.

(5) A fine, or penalty, or other monetary charge including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or the State, as a result of a state administrative enforcement agency pursuant to adjudicatory due process, to punish a violation of law.

(f) ~~(e)~~ Any tax or exempt charge adopted after October January 1, 2021 2010, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(g) ~~(1) ~~(d)~~~~ The State bears the burden of proving by a ~~preponderance of the~~ clear and convincing evidence that a levy, charge, or other exaction is an exempt charge and not a tax. The State bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor, or the actual regulatory cost. ~~, that the amount is no more than necessary to cover the reasonable costs of~~

the governmental activity and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by state law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind imposed by state law as being voluntary, or paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be a factor in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(h) As used in this section:

(1) "Actual cost" of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(2) "Extend" includes, but is not limited to, doing any of the following with respect to a tax or exempt charge, lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

(3) "Impose" means impose, adopt, create, establish, increase or extend.

(4) "State law" includes, but is not limited to, any state statute, state regulation, state executive order, state resolution, state ruling, state opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by the legislative or executive branches of state government. "State law" does not include actions taken by the Regents of the University of California, or Trustees of the California State University, and the Board of Governors of the California Community Colleges.

Section 5. Section 1 of Article XIII C of the California Constitution is amended, to read:

Sec. 1. Definitions. As used in this article:

(a) "Actual cost" of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(b) "Extend" includes, but is not limited to, doing any of the following with respect to a tax, exempt charge, or Article XIII D assessment, fee, or charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

(c) (a) "General tax" means any tax imposed for general governmental purposes.

(d) "Impose" means impose, adopt, create, establish, increase or extend.

(e) (b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity, or an elector pursuant to Article II or the initiative power provided by a charter.

(f) "Local law" includes, but is not limited to, any ordinance, resolution, regulation, ruling, opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by a local government.

(g) (e) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(h) (d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

(i) (e) As used in this article, and in Section 9 of Article II, "tax" means every any-levy, charge, or exaction of any kind, imposed by a local government law that is not an exempt charge or Article XIII D assessment, fee, or charge., except the following:

(j) As used in this section, "Exempt charge" means only the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

(1) (2) A reasonable charge imposed for a specific local government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the local government of providing the service or product.

(2) (3) A reasonable charge imposed for the reasonable not to exceed the actual regulatory costs to the a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(3) (4) A reasonable charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

(4) (5) A fine, or penalty, or other monetary charge including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or a local government administrative enforcement agency pursuant to adjudicatory due process, as a result of to punish a violation of law.

(5) (6) A charge imposed as a condition of property development, excluding a levy, charge, or exaction of any kind to comply with any law regulating vehicle miles traveled.

(6) (7) An Article XIII D assessment, fee, or charge Assessments and property related fees imposed in accordance with the provisions of Article XIII D, or an assessment imposed upon a business by a tourism marketing, or property and business improvement district.

(7) A charge imposed for a specific health care service provided by a local government that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the health care service. As used in this paragraph, a "health care service" means a service licensed or exempt from licensure by the state pursuant to Chapters 1, 1.3, or 2 of Division 2 of the Health and Safety Code.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

Section 6. Section 2 of Article XIII C of the California Constitution is amended to read:

Sec. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) Every levy, charge, or exaction of any kind imposed by local law is either a tax, an exempt charge, or an Article XIII D assessment, fee, or charge. All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local government, whether proposed by the governing body or by an elector, may impose, ~~extend,~~ or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) ~~Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).~~ (d) No local government, whether proposed by the governing body or by an elector, may impose, ~~extend,~~ or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

(d) The governing body of a local government shall only submit a tax ordinance proposed by the local government to the electorate by a resolution passed by not less than two-thirds of all members elected to the governing body. The governing body of a local government shall submit a tax ordinance proposed by an elector, to the electorate by a resolution of the governing body. Any proposed tax to be submitted to the electorate shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of an emergency declared by a unanimous vote of the governing body.

(e) Only the governing body of a local government shall have the authority to impose any exempt charge. The governing body shall impose an exempt charge by an ordinance specifying the type of exempt charge as provided in Section 1(j) and the amount or rate of the exempt charge to be imposed, and passed by not less than two-thirds of all members elected to the governing body. An exempt charge imposed by a

governing body shall be subject to referendum pursuant to the same signature requirement applicable to statewide referendum measures.

(f) No amendment to a Charter which provides for the imposition, extension, or increase of a tax or exempt charge shall be submitted to or approved by the electors, nor shall any such amendment to a Charter hereafter submitted to or approved by the electors become effective for any purpose.

(g) Each measure providing for the imposition of a tax, including a measure proposed by an elector pursuant to Article II or by a Charter providing for the initiative power, shall be submitted to the electors in the form of an ordinance. The ordinance shall include:

(1) A specific duration of time that the tax will be imposed and an estimate of the annual amount expected to be derived from the tax.

(2) A specific and legally binding and enforceable limitation on how the revenue from the tax can be spent. If the revenue from a tax can be spent for unrestricted general revenue purposes, then a statement that the tax revenue can be spent for "unrestricted general revenue purposes" shall be included in the separate, stand-alone section required by paragraph (3). Any proposed change to the use of the revenue from the tax by a local governing body shall be adopted by a separate ordinance that is passed by not less than two-thirds of all members elected to the governing body and submitted to the electorate and approved by a majority vote.

(3) A true and impartial statement of facts explicitly and affirmatively identifying each tax and the specific limitation on how the revenue therefrom can be spent is set forth in the act as a separate, stand-alone section containing no other information.

(h) Any tax or exempt charge adopted after October 1, 2021, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted in compliance with the requirements of this section.

(i)(1) The local government bears the burden of proving by clear and convincing evidence that a levy, charge or exaction is an exempt charge and not a tax. The local government bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor or the actual regulatory cost.

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by a local law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind imposed by a local law as being voluntary, or paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be factors in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

Section 7. Section 3 of Article XIII D of the California Constitution is amended, to read:

Sec. 3. Property Taxes, Assessments, Fees and Charges Limited

(a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special non-ad valorem tax that is imposed on all parcels in the jurisdiction at a uniform rate or in a uniform amount and without regard to the use or ownership of the parcel, except for an exemption or lower rate based on the age, veteran status, or disability of the owner, and parcels wholly or partially exempt from property tax pursuant to Article XIII, and after receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

Section 8. Article XIII E of the California Constitution is added to read:

(a)(1) Notwithstanding Article IV, a statute or resolution calling an election to approve a tax imposition, extension or increase pursuant to Section 3 of Article XIII A, shall be passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

(2) The title and summary and ballot label, required for a measure pursuant to the Elections Code, shall specify:

(i) The type and amount or rate of the tax;

(ii) The annual amount of revenue expected to be derived from the tax;

(iii) The duration of the tax; and

(iv) The use of the revenue from the tax as required in Section 3(b)(2) of Article XIII A;

(b)(1) A resolution calling an election to approve a tax pursuant to Section 2 of Article XIII C, shall be approved pursuant to Section 2(d) of Article XIII C.

(2) The title and summary and ballot label or question required for a measure pursuant to the Elections Code, shall specify:

(i) The type and amount or rate of the tax;

(ii) The annual amount of revenue expected to be derived from the tax;

(iii) The duration of the tax; and

(iv) The use of the revenue from the tax as required in Section 2(a)(2) of Article XIII C.

(c)(1) Notwithstanding any other provision of this Constitution, after a measure subject to the requirements of this section has qualified for the ballot by action of a legislative body pursuant to Section 3 of Article XIII A; Section 2 of Article XIII C; by an elector pursuant to Article II or by a Charter providing for the initiative power; or Section 6(c) of Article XIII D, no expenditure of public funds on any public communication that references the measure by name, or by reference to its subject matter, shall be permitted with respect to that measure until the certification of the election result for that such measure. This section shall not prohibit public expenditures for the provision of ballots or other ballot materials including sample ballots and the State Voter Information Guide provided for in the Elections Code; or to encourage voters to register to vote or to vote, so long as those expenditures are for communications directed at the general public and not segments of the population.

(2) Any public official who approves an expenditure of funds in violation of subdivision (c)(1) shall be personally liable for the amount unlawfully expended in an action brought by the Attorney General, District Attorney, or a taxpayer.

Section 9. Section 32 of Article XIII is amended to read:

Sec. 32(a) Any person may bring an action seeking an injunction to prohibit the collection of a tax or exempt charge alleging that the tax or exempt charge was not lawfully imposed under Section 3 of Article XIII A, or Sections 2 and 3 of Article XIII C, within ninety (90) days after enactment of the tax or exempt charge. No person shall be required to post a bond to obtain an injunction to prohibit the collection of a tax or exempt charge pursuant to this section.

(b) Except as provided in paragraph (a), nNo legal or equitable process shall issue in any proceeding in any court against this State, any local government, or any officer thereof to prevent or enjoin the collection of any tax. After payment of a tax claimed to be illegal, an action may be maintained to recover the tax paid, with interest, in such manner as may be provided by the Legislature.

(c) No judgment in a validation action shall prohibit issuance of an injunction under subdivision (a) or an action to recover tax paid under subdivision (b) unless the tax or exempt charge was pledged as security to repay bonds that have already been issued and both the tax or exempt charge and the bonds were the subject of a validation action brought by the State or local agency.

Section 10. General Provisions

A. This Act shall be liberally construed in order to effectuate its purposes.

B. (1) In the event that this initiative measure and another initiative measure or measures relating to state or local requirements for the imposition, adoption, creation, or establishment of taxes, charges, and other revenue measures shall appear on the same statewide election ballot, the other initiative measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(2) Notwithstanding paragraph (1), this initiative measure shall not be deemed to be in conflict with any other initiative measure that requires statewide voter approval of the creation, increase, extension, or continued imposition of any tax.

(3) If this initiative measure is approved by the voters but superseded in whole or in part by any other conflicting initiative measure approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

C. The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

D. If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of state or federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(1) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(2) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(3) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.