

FACT SHEET ON RESPONSE TO TAXPAYER PROTECTION ACT LAWSUIT

Background: Governor Gavin Newsom and the California Legislature petitioned the California Supreme Court to remove the Taxpayer Protection Act (TPA) from the ballot, arguing that the measure is a revision of the Constitution, which is prohibited via citizen initiative. These politicians are using taxpayer dollars to disenfranchise the more than one million voters who signed petitions to put TPA on the ballot next November.

KEY ARGUMENTS

The right of the voters to exercise their rights through the initiative process is sacred and the Court should not intervene before the election. The governor and Legislature are asking the Court to remove TPA *before* voters have a chance to have their say. This is just their latest politically motivated attempt to keep the highly popular measure off the ballot by taking the extreme action of demanding the Court disenfranchise voters and denying them their lawful right to amend the California Constitution. The Legislature has already gone so far as to pass a Constitutional revision—ACA 13—which will, for the first time, take initiative power away from voters by demanding voter-backed measures play by a different set of rules at the ballot box. Not satisfied with that effort, politicians are now using the courts as well, using a series of baseless and factually unsupported statements to ask the Court to take the near-unprecedented act of removing a ballot measure *before* voters have their say.

The Court has long upheld a high standard for pre-election review, arguing that a measure must be “clearly, positively, and unmistakably unconstitutional.” As is argued in the Preliminary Opposition filed today, “it is the Court’s duty to ‘jealously guard’ the exercise, by not only Real Party, but the more than one million voters who signed the TPA petition, of their reserved constitutional power to propose the amendments included within TPA.”¹

Despite hyperbolic language, the governor and Legislature have failed to prove any “catastrophe” would occur if TPA was on the November 2024 ballot. The Petitioners claim near-catastrophic damage should TPA be placed on the November 2024 ballot, arguing that TPA is affecting existing revenue actions being taken by local governments and the state. Lookback provisions are common and were included in Prop. 218 and Prop. 26. TPA was submitted to voters more than 34 months ago, and the first opposition to the measure from a local city council came in February 2022.

Petitioners and their allies have spent nearly two years lobbying and campaigning against TPA, while local governments have ignored, or in some cases intentionally violated, provisions of TPA. Now, those same politicians have the audacity to ask the Courts to intervene, arguing that these politicians’ decision to effectively play “Chicken” with voters now constitutes a fiscal catastrophe and are asking the Court to intervene. Moreover, nearly all tax increases that appeared on the November 2022 ballot complied with the provisions of TPA. For the small handful that did not, the measure allows for a remedy period, allowing non-compliant revenue measures to be placed before voters in compliance with TPA. The Petitioners rely on a series of

¹ Preliminary Response, page. 13

hypotheticals about how cities will act if TPA is passed. The Court cannot rely on hypotheticals and hyperbole to override the constitutional right of California voters.

The Court has upheld that Prop. 13 was *not* a revision to the Constitution. TPA does significantly less than Prop. 13. Lastly, at the core of the Petitioners' argument for disenfranchising voters is that TPA is a revision to the California Constitution. However, unlike significant changes in taxation and taxing authority passed by voters in Prop. 13, Prop. 218, and Prop. 26, TPA merely amends sections of the Constitution—sections the voters enacted themselves via prior initiative constitutional amendments—to better carry out the purposes for which those provisions were enacted by voters in previous years. Requiring politicians to be truthful to voters may seem revolutionary to the governor and Legislature, but it has and continues to be at the foundation of our representative democracy and Constitution.

NEXT STEPS

The politicians working to take TPA off the ballot have until November 9 to submit a response to the Preliminary Opposition. From there, the Court will determine whether the case should be heard for a pre-election challenge.

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