

From: Ian Patton <ispatton@yahoo.com>
Sent: Wednesday, December 11, 2024 6:35 PM
To: CityClerk
Cc: mayor@longbeach.gov; Council District 1; Council District 2; Council District 3; Council District 4; Council District 5; Council District 6; Council District 7; Council District 8; Council District 9
Subject: Fw: Blatantly illegal tax increase without voter approval on tomorrow's Council special meeting agenda [comment on Item 1 (file # 24-55908)]

-EXTERNAL-

Please add the forwarded email to public comment attached to the sole item, Item 1 (file # 24-55908), on the agenda of tomorrow's Special Meeting of the City Council.

best,
Ian S. Patton
c562.810.9329
Long Beach Reform Coalition

----- Forwarded Message -----

From: Ian Patton <ispatton@yahoo.com>
To: Dawn McIntosh <dawn.mcintosh@longbeach.gov>
Sent: Wednesday, December 11, 2024 at 04:03:44 PM PST
Subject: Blatantly illegal tax increase without voter approval on tomorrow's Council special meeting agenda

Hi Dawn,

Please explain to me where the heck the Long Beach City Council gets the authority to supersede the terms of Long Beach Measure A (2020) as passed by the voters!?

The whole purpose of this [special Council meeting tomorrow](#) appears to be completely illegal.

The City Council simply does not have the power to make these changes to the City Code, which were (legally speaking, the lack of a recount notwithstanding) enacted by the people via Long Beach Measure A (2020):

16 **Section 2.** Subsections 3.62.050.A, 3.62.050.B
17 Long Beach Municipal Code are amended to read as follows:
18 3.62.050 - Use Tax Rate.
19 A. One percent (1%) of the sales price of the p
20 operative date of Measure "A" (January 1, 2017) through D
21 B. To accommodate Los Angeles County Measu
22 quarters percent ($\frac{3}{4}\%$) of the sales price of the property on
23 through ~~September 30, 2027~~ March 31, 2025.
24 C. One percent (1%) of the sales price of the prop
25 April 1, 2027 (the sunset date for Los Angeles County Measure
26 Angeles Measure "A").
27 The sales price shall include delivery charges when such
28 state sales or use tax regardless of the place to which delivery is r

1

It's not the taxpayers' fault that the City Attorney at the time failed to anticipate:

- a) the repeal of County Measure H (2017) 1/4 cent sales tax by virtue of a new County Measure A (2024) 1/2 cent sales tax (which explicitly stated that it was a "*repeal*" of Measure H, right in the ballot summary), and
- b) the passage of AB1679 (2023) in the Legislature last year, allowing *LA County* (not Long Beach) to exceed the state sales tax cumulative cap of 10.25% in the event that County Measure A (2024) were to pass, in other words allowing the County to collect the full 1/2 cent tax *on top of* existing state, county, and city sales taxes.

The facts are clear: Back in 2020, Long Beach falsely *assumed* that Measure H would exist for its full ten years, and *assumed* the state sales tax cap would be in place, limiting our ability to collect the full Long Beach Measure A 1% until the expiration of Measure H. That was its *motivation* for wording Long Beach Measure A (2020) as it did, with an explicit sales tax schedule, including a rate of 3/4 of a cent on the dollar until 2027.

The 3/4% rate—lasting from 2023 to 2027—was passed by the voters, and the City Council has NO POWER TO CHANGE THAT without going back to the voters.

The [text of Long Beach Measure A \(2020\)](#) says that the Council may *lower* it unilaterally (in accord with Prop. 218), not that it may increase it unilaterally (which would violate Prop. 218):

19 **3.62.100 - Amendments.**

20 **All amendments subsequent to the effective date of this ord**
21 **of Division 2 of the Revenue and Taxation Code relating to sales and use**
22 **which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the F**
23 **Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2**
24 **and Taxation Code, shall automatically become a part of this ordinance, p**
25 **however, that no such amendment shall operate so as to affect the rate o**
26 **by this ordinance.**

27 **The City Council, by majority vote of the full Council, may lo**
28 **the retail transactions and use tax adopted by this Chapter to 0%.**

Attachment "1" to Exhibit "A"
Page 8

Long Beach Measure A (2020) also contains provisions protecting City Hall only from *a loss* in revenue, due to a repeal and replacement of County Measure H (2017) or any state legislation altering the state tax code sales tax cap (Revenue & Taxation Code Sec. 7152.1):

12 D. In the event that Los Angeles County voters approve a
13 measure after the effective date of this ordinance that either extends Measure
14 otherwise enacts a new Transactions and Use Tax that, when aggregated with
15 Long Beach's transactions and use taxes under this ordinance, causes the combined
16 rate set forth in Revenue and Taxation Code section 7152.1 to be exceeded, such a
17 County measure shall not have any effect on the City's ability to levy and collect
18 Transactions and Use taxes at the rates set forth herein. Unless State law
19 increases the combined rate limit under Revenue and Taxation Code section
20 7152.1, if this ordinance is later repealed or amended to reduce its tax rates, Los Angeles
21 shall not levy nor collect any Transactions and Use Taxes within the territorial limits of
22 Long Beach which were approved by Los Angeles County voters after the effective date of this
23 ordinance.

There is *no language* suggesting that the Council can unilaterally *increase* our local tax rate in the event of changes in state or county tax law, which in any event would be illegal.

Furthermore, [AB1679 was very clear](#) that it was permitting *the County* to cause the cumulative sales tax to exceed the 10.25% limit set forth in state law (Revenue & Taxation Code Sec. 7152.1), under very specific circumstances (i.e. a new sales tax where "All revenues from the tax shall be dedicated to services to people experiencing homelessness or at risk of homelessness, to homelessness prevention, or to providing affordable housing."). AB1679 did not apply this exemption to cities enacting new tax rates, nor does Long Beach's Measure A (2020) as a general tax even have any specific dedication to homelessness/housing or any other types of appropriation.

Thus, unless you can provide an alternative legal explanation for this apparent flagrant disregard of Prop. 218, I can only anticipate that the City of Long Beach is on course for yet more losing and humiliating Prop. 218 courtroom defeats.

best,
Ian S. Patton
c562.810.9329
Long Beach Reform Coalition