STAFF REPORT

MEETING
DATE: April 4, 2017

TO: City Council

FROM: Regan M. Candelario, City Manager

SUBJECT: AUTHORIZE THE CITY MANAGER TO SIGN AND SEND A LETTER OF OPPOSITION TO AB 252 (RILEY-THOMAS) – WHICH WOULD PROHIBIT LOCAL GOVERNMENT TAXATION ON VIDEO STREAMING SERVICES

REQUEST

Consider authorizing the City Manager to sign a letter of opposition to AB 252 (Riley-Thomas) that would prohibit any tax on the sale or use of video stream services (OTT). This action has been recommended by the League of California Cities.

BACKGROUND

Existing law authorizes counties, cities, and other local agencies to impose various taxes and fees in connection with activity or property within those jurisdictions.

AB 252 (Ridley-Thomas), until January 1, 2023, would prohibit the imposition by a city, city and county, or county, including a chartered city, city and county, or county, of a tax on video streaming services, including, but not limited to, any tax on the sale or use of video streaming services or any utility user tax on video streaming services.

AB 252 was scheduled to be first heard in the Revenue and Taxation committee as early as Monday, March 27, 2107. The author is Chair of Revenue and Taxation and sits on the Local Government Committee.

DISCUSSION

AB 252 goes beyond local Utility User Tax (UUT) ordinances and infringes on local control and local voter decisions. AB 252 is a concern to public agencies which rely on tools for local balloting and this is a measure that would overturn the will of local voters by overturning voter approved UUT ordinances with specific provisions for video.

To the extent AB 252 is being proposed out of concern that taxing OTT will be “too much of a tax burden”, that is a choice best left to the voters of each city and county. As with Propositions 13 and 218, the voters have the right and power to decide whether to tax themselves. AB 252’s proposed exemption applies to ordinances approved by local voters.
If approved, the amended law would be:

**SECTION 1.**
Section 7284.8 is added to the Revenue and Taxation Code, to read:

7284.8.
(a) A city, city and county, or county, including a chartered city, city and county, or county, shall not impose any tax on video streaming services, including, but not limited to, any tax on the sale or use of video streaming services or any utility user tax on video streaming services.

(b) For purposes of this section, “video streaming service” means the provision of video content sent in compressed form over the Internet and displayed by the viewer in real time for a fee on a subscription basis.

(c) The Legislature finds and declares that the promotion of uniformity in access throughout the state to video streaming services is a matter of statewide concern and, therefore, is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

(d) This section shall become inoperative on January 1, 2023, and shall be repealed as of that date.

**PUBLIC OUTREACH**

None. The timing of this action precludes public outreach options.

**FISCAL IMPACT**

No immediate fiscal impact. However, if passed this bill will significantly limit future revenue options in Novato.

**RECOMMENDATION**

Authorize the City Manager to sign a letter of opposition to AB 252.

**ALTERNATIVES**

Do not approve submission of a letter of opposition.

**ATTACHMENTS**

1. Draft Letter of Opposition
April 5, 2017

The Honorable Sebastian Ridley-Thomas  
California State Assembly  
State Capitol Building, Room 2176  
Sacramento, CA 95814  
VIA FAX: 916-319-2154


Notice of Opposition

Dear Assembly Member Ridley-Thomas:

The City of Novato opposes your AB 252, which prohibits a city, including a charter city, county, or city and county from levying any tax on video streaming services, including, but not limited to, any tax on the sale or use of video streaming services or any utility user tax on video streaming services.

AB 252 sets a dangerous precedent by undermining the already established will of local voters. Over the last two decades, voters in over 107 cities and 3 counties have adopted measures to modernize local UUT policy and permit local governments to levy a UUT on similar video providers. These voters had the foresight to anticipate changing technologies, and overwhelmingly adopted policy to address the issue.

It is inappropriate for the Legislature to intrude on matters affecting the interpretation of these local voter-approved ordinances. Nor should the Legislature attempt to favor one technology over another by deciding in a competitive market which business model should be subject to a local tax.

AB 252’s exemption includes a provision for “any tax” with respect to the sale or use of video streaming services. The City of Novato is concerned with this provision especially when the State is considering conversations around tax reform. In a time where many cities and counties already face constricted budgets and are struggling to provide critical police, fire, parks and library services, this state legislated decline in revenue would make matters worse.

For these reasons, the City of Novato Opposes AB 252 (Ridley-Thomas).

Sincerely,

Regan M. Candelario  
City Manager, City of Novato

c: Senator Mike McGuire  
Assemblymember Marc Levine  
Nancy Hall Bennett, League of California Cities, nbennett@cacities.org  
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