

CITY ATTORNEY'S ANALYSIS APPROPRIATIONS LIMIT INCREASE

This measure was placed on the ballot by the City Council.

This measure would authorize the City to continue to spend the proceeds of various City taxes, including the Parks Maintenance Tax, the Library Relief Tax, the Emergency Medical Services Tax, the Emergency Services for Severely Disabled Persons Tax, the Fire Protection and Emergency Response and Preparedness Tax, and the Sugar Sweetened Beverage Products Tax, all of which were previously approved by the voters; as well as the Business License Tax, Utility Users Tax, Parking Tax, Transient Occupancy (hotel) Tax, and the Real Property Transfer Tax.

Under Article XIII B of the California Constitution a city is limited to appropriating (i.e. authorizing expenditure of) the amount of taxes (adjusted by an inflation factor) that it spent in the 1986-1987 fiscal year. This limit may only be exceeded if the voters approve the excess expenditures by a majority vote. This constitutional restriction on appropriations (expenditures) is in addition to the constitutional requirement that special taxes must be approved by a two-thirds (2/3) vote of the people and general taxes by majority vote. Although the appropriations (expenditure) limit was raised by the voters to allow continued expenditure of the proceeds of voter-approved taxes when those taxes were adopted, voter authorization to raise the spending limit must be renewed every four years. A city has two years to obtain voter approval on this expenditure. After that, the tax increase would have to be returned to the taxpayers within two years. Submitting the measures individually would be cost prohibitive and could confuse voters since the net effect of the measures is to raise the City's expenditure limit by the amount of taxes previously approved by the voters. For this reason, a single measure would raise the City's expenditure limit by the aggregate amount of the taxes adopted to date and the income from their investment.

Financial Implications:

This measure would not increase taxes or adopt a new tax. It would authorize the City to continue to spend tax funds previously approved by the voters or the Council for the purposes specified in voter-approved special taxes and for general governmental purposes such as public safety, infrastructure and public services, for fiscal years 2017 through 2020.

s/ZACH COWAN
Berkeley City Attorney