



Brea Accountability Act, Measure T

Background

On November 6, 2012, the Brea electorate approved the Brea [Accountability Act](#), (Measure T). This initiative measure contained provisions regarding salaries and benefits for the City Council, salaries and benefits for executive staff, the City Manager's employment contract and residence location, and other matters.

All legislation, whether generated by initiative or by a Council adopted ordinance, is subject to legal standards. The Measure T ballot pamphlet presented to voters included a City Attorney Impartial Analysis that identified portions of the measure that were of questionable legal validity. After the measure was approved, the City Attorney further analyzed it for legal validity and interpretation.

On February 5, 2013, the City Attorney publicly presented to the City Council a comprehensive [analysis](#) of Measure T. That presentation examined each section of the measure and explained which provisions would be enforced, which would be treated as advisory, and which would not be implemented due to inconsistency with applicable law.

Subsequently, the City Attorney and City Manager met with the Measure T author to discuss legal issues associated with the measure and steps that could be taken to promote the intent of the unenforceable provisions. No consensus was reached at that time. City representatives are willing to reengage in a dialogue if requested.

City Attorney Determinations

Following are highlights of the City Attorney's determinations regarding Measure T.

CITY COUNCIL SALARIES/BENEFITS. The City Attorney determined that Measure T's limitations on City Council salaries and benefits (Section 6 of the measure) are legally permissible. Accordingly, this portion of the measure has been implemented, including:

- Council salary is no more than is stated in the Government Code
- Council benefits are the same as is available to regular part time City employees

- Council expense reimbursements are pursuant to a policy established by Council resolution
- Expense reimbursements for Council, including for travel outside of the country (such as to a Sister City), must comply with the Government Code and with the expense reimbursement policy

EXECUTIVE STAFF SALARIES/BENEFITS. The City Attorney determined that Measure T’s cap on salaries and benefits for executive staff (Section 3 of the measure) is not implementable because there are no employees to which it applies. The reasons for this determination include:

- The cap is codified in a chapter of the Municipal Code that does not apply to management employees.
- All miscellaneous employees are represented by labor groups. State law establishes a “meet and confer” process for negotiation of represented employees’ salary and benefits, and this process cannot be superseded by a local initiative measure.

CITY MANAGER EMPLOYMENT CONTRACT. The City Attorney determined that Measure T’s limit on the duration of City Manager employment contracts (Section 4 of the measure) is legally permissible as applied to future contracts. Although the measure sets a three-year term for an initial contract with a City Manager, the measure also allows for extensions approved by a majority of the City Council.

CITY MANAGER RESIDENCE LOCATION. The City Attorney determined that Measure T’s residence location restriction for the City Manager (Section 5 of the measure) is advisory only. The reasons for this determination include:

- The state constitution, as interpreted by the courts, prohibits residency requirements for municipal employees unless necessary to address specific public safety needs.
- Appreciation of the “plight” of a jurisdiction’s residents is not a valid basis for a residency requirement.

ECONOMIC BASE IMPROVEMENT REQUIREMENT. The City Attorney determined that Measure T’s economic base improvement requirement for City Council and staff salary increases (Section 7 of the measure) is advisory only. The reason for this determination is that the provision most likely would be deemed void for vagueness due to the lack of criteria necessary for implementation.