



## Legislation Text

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### Report to Mayor and City Council

Tuesday, October 18, 2016

Discussion

#### **SUBJECT:**

**MEASURE M - TRANSPORTATION SALES TAX INCREASE - PUBLIC INFORMATION PROGRAM UPDATE (CITY COUNCIL)**

#### **I. SUMMARY**

The City Council considered funding the public information program on Measure M at the October 4<sup>th</sup> meeting. Council requested additional information on Measure M prior to deciding whether to participate in the public information program, including waiting for a final decision by the Gateway Cities Council of Governments (GCCOG) on Measure M. The GCCOG Board voted 20-8 on October 5<sup>th</sup> to remain opposed to Measure M. This report also discusses the City's legal expenses in bringing litigation against MTA for the inadequate ballot label.

#### **II. RECOMMENDATION**

TAKE the following actions:

1. APPROVE participating in the public information program for \$20,000. In addition, ten cities participated the legal challenge and will reimburse the City of Carson on their per city costs.
2. APPROPRIATE \$20,000 from the general fund reserve to account no. 01-50-010-001-6004.

#### **III. ALTERNATIVES**

Council can decide to not participate in the public information program.

#### **IV. BACKGROUND**

Measure M Opposition

The Council decided to defer the funding decision awaiting the decision of the Gateway COG Board on whether to reconsider their opposition the Measure M. The Gateway COG had been approached by Los Angeles Mayor Garcetti and MTA Chair Fasana to reconsidered their opposition. The GCCOG Board voted 20-8 to remain opposed to Measure M at their October 5<sup>th</sup> meeting. They have also requested that the South Bay COG reconsider their opposition, which is schedule for the October 20<sup>th</sup> Board meeting.

### Public Information Program

The Council requested additional information on the public information program. Government agencies are permitted by State law to provide public information on proposed tax measures. Staff approached the City Council at the October 4<sup>th</sup> meeting with a request to participate in the public information program organized by the Gateway Cities Council of Governments (GCCOG). The GGGOC retained the Lew Edwards Group to assist the cities in preparing public information on Measure M. The total budget for the program was \$377,000, to be paid by the GCCOG and participating cities based on a population based formula.

The phase one of the program was to complete a public opinion survey regarding Measure M. The survey was conducted by the Godbe Research Group on August 25, 2016 (see Exhibit "A"). When voters were provided with information concerning the effects of the proposed sales tax increase, support was 58%, while those not supporting the measure were 39%. At the time 6% did not know or expressed no opinion. Measure M requires a 2/3<sup>rd</sup> vote (66.7%) in order to be approved.

Some of the major concerns most mentioned by voters were the funding "gaps" for projects in the South Bay and the Gateway Cities. For example, voters were very concerned that improvements on the I-5, I-605 and the I-710 would not be competed for 40 years. In addition voters expressed concerns that improvements to the South Bay Curve on the I-405 freeway were not completed for 30 years. It is important to note that under the Measure M plan, the South Bay Curve won't be significantly expanded until 2046. Voters were also concerned that the new tax would have no end date.

The second part of the public information program included establishing speaker's bureaus in the participating cities, development of fact sheets, power point presentations, survey information and lists of the projects to be funded and the projects delayed under Measure M. The program also developed maps of the areas with projects and three You-Tube video productions. The program also distributing information to various groups, chambers of commerce and media outlets.

The GCCOG reports that as of today 13 cities have paid their invoices, with a total of \$135,000 in payments received. Several cities are currently processing their invoices, including Cerritos, Lakewood and Downey. The majority of the cities participating in the program are from the Gateway Cities. Three cities in the South Bay are participating in the public information program (El Segundo, Rancho Palos Verdes Estates and Torrance). Carson would be the fourth city to participate from the South Bay.

### History of Measure M

The Measure M transportation sales tax measure is scheduled for the November 8th election. If the increase is approved by the voters, it would levy an additional one-half percent sales tax on all retail sales in Los Angeles County, with the additional sales tax increasing to one percent in 2038 (when the existing one-half percent sales tax from Measure R would otherwise expire).

Measure M would be in addition to three transportation sales tax increases approved by Los Angeles County voters beginning with Proposition A in 1980 (one-half percent). The voters approved an additional one-half percent sales tax increase with Proposition C in 1990.

The most recent one-half percent sales tax increase was Measure R, which was approved by the voters in 2008. Measure R was approved with a “sunset” provision, where the tax will expire in 2038, while Propositions A and C have no sunset provisions and will continue indefinitely.

The three current transportation sales tax measures (Proposition A, C and Measure R) levy a total of one and one half percent on all retail sales countywide, raising \$2.58 billion annually for MTA. Measure M would levy another \$860 million annually in sales tax revenues countywide. Sales tax rates vary by community. The total sales tax rate in Carson would be 9.5% if the measure is approved.

Measure M would not have a sunset or ending date. If approved, Measure M would also remove the sunset in Measure R adopted in 2008. Measure R would continue to be collected indefinitely as well.

The City expressed concerns to MTA over the past two years regarding the unfairness of the proposed tax measure to Carson, many cities and the South Bay in particular. Carson and dozens of local communities requested that MTA consider keeping more of the sales taxes collected locally to solve local transportation problems, particularly funding much needed street repairs. This allocation is known as the “Local Return Program” and is set by ordinance which will be considered as part of the tax measure (see Exhibit “B”).

For example, in the Local Return Program Carson residents and businesses currently pay \$32.7 million annually to MTA (in 2015) through the three existing transportation sales tax measures, while MTA “returns” to Carson \$4.2 million annually. Measure M would collect another \$10.9 million annually from Carson, while returning \$1.4 million annually to the City.

The other example of our request for fair and equitable treatment is the fact that MTA is not planning any major transportation projects for Carson in the first three decades of the tax increase. The regional projects in the Carson area include the I-405, the South Bay Curve

and the I-405 and I-110 interchange. No funding is planned under Measure M for these projects until 2039.

The MTA Board adopted an expenditure plan to prioritize projects, with projects outside of Carson and the South Bay and Gateway Cities area receiving the majority of the early funding. In addition to the regional inequity of the funding plan, MTA acknowledges that their expenditure plan is \$19 billion short of all of its funding commitments, so it is unknown if Carson will receive any regional project funding even after 2039. MTA is also experiencing cost over runs on existing projects. The City of Los Angeles and the County of Los Angeles have the majority of the first decade projects.

The City of Carson adopted a position to oppose Measure M and filed litigation with a coalition of seven cities against the ballot label prepared by MTA. The ballot label reads as follows:

*Los Angeles County Traffic Improvement Plan.*

*To improve freeway traffic flow/safety; repair potholes/sidewalks; repave local streets; earthquake retrofit bridges; synchronize signals; keep senior/disabled/student fares affordable; expand rail/subway/bus systems; improve jobs/school/airport connections; and create jobs; shall voter authorize a Los Angeles County Traffic Improvement Plan through a ½ ¢ sales tax and continue the existing*

*½ ¢ traffic relief tax until voters decide to end it, with independent audits/oversight and funds controlled locally?*

The coalition argued that the ballot label does not comply with new Election Code section 13119(b), which requires that ballot labels for proposed tax measures list the annual revenue generated, the rate of taxation and whether there is a sunset clause. The ballot label does not list the annual revenue of \$860 million, obfuscates the fact that the tax increase goes to one percent in 2038, and is misleading about the fact there is no sunset clause on the tax.

The coalition also argued that the ballot label is not a true and impartial statement of the purpose of Measure M. Measure M misleads South Bay voters about the true nature of spending priorities by indicating all Los Angeles County residents will see traffic improvements, when the reality is Measure M bypasses South Bay cities for decades.

MTA argued in court that the new State disclosure requirements of Election Code section

13319(b) only apply when taxpayers propose to tax themselves and not when government proposes to levy a tax, and that the ballot label was an accurate description of the tax measure.

The coalition argued in court that the new law called for greater transparency on all tax measures (especially proposed tax increases from the government) and that the ballot label should accurately describe the spending priorities which favor some regions over others. The Superior Court denied the writ seeking changes to the ballot label. The coalition filed with the Court of Appeal an emergency petition for writ of mandate and

request for stay of the trial court order. Following additional briefing by both sides, the Court of Appeal in a one line decision declined to consider the matter on an emergency basis, without explanation or detail.

The proposed public information program is intended to educate voters with the facts about Measure M. These include the enormous \$860 million annual tax increase Measure M calls for (which is not in the ballot label), the regional inequities in both the money that comes back to Carson as well as project start dates, the reality of Measure M calls for a one percent sales tax increase starting in 2038, and the fact that there is no sunset on the proposed tax.

The total legal fees in both cases were \$59,538, which is to be divided by the participating cities and the I-5 JPA. The “per city” costs are \$6,616.

## **V. FISCAL IMPACT**

Staff suggests a budget amendment of \$20,000 to cover participation in the public information program and for our “per city” share of the legal costs. Funds for participation in this program were not included in the FY 2016/17 adopted budget; therefore, if participation is approved, funds should be appropriated from the general fund reserve balance to account no. 01-50-010-001-6004.

## **VI. EXHIBITS**

1. Goodbe Research Memorandum dated August 25, 2016 (pgs. 6-10)
2. South Bay Cities COG Letter dated October 4, 2016 (pgs. 11-13)

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