

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE G

Measure G asks voters to adopt the City of Benicia Charter ("Charter") which will allow the City of Benicia ("City") to exercise the authority over municipal affairs granted to charter cities by the California Constitution. The proposed Charter specifically limits the City's new powers over municipal affairs solely to municipal revenue including taxation and assessment, and a system for the imposition, levy and collection of a real property transfer tax. Accordingly, the proposed Charter allows the City to enact a Real Property Transfer Tax Ordinance ("Measure H"), the proceeds of which will fund City services. The Charter further provides that in all other respects, the powers of the City shall remain as they currently are, and shall be governed by the general laws of the State of California.

The City is currently a general law city which means the powers of the City are governed by the general laws established by the State Legislature or enacted by voter initiative. Charter cities, on the other hand, are specifically authorized by the State Constitution to govern themselves as to those matters deemed "municipal affairs". In contrast, state law applies to charter cities for matters of "statewide concern".

Whether a given activity is a municipal affair, over which a charter city has sole authority, or of statewide concern, over which the State legislature has authority, is an issue for the State judicial system to decide based on the facts and circumstances of each case. Generally, a matter is of statewide concern rather than a municipal affair when its impact is primarily regional.

A general law city may elect to become a charter city by following statutory procedures and may limit the scope of matters the charter governs. Here the City utilized the procedure in Government Section 34458. The Charter proposed by the City provides that the City's new powers over municipal affairs will be limited solely to municipal revenues including taxation and assessment, and a system for the imposition, levy and collection of a real property transfer tax.

Measure H, the companion measure to Measure G, is also being presented to voters on November 5, 2024, and asks voters to approve the adoption of a real property transfer tax to fund City services, including, but not limited to, roads, infrastructure, facilities, Police, and Fire. Measure H can only be approved if voters approve Measure G, which establishes the proposed Charter.

A "yes" vote on Measure G adopts the City of Benicia Charter. A "no" vote on Measure G will maintain the City of Benicia as a general law city. Measure G will be adopted if it is approved by a majority vote of the electorate. If Measure G is approved by a majority of voters and the Charter is adopted, any future amendment or expansion of the scope of the Charter would be subject to voter approval.

Measure G was placed on the ballot by the City Council of the City of Benicia.

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The above statement is an impartial analysis of Measure G. The full text of Measure G is printed in the Voter's Information Pamphlet and is also available on the City's website at : <https://www.ci.benicia.ca.us/elections>. If you desire a copy of the measure, please call the City Clerk's office at 707-746-4200 and a copy will be mailed at no cost to you.

CITY OF BENICIA MEASURE G CHARTER BALLOT DESCRIPTION

California Government Code Section 34458.5 requires that a proposal to adopt or amend a charter include a ballot description enumerating the new city powers as a result of the adoption of the charter, including whether the City Council will have the power to raise its own compensation and the compensation of other city officials without voter approval.

A “YES” vote in favor of Measure G changes the City of Benicia, hereafter referred to as “the City,” from a general law city to a charter city. The City is currently a general law city. Accordingly, the powers of the City are governed by the general laws of the State of California relating to cities organized under the general laws. The general laws of the State are established by the State Legislature and signed by the Governor, or enacted by voter initiative.

Charter cities, on the other hand, are specifically authorized by the State Constitution to govern themselves, free of State legislative intrusion, as to those matters deemed “municipal affairs”. As a result, when a city becomes a charter city, the city thereafter possesses all powers appropriate for a municipality to possess so far as municipal affairs are concerned free of State legislative interference. The charter document itself does not contain or constitute the grant of authority over municipal affairs, as the authority comes from the State Constitution. Rather, the charter serves as a limitation on that authority. Accordingly, charter cities possess authority over municipal affairs except as limited by their charter.

The proposed City of Benicia Charter specifically provides that the City’s new powers over municipal affairs will be limited solely to municipal revenue including taxation and assessment, and a system for the imposition, levy and collection of a real property transfer tax. In all other respects, the powers of the City shall remain as they currently are and shall be constrained by, subject to, and governed by the general laws of the State of California.

The proposed charter will not change the City Council’s authority to raise its own compensation and the compensation of other city officials. The City Council’s power to raise compensation will continue to be governed by the general laws of the State of California. As set forth in Government Code Sections 36516 and 36516.5, the City Council may increase their own salaries without voter approval, effective upon the beginning of a new term of a councilmember, by an amount up to 5% for each year since the last increase. Government Code Section 36516 also provides that the salary of the council members may be increased beyond the amount noted above with voter approval. Finally, as to other city officials, the City Council may increase their compensation without voter approval.