

**IMPARTIAL ANALYSIS BY CITY ATTORNEY
CITY OF BREA
MEASURE T**

This measure would prohibit the City of Brea's Personnel Officer from presenting to its City Council a pay schedule for the City Manager, and other administrative officials, that exceeds 2.5 times the median household income of the City of Brea, based on United States Census Bureau or a successor entity's statistics. This restriction in salary and benefits would not apply to a pay schedule presented to the Council for fire, police and other emergency public safety personnel. This portion of the measure is of questionable legal validity; a Court could find it to be an improper delegation of the City Council's duty to set compensation and could find that it does not legislate in that it simply is a prohibition against potential actions of the City's Personnel Officer.

The measure would limit the term of any City Manager employment agreement to 3 years unless it is extended at the discretion of the City Council.

The measure would require the City Manager to reside within 4 miles of Brea City Hall, unless a limited, one-time waiver is exercised by the City Council. This portion of the measure is of questionable legal validity in that the only present, clear legal basis for such a residency requirement is the need for officials such as fire, police and public works personnel to be able to quickly respond to and be physically present at incidents occurring in the City.

The measure would limit total compensation of a member of the City Council, excluding benefits and reimbursements, to no more than is provided in California Government Code Section 36516(a). Council Members could receive the same kinds of benefits made available to regular part time City employees including medical insurance, life insurance and pension contributions. No compensation or benefits could be paid after a member's term has expired. City Council members would be precluded from receiving any other personal benefits.

The limit on City Council compensation would be exclusive of any amounts payable to each Council Member as a reimbursement for actual and necessary expenses incurred in the performance of his or her official duties for the City, as provided by California Government Code Section 36514.5. Any expense reimbursement would require submission of a request for reimbursement in accord with an adopted policy resolution of the City Council.

The measure allows the City Council and staff to receive higher pay, if they improve the local economic base. This portion of the measure is of questionable legal validity due to its vagueness. It may be held to be unenforceably vague because it does not state how to measure improvement to the City's economic base and does not identify City actions which could be deemed to cause the improvement to the economic base.

s/ James L. Markman
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