

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

This measure would establish deadlines for City responses to certain records requests made under the Public Records Act on an accelerated timeline. Each such request and response would be required to be acknowledged by email within one business day. A reasonable effort would be required to be made to make documents available within two business days, more rapidly than is required by state law which provides ten days to initially respond to a request.

The measure requires information concerning issued checks and certain contracts to be published on the Internet. Certain inactive contracts would be required to be made available in electronic form upon request or as time is available.

The measure provides that responsive documents in electronic form shall be made available via email at no charge, or in paper form upon payment of the reproduction costs, plus postage, up to a stated limit.

The measure would require specific records request information to be published in the City's budget document. The City Clerk is required to report any improper hindrance to responses to records requests. Such actions are deemed punishable as misdemeanors. This provision may not be legally valid because the vague phrase "improper hindrance" lacks definition.

The measure would prohibit the City from offering inducements to discourage certain persons or parties from discussing or revealing information not otherwise prohibited from disclosure.

The measure would modify provisions of the Open Meeting Law by prohibiting discussion of city manager goals or performance in closed session. This portion of the measure is of questionable legal validity in that it may violate a city manager's right of privacy as provided for in state law. The measure requires that public discussion must be allowed prior to the Council taking a final vote on a proposed settlement discussed in closed session. The measure further requires City audio-visual equipment be made available for use of meeting attendees.

The measure would require Council Study Sessions to be recorded for internet publication. The measure prohibits any City official from interrupting or censoring any speaker during Matters from the Audience at any Council meeting, excepting only a 5 minute time limit.

The measure would prohibit any general tax increase ballot measure from specifying specific purposes.

The measure would create a 3-person commission, comprised of persons who have never been, and whose immediate family members have never been, City employees. There are no other commission membership criteria such as being of a certain age, or being a Brea resident. This commission must periodically report to the City Council concerning compliance with this measure, and may impose fines for noncompliance. This provision may not be legally valid because a Court could consider such a fine to be crime-based and punitive and the word "noncompliance" is vague. No procedure providing due process of law to a person subject to such a fine is included in the measure.

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