

16 JUN 10 PM 3:41

# CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE \_\_\_\_\_

Currently the City of Oakland does not tax sugar-sweetened beverages. This measure would impose a City excise tax of one cent per fluid ounce on the distribution of sugar-sweetened beverages in Oakland, as well as added-calorie sweeteners that are used to make sugar-sweetened beverages. "Distribution" would include the sale of beverages or sweeteners by one business to another (such as a sale from a wholesale business to a retail business) or the transfer of beverages or sweeteners from a wholesale unit of a business to one of its retail units. "Distribution" would not include retail sales to customers. The distribution of sugar-sweetened beverages would not be taxed more than once in the chain of commerce.

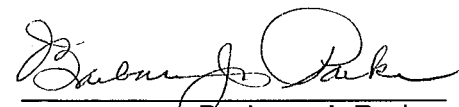
The tax would be imposed starting on July 1, 2017. Revenue from the tax would be deposited into the City's general fund, and the City could use the revenue for any lawful governmental purpose.

The measure defines the beverages that qualify and do not qualify as "sugar-sweetened beverages." The measure requires that any distributor of sugar-sweetened beverages or beverage sweeteners register with the City. The measure also identifies the distributors that would be required to collect the tax. The tax would not apply to any distributor that the City has no legal authority to tax. The tax also would not apply to any distributor that is a small business. "Small Business" is defined as a business with less than \$100,000 in yearly gross sales, if the business distributes sugar-sweetened beverages directly to consumers.

The measure includes various administration and enforcement provisions. The City's Tax Administrator would establish rules and regulations for administration and enforcement. The measure imposes penalties on distributors who fail to pay the tax and authorizes the City to examine distributors' books and records. The measure requires that the City keep certain information and documents in connection with the tax confidential.

The measure would establish a new nine-member Community Advisory Board with specific membership requirements. Board members would be appointed by the Mayor and confirmed by the City Council in accordance with City Charter section 601. The Board would be responsible for (1) making recommendations to the City Council on setting up and/or funding programs that prevent or reduce the health consequences of consuming sugar-sweetened beverages, and (2) reporting on the implementation of the measure. However, the City Council would have final authority to determine the use of revenue from the beverage tax.

The Oakland City Council placed this measure on the ballot. A "yes" vote for the measure supports the passage of the tax; a "no" vote opposes the tax. A majority vote (i.e. more than 50% of the votes cast) is required to pass the measure.

  
Barbara J. Parker  
City Attorney

12  
14  
13  
13  
15  
14  
15  
13  
9  
15  
16  
3  
13  
11  
12  
17  
17  
15  
13  
4  
9  
11  
13  
12  
14  
1  
11  
11  
14  
14  
14  
12  
14  
5  
15  
16  
14

456

16 JUN 17 PM 2:41



## Ballot Measure Resolution 86161 – The Proposal

Resolution No. 86161 will impose a one cent (\$0.01) per fluid ounce tax on the distribution of sugar-sweetened beverages. A sugar-sweetened beverage is any beverage intended for human consumption to which one or more caloric sweeteners are added and contains 25 or more calories per 12 fluid ounces of beverage.

The distributors of sugar-sweetened beverages are responsible for paying the tax.

### Applicability and Exemptions

Beverages subject to the tax include, but are not limited to sodas, sports drinks, sweetened teas, energy drinks, non-100% fruit drinks, etc. Beverages exempt from the tax include milk products, 100% juice, baby formula, diet drinks, or drinks taken for medical reasons.

### Community Advisory Board

The ordinance proposes the formation of a Community Advisory Board, which will advise and make recommendations to the City Council on the effectiveness of the Sugar-Sweetened Beverage Tax, including how and to what extent the City Council should establish and fund programs to prevent or reduce the health consequences of consuming sugar-sweetened beverages in Oakland communities. The nine member board will be comprised of Oakland residents, and will include medical and dental professionals, Oakland Unified School District parent representatives, and public health professionals.

### Revenue

The revenue from this tax will be designated for the General Purpose Fund. The Community Advisory Board will give recommendations to the City Council on ways to spend the funds. This measure requires a majority vote in order to pass.

### Estimated Costs

We estimate the administrative cost of this measure to be approximately 2% of the revenue, which represents the support for the advisory board and administration and collection of the tax.

A "YES" VOTE MEANS: you support the City to collect a tax of 1 cent per fluid ounce from distributors of sugar-sweetened beverages.

A "NO" VOTE MEANS: you do not support the collection of this tax.

302