



T

City of Newport Beach, Require Voter Approval Prior to Issuing or Incurring Certain Debt Obligations

Shall Newport Beach City Charter Section 1109 be amended to require at least fifty-five percent (55%) voter approval prior to issuing Certificates of Participation or Lease Revenue Bonds greater than fifty million dollars (\$50,000,000.00) to finance capital projects?

What your vote means

YES	NO
A "yes" vote is a vote in favor of amending City Charter Section 1109.	A "no" vote will reject the proposed amendment to the City Charter, leaving the City Charter in its present form.

For and against

FOR	AGAINST
Marshall "Duffy" Duffield Mayor Kevin Muldoon Councilman Scott Peotter Councilman	Bob Rush President, Newporters for Ethical Government



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Full Text of Measure T City of Newport Beach

SECTION 1: TEXT OF AMENDMENT TO NEWPORT BEACH CITY CHARTER

The City Charter of the City of Newport Beach is hereby amended as follows (underlining showing additions and strike-through showing deletions):

Section 1109 ~~Bonded Debt Limit~~ Limitations on Debt, Voter Approval

(a) **General Obligation Bonds.** The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen percent (15%) of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of two-thirds (2/3^{rds}) of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the State Constitution and of this Charter.

(b) **Debt Issuance Limit on Certificates of Participation or Lease-Revenue Bonds.** On or after January 1, 2019, the City may not issue Certificates of Participation or Lease-Revenue Bonds funded via a leaseback arrangement at an amount over fifty million dollars (\$50,000,000.00), adjusted annually beginning January 1, 2019 by the US Bureau of Labor Statistics' Final Demand—Construction Index (WPUFD43 or its successor), to fund a Single Capital Project unless the debt issuance is first authorized by the affirmative votes of at least fifty-five percent (55%) of the electors voting on such a proposition at any election at which the question is submitted to the electors. A Single Capital Project shall not be piecemealed to circumvent this voter-approved debt requirement.

(1) If Certificates of Participation or Lease-Revenue Bonds are issued for a Single Capital Project in an amount less than fifty million dollars (\$50,000,000.00, as adjusted annually per this Subsection), and further Certificates of Participation or Lease-Revenue Bonds are proposed for a separate Single Capital Project, the subsequent issuance is not subject to the voter approval requirement unless the subsequent issuance alone exceeds fifty million dollars (\$50,000,000.00, as adjusted annually per this Subsection).

(2) For purposes of this section, the following terms shall be defined as follows: (i) "City" shall mean the City Council or any entity created, controlled, or managed by the City of Newport Beach or City Council; (ii) "Certificate of Participation" shall mean a financial instrument that provides an investor a share of, or interest in, lease revenue; (iii) "Lease-Revenue Bond" shall mean a bond, note or other financial instrument secured by lease payments; and (iv) "Single Capital Project" shall mean a project where all project elements are analyzed under a single California Environmental Quality Act review.

(c) **Disaster Exemption.** The voter approval requirement in Subsection "b" above shall not apply to Certificates of Participation or Lease-Revenue Bonds that are in any way related to the funding of the design, environmental review, permitting, replacement, construction, and/or repairs to public infrastructure, the failure of which would cause material damage to the property of others, or which is damaged by a disaster that also includes: (1) a declaration by the President of the United States of a national emergency; (2) a declaration by the Governor of a state of emergency; or (3) a declaration by the City Council of a local emergency.

(d) **Refinancing Exemption.** The voter approval requirement in Subsection "b" above shall not apply to the refinancing of existing General Obligation Bonds, Certificates of Participation, Lease-Revenue Bonds, or any other debt.

SECTION 2: BALLOT DESCRIPTION

As provided in Government Code section 34458.5, the following ballot description is included in this proposed Charter Amendment measure:

CHARTER AMENDMENT (Section 1109): This Charter Amendment measure would amend City Charter Section 1109. Amended Section 1109 would require the affirmative votes of at least fifty-five percent (55%) of the electors voting on such a proposition at any election at which the question is submitted to the electors prior to issuing Certificates of Participation or Lease Revenue bonds greater than fifty million dollars (\$50,000,000.00) to finance capital projects. "Certificate of Participation" means a financial instrument that provides an investor a share of, or interest in, lease revenue. "Lease-Revenue Bond" means a bond, note or other financial instrument secured by lease payments. "Single Capital Project" means a project where all project elements are analyzed under a single California Environmental Quality Act review. This amendment does not give the City Council power to raise its compensation or that of other City officials without voter approval.

SECTION 3: SEVERABILITY

It is the intent of the people that the provisions of this Charter Amendment measure are severable and that if any provision of this Charter Amendment measure, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this Charter Amendment measure which can be given effect without the invalid provision or application.

SECTION 4: CONFLICTING MEASURES

In the event this Charter Amendment measure and another measure or measures relating to City Council vote approval requirements for the matters described herein shall appear on the same general municipal election ballot, the other measure or measures shall be deemed to be in conflict with this Charter Amendment measure. In the event that this Charter Amendment measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void. If this Charter Amendment measure is approved by the voters but superseded in whole or in part by any other conflicting measure approved by the voters at the same election, and such other conflicting measure is later found held invalid, this measure shall be self-executing and given full force and effect.

SECTION 5: EFFECTIVE DATE

This Charter Amendment measure shall become effective in the manner allowed by law.



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Section
8

Impartial Analysis City of Newport Beach Measure T

Under California law, the City may pledge a stream of revenue through the issuance of certificates of participation or lease-revenue bonds to finance the construction of capital improvement projects. In the past, the City has used this type of financing for a number of capital improvement projects including, most recently, the construction of the Newport Beach Civic Center. This City-sponsored measure amends City Charter Section 1109 to require the affirmative vote of at least fifty-five percent (55%) of the City's voters before issuing certificates of participation or lease-revenue bonds for any single capital project that is in any amount greater than fifty million dollars (\$50,000,000.00). This dollar limit is adjusted annually to keep pace with inflation. This measure includes three (3) exemptions from this vote requirement, for: (i) work required to prevent material damage to the property of others; (ii) work required due to a disaster; and/or (iii) the refinancing of existing general obligation bonds, certificates of participation, lease-revenue bonds, or any other debt.

This proposed City-sponsored measure requires approval of a majority of voters. A "yes" vote is a vote in favor of amending City Charter Section 1109. A "no" vote will reject the proposed amendment to the City Charter, leaving the City Charter in its present form.

The above statement is an impartial analysis of Measure T. If you wish to read the full text of the measure, or desire a copy of the measure, please call the City Clerk's Office at (949) 644-3005 and a copy will be provided, mailed or E-mailed at no cost to you, or you can visit www.newportbeachca.gov/2018election for a copy.

s/ Aaron C. Harp
City Attorney



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Argument in Favor of Measure T

Certificates of participation (COP's) were used to incur over \$225 million in debt service to finance the Civic Center.

When a municipality seeks to fund large projects using debt financing without getting voter approval, they circumvent the 2/3rd popular vote required by Prop 13 to issue bonds by using COP's instead.

COP's do not require a vote of the people, but they have the same effect bonds have of dedicating future revenue to make payments on the loan.

"Requiring voter approval for esoteric debt instruments, such as revenue bonds and 'certificates of participation' is wholly consistent with the philosophy of Proposition 13 which trusts the voters - not the politicians - with the most important fiscal decisions: new taxes and the assumption of public debt."

Jon Coupal
President, Howard Jarvis Taxpayers Association

In the case of our Civic Center, taxpayers pay \$8 million per year until 2041 in "lease payments" to occupy its own city hall.

Measure T requires 55% voter approval for new projects over \$50 million dollars prior to issuing or incurring certain debt obligations.

This Charter Amendment would not apply to the refinancing of existing debt or emergency funding to repair damages caused by a natural disaster.

If you would like a say in large projects that require debt financing, then we humbly ask for your support. Thank you.

s/ Marshall "Duffy" Duffield
Mayor

s/ Kevin Muldoon
Councilman

s/ Scott Peotter
Councilman



Argument Against Measure T

California's Proposition 13 overwhelmingly passed in 1978.

Prior to Proposition 13, local governments set property tax rates, often abusing their ability to tax.

Proposition 13 required 2/3rds voter approval for "general obligation" bonds.

Unfortunately, Sacramento's lobby created financial instruments to circumvent Proposition 13's 2/3rds voter requirement.

In 2010, former councilmembers Keith Curry, Rush Hill, Mike Henn, and Steve Rosansky used Certificates of Participations to borrow \$126,660,000 to build the Civic Center Project. This was done without voter approval, using numerous city-owned properties as collateral.

Today, Newport's taxpayers are paying \$8,000,000 a year in debt service for the Civic Center Project.

The \$128,000,000 debt will cost us \$228,000,000 when paid off in 2041.

Voters should have the right to decide if they approve of borrowing large amounts of debt, against collateralized public assets, to pay for future projects.

The current City Council voted 6-1 to require debt issued over \$50 Million to receive 55% of the vote.

Although the proposed Charter Amendment is a good first step, 2/3rds of voter approval for debt on large city projects in excess of \$25 million is a better threshold than the threshold of 55% of the vote when debt is used to finance projects in excess of \$50 million.

Even though this Charter Amendment is a step in the right direction, we should reject it and send it back for a higher 2/3rds voter approval threshold and lower \$25 million debt ceiling.

s/ Bob Rush
President, Newporters for Ethical Government