

CITY OF BERKELEY MEASURE KK

KK MEASURE KK: Shall the initiative ordinance Requiring Voter Approval of Exclusive Transit-Only and HOV/Bus-Only Lanes be adopted?

YES

NO

Financial Implications: \$250,000 – \$500,000 per designation plan such as for the currently proposed Bus Rapid Transit project, plus the cost of placing a designation plan on the ballot (\$15,000), and potentially, holding a special election, (about \$350,000 if conducted by mail, and more than \$700,000 if conducted with polling places).

CITY ATTORNEY’S IMPARTIAL ANALYSIS OF MEASURE KK

INITIATIVE ORDINANCE REQUIRING VOTER APPROVAL OF EXCLUSIVE TRANSIT-ONLY AND HOV/BUS-ONLY LANES

The proposed ordinance would require voter approval before the City of Berkeley could dedicate a public street or lane of traffic to “bus-only, transit-only, or high-occupancy-vehicle-only use”. Voter approval would not be required for minor changes such as creating a new bus stop or temporary changes for special street events or “unique” circumstances.

The voter approval process would include preparation of a “designation plan”, which is defined as a comprehensive plan for the creation of the transit-only, or high-occupancy vehicle/bus-only lanes. The designation plan would be required to include information on the impacts of lane designation on drivers, pedestrians, bicyclists, businesses, parking and emergency access, and the fiscal impacts of each proposed lane or street designation, and specify how the designation plan could be modified.

Designation plans would be guided by the Planning Commission and such other commissions as the City Council deems appropriate, and would involve substantial public input, including public hearings.

The proposed ordinance would also purport to require amendment of the City’s General Plan Transportation Element to conform to the proposed ordinance.

The requirements for preparation of a designation plan and subsequent voter approval would increase the amount of time needed to approve exclusive lanes for the use of buses (also known as Bus Rapid Transit or BRT) which could place time-sensitive outside funding sources at risk or prevent the City or other agencies from applying for available funding. The initiative would lead to increased costs to prepare the required plan, to place it on the ballot, and potentially to hold a special election if necessary to meet funding deadlines. The initiative would increase uncertainty in the BRT planning process and reduce flexibility in regard to project implementation should the voters approve a designation plan.

The proposed ordinance is a significant impediment to implementing General Plan goals and policies relating to

promoting alternatives to automobiles and improving public transit.

It is not clear whether the voter approval requirement of the ordinance is lawful because it conflicts with California Vehicle Code section 21655.5 which appears to delegate the authority to create HOV lanes on City streets to the City Council.

Financial Implications

Each time a designation plan would be required to be placed on the ballot under this measure, the City would incur various costs. Preparation of a designation plan (such as for the currently proposed Bus Rapid Transit project) could cost approximately \$250,000 - \$500,000, inclusive of staff time. In addition, the cost of placing a designation plan on the ballot would be approximately \$15,000. If necessary to accommodate external funding deadlines, the cost of a special election would be about \$350,000 if conducted by mail, and more than \$700,000 if conducted in a standard fashion with polling places.

s/ZACH COWAN

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