

# CITY OF SAN DIEGO

(This Measure will appear on the ballot in the following form.)

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## MEASURE D

**FACILITIES AND TOURISM TAX INITIATIVE.** Should the measure be adopted to: among other provisions, increase San Diego's hotel occupancy tax up to 5%; end Tourism Marketing District; allow hoteliers to create assessment districts and use hotel occupancy taxes for downtown convention center and not a stadium; prohibit contiguous expansion of existing convention center; create downtown overlay zone for convention and sports facilities; create environmental processes; and allow Qualcomm stadium property's sale for educational and park uses?

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This measure's approval threshold could be affected by legal issues currently before the California Supreme Court.

**Due to the size of the full text of this measure you will be mailed a separate, SUPPLEMENTAL pamphlet which will contain the full text of Measure D (and C), also including the Ballot Question, Official Title and Summary, Impartial Analysis, Fiscal Impact Statement, Argument In Favor, and Argument Against, which are also printed below.**

**You may also view the full text of the measure at [www.sdvote.com/en/measure-d.pdf](http://www.sdvote.com/en/measure-d.pdf).**

**(NOTE: Web address is in all lower case letters.)**

## OFFICIAL TITLE AND SUMMARY

### BALLOT TITLE

Tax and Facilities Initiative: Zoning for Downtown Convention and Sports Facilities; Transient Occupancy Tax Increase for Tourism Marketing, Convention Facilities, and General Uses; Authorizing Sale of Mission Valley Stadium Property for University Facilities and Parks

### BALLOT SUMMARY

This measure would amend the San Diego Municipal Code to, among other things, increase the transient occupancy tax by up to 5%, and allow hoteliers to retain most of the increase as reimbursement for assessments they make to newly formed assessment districts. Assessment districts would be formed by hoteliers for development of a convention center that is not contiguous with the existing convention center in downtown San Diego, and that may be combined with a sports facility. Assessment districts could also be formed for tourism marketing.

The development area for the future convention center and sports facilities would be defined by a new overlay zone with specific development policies. Projects allowed by the new overlay zone would be subject to different environmental processes and requirements in place of state laws.

## **BALLOT SUMMARY (CONTINUED)**

The measure would also authorize the sale of 166 acres of City-owned property in Mission Valley to one or more local colleges or universities or the San Diego River Conservancy, with certain conditions for sale and use of the property.

The tax increase provisions can be summarized as follows: If adopted, this measure would increase the City's transient occupancy tax rate by 5% for hotels with more than 30 rooms, and for recreational vehicle parks and campgrounds, for a total tax rate of 15.5%, and by 3.5% for hotels with less than 30 rooms, for a total tax rate of 14%. These increased rates would be in effect until changed by voters.

If any of the municipal code amendments included in the measure are invalidated by a court, then the measure provides that all of the measure's provisions would be invalid. If this happens, the tax increase likely also would be invalidated and would terminate.

This measure was placed on the ballot by the City Council after voter signatures qualified the initiative measure for the ballot.

### **CITY ATTORNEY'S IMPARTIAL ANALYSIS**

This measure would amend the San Diego Municipal Code to:

- Add zoning for development of a convention center, sports facilities, or combined facilities (Overlay Zone) for a twelve-block area east of Petco Park.
- Authorize creation of new improvement districts to fund a convention center, tourist-serving transportation infrastructure, and maintenance and repair of tourist facilities in the Overlay Zone. These districts would be formed by hoteliers, funded through assessments, and subject to laws regulating assessment districts. Assessments could not be used for a sports facility or on-site expansion of the existing convention center, and the City would be prohibited from funding any projects for convention center, sports, or combined facilities in the Overlay Zone.
- Eliminate the existing Tourism Marketing District and end its assessments. This District currently promotes the City to visitors, funded through assessments of up to 2% of hotel room rates.
- Increase the City's Transient Occupancy Tax (TOT). This tax is paid by guests at hotels, recreational vehicle parks and campgrounds. The tax is itemized on guests' bills, collected from guests by the operator and turned over to the City. The current tax is 10.5%. This measure would increase TOT to 15.5% for larger hotels, recreational vehicle parks and campgrounds, and to 14% for smaller hotels.
- Instead of depositing with the City all TOT revenue collected from guests, this measure would allow hoteliers to keep revenues from up to 2% of the TOT rate as reimbursement for assessments they paid to a newly formed assessment district covering development of a downtown convention center, and up to 2% as reimbursement for assessments paid to a newly formed assessment district for tourism marketing.
- Repeal the existing requirement for spending revenue from 4% of the TOT rate on City promotion.
- Authorize the City Auditor to audit collection and reporting of TOT.

## **CITY ATTORNEY'S IMPARTIAL ANALYSIS (CONTINUED)**

- Block the City from participating in any project to develop an on-site expansion of the San Diego Convention Center on Harbor Drive, and its operation, without a public vote; authorize the City to hire the improvement district established by hoteliers to operate the existing convention center and handle tourism marketing.
- Authorize the sale of the 166-acre Qualcomm stadium site in Mission Valley to one or more local colleges or universities or the San Diego River Conservancy, with conditions relating to setting aside 28 acres for river restoration and an urban rivers research center, 22 acres for development of public parks, and walking and biking trails.
- Create a local environmental process for convention center and sports facility projects in the Overlay Zone, replacing the California Environmental Quality Act (CEQA). The local environmental law would require specific mitigation measures in addition to the mitigation, monitoring and reporting requirements of CEQA. It would create a new hearing process and broader rights to bring environmental lawsuits.

This measure provides that if any provision is invalidated by the courts, the entire measure would be invalid, possibly invalidating the tax increase after revenue is collected. The measure does not address potential consequences of invalidating provisions already implemented.

### **FISCAL IMPACT STATEMENT**

This measure would increase the City's transient occupancy tax (TOT) from 10.5% to 15.5% for hotels with 30 or more rooms, Recreational Vehicle Parks, and Campgrounds. TOT for hotels with less than 30 rooms would increase from 10.5% to 14%. Revenue collected pursuant to these tax increases would be deposited in the City's General Fund and used for general governmental purposes. It is estimated that this TOT increase could generate approximately \$98 million annually beginning in 2017 and increase or decrease thereafter reflecting the growth or decline in the number of visitors to the City.

Additionally, this measure eliminates a 2% assessment that hotels currently charge customers and use to fund a tourism marketing district (TMD). Instead, this measure allows hotels the option to form special assessment districts and retain a portion of collected TOT funds for (a) tourism marketing, and/or (b) a new non-contiguous convention center expansion in the East Village. If hotels retain the maximum amount for both purposes, they would retain up to 4% (\$80 million) annually of TOT that would otherwise be remitted to the City (up to 2% for tourism marketing and 2% for a non-contiguous convention center expansion).

It is uncertain if hotels will elect to participate in these special assessment districts. Depending on how many hotels participate in the special assessment districts and at what level of assessment, the additional TOT revenue initially generated for the City's General Fund could range from \$18 million annually (if all hotels fully participate) to \$98 million annually (if no hotels participate).

If hotels elect to form special assessment districts for tourism marketing and/or a new non-contiguous convention center expansion, it is estimated the City Treasurer would incur administrative costs of approximately \$234,000 in the first year, and at least \$84,000 annually thereafter, to inspect and audit hotel records to ensure proper payment is being made to the City.

The City would recover these expenses from special assessment district funds.

The City is currently required to use 4% of the existing 10.5% TOT solely for programs and services promoting the City. This measure repeals this requirement, making the 4% portion of TOT unrestricted and available for any public purpose or service, including promoting the City.

## **FISCAL IMPACT STATEMENT (CONTINUED)**

This measure prohibits construction of a contiguous bay-front convention center expansion without a public vote. The measure also prohibits public funding from being spent on a new stadium without a public vote.

Should the Chargers stop playing at Qualcomm Stadium in Mission Valley, this measure would authorize the City to sell the site to certain educational or environmental non-profit institutions for low-density development, provided the purchaser implements specified property improvements. The specified development and improvement requirements in this measure could reduce the sale value of the Qualcomm site.

San Diego's current effective TOT rate (the combined TOT and TMD) is 12.5%, below the average of other comparable cities. A 15.5% TOT for most hotels would put San Diego among those cities with higher TOT rates, potentially impacting hotel occupancy.

## ARGUMENT IN FAVOR OF MEASURE D

### YES on D: Protect Local Taxpayers & Resources.

Tourists and residents share our beaches, bays, parks, sports and infrastructure, but politicians have let large corporate hotels dictate tourism policy *without a public vote*.

Industry studies show that San Diego's hotel tax rate on tourists is below rates charged by competing cities.

The result: hotel profits soar, while the tourism industry escapes paying its fair share for streets, sidewalks, public safety, and other amenities that serve visitors *and* are important to our quality of life.

The League of Women Voters, the League of Conservation Voters, taxpayer advocates, sports fans, and Aztec alumni all support Yes on D.

### YES on D: Put Local Taxpayers First.

- Set general-fund tax on large hotels at 15.5% – some cities charge tourists more: Anaheim, 17%; San Francisco, 16.25%; Los Angeles, 15.5%.
- End taxpayer-funded hotel marketing giveaways.

### YES on D: Protect Local Resources.

#### **Mission Valley?**

- **YES** to River Park, transit-dependent university uses, sports, and public access.
- **Stop** massive 6,000-unit condo plan and gridlock.

#### **San Diego's Bayfront?**

- **YES** to protect tourist *and* resident access to Bay.
- **Stop** walling off the Bay without a public vote.

#### **Chargers Stadium?**

- **YES** to limit City to shared land and infrastructure.
- **Stop** taxpayer funds for stadium/arena.

#### **Convention Center Expansion?**

- **YES** to return on investment *and* cap on spending.
- **Stop** blank checks and "pie-in-the-sky" promises.

#### **Tourism Marketing?**

- **YES** to proper oversight *and* cap on City spending.
- **Stop** blank checks for large hotels.

### Large Hotels and the Chargers Must Pay Their Own Way

**Vote YES on D** <http://citizensplan.org>

*Protect Local Taxpayers. Protect Local Resources.*

DONNA FRYE  
Small Business owner/  
City Councilmember

DAVID ALVAREZ  
City Councilmember/  
SDSU alumnus

SCOTT BARNETT  
President, Taxpayers Advocate.org

MARTY BLOCK  
State Senator/Chair,  
Budget Subcommittee #1 (Education Finance)

JEFF MARSTON  
Past President, SDSU Alumni Association

# ARGUMENT AGAINST MEASURE D

## Vote **NO** on Measure D

### Measure D Could Affect Comic-Con Remaining in San Diego

*"Comic-Con has stated in the past, and continues to believe, a contiguous, expanded convention center is one that will benefit the city best. It appears this ballot initiative does not favor that scenario."*- Comic-Con

In fact, Measure D specifically prohibits the contiguous expansion of the Convention Center.

### Measure D Raises Taxes

Measure D will raise TOT taxes to 15.5% and will eliminate the Tourism Marketing District that promotes San Diego and brings in tourists from around the world. Measure D will seriously impact San Diego's tourist economy and the nearly 200,000 jobs that depend on it.

### Measure D Crafted Behind Closed Doors by Special Interests

This complicated and convoluted initiative was crafted in secret by special interests, a few self-serving hoteliers, and downtown insiders. Measure D would allow unelected special interests to collect and spend your taxes.

### Legal Flaws in Measure D Puts Taxpayers at Risk

Legal experts have expressed serious reservations regarding Measure D. City Attorney's office released a comprehensive legal analysis that identified a series of legal risks to the City. The poorly written measure contains an unusual "poison pill" provision that will create financial risk for the City. **Legal challenges would take years and cost taxpayers millions.** Read analysis at [www.sandiego.gov/cityattorney](http://www.sandiego.gov/cityattorney)

### Measure D is Likely Unconstitutional

According to the California Constitution, an *initiative must be limited to a single subject*. Measure D, however, asks voters to approve over 20 unique provisions including: tax hikes, creating new land use zones, creates new bureaucratic environmental laws to replace the California Environmental Quality Act, authorizes the sale of Qualcomm stadium site, and requires the Port of San Diego to spend millions of taxpayer dollars on an ill-advised scheme.

## Vote **NO** on Measure D!

### **RHIANA WILSON**

Keep Comic-Con in San Diego, Founder

### **GREG STEIN**

San Diego County Taxpayers Association, Chairman

### **C. TERRY BROWN**

Lodging Industry Association, Chairman

### **SCOTT SHERMAN**

San Diego City Councilmember, District 7