

## IMPARTIAL ANALYSIS BY COUNTY COUNSEL MEASURE E

If approved by the voters, this measure will create a County of Fresno ("County") ordinance imposing a 0.2% transactions and use tax on the gross receipts of any retailer from the sale of all personal property in the County, except for in the City of Reedley where the tax rate will be 0.025%, to fund certain programs, scholarships, and improvements to California State University, Fresno ("CSUF") facilities. The measure contains various exemptions and exclusions.

This measure establishes a Citizens' Oversight Committee ("Committee") appointed by the Board of Supervisors ("Board"). The Committee will direct and control the use of the proceeds to ensure they are used in a manner consistent with the measure, oversee the issuance of bonds, and provide an annual audit report to the Board. The proceeds will be placed in a special account established by the County and designated for use by the Committee.

If the County enters into a Joint Powers Agreement ("JPA"), the powers of the JPA shall supersede the powers of the Committee. The Committee will act as an advisory body to the JPA.

The measure requires the proceeds to be spent on the following purposes:

1. Expand access in nursing, agriculture, criminology, engineering/STEM programs; repair/upgrade academic and other campus facilities, including athletic facilities; and provide scholarships for local, low-income students;
2. At least two-thirds must be spent on academic programs and facilities and no more than one-third may be used for athletic facilities; and
3. Recovery of administrative costs to the County.

The proceeds will be spent in an "improvement zone," defined in the measure as a two-mile radius around the physical boundaries of the CSUF campus and similar boundaries around any additional locations within the County that may be owned or leased by CSUF.

The measure requires the County to contract with the California Department of Tax and Fee Administration ("CDTFA") to administer and collect the tax. The CDTFA has identified the following concerns with the ordinance created by the measure:

1. State law requires the tax rate to be imposed at a rate of one-eighth of one percent (or 0.125%), or a multiple thereof. The tax rates in the measure are not multiples of 0.125%.
2. It is unclear if existing state law permits imposing a transactions and use tax at different rates in certain areas of the County.

The issues raised by CDTFA may subject the measure to legal challenge or require special legislation to allow for the administration of the tax by CDTFA.

The text of the measure comes from an initiative petition signed by the requisite number of voters requiring the Board to place the measure before countywide voters.

The ordinance will become effective only if approved by a majority of voters voting on the measure and can only be amended or repealed by voter approval. If approved by the voters, the transactions and use tax will expire 20 years from the operative date of the ordinance.

\_\_\_\_\_  
Daniel C. Cederborg, County Counsel

FILED

AUG 25 2022

FRESNO COUNTY CLERK

By.

\_\_\_\_\_  
DEPUTY