

City of Brisbane

Compiled by City of Brisbane City Clerk Ms. Sheri Spediacci

Measure T

To pay for general municipal expenses, shall the City increase the annual business license tax for liquid storage facilities up to \$115.28 per one thousand cubic feet of liquid storage capacity, and provide for an offset for sales tax revenue received ?

Full Text

“AN ORDINANCE OF THE CITY OF BRISBANE ADDING SECTION 5.20.011 OF THE BRISBANE MUNICIPAL CODE TO INCREASE THE BUSINESS LICENSE TAX CHARGED TO LIQUID STORAGE FACILITIES

The People of the City of Brisbane, California, hereby ordain as follows:

§1: A new Section 5.20.011 in Chapter 5.20 of the Brisbane Municipal Code is added to read as follows:

Section 5.20.011 Liquid Storage Facilities.

- A. Any person engaged in the business of operating, leasing, supplying or providing a liquid storage facility shall pay an annual business license tax of up to one hundred and fifteen dollars and twenty-eight cents per year for each one thousand cubic feet of liquid storage capacity.
- B. The annual amount of liquid storage facilities license tax payable by any person shall be reduced by the amount of sales or use tax received by the city attributable to such person, or sales tax attributable to other persons, based on sales of liquids using the liquid storage facilities as the point-of-sale, during the same calendar year (the “sales tax credit”).

Impartial Analysis of Measure T

Ballot Measure T was placed on the ballot by the City Council and proposes the adoption of an increased business license tax for liquid storage facilities in the City of Brisbane.

The City of Brisbane currently imposes a business license tax on any business that is located in the City, pursuant to Chapter 5.20 of the Brisbane Municipal Code. Liquid storage facilities currently pay a business license tax that is based on either gross receipts or number of employees, whichever produces the larger tax. The 2012 business license tax paid by liquid storage facilities in the City of Brisbane was approximately \$1,056. The business license tax is a general tax, and the tax proceeds are deposited into the City’s general fund and may be used for any municipal purpose.

The proposed amendment to the business license tax ordinance would set an increased rate of up to \$115.28 per 1,000 cubic feet of liquid storage capacity. The actual annual tax rate would be established by Council resolution, and the increased tax rate could be, but is not required to be, phased in. The tax due from liquid storage facilities would be reduced, on a dollar for dollar basis, for sales tax received as the result of sales from the liquid storage facilities by either the operator of the liquid storage facility or other persons using the liquid storage facility as the point of sale.

When fully implemented, the effect of the increased business license tax for liquid storage facilities is anticipated to increase tax revenues by approximately \$400,000 based on the capacity of current liquid storage facilities in the City of Brisbane. The tax cannot be increased in the future without voter approval.

A “Yes” vote is a vote in favor of increasing the business license tax on liquid storage facilities.

A “No” vote is a vote against increasing the business license tax on liquid storage facilities. A majority of “Yes” votes is required for the ballot measure to pass.

A complete copy of the proposed ordinance is printed in this ballot pamphlet.

DAVID KAHN

City Attorney

City of Brisbane

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Arguments in support of or in opposition to the proposed laws are the opinions of the authors.

Argument in Favor of Measure T

We encourage you to vote yes to increase business license taxes on liquid storage facilities like the tank farm on Tunnel Avenue. This increase helps secure funding for communitywide services that keep Brisbane safe, and preserve of our quality of life.

Why we need it? Over the past several years our community has experienced an unparalleled economic downturn. The loss of our biggest revenue producer, VWR, and decrease in property values have demonstrated our vulnerability to the volatility of the economy. We need to diversify our tax base. Approving this measure will increase our tax base and help secure our General Fund, which supports important public services: public safety, emergency response, road repair, parks, recreation, and open space acquisition and management – benefiting the whole Brisbane community.

What is the Fiscal Benefit? If fully phased in, this new revenue source may add approximately \$400,000 to our General Fund. This measure provides for a not-to-exceed rate of \$115.28 per 1,000 cubic feet of storage, so Council can phase in the tax at its discretion to make the transition reasonable.

Is this tax fair? Our community continues to explore every possibility to ensure our long-term financial future without placing an undue burden on residents or businesses. The City has cut staff, lowered wages, increased taxes on hotels and other large corporations; yet our fiscal future is still uncertain. This measure requires businesses that own large liquid storage facilities to pay their fair share.

Originally the Tank Farm was a relatively bigger source of revenue as it was a sales tax producer. Currently this is not the case and has not been so for the past several decades.

SUPPORT OUR COMMUNITY'S FISCAL HEALTH. Vote YES on Measure T.

/s/ **Raymond C. Miller** August 12, 2013
Mayor, City of Brisbane

/s/ **W. Clarke Conway** August 15, 2013
Mayor Pro Tem, City of Brisbane

/s/ **Clifford R. Lentz** August 15, 2013
Council Member, City of Brisbane

/s/ **Terry O'Connell** August 12, 2013
Council Member, City of Brisbane

Rebuttal to Argument in Favor of Measure T

Brisbane can't afford to lose another business.

In the last three years, two large companies have left our community, taking their jobs and tax revenue with them. Now, city leaders want to increase taxes on Kinder Morgan and force them to pay 400 times more. This is just bad economic planning.

If this unfair tax passes, Kinder Morgan may be the next business forced out of our city. Without them we will be left with an empty, blighted tank site and a huge hole in our city budget. And we may face more cuts to city services – like public safety, road repair, and parks – without the taxes and fees Kinder Morgan currently pays.

Kinder Morgan is willing to pay their fair share and tried to work with the city on a reasonable plan. Instead of working together, city officials are steamrolling them and going straight to the ballot. This is not the way we should do business if we want companies to stay and keep contributing to our economy.

Brisbane needs a plan to attract and retain businesses that will increase our revenue base. City officials say they want to diversity our tax base, but all they are doing is taxing one company and making it harder to do business here.

Instead of pushing out businesses, Brisbane politicians need to do a better job of managing our finances.

I urge you to vote “no” on Measure T and protect Brisbane.

/s/ **Walter Peters**
Brisbane Resident

August 22, 2013

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Argument Against Measure T

I've lived in Brisbane for over 50 years, and I'm urging you to vote NO on Measure T. Measure T is unfair. It will hurt our community and our local economy.

Kinder Morgan has been a part of our community for more than 40 years. They provide a vital service to the entire Bay Area – storing and supplying fuel, particularly for the San Francisco International Airport. They operate a safe business that contributes to our local economy by paying taxes and fees that support our city budget. Kinder Morgan also leases property to the city to use at a steep discount - \$1 per year. They are exactly the kind of responsible, caring business that we want to keep in our community.

The plant has a good safety record and makes significant efforts to remediate any possible contamination. They continually outperform the industry average in virtually all safety categories.

But now city officials are proposing another new, huge tax that is aimed at hurting Kinder Morgan. It's not fair; especially given everything else Kinder Morgan pays to help run our city. Kinder Morgan has been good to our community and provides a vital service to the entire Bay Area. It's wrong to punish them for no reason.

If this unfair tax passes, we could lose hundreds of thousands of dollars in tax revenue. And if Kinder Morgan is forced to shut its doors, we could be left with an empty, blighted site and the airport will have to truck its fuel in, raising gas prices for everyone. We can't afford to lose another company. It doesn't make sense to pass a tax that will hurt us all in the end.

I urge you to vote NO on Measure T to stop this unfair tax and protect our community.

/s/ **Walter Peters**
Brisbane Resident

August 15, 2013

Rebuttal to Argument Against Measure T

The modest tax proposed for liquid storage tanks is fair and economically realistic.

Kinder Morgan, the current owner of the tank farm, was established in 1997 as a spinoff from Enron. Its web site claims that it is the "largest independent terminal operator in North America" with an enterprise value of \$115 billion. It is a Fortune 500 company with over \$300 million in profits and over 10,000 employees. A major function of its Brisbane terminal is the storage and transmission of jet fuel for San Francisco Airport, a need that is likely to be around for a long time.

Currently the Kinder Morgan tank farm pays to the City less than \$1,300 annually in business license taxes and only \$23,739 in property taxes. Other businesses such as Recology and the hotels pay millions of dollars in taxes. Kinder Morgan could easily afford to pay more in taxes so that it contributes its fair share.

The proposed tax will be phased in, and if sales taxes are collected from any of the oil companies who use the facility, they will offset Kinder Morgan's tax obligation. This tax is a modest effort to compensate for the originally promised continuous flow of sales tax revenue that never materialized.

Kinder Morgan has been more proactive in dealing with safety issues than previous owners. However, that should not exempt them from paying their fair share of the taxes that the City needs to provide essential public services.

Please vote yes on Measure T.

/s/ **Raymond C. Miller**
Mayor

August 23, 2013