



AGENDA REPORT

TO: Stephen Falk
City Administrator, Interim

FROM: Erin Roseman
Director of Finance

SUBJECT: Amended Appropriations Limits for FY
2021-2022 and 2022-2023

DATE: May 24, 2023

City Administrator Approval 

Date: Jun 2, 2023

RECOMMENDATION

Resolution Amending Resolution No. 88716 C.M.S., Which Established The Appropriations Limit For Fiscal Year 2021-22, And Resolution No. 89228 C.M.S., Which Established The Appropriation Limit For Fiscal Year 2022-23, To Amend And Establish The Appropriations Limits For Fiscal Year 2021-2022 And 2022-2023

EXECUTIVE SUMMARY

[California Government Code section 7910\(a\)](#) requires the governing body of each local jurisdiction to establish, by resolution, its Appropriations Limit for the fiscal year pursuant to Article XIII B of the California Constitution. According to [Government Code section 7903\(b\)](#), commencing with fiscal year (FY) 2021-22, city governments must include specified state subventions within the Appropriations Limit. Approval of this resolution will bring the City of Oakland (City) into compliance with [California Government Code section 7910\(a\)](#) and [7903\(b\)](#).

The proposed resolution amends the City's Appropriations Limit for FY 2021-22 to be \$803,338,743 inclusive of \$65,600,000 in State identified subventions. The FY 2021-22 budget appropriated \$748,140,000 in proceeds of taxes, which is \$55.19 million less than the Appropriations Limit.

The proposed resolution amends the City's Appropriations Limit for FY 2022-23 to be \$855,101,188 inclusive of \$44,150,000 in State identified subventions. The FY 2022-23 budget appropriated \$855,101,000 in proceeds of taxes, which is at the maximum Appropriations Limit.

BACKGROUND / LEGISLATIVE HISTORY

California Proposition 4 (November 1979) established Article XIII B of the California Constitution, which governs limitations on government appropriations, commonly referred to as the "GANN" limit. Effective July 1, 1980, the GANN limits the annual revenue that State and local governments can appropriate.

On June 17, 2021, the Oakland City Council adopted [Resolution No. 88716 C.M.S.](#), establishing the appropriations limit for FY 2021-2022 pursuant to Article XIIB of the California Constitution.

On June 7, 2022, the Oakland City Council adopted [Resolution No. 89228 C.M.S.](#), establishing the appropriations limit for FY 2022-2023 pursuant to Article XIIB of the California Constitution.

In the Budget Act of 2022, the California Legislature adopted changes to [Government Code Section 7903](#) to require city governments to include specified state subventions within the appropriations limits commencing with the fiscal year 2021-2022.

ANALYSIS AND POLICY ALTERNATIVES

Audit Finding

Commonly referred to as the “GANN” limit, Article XIIB of the California Constitution requires that the governing body of any city incorporated after July 1, 1978, adopt by resolution appropriations limit for the following fiscal year. Effective July 1, 1980, the GANN limits the amount of revenue that can be appropriated in any fiscal year and is applicable to revenues that are referred to as “proceeds of taxes.” Certain appropriations, such as an approved capital outlay and debt service are exempt from the GANN Limit. The GANN limit is adjusted annually for the change in the cost of living or change in California per capita personal income, whichever is less, and population for each local agency for the prior calendar year that is provided by the state Department of Finance (DOF). Furthermore, Article XIIB, Section 1.5 states that “the annual calculation of the appropriations limit under this article for each entity of local government shall be reviewed as part of an annual financial audit.”

Upon review, the independent auditor, MGO Certified Public Accountants, identified a discrepancy with the starting figure to calculate the FY 2021-22 appropriations limit. The starting figure used was the FY 2021-22 total appropriations limit of \$765,733,547 instead of the FY 2021-22 GANN appropriations limit of \$692,196,713. This discrepancy overstates the adopted FY 2021-22 Appropriations Limit.

GANN Limit Override Finding

During any fiscal year, a government entity may not appropriate any proceeds of taxes received in excess of the Appropriations Limit of the entity. If a local government receives excess funds in any one year, it may “carry those excess funds into the subsequent year” for use. Any excess funds remaining after the second year must be returned to taxpayers by reducing tax rates or fees. As an alternative, a majority of the voters may approve an “override” to increase the Appropriations Limit. The law allows such an override to last for a maximum of four years.¹

In March 2020, City of Oakland voters passed Measure S, which increased the City’s appropriations limit (hereinafter “Appropriations Limit Override”) until March 3, 2024, to allow the City to continue to spend tax revenue from eight voter-approved tax measures:

¹ League of California Cities (n.d.). *The California Municipal Revenue Sources Handbook, 5th Ed.* California Local Government Finance Almanac. Retrieved May 22, 2023, from <http://www.californiacityfinance.com/MRSHBch10GannLimit.pdf>

- Measure M (The Emergency Medical Services Retention Act of 1997),
- Measure N (The Paramedic Services Act of 1997),
- Library Measure Q (The Library Services Retention and Enhancement Act of 2004),
- Measure C (Transient Occupancy Tax - Hotel Tax),
- Measure Z (The 2014 Public Safety and Services Violence Prevention Act),
- Measure HH (Sugar Sweetened Beverage Distribution Tax), and
- Measure D (The 2018 Oakland Public Library Preservation Act),
- Measure W (Oakland Vacant Property Tax Act).

The Appropriations Limit Override did not increase the City's Appropriations regarding Measure AA (The Children's Initiative), nor Parks Measure Q (The 2020 Oakland Parks and Recreation Preservation, Litter Reduction, and Homelessness Support Act), which did not receive approval until March 2020 at the same election of Measure S.

The Appropriations Limit Override measure to raise the spending limit for these taxes cannot exceed four years and, therefore, will expire on March 3, 2024.

Changes to Government Code 7903(b)

The City of Oakland has received notification from the California State Department of Finance (DOF) through the League of California Cities (**Attachment A**) that pursuant to [Government Code section 7903\(b\)](#), city governments are required to include specified state subventions within their appropriations limits. DOF has identified that in FY 2021-22, the City of Oakland is a recipient of a total of \$65,600,000 in subventions and has instructed city governments to use the FY 2021-22 subvention total (\$65,600,000) for inclusion in the FY 2021-22, FY 2022-23, and FY 2023-24 appropriations limit calculations. This action requires local governments to revise the appropriations limits for these fiscal years. In any event that the subvention causes a city government to exceed the appropriations limit for the retroactive fiscal years, the city government should reduce the subvention to not exceed the limit and report such difference back to DOF for inclusion in the State's appropriations limit calculation.

After analysis, it is determined that the subvention does not cause the City to exceed the appropriations limit in FY 2021-2022; therefore, staff will include the full \$65,600,000 in subventions.

In FY 2022-23, the state subventions caused the City to exceed the appropriations limit; therefore, staff will include only \$44,150,000 in subventions and place the City at the maximum appropriations limit. Staff will report \$21,450,000 back to DOF.

Revisions Summary

In summary, the following revisions are included in the calculation of the FY 2021-22 Appropriations Limit:

1. Changed the starting figure from \$789,088,180 to \$692,196,713;
2. Removed Parks Measure Q from the Gann Limit Override; and
3. Added \$65,600,000 in state subventions

The FY 2021-22 Appropriations Limit is revised to be \$803,338,743 inclusive of \$65,600,000 in state identified subventions. The FY 2021-22 Adopted Policy Budget appropriated \$748,140,000 in proceeds of taxes, which is \$55.19 million less than the Appropriations Limit.

Furthermore, the following revisions are included in the calculation of the FY 2022-23 Appropriations Limit:

1. Removed Measure AA and Parks Measure Q from the Appropriation Limit Override; and
2. Added \$44,150,000 in state subventions

The Appropriations Limit for FY 2022-23 is revised to be \$855,101,188 inclusive of \$44,150,000 in state identified subventions. The FY 2022-23 budget appropriated \$855,101,000 in proceeds of taxes, which is at the maximum Appropriations Limit.

This resolution will advance the citywide priority of a responsive, trustworthy government by implementing the government codes, ballot measure language, and audit findings to correctly and responsibly appropriate tax dollars.

FISCAL IMPACT

Failure to pass this resolution to revise the FY 2021-22 and 2022-23 Appropriations Limit would put the City in violation of the State Constitution and may legally impair the City's ability to appropriate the proceeds of taxes it collects.

PUBLIC OUTREACH / INTEREST

California Government Code Title 1 (General), Division 9 (Expenditure Limitations), Section 7910(a) states that "Each year the governing body of each local jurisdiction shall, by resolution, establish its appropriations limit and make other necessary determinations for the following fiscal year pursuant to Article XIII B of the California Constitution at a regularly scheduled meeting or noticed special meeting. Fifteen days before the meeting, documentation used to determine the appropriations limit and other necessary determinations shall be available to the public." In compliance with this requirement, the documentation was posted on the City's website 15 days before the meeting at which this resolution will be adopted.

COORDINATION

This report was prepared by the Finance Department and reviewed by the City Attorney's office.

SUSTAINABLE OPPORTUNITIES

Economic: No direct economic opportunities have been identified.

Environmental: No direct environmental opportunities have been identified.

Race & Equity: No direct equity opportunities have been identified.

ACTION REQUESTED OF THE CITY COUNCIL

Resolution Amending Resolution No. 88716 C.M.S., Which Established The Appropriations Limit For Fiscal Year 2021-22, And Resolution No. 89228 C.M.S., Which Established The Appropriation Limit For Fiscal Year 2022-23, To Amend And Establish The Appropriations Limits For Fiscal Year 2021-2022 And 2022-2023

For questions regarding this report, please contact Brittany Hines, Assistant to the Director at bhines@oaklandca.gov.

Respectfully submitted,



ERIN ROSEMAN
Director of Finance

Attachment (1):

- A. California Department of Finance Letter