



COUNCIL AGENDA: 6/21/22  
FILE: 22-965  
ITEM: 3.4(c)

## Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Jim Shannon

**SUBJECT:** SEE BELOW

**DATE:** June 6, 2022

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Approved

Date:

**6/9/2022**

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**SUBJECT: ADOPTION OF A RESOLUTION IN COMPLIANCE WITH ARTICLE  
XIIIB OF THE CONSTITUTION OF THE STATE OF CALIFORNIA AND  
AS MODIFIED BY PROPOSITION 111 AND SENATE BILL 88  
ELECTING THE POPULATION AND INFLATION FACTORS AND  
ESTABLISHING THE FISCAL YEAR 2022-2023 APPROPRIATION  
LIMIT**

### **RECOMMENDATION**

Adopt a resolution taking the following actions with respect to the City's 2022-2023 "Gann Limit":

1. Elect the per capita income index as the inflation factor for 2022-2023 on a provisional basis, with the option to adjust the Limit, if necessary, once the non-residential assessment data is available from the County Assessor;
2. Elect the County of Santa Clara population growth index as the population factor for 2022-2023; and
3. Establish the Fiscal Year 2022-2023 Appropriation Limit at \$1,403,967,018 in compliance with Article XIIIB of the State of California Constitution.

### **OUTCOME**

The establishment of the 2022-2023 Appropriation Limit, known as the Gann Limit, is necessary to comply with Article XIIIB of the California Constitution.

## **BACKGROUND**

California voters approved an initiative on November 6, 1979 that added Article XIII B to the California Constitution. The provisions of this article placed limits on the amount of revenue that can be appropriated by all entities of government. The Appropriation Limit is based on actual appropriations during the 1978-1979 fiscal year, as increased each year using specified population and inflationary growth factors.

The original legislation implementing the provisions of Article XIII B became effective January 1, 1981. In accordance with that legislation, the governing body of each government jurisdiction must, by resolution, establish its annual Appropriation Limit for the coming year (prior to July 1) at a regularly scheduled meeting or noticed special meeting.

The original Article XIII B (Proposition 4) and its implementing legislation Chapter 1205/80 were modified by Proposition 111 and Senate Bill 88 (Chapter 60/90). Significant changes imposed by Proposition 111 included the following:

- The provision of a choice in methodologies for determining the annual inflation factor between 1) growth in California per capita income or 2) growth in non-residential assessed valuation due to new construction within the city.
- The provision of a choice in methodologies for determining the annual population growth factor between 1) city population growth or 2) county population growth.
- Regulations allowing the exclusion of “qualified capital outlay” expenditures from the calculation of the Limit.
- Provision of a process for avoiding tax refunds if a city falls sufficiently below the Limit in the next fiscal year. The revised language provides two years, beyond the second year, to refund any remaining excess during which jurisdictions can seek to obtain a successful override vote.

## **ANALYSIS**

The California Constitution (Article XIII B) specifies that the Gann Appropriation Limit restricts the amount of revenue that can be appropriated. Not all revenues are restricted by the Limit, only those that are “proceeds of taxes”. The majority of the main General Fund revenue sources (Sales Tax, Property Tax, Utility Taxes, Business Taxes, Real Property Transfer Tax) are classified as proceeds of taxes, and therefore are subject to the Limit. A number of special fund and capital fund revenue sources are also subject to the Limit, such as local construction tax and conveyance tax revenues. Each revenue source is reviewed annually for classification as subject to, or exempt from, this Limit.

Appropriation Limit Adjustment Factors

In addition, proceeds of taxes may be spent on several types of appropriations that do not count against the Limit. The law allows a city to spend tax proceeds on voter-approved debt; costs of complying with court orders and federal mandates, with certain restrictions; and expenditures for qualified capital outlay. Appropriations for these excludable categories do not count against the Limit.

As a result of Proposition 111, a city is required to choose between two annual inflation factors and two population growth factors.

The choice offered for the annual inflation factor is the greater of 1) the growth in California per capita income or 2) the growth in non-residential assessed valuation due to new construction within a city. The data necessary to calculate the increase in non-residential assessed valuation is not currently available from the County Assessor. Until such information is available, it is recommended that the City of San José approve the 2022-2023 Appropriation Limit on a provisional basis using the inflation factor of California per capita income.

The choice offered for the annual population growth factor is the greater of the growth in city or county population. The California State Department of Finance provided the 2022 population growth rates for both the City of San José and County of Santa Clara at -1.48 percent and -0.69 percent, respectively. Based on these growth rates, it is recommended that the City Council approve the 2022-2023 Appropriation Limit using the County of Santa Clara's population growth factor.

Calculation of the 2022-2023 Appropriation Limit

The application of the annual growth factors to the 2021-2022 Limit result in a 2022-2023 Limit of \$1,403,967,018:

2021-2022 Appropriation Limit	\$1,314,478,566
Inflation factor	X 1.0755
Population factor	<u>X 0.9931</u>
2022-2023 Appropriation Limit	<u>\$1,403,967,018</u>

Based on these calculations, the City Attorney, as required by the California Constitution, has prepared a resolution for City Council's consideration that would establish the 2022-2023 Appropriation Limit for the City of San José at \$1,403,967,018.

**Appropriations Subject to the Limit**

The amounts in the City's 2022-2023 Proposed Budget subject to the Limit (net proceeds of taxes) total \$1,113,611,018, which represent 79 percent of the Appropriation Limit. This amount is approximately \$290.4 million below the required Limit:

2022-2023 Appropriation Limit	\$ 1,403,967,018
2022-2023 Appropriations Subject to Limit	<u>(1,113,611,018)</u>
Amount Under Limit	<u>\$ 290,356,000</u>

When the annual budget is prepared each year for the City of San José, the appropriations subject to the Appropriation Limit are typically well below the Appropriation Limit as shown below:

<b>Fiscal Year</b>	<b>Appropriation Limit</b>	<b>Appropriations Subject to the Limit*</b>	<b>Amount Under Limit</b>
2021-2022	\$1.31 billion	\$983 million	\$331 million
2020-2021	\$1.25 billion	\$910 million	\$341 million
2019-2020	\$1.20 billion	\$837 million	\$364 million
2018-2019	\$1.15 billion	\$826 million	\$326 million
2017-2018	\$1.10 billion	\$745 million	\$356 million

\* Actual data used for 2017-2018 through 2020-2021; Proposed Budget data used for 2021-2022.

Over the last five years, and including 2022-2023, the City of San José's appropriations subject to the Appropriation Limit have remained well below the Appropriation Limit, with these appropriations totaling between 68 percent and 79 percent of the Appropriation Limit. Given the size of this gap, it is unlikely that the City will exceed the Appropriation Limit in the upcoming years without significant changes to the City's tax structure.

**CONCLUSION**

California voters approved an initiative on November 6, 1979 that added Article XIII B to the California Constitution. The provisions of this article place limits on the amount of revenue that can be appropriated by all entities of government. The Appropriation Limit is based on actual appropriations during the 1978-1979 fiscal year, as increased each year using specified population and inflationary growth factors. The amounts in the City's 2022-2023 Proposed Budget subject to the Limit (net proceeds of taxes) total \$1,113,611,018, which represent 79 percent of the Appropriation Limit. This amount is approximately \$290.4 million below the required Limit.

### **EVALUATION AND FOLLOW-UP**

At the end of the 2022-2023 fiscal year, the Finance Department will reconcile actual revenues and expenditures to ensure compliance with the Gann Limit.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

This memorandum is posted on the City's website for the June 21, 2022 City Council meeting.

### **COORDINATION**

This memorandum was coordinated with the City Attorney's Office.

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation is associated with this action.

### **CEQA**

Not a project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment.



JIM SHANNON  
Budget Director

For questions, please contact Selena Ubando, Assistant to the City Manager, City Manager's Budget Office, at (408) 535-8138.