

RESOLUTION

WHEREAS, the Council of the City of Los Angeles has adopted a resolution to place a Charter amendment regarding the Department of Water and Power before the qualified voters of the City of Los Angeles at a Special Election to be called and consolidated with the State General Election held on November 8, 2016; and

WHEREAS, the City Election Code requires the City Attorney to prepare and present a ballot title and question consisting of an impartial statement of the measure; and

WHEREAS, the City Attorney has presented the following ballot title and question for the proposed measure:

**CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER (DWP).
CHARTER AMENDMENT ____.**


Shall the Charter be amended to: (1) add qualification requirements, stipends and removal protections for DWP Board; (2) expand Board to seven members; (3) require DWP prepare four-year Strategic Plans for Council and Mayoral approval; (4) modify DWP's contracting, rate-setting and other authority; (5) permit future alternatives to existing civil service standards for DWP employees through collective bargaining; and (6) require monthly billing?

NOW, THEREFORE, BE IT RESOLVED that the ballot title and question presented by the City Attorney be adopted by the City Council.

I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on June 24, 2016.



HOLLY L. WOLCOTT, City Clerk

By 
Deputy

RESOLUTION

Resolution providing that a ballot measure be submitted to the qualified voters of the City of Los Angeles.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LOS ANGELES AS FOLLOWS:

Section A. The following amendment to the Charter of the City of Los Angeles is hereby proposed to be submitted to the qualified voters of the City of Los Angeles at a Special Election to be called and consolidated with the State General Election held on November 8, 2016:

CHARTER AMENDMENT _____

Section 1. Section 245 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 245. City Council Veto of Board Actions.

Actions of boards of commissioners shall become final at the expiration of the next five meeting days of the Council during which the Council has convened in regular session, unless the Council acts within that time by two-thirds vote to bring the action before it or to waive review of the action, except that as to any action of the Board of Police Commissioners regarding the removal of the Chief of Police, the time period within which the Council may act before the action of the Board shall become final shall be ten meeting days during which the Council has convened in regular session.

(a) **Action by Council.** If the Council timely asserts jurisdiction over the action, the Council may, by two-thirds vote, veto the action of the board within 21 calendar days of voting to bring the matter before it, or the action of the board shall become final. Except as provided in subsection (e), the Council may not amend, or take any other action with respect to the board's action.

(b) **Waiver.** The Council may, by ordinance, waive review of classes or categories of actions, or, by resolution, waive review of an individual anticipated action of a board. The Council may also, by resolution, waive review of a board action after the board has acted. Actions for which review has been waived are final upon the waiver, or action of the board, as applicable.

(c) **Effect of Veto.** An action vetoed by the Council shall be remanded to the originating board, which board shall have the authority it originally held to take action on the matter.

(d) **Exempt Actions.** The following actions are exempt from Council review under this section:

- (1) actions of the Ethics Commission;
- (2) actions of the Board of Fire and Police Pension Commissioners;
- (3) actions of the Board of Administration for Los Angeles City Employees Retirement System;
- (4) actions of the Board of Administration of Water and Power Employees Retirement Plan;
- (5) quasi-judicial personnel decisions of the Board of Civil Service Commissioners;
- (6) actions of a board organized under authority of the Meyers-Milias Brown Act for administration of employer-employee relations;
- (7) individual personnel decisions of boards of commissioners other than the Board of Police Commissioners;
- (8) actions of the Board of Water and Power Commissioners regarding contracts involving consideration reasonably valued at less than an amount specified by ordinance; and
- (9) actions which are subject to appeal or review by the Council pursuant to other provisions of the Charter, ordinance or other applicable law.

(e) **Exceptions for Actions of City Planning Commission and Area Planning Commissions.** The Council shall not be limited to veto of actions of the City Planning Commission or Area Planning Commissions, but, subject to the time limits and other limitations of this section, after voting to bring the matter before it, shall have the same authority to act on a matter as that originally held by the City Planning Commission or Area Planning Commission.

Sec. 2. Section 371(b) of the Charter of the City of Los Angeles is amended to read as follows:

(b) **Competitive Sealed Proposals.** As an alternative to an award pursuant to open and competitive bidding, a contract can be let pursuant to a competitive sealed proposal method, in accordance with criteria established by ordinance adopted by at least a two-thirds vote of the Council. The competitive sealed bid proposal system may permit negotiations after proposals have been opened to allow clarification and changes in the proposal. Adequate precautions shall be taken to treat each proposer fairly. No award may be made pursuant to this alternative method to a proposer whose final proposal is higher as to the ultimate cost to the City, as above defined, than any other responsive proposal submitted. The contracting authority, in order to utilize this alternative method, must make a written finding supported by a written statement of

facts that adherence to the rule that the award be made to the lowest responsive and responsible bidder is not practicable or advantageous and shall also state in writing the reason for the particular award. Notwithstanding the foregoing, the Department of Water and Power may award contracts pursuant to a competitive sealed proposal method in accordance with criteria established by the Board of Water and Power Commissioners.

Consistent with competitive bidding requirements, design-build or other appropriate project delivery systems may be used when justified by the type of project and approved by the contracting authority.

Sec. 3. Section 501 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 501. Boards of Commissioners.

(a) **Creation.** Each department created in the Charter shall have a board of commissioners consisting of five commissioners, unless some other number is provided in the Charter for a specific board.

Each board shall be known as the Board of (insert name of department) Commissioners, except that the Board of the Personnel Department shall be known as the Board of Civil Service Commissioners.

(b) **Attendance Fees.** The Council shall, by ordinance adopted by a two-thirds vote, establish the amount of attendance fees to be paid to commissioners. Attendance fee ordinances shall be adopted no more frequently than once a year.

(c) **Term.** Unless otherwise provided in the Charter, a commissioner term shall be five years, beginning on July 1. The terms of the commissioners shall be designated so that as much as possible the terms of office are staggered. The period of the term of each commissioner shall be designated in the appointment. An appointment to fill an unexpired term on any board shall be for the period of the unexpired term.

(d) **Qualifications.**

(1) No person shall be appointed to a Charter created commission who is not a registered voter of the City. This requirement shall also apply to standing commissions created by ordinance that are advisory to, or manage, a department or office, or perform regulatory functions. This requirement does not apply to commissioners who are elected or who serve ex officio.

(2) No person who is required by ordinance to be registered as a lobbyist shall be appointed to a commission whose members are required to file financial disclosure statements pursuant to the California Political Reform Act.

(e) **Diversity.** Unless otherwise provided in the Charter, the Mayor, Council or other appointing authority shall strive to make his or her overall appointments to appointed boards, commissions or advisory bodies established by the Charter or ordinance reflect the diversity of the City, including, but not limited to, communities of interest, neighborhoods, ethnicity, race, gender, age and sexual orientation.

Sec. 4. Section 502 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 502. Appointment and Removal of Commissioners.

(a) **Appointment.** Unless otherwise provided in the Charter, commissioners of Charter created boards and of standing commissions created by ordinance that are advisory to, or manage a department or appointed office, or perform regulatory functions, shall be appointed by the Mayor, subject to the approval of the Council. The Mayor shall appoint the commissioners of all other ordinance created commissions, unless otherwise provided in the ordinance.

Within 45 days of a vacancy created by the expiration of a term of office or otherwise, the Mayor shall submit to the Council for its approval the name of the Mayor's appointee to serve for the next ensuing term or remainder of the unexpired term created by the vacancy.

If the Council does not disapprove the appointment within 45 days after its submission to the Council, the appointment shall be deemed approved. If the Council disapproves an appointment, the Mayor shall make and submit to the Council a new appointment within 45 days of Council disapproval. Each subsequent Council disapproval of a mayoral appointment shall create a new 45 day period.

(b) **Appointment by President of the Council.** In the event the Mayor fails to submit an appointment to the Council within any of the 45 day periods provided in this section, the President of the Council shall, within an additional 45 days, submit an appointment for that office to the Council for its approval. If the Council does not disapprove the appointment made by the President of the Council within 45 days after submission, the appointment shall be deemed approved by the Council.

If the Council disapproves the appointment made by the President of the Council within the 45 day period, the President of the Council shall make a new appointment to the office involved within 45 days of the disapproval of the previous appointment. Each subsequent disapproval of an appointment made by the President of the Council shall create a new 45 day period.

(c) **Appointment by Council Resolution.** Upon failure of the President of the Council to submit an appointment to the Council for its approval as provided in this section, that appointment shall be made by the Council, by resolution, within 45 days

from the expiration of the 45 day period within which the President of the Council failed to act.

(d) **Removal.** Members of a board or commission, other than the City Ethics Commission, the Police Commission and the Board of Water and Power Commissioners, who are appointed by the Mayor subject to approval by the Council, may be removed by the Mayor without Council confirmation. Members of the Police Commission and of the Board of Water and Power Commissioners may be removed by the Mayor, but a removed member may, within ten calendar days of the removal, appeal the action to the Council. Within ten Council meeting days of receipt of the appeal, the Council may reinstate the commissioner by a two-thirds vote of the Council. Failure of the Council to reinstate the commissioner during this time period shall constitute a denial of the appeal. Action on an appeal shall be by an action separate from the approval of the appointment of a successor to the removed member. Members of the City Ethics Commission may be removed in accordance with Section 700.

Sec. 5. Section 604 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 604. General Managers.

(a) **Appointing Authority.** The board of each Proprietary Department shall appoint the general manager subject to confirmation by the Mayor and Council, unless otherwise provided in the Charter, and shall remove the general manager subject to confirmation by the Mayor. A general manager removed pursuant to the provisions of this section may appeal the removal to the Council in the manner provided in Section 508(e).

(b) **Annual Review.** The board of each Proprietary Department shall evaluate its general manager at least annually and shall set or adjust the compensation of the general manager within guidelines established by Council, after recommendations concerning those guidelines have been made to the Council by the Director of the Office of Administrative and Research Services. The board shall forward a copy of its performance evaluation and salary determination to the Mayor and Council.

(c) **Powers and Duties.** The powers and duties of general managers contained in Section 509 shall apply to general managers of the Proprietary Departments. Additionally, the board of each Proprietary Department may authorize its general manager to contract on behalf of the department where the contract does not involve payment or receipt of money or consideration reasonably valued in excess of a monetary limit provided by ordinance.

Sec. 6. Section 606 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 606. Process for Granting Franchises, Permits, Licenses and Entering Into Leases.

(a) Board action granting franchises, concessions, permits and licenses or approving leases shall be taken by order or resolution.

(b) If the board's order or resolution grants a franchise, permit or license or approves a lease for a term greater than five years, it shall be submitted to Council for its approval or disapproval. The Council may, by ordinance, further define what constitutes a term of more than five years. Unless Council takes action disapproving the franchise, permit, license or lease within 30 days after submission of it to Council, the franchise, permit, license or lease shall be deemed approved. If Council does not approve the franchise, permit, license or lease, Council shall return it to the originating board for reconsideration and resubmission. Any order or resolution granting a franchise for a term of more than five years shall be published once in the same manner as ordinances of the City and shall take effect 30 days after publication. This subsection shall not apply to the Board of Water and Power Commissioners.

Sec. 7. Section 670 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 670. Board of Water and Power Commissioners.

(a) **Composition, Appointment and Removal.** The Board of Water and Power Commissioners shall consist of seven members appointed and removed as provided in Section 502.

(b) **Term.** The members of the board shall serve four-year terms. The terms shall be designated so that as much as possible the terms of office are staggered.

(c) **Qualifications.** In addition to the requirements set forth in Sections 501(d) and (e), members of the board shall meet the following qualifications:

(1) Members of the board shall have general experience in one or more of the following areas: (i) utility management; (ii) water or power policy and operations; (iii) environmental policy; (iv) business or finance; (v) labor relations; (vi) consumer advocacy; and/or (vii) Neighborhood Councils or community organizations.

(2) No person shall be appointed to the board who, during the 12 months prior to appointment, was required to be registered as a lobbyist with the City of Los Angeles and participated in any lobbying activities related to the Department of Water and Power.

(d) **Stipend.** Members of the board shall receive a stipend as further provided by ordinance.

Sec. 8. Section 674 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 674. Power Contracts.

(a) The board shall have the power to contract with the United States or any of its agencies, any state or state agency, and any corporation, public or private, located inside or outside of the City or State of California:

(1) For the construction, ownership, operation, and maintenance of facilities for the generation, transformation, and transmission of electric energy, subject to the following:

(A) Any contract entered into under this subsection may provide for a sharing of the use and benefits and of the capital charges and other obligations associated with the facilities.

(B) The term of any contract entered into under this subsection is not subject to the term limitations specified in Section 607(a) and may extend over the useful life of the facilities constructed, purchased or developed. The board shall notify the Council and Mayor of any proposed contract with a term longer than 30 years prior to board action on any such contract.

(2) For the sale, purchase, exchange or pooling of electric energy or electric generating capacity.

(b) The board may renew, without Council approval, any contract with the United States existing as of December 12, 1940 concerning the delivery of electric energy to the City and the customers of the department from the Hoover Dam electric generating facility.

Sec. 9. Section 676 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 676. Strategic Plan and Rate Setting.

(a) **Strategic Plan.** Beginning on January 1, 2020, and every four years thereafter, the board shall submit a four-year strategic investment and revenue requirement plan (Plan) to the Council and Mayor for approval or disapproval. The Plan shall include a discussion of potential rates and the rate setting process. Once the Plan has been approved by the Council and Mayor:

(1) All policies, projects, programs, and revenue requirements within the parameters of the adopted Plan, including the ability to adjust rates, shall require only board approval unless otherwise provided by the Charter; and

(2) All policies, projects, programs, revenue requirements, or base rate setting that exceed the parameters of the adopted Plan shall require approval by the Council and Mayor unless otherwise provided by the Charter. The Council and Mayoral approval requirement of this subdivision shall not apply to day-to-day operations, operational emergencies or actions of the department necessary to comply with new state or federal laws, unless otherwise provided by ordinance.

(b) The City Council, by ordinance, may further define the policies, projects, programs and revenue requirements that shall be within the parameters of the Plan and shall establish the timelines, procedures, and other requirements for the Plan. The City Council shall adopt the ordinance establishing the timelines, procedures and other requirements for the January 1, 2020 Plan by January 1, 2018.

(c) Rate Setting Procedure:

(1) Until such time as the first Plan is approved in accordance with subsection (a), rates for water, reclaimed water, surplus water, electric energy and surplus energy shall be fixed by the board from time to time as necessary, subject to approval by ordinance. Except as otherwise provided in the Charter, rates shall be of uniform operation for customers of similar circumstances throughout the City, as near as may be, and shall be fair and reasonable, taking into consideration, among other things:

- (A) the nature of the uses;
- (B) the quantity supplied; and
- (C) the value of the service.

The rates inside the City may be less, but not greater, than the rates outside the City for the same or similar uses.

(2) Following the approval of the first Plan in accordance with subsection (a), rates for water, reclaimed water, surplus water, electric energy, surplus energy and other services shall be fixed by the board from time to time as necessary. All rates within the parameters of the Plan shall not require Council or Mayoral approval. The fixing of any base rates by the board that exceed the adopted Plan shall require approval by the Council and Mayor pursuant to timelines and procedures established by ordinance. Except as otherwise provided in the Charter, rates shall be of uniform operation for customers of similar circumstances throughout the City, as near as may be, and shall be fair and reasonable, taking into consideration, among other things:

- (A) the nature of the uses;

- (B) the quantity supplied; and
- (C) the value of the service.

The rates inside the City may be less, but not greater, than the rates outside the City for the same or similar uses.

(d) Individual Power Contracts. Rates for electric energy may be negotiated with individual customers, provided that these rates are established by binding contract, contribute to the financial stability of the electric works and are consistent with procedures established by ordinance.

Sec. 10. Section 678 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 678. General Manager of the Department of Water and Power.

(a) **Appointment.** The recruitment and selection of qualified candidates for the position of General Manager of the Department of Water and Power shall be administered by the general manager of the Personnel Department, in cooperation with the Board of Water and Power Commissioners, through a system of open competition based on professionally accepted recruitment and selection standards. The general manager of the Personnel Department shall refer a group of up to six highly qualified candidates to the Board of Water and Power Commissioners, which shall then provide a list of up to three recommended candidates, in ranked order, to the Mayor for review and for appointment of one of them as the General Manager. At the request of the Mayor, the Board of Water and Power Commissioners shall provide the Mayor with an additional list of up to three candidates, in ranked order, from the group of candidates previously provided by the general manager of the Personnel Department. The Mayor's appointee shall be subject to confirmation by the Council. Should the Council fail to confirm the appointee, and if any additional candidates remain, the Mayor may request and receive from the Board of Water and Power Commissioners one additional candidate, who will be selected from the group of candidates previously provided by the general manager of the Personnel Department. The Mayor may appoint that candidate or one of the candidates on the list or lists previously provided to the Mayor by the Board of Water and Power Commissioners, subject to Council confirmation.

(b) **Powers and Duties.** In addition to the powers described in Section 604, the general manager of the department shall have the power and duty to:

- (1) enforce all orders, rules and regulations adopted by the board;
- (2) supervise and manage the design, construction, maintenance and operation of all work or improvements authorized or ordered by the board;

(3) carry out all powers and duties of the department delegated by the board;

(4) provide informational reports regarding any actions or pending actions of the Board or Department, as requested by the Council; and

(5) implement a monthly billing cycle and provide daily water usage data to the Bureau of Sanitation beginning no later than July 1, 2020, unless otherwise prescribed by ordinance.

Sec. 11. Section 683 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 683. Office of Public Accountability.

(a) The role of the Office of Public Accountability (OPA) shall be to provide public independent analysis of department actions as they relate to water and electricity rates.

(b) The OPA shall be headed by an Executive Director, who shall be exempt from civil service. The Executive Director shall be appointed by a citizens committee to a five-year term, subject in appointment to confirmation by the Council and Mayor, and may be appointed to a second five-year term by the Council, subject to approval by the Mayor. The Council shall by ordinance provide for the removal of the Executive Director in a procedure similar to that set forth in City Charter Section 575(e), and only for the reasons provided by ordinance. The Council by ordinance shall prescribe the composition and manner of selection of the citizens committee.

(c) The Executive Director shall (1) report directly to, but shall not be instructed by, the board; (2) have full charge and control of all work of the OPA; (3) be responsible for the proper administration of its affairs; (4) appoint, discharge, suspend, or transfer all of its employees, subject to the civil service provisions of the Charter; (5) issue instructions to OPA employees in the line of their duties, subject to the civil service provisions of the Charter; (6) prior to the beginning of each fiscal year and in accordance with a schedule prescribed by ordinance, submit to the City Administrative Officer a proposed annual budget covering the anticipated expenditures of the OPA; (7) expend the funds of the OPA (including, without limitation, awarding contracts) in accordance with the provisions of the budget appropriations or of appropriations made after adoption of the budget; and (8) perform such other duties as may be prescribed by ordinance.

(d) The City Council shall by ordinance establish provisions for the administration and operation of the OPA, which provisions shall include at a minimum: (1) reporting requirements and schedules and (2) consumer protection and complaint procedures.

(e) The OPA shall have access to information to fulfill its responsibilities.
(f) The employees of the OPA shall include a Ratepayer Advocate and additional positions as prescribed by ordinance. The OPA shall periodically issue public reports.

(g) The department shall include a budget for the OPA as shall be set by ordinance at a level not less than 0.05 percent of department annual revenues generated solely from the sale of water and electric energy for the previous fiscal year.

(h) Nothing contained in this section shall reduce or otherwise affect the authority of the City Controller to conduct fiscal and performance audits of the department.

Sec. 12. A new Section 685 is added to the Charter of the City of Los Angeles to read as follows:

Sec. 685. Water and Power Analyst Office

The role of the Water and Power Analyst Office shall be to provide policy and fiscal analysis under the direction of the board. The board shall have the power to appoint and remove an Executive Director for the Office, who shall be exempt from civil service. The board shall also have the power to set and adjust the compensation of the Executive Director and establish a budget for the Office as further provided by ordinance. The Executive Director shall report directly to the board, administer the affairs of the Office, appoint employees sufficient to fulfill the responsibilities of the Office, and perform such other duties as may be prescribed by the board consistent with this Section.

Sec. 13. Section 1000 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 1000. Applicability.

The provisions of this Article shall apply to all employees of the City, except for those specifically exempted in Section 1001 and as provided in Section 1025.

Sec. 14. A new Section 1025 is added to the Charter of the City of Los Angeles to read as follows:

Sec. 1025. Department of Water and Power.

(a) The Council, or the Board of Water and Power Commissioners (Board) if authorized pursuant to subsection (b) to set salaries for Department of Water and Power employees, may approve alternative standards for Department of Water and Power employees to replace any or all of the civil service standards of Sections 1000 through 1020 of the Charter, subject to the following requirements:

(1) The alternative standards are adopted pursuant to a legally binding memorandum of understanding developed through collective bargaining and approved by the Council;

(2) The Council, or the Board if authorized as the salary setting authority pursuant to subsection (b), shall make a determination that the provisions of the memorandum of understanding maintain standards that provide for merit based hiring, merit based retention and discharge, equal employment opportunity compliance, and protection from coercion for partisan political purposes; and

(3) The Council, or the Board if authorized as the salary setting authority pursuant to subsection (b), may conduct periodic audits of any alternative standards adopted pursuant to this section, and may revoke such standards, subject to any meet and confer process as may be required by law and approval by the Council.

(b) The Council may, by ordinance, delegate its authority under Section 219 of the Charter to set salaries for Department of Water and Power employees, in whole or in part, to the Board of Water and Power Commissioners. Council may also, by ordinance, revoke any previous delegation of authority made pursuant to this subsection.

Sec. 15. Implementing Ordinances. The Council shall, by ordinance, provide for the transition to the newly constructed Board of Water and Power Commissioners described in proposed Charter Section 670 above. In order to transition to the new Board and establish staggered terms, the ordinance may designate initial Commissioner terms of a duration other than four years for the first Board established under the proposed Charter Section. The increase in the size of the Board, qualification requirements and change to the length of terms of Commissioners shall commence no sooner than July 1, 2017, and no later than August 15, 2017.

Sec. 16. Severability. If any section, subsection, subdivision, clause, sentence, phrase or portion of this measure is held unconstitutional or invalid by any court or tribunal of competent jurisdiction, the remaining sections, subsections, subdivisions, clauses, sentences, phrases or portions of this measure shall remain in full force and effect, and to this end the provisions of this measure are severable. In addition, the voters declare that they would have passed all sections, subsections, subdivisions, clauses, sentences, phrases or portions of this measure without the section, subsection, subdivision, clause, sentence, phrase or portion held unconstitutional or invalid.

Sec. B. The City Clerk is hereby authorized and directed to publish a notice containing the proposed ballot measure, specifying the date of November 8, 2016, as the date the measure is to be voted upon by the qualified voters of the City of Los Angeles. The notice shall be published once in a newspaper of general circulation in the City of Los Angeles, and in each edition thereof during that day of publication. The City Clerk is authorized and directed to prepare and keep in the City Clerk's office a sufficient supply of copies of the proposed ballot measure and to distribute the proposed ballot measure to any and all persons requesting a copy. Further, the City Clerk is authorized and directed to mail copies of the proposed ballot measure to each of the qualified voters of the City of Los Angeles.

Sec. C. The City Clerk is hereby authorized and directed to cause a notice to be published once in a newspaper of general circulation that copies of voter information pamphlets containing the proposed ballot measure may be obtained upon request in the City Clerk's office.

Sec. D. The City Clerk shall file a duly certified copy of this Resolution forthwith with the Board of Supervisors and with the Registrar-Recorder of the County of Los Angeles.

I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on June 24, 2016.



HOLLY L. WOLCOTT, City Clerk

By *Erika Ruest*
Deputy

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By *Harit U. Trivedi*
HARIT U. TRIVEDI
Deputy City Attorney

Date June 22, 2016

Ballot Summary

TITLE:

CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER (DWP)

THE ISSUE:

Shall the Charter be amended to: (1) add qualification requirements, stipends and removal protections for the DWP Board; (2) expand the Board to seven members; (3) require DWP to prepare four-year Strategic Plans for Council and Mayoral approval; (4) modify DWP's contracting, rate-setting and other authority; (5) permit future alternatives to existing civil service standards for DWP employees through collective bargaining; and (6) require monthly billing?

THE SITUATION:

DWP is a City-owned utility. DWP is governed by a Board appointed by the Mayor, and approved by the City Council. The Board sets rates with Council and Mayoral approval. DWP bills residential customers every two months. The City has identified the need for improvements regarding oversight, transparency and operations of DWP.

THE PROPOSAL:

This measure would amend the Charter to:

- Expand the Board from five to seven members, add qualification requirements, authorize stipends, and establish a process to appeal removal;
- Modify the General Manager appointment process;
- Double the minimum budget of the Office of Public Accountability (OPA);
- Allow the Council and Mayor to reappoint the OPA Executive Director (Ratepayer Advocate) for an additional term;
- Establish a DWP Analyst Office to provide policy/fiscal analysis to the Board;
- Require DWP to prepare four-year Strategic Plans for Council and Mayoral approval, consisting of projects, programs, and revenue requirements;
- Allow the Board to set rates, consistent with the Strategic Plan;
- Expand the Board's contracting authority and modify Council's contracting oversight;
- Allow Council to:
 - approve an alternative to civil service standards for DWP employees (developed through collective bargaining)
 - shift salary setting authority for DWP employees to the Board;
- Require monthly billing by July 1, 2020.

A YES VOTE MEANS:

You want to change DWP's governance and administrative functions.

A NO VOTE MEANS:

You do not want to change DWP's governance and administrative functions.

**CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER
CHARTER AMENDMENT**

**IMPARTIAL SUMMARY
BY SHARON M. TSO, CHIEF LEGISLATIVE ANALYST**

The proposed measure would amend the Los Angeles City Charter (Charter) as it relates to the Department of Water and Power's (DWP) governance and administrative functions. The purpose for these changes is to increase oversight, transparency and streamline operations of the DWP.

The proposed amendments fall into several categories highlighted below.

Board Composition and Qualifications

The measure would increase the Board of Water and Power Commissioners (Board) from five to seven members, shorten the Board term from five years to four years; require Board members to have experience in areas such as utility management, environmental policy, business, labor relations or community organizations; and allow for a stipend set by ordinance.

The measure would also establish a removal and appeal process for Board members.

General Manager Appointment

Currently, the Board appoints the General Manager of the DWP, subject to Mayor and Council confirmation. The measure would modify the appointment process by requiring the Personnel Department to recruit highly qualified candidates for the Board to review. The Board would provide a pool of candidates to the Mayor from which the Mayor would select a candidate for appointment as General Manager, subject to Council confirmation.

Office of Public Accountability (OPA)

The measure would provide that the OPA's Executive Director may be appointed to a second five-year term by the Council, subject to Mayoral concurrence and would also increase the minimum budget for the OPA from 0.025 percent to 0.050 percent of revenues generated from the sale of water and electricity for the previous fiscal year.

Water and Power Analyst (WPA) Office

The measure establishes the WPA Office to provide policy and fiscal analysis for the Board. The Board would have the power to appoint and remove an Executive Director for the Office.

Strategic Plan and Rates

The measure provides that beginning on January 1, 2020, the Board shall submit a four-year strategic/revenue requirement and rate-setting plan (Plan), including potential rates, to the Council and Mayor for consideration.

Once the Plan has been approved by the Council and Mayor, all projects and revenue requirements within the Plan shall require Board approval only. Any components that exceed the parameters of the Plan shall require Council and Mayoral approval.

Contracting

The measure would expand the Board's contracting authority by no longer requiring Council approval for certain contracts. Specifically, the measure would eliminate the Charter requirement that franchises, licenses and leases over five years, but less than 30 years, be approved by Council after Board adoption. The measure would also permit the Board to award such contracts as design-build contracts, with criteria established by the Board. Currently, the Charter requires that this criteria be established by Council.

The measure would eliminate the Charter requirement that all power contracts be approved by ordinance.

The Council would maintain its authority to review these contracts except those under a threshold established by ordinance.

Alternative Civil Service Standards and Salary Setting Authority

The measure would allow the Council to approve alternatives to civil service standards for DWP employees, pursuant to a legally binding memorandum of understanding developed through collective bargaining. The alternative standards must provide for merit based hiring, retention and discharge provisions. The Council would conduct periodic audits of the standards.

The Council may delegate its authority to the Board to set salaries for DWP employees and may also revoke any delegation of authority.

Monthly Billing

The measure would require the DWP to implement a monthly billing cycle beginning no later than July 1, 2020.

This Charter Amendment will become effective if approved by a majority of voters.

**PROPOSED
DEPARTMENT OF WATER AND POWER (DWP)
CHARTER AMENDMENT
NOVEMBER 8, 2016**

**FINANCIAL IMPACT STATEMENT
By Miguel A. Santana
City Administrative Officer**

This charter amendment reforms the governance and administration of the Department of Water and Power (DWP), including increasing the minimum budget amount for the Office of Public Accountability/Rate Payer Advocate by approximately \$1,200,000 annually.

This measure empowers the DWP General Manager, with the concurrence of the Mayor and City Council and/or DWP Board of Commissioners, to take future actions for ratepayer enhancements, including converting the residential billing cycle from every two months to monthly. The initial estimate for this change is approximately \$19,000,000 in one-time costs and recurring costs of \$4,000,000 annually.

The costs or savings resulting from the additional governance and operational reforms are unknown until completion of subsequent actions during a public process.

The measure impacts the DWP Water Revenue Fund and Power Revenue Fund. There is no anticipated impact to the General Fund.