



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R 0 9 - 0 1 6 5
MAY 1 5 2009

REPORT RE:

**DRAFT RESOLUTION AND ORDINANCE DECLARING A FISCAL EMERGENCY
AND AUTHORIZING REDUCTIONS IN WORK HOURS BY APPOINTING
AUTHORITIES**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

We have been informed that the City Council intends to consider this Monday, May 18, 2009, both a resolution declaring a fiscal emergency and an ordinance authorizing the reduction of the number of a full-time employee's biweekly regular work hours pursuant to the adoption of the resolution declaring a fiscal emergency.

Attached for your consideration and convenience is a draft resolution declaring a fiscal emergency. This draft resolution was prepared with the assistance of the Office of the Mayor, Chief Legislative Analyst, and Interim City Administrative Officer.

Also attached for your consideration is a draft ordinance, approved as to form and legality, that authorizes appointing authorities to reduce full-time employees' biweekly regular work hours to a different number of hours as may be established by the appointing authority pursuant to the City's adoption of a resolution declaring a fiscal emergency. The ordinance provides that an employee whose biweekly regular work hours are reduced will be credited with all the rights and benefits as though he or she worked 80 hours in the payroll period.

The draft ordinance contains an urgency clause which will allow the ordinance to become effective upon publication pursuant to Los Angeles City Charter Section 253. The inclusion of the urgency clause will require the City Council to find and declare that

this ordinance is required for the immediate preservation of the public peace, health and safety for the reasons stated in the ordinance and the resolution declaring a fiscal emergency. In addition, the Charter requires adoption of the ordinance by a vote of three-fourths of the Members.

If you have any questions, please contact Senior Assistant City Attorney Zna Houston at (213) 978-7182. She or another member of our office will be available when you consider this matter.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

DM:ZH:ac
Transmittal

RESOLUTION

WHEREAS, due to developments in the worldwide and national financial markets, and an unprecedented downturn in the national and regional economy, the City of Los Angeles faces an approximate \$529 million General Fund deficit for the 2009-10 fiscal year; and

WHEREAS, the City's on-going revenue sources have plunged by nearly \$300 million over the last year; and

WHEREAS, continued declines in property taxes are expected over at least the next two years; and

WHEREAS, the City's restricted cash reserves cannot be used for the general operations of the City; and

WHEREAS, the State Constitution prohibits the City from enacting new or raising existing taxes without voter approval, preventing the City from generating significant new revenue; and

WHEREAS, without effective action, the budget deficit is estimated to grow from \$529 million to over \$1 billion by the end of fiscal year 2010-11 due to declining General Fund revenues and increases to pension and retirement costs; and

WHEREAS, approximately 80% of the City's costs are linked to contractually obligated salaries and benefits; and

WHEREAS, without effective action to address these budgetary shortfalls in 2009-10, the City will inevitably face a cash flow crisis, raising the prospect that the City will have insufficient cash to meet its obligations; and

WHEREAS, if the City is unable to borrow cash on a short-term basis for the 2009-10 budget through the issuance of Tax and Revenue Anticipation Notes, the City will run out of cash by the end of August 2009, and prevent the City from being able to finance cash flow shortages of millions of dollars, thus making it likely the City will miss payroll and other essential services payments; and

WHEREAS, the City anticipates issuing approximately \$38 million in Judgment Obligation Bonds between fiscal years 2008-09 and 2009-10 to finance the liabilities resulting from larger than usual court settlements against the City as there is insufficient revenue for cash payments; and

WHEREAS, on November 21, 2008, due to concerns regarding dramatically declining General Fund revenues, Mayor Villaraigosa called for an extraordinary mid-year budget revision to address a \$110 million General Fund deficit for the 2008-09 fiscal year, including a \$55 million revenue shortfall; and

WHEREAS, on March 4, 2009, the City Council approved mid-year budget reductions to address declining revenues and growing deficits; and

WHEREAS, General Fund departments have already taken steps to reduce their expenses to achieve budget and cash savings for the fiscal year 2008-09; and

WHEREAS, in addition to the mid-year budget revision, Mayor Villaraigosa directed general managers to find ways to make permanent staff reductions, instituted a managed hiring process, and, pursuant to a Letter of Intent, engaged in a mutual gains dialogue with the Coalition of City Unions to find ways to address the City's economic crisis with the best possible results for City workers; and

WHEREAS, to date, these efforts have failed to substantially address the budget crisis; and

WHEREAS, on April 6, 2009, Mayor Villaraigosa presented City workers with a menu of options in an effort to minimize layoffs and maintain existing service levels including a voluntary, one-hour work furlough each week, a 2% pension benefit contribution increase, and the deferral of automatic annual pay raises; and

WHEREAS, to date, the representatives of City workers have not agreed to implement any of these menu options; and

WHEREAS, if no additional actions are taken to reduce City expenditures, the projected budget deficit for fiscal year 2009-10 will require as many as 6,900 additional civilian layoffs City-wide, which represents more than 50% of the City's General Fund civilian workforce and would result in a dramatic reduction in City services; and

WHEREAS, failure to substantially reduce the deficit carried forward from fiscal year 2008-09 into the next fiscal year will likely reduce monies held in the Reserve Fund and may force the City to borrow additional monies in order to address the City's cash shortfall at the beginning of the fiscal year until sufficient revenues are received; and

WHEREAS, on April 20, 2009, Mayor Villaraigosa released his proposed budget which recommends various options to close the projected \$529 million deficit for fiscal year 2009-10, including the elimination of 1600 full time position authorities, approximately 400 of which are currently filled; and

WHEREAS, on May 14, 2009, the Governor released proposed revisions to the State budget which could result in a reduction in City property tax revenues by as much as \$68 million; and

WHEREAS, on May 18, 2009, the City Council adopted a 2009-10 budget which instituted various austerity measures including severe controls on hiring, additional layoffs and furloughs; and

WHEREAS, without imposing the furlough days more than 2,100 additional layoffs would be required to balance the 2009-10 budget; and

WHEREAS, the layoff process and civil service displacement rights cause months of delays in moving personnel off of the payroll; and

WHEREAS, immediate and comprehensive action is needed to address the fiscal and cash crisis facing the City of Los Angeles; and

WHEREAS, immediate and comprehensive action to reduce current spending must be taken to ensure, to the maximum extent possible, that the essential services of the City are not jeopardized and public health and safety are preserved; and

WHEREAS, the City is considering various staff reduction incentives in an effort to achieve payroll and other expense savings and to reduce the number of layoffs and furlough days that will be required; and

WHEREAS, it is estimated that a work furlough plan of one day per pay period would generate approximately \$100 million in savings and immediately improve the City's ability to meet its obligations to fund essential services of the City so as not to jeopardize its residents' health and safety in the current and next fiscal year.

NOW, THEREFORE, the City Council of the City of Los Angeles, by virtue of the power and authority vested in it by the City Charter and the City Administrative Code, does hereby determine that an emergency pursuant to Government Code section 3504.5 and Los Angeles Administrative Code section 4.850 exists and issues this order to become effective immediately:

IT IS RESOLVED that effective July 1, 2009 through June 30, 2010, the Mayor through the appointing authorities adopt a plan to implement a furlough of civilian employees for up to 26 days per fiscal year. This plan shall include a limited exemption process.

IT IS FURTHER ORDERED that effective immediately, the Personnel Department shall work with all City agencies and departments to initiate layoffs and other position reductions and program efficiency measures to achieve a reduction in General Fund payroll.

IT IS FURTHER ORDERED that effective July 1, 2009 through June 30, 2010, all City agencies and departments are prohibited from entering into any new personal services or consulting contracts to perform work that would have been performed by City employees subject to the furloughs, layoffs, or other position reduction measures. A limited exemption process shall be included.

ORDINANCE NO. _____

An ordinance amending Section 4.117 of the Los Angeles Administrative Code to authorize a reduced work schedule for the employees of the City of Los Angeles.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 4.117 of Los Angeles Administrative Code is amended to read:

Notwithstanding Section 4.108(a) of the Los Angeles Administrative Code:

(a) Whenever a full-time employee voluntarily reduces the number of his/her biweekly regular hours from 80 to a number not less than 72 at the request and/or with the permission of his/her department, office or bureau; or

(b) Whenever the appointing authority, in order to meet the varying needs of the different City agencies, reduces the number of a full-time employee's biweekly regular hours to a different number of hours as may be established by the appointing authority pursuant to the City's adoption of a resolution declaring a fiscal emergency;

an employee whose biweekly regular hours are reduced as authorized in this section shall be credited with all the rights and benefits as though he/she worked 80 hours in the payroll period. Compensation received under the circumstances herein provided shall be considered full compensation for all employees participating in such hour reduction.

Sec. 2. **URGENCY CLAUSE.** The City Council finds and declares that this ordinance is required for the immediate preservation of the public peace, health and safety for the following reasons. As established in the City's May 2009, resolution declaring a fiscal emergency, the unprecedented downturn in the national and regional economy, combined with the impact on the City's pension investments, has led the City to a fiscal crisis of growing and unanticipated proportion. This ordinance is necessary to prevent a severe adverse impact on the City workforce, City services and the residents that it serves because it is intended to reduce the City's costs so that it will have enough money to continue to provide essential public services such as fire and police protection. Therefore, this ordinance shall become effective upon publication pursuant to Los Angeles City Charter Section 253.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all of its members, at its meeting of _____.

JUNE LAGMAY, City Clerk

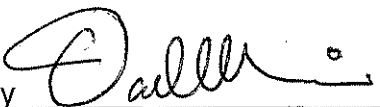
By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By  _____
DAVID MICHAELSON
Chief Assistant City Attorney

Date 5/15/09

File No. _____