

CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 1 0 - 0 3 8 2

NOV 1 0 2010

REPORT RE:

BALLOT RESOLUTION AND BALLOT TITLE RESOLUTION REGARDING A PROPOSED CHARTER AMENDMENT TO ESTABLISH A CONTINGENCY RESERVE ACCOUNT AND EMERGENCY RESERVE ACCOUNT WITHIN THE RESERVE FUND, AS WELL AS A BUDGET STABILIZATION FUND IN THE CITY TREASURY, AND ORDINANCE CALLING A SPECIAL ELECTION AND CONSOLIDATING IT WITH THE CITY'S PRIMARY NOMINATING ELECTION OR STATEWIDE SPECIAL ELECTION ON MARCH 8, 2011

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

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the attached draft Charter amendment, approved as to form and legality.

The Amendment would provide for the following:

1. Establish two accounts within the Reserve Fund – the Contingency Reserve Account and the Emergency Reserve Account.
2. Require the Council annually allocate an amount to the Emergency Reserve Account to bring the balance in that account to not less than 2.75% of General Fund receipts anticipated for that fiscal year in the adopted budget.
3. Require that, in order to access any of the monies in the Emergency Reserve Account, the Council must first make a finding of "urgent economic necessity" by a two-thirds vote with Mayoral concurrence or, in the event of a Mayoral veto, by a three-fourths vote of the Council.

4. Require that, if monies in the Emergency Reserve Account must be accessed during the fiscal year, the amount transferred from the Emergency Reserve Account must be restored in the subsequent fiscal year.

5. Authorize the suspension of the requirement to restore transfers from the Emergency Reserve Account, but only with a Council finding that details the need to continue to access the Account, or the reasons that it is not feasible to restore these monies, and the date when it is anticipated that the restoration requirement will be reinstated. This provision is necessary in the event of an occurrence such as a natural disaster late in the fiscal year, or an on-going emergency that would prevent the Emergency Reserve Account restoration.

6. While the amendment does not mandate an amount for annual appropriations to the Contingency Reserve Account, it requires the Council to adopt, by ordinance, policies for funding, and for the use of monies in the Contingency Reserve account.

7. Specify that the Council may borrow cash balances in the Reserve Fund for temporary cash flow needs as authorized by other sections of the Charter.

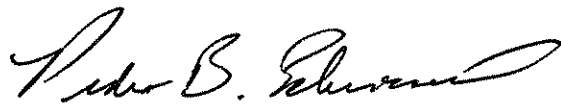
8. Clarify that the provisions in this Charter amendment do not affect the Mayor's authority under Charter Section 231(i) to declare a local emergency and coordinate the City's emergency response activities.

Additionally, on October 5, 2010, this Office was further instructed to include, and we have included, in the ballot title and Resolution for this proposed Charter Amendment a requirement to establish a Budget Stabilization Fund in the City Treasury, with the detailed requirements for funding sources and expenditures that are authorized to be established by Ordinance.

If you have any questions regarding this matter, please contact Deputy City Attorney Kimberly Miera at (213) 978-7186. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

RESOLUTION

WHEREAS, the Council of the City of Los Angeles has adopted a resolution to place a Charter amendment before the qualified voters of the City of Los Angeles at the March 8, 2011 Special Election to be consolidated with the City's Primary Nominating Election to be held on the same date; 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:

**ESTABLISHMENT OF CONTINGENCY RESERVE
ACCOUNT AND EMERGENCY RESERVE ACCOUNT
WITHIN RESERVE FUND AND BUDGET STABILIZATION
FUND IN THE CITY TREASURY.
CHARTER AMENDMENT ____.**

Shall the Charter be amended to: establish an Emergency Reserve Account within the City's Reserve Fund, with an annual balance of not less than two and three-fourths percent of General Fund receipts, to be accessed only if the City Council finds by a two-thirds vote that there is an urgent economic necessity and to be replenished in the subsequent fiscal year except in the event of a catastrophe; establish a Contingency Reserve Account within the Reserve Fund for expenditures and revenue shortfalls unanticipated in the annual budget with details defined by ordinance; and establish a Budget Stabilization Fund within the City Treasury with details defined by ordinance?

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 LAGMAY, City Clerk

By _____
Deputy

Council File No. 10-0197

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 amendments to the Charter of the City of Los Angeles are 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 City's Primary Nominating Election held on March 8, 2011:

CHARTER AMENDMENT _____

Section 1. Section 302 of the Charter of the City of Los Angeles is amended to read:

Sec. 302. Funds.

All money paid into the City Treasury shall be credited to and kept in separate funds in accordance with the provisions of the Charter, ordinance or other applicable law. In addition to funds established elsewhere in the Charter for departments controlling their own funds, the following funds are hereby established: General Fund, Reserve Fund, and bond funds, interest funds, sinking funds, trust funds and other funds as may be required by law or ordinance.

(a) The General Fund is established as a medium of control of and accounting for municipal activities other than activities authorized or contemplated by special funds. All revenues and receipts which are not by law or Charter pledged or encumbered for special purposes shall be credited to the General Fund.

(b) The Reserve Fund shall include funding for unanticipated expenditures and revenue shortfalls in the City's General Fund. It shall include two accounts within the fund, the Contingency Reserve Account and the Emergency Reserve Account.

(1) Contingency Reserve Account: The Contingency Reserve Account shall include all monies in the Reserve Fund over and above the amount required to be allocated to the Emergency Reserve Account pursuant to subsection (b)(2) of this Section.

(2) Emergency Reserve Account Allocation: The City Council shall annually allocate an amount to the Emergency Reserve Account of the Reserve Fund that shall bring the balance in that account to not less than two and three-fourths ($2\frac{3}{4}$) percent of all General Fund receipts anticipated for that fiscal year in the adopted budget.

(3) Accessing Reserve Fund:

(i) The Contingency Reserve Account will be the source of additional funding needed as a result of unanticipated expenditures and revenue shortfalls. The City Council shall, by ordinance, establish policies for the use of the Contingency Reserve Account.

(ii) Transfers from the Emergency Reserve Account of the Reserve Fund shall require approval by a two-thirds vote of the City Council with the concurrence of the Mayor, or, in the event of a Mayoral veto, by a three-fourths vote of the City Council. Concurrent with the transfer, the City Council shall make a finding of urgent economic necessity. The basis on which a finding of urgent economic necessity may be made includes, but shall not be limited to, a significant economic downturn after the budget is adopted, a natural disaster, such as an earthquake, civil unrest, or other significant unanticipated events requiring the expenditure of General Fund resources.

(4) Restoration of Emergency Reserve Account: Except as provided in subsection (b)(5), whenever the City utilizes monies in the Emergency Reserve Account pursuant to subsection (b)(3)(ii) of this Section, the City shall, in the subsequent fiscal year, restore to the Emergency Reserve Account the amount expended therefrom as part of the annual allocation required by this Section to bring the balance in that account to not less than two and three-fourths ($2\frac{3}{4}$) percent of all General Fund receipts anticipated for that fiscal year in the adopted budget.

(5) Suspension of Emergency Reserve Account Restoration: In the event of a catastrophic event which requires use of the Emergency Reserve Account spanning more than one fiscal year, the City Council may, by a two-

thirds vote with the concurrence of the Mayor or, in the event of a Mayoral veto, by a three-quarters vote, temporarily suspend the requirements of subsection (b)(4) herein; provided, however, that concurrent with the action of the City Council to suspend the requirement, the City Council adopts findings detailing the necessity for continued access to the Emergency Reserve Account and setting forth a date on which the requirements of Section (b)(4) shall be reinstated. Transfers of funds from the Emergency Reserve Account during the time to which the suspension of the requirement to restore such monies applies shall not be required to be restored.

(6) Temporary Transfers: Nothing herein shall prohibit temporary transfers of funds from the Contingency Reserve Account or Emergency Reserve Account as otherwise authorized by City Charter Section 340.

(7) Nothing herein shall be construed as applying to, or limiting, the provisions of Charter Section 231(i) or any other provisions of this Charter, State statute or City ordinance relative to Emergency Declarations.

(c) A Budget Stabilization Fund shall be established by ordinance within the City Treasury. Requirements for funding and transfers or expenditures to be made therefrom shall be established by ordinance.

Sec. B. The City Clerk is hereby authorized and directed to publish a notice containing the proposed ballot measure, specifying the date of March 8, 2011 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 LAGMAY, City Clerk

By _____
Deputy

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By 
KIMBERLY MIERA
DEPUTY CITY ATTORNEY

Date 11-10-10

Council File No. 10-0197

ORDINANCE NO. _____

An ordinance calling a Special Election to be held on Tuesday, March 8, 2011, for the purpose of submitting to the qualified voters of the City of Los Angeles a certain Charter amendment and consolidating this Special Election with the City's Primary Nominating Election to be held on the same date.

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

Section 1. A Special Election is hereby called to be held in the City of Los Angeles on March 8, 2011, for the purpose of submitting to the qualified voters of the City a certain Charter Amendment ordered submitted by the Council of the City of Los Angeles.

Sec. 2. The ballot title and question to be used at the Special Election for the measure to be submitted to the qualified voters of the City of Los Angeles shall be:

**ESTABLISHMENT OF CONTINGENCY RESERVE
ACCOUNT AND EMERGENCY RESERVE ACCOUNT
WITHIN RESERVE FUND AND BUDGET STABILIZATION
FUND IN THE CITY TREASURY.
CHARTER AMENDMENT ____.**

Shall the Charter be amended to: establish an Emergency Reserve Account within the City's Reserve Fund, with an annual balance of not less than two and three-fourths percent of General Fund receipts, to be accessed only if the City Council finds by a two-thirds vote that there is an urgent economic necessity and to be replenished in the subsequent fiscal year except in the event of a catastrophe; establish a Contingency Reserve Account within the Reserve Fund for expenditures and revenue shortfalls unanticipated in the annual budget with details defined by ordinance; and establish a Budget Stabilization Fund within the City Treasury with details defined by ordinance?

Sec. 3. The measure shall be designated on the ballot or ballot pages by a letter or number determined by the City Council in accordance with applicable City and state laws. Upon the designation by the proper officials of the letter or number to be assigned to the measure, that letter or number is hereby adopted and shall be the designation for the ballot title.

Sec. 4. To vote on the measure, the voter shall mark the ballot next to the word "Yes" or the word "No." A "Yes" vote shall be counted in favor of adoption of the measure and a "No" vote shall be counted against adoption of the measure.

Sec. 5. The Special Election hereby called shall be, and hereby is ordered to be, consolidated with the City's Primary Nominating Election to be held in the City of Los Angeles on Tuesday, March 8, 2011.

Sec. 6. The voting polls on election day shall open at 7:00 a.m., March 8, 2011, and shall remain open until 8:00 p.m. of the same day when the voting polls shall be closed, except as provided in City Election Code Section 857.

Sec. 7. The election precincts, polling places, and officers of election for the Special Election shall be the same as those provided in the City of Los Angeles for the Primary Nominating Election, and the elections shall be held in all respects as if there were only one election. Furthermore, for the precincts, polling places, and officers of election, reference is hereby made to the list that will be prepared and approved by the City Clerk and filed in the City Clerk's Office not later than February 8, 2011, and that list is incorporated into and made part of this ordinance.

Sec. 8. In all other particulars, the Special Election shall be held and conducted as provided by law for the conduct of the Primary Nominating Election in the City of Los Angeles.

Sec. 9. 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, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By  _____
KIMBERLY MIERA
Deputy City Attorney

Date 11-10-10

File No. 10-0197