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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 13 - 0 1 7 0
JUN 14 2013

REPORT RE:

**OPTIONS IN RESPONSE TO AN INITIATIVE CREATING A
PUBLIC HEALTH DEPARTMENT**

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

Honorable Members:

The City Clerk has presented to your Honorable Body a certified initiative petition related to the creation of a City public health department. In connection with the City Clerk's transmittal, this Office has prepared and now transmits the enclosed draft ordinances and resolutions pursuant to Charter Section 452 regarding action by the City Council upon presentation of a certified initiative petition.

Background

On May 10, 2013, a group of proponents submitted an initiative petition to the City Clerk containing voter signatures in support of a proposed ordinance that would require the City to establish a public health department within 120 days of enactment. It also prohibits any contractual relationship between the City and the County of Los Angeles regarding the regulation and/or enforcement of any public health law within City limits.

On May 20, 2013, the City Clerk completed its preliminary review of the initiative petition and accepted it for processing. The City Clerk, thereafter, examined the voter signatures contained on the petition using the random sampling method authorized in the City Election Code and in accordance with Charter Section 451. The City Clerk has now completed that examination and has determined that the initiative petition contains a sufficient number of valid voter signatures to qualify for presentation to the City Council. On June 4, 2013, the City Clerk certified the initiative petition as containing a sufficient number of valid voter signatures for presentation to the City Council.

Council Options

Charter Sections 450 through 452 provide that when a valid and certified initiative petition requesting adoption of a proposed ordinance is presented to the City Council, the City Council may:

- Adopt the proposed ordinance without alteration.
- Call a special stand-alone election, which must be held no earlier than 110 days but no later than 140 days after the Council acts, to submit the proposed ordinance to a vote of the electors of the City.
- Determine to submit the ordinance to a vote at the next election occurring more than 110 days from the date of Council action that is conducted in the territory of the City (placing the measure on the June 2014 State Primary Election conducted by the County would fall within this option.)

Charter Section 452 provides that Council must take action within 20 days after the presentation of a valid certified petition.

Should the Council wish to adopt the proposed ordinance without alteration, we have enclosed the ordinance proposed in the initiative. (See Attachment 1.) Should the Council wish to submit the proposed ordinance to the voters, we have enclosed an election ordinance and ballot resolutions to place the measures on the June 2014 ballot. (See Attachment 2.)¹ These election documents include a ballot title for the measure, which must be 75 words or less for the June 2014 ballot. (See Cal. Elections Code §§ 9051, 13247.)

This Office has concerns over several provisions of the initiative, which are discussed in a separate report. For this reason, City Council may wish to discuss these and other options on how to proceed with regard to the initiative. Such discussion is appropriate to be held in closed session.

If you have any questions regarding this matter, please contact Deputy City Attorney Kimberly Miera at (213) 978-8169. 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

PBE:KM:ac

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¹ Please note we have not transmitted documents for a special stand-alone election, because the option of holding an election on the proposed ordinance can be accomplished by consolidating the election with the already scheduled June 2014 election.

Attachment 1

ORDINANCE NO. _____

An ordinance proposed by initiative petition establishing a City of Los Angeles Department of Public Health.

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

Section 1. Title.

This ordinance shall be known and may be cited as the "City of Los Angeles Public Health Protection Act."

Sec. 2. Findings and Declarations.

The people of the City of Los Angeles hereby find and declare all of the following:

- a) The promotion and protection of public health is one of the highest duties of government;
- b) Despite this importance, the City of Los Angeles does not have its own ability to promote and protect the public health of its citizens. Instead, it currently contracts out this responsibility to the County of Los Angeles;
- c) This arrangement has resulted in a waste of money, as fees paid to Los Angeles County under this arrangement have subsidized the healthcare needs of other areas of the County;
- d) This arrangement has also resulted in failures to prioritize the healthcare needs of the residents of the City of Los Angeles, to their detriment.

Sec. 3. Purpose and Intent.

The people of the City of Los Angeles hereby declare their intent and purpose in enacting this ordinance to be to better promote and protect the public health of the City of Los Angeles by establishing a City of Los Angeles Department of Public Health, which will be responsible for promoting and protecting the public health, and enforcing public health laws of the City of Los Angeles.

Sec. 4. Section 31.10 is hereby added to the City of Los Angeles Public Health Code to read as follows:

Section 31.10 is hereby added to the City of Los Angeles Public Health Code to read as follows:

Section 31.10. Protection of Public Health.

a) The people of the City of Los Angeles wishing to place the highest priority on the protection of the public's health have voted to re-establish an independent city health department. Since 1964, the City of Los Angeles has contracted with Los Angeles County for health services despite the fact that the largest share of funding for health services flowing from state and federal sources is directed at City residents. As such, City resources are going to subsidize wealthier cities (per capita) with much smaller populations of needy people. Three cities in Los Angeles County - Long Beach, Pasadena and Vernon - have retained their own health departments which are better able to address the needs of these individual cities.

b) The City of Los Angeles shall establish a Los Angeles Health Department ("Department") to administer and enforce public health laws in the City of Los Angeles.

c) All costs for the establishment of the Department shall be derived from current fees collected and paid to Los Angeles County as a result of its activities to enforce public health laws in the City of Los Angeles.

d) Future revenue for the Department shall be generated from the collection of all fees, including, license, permit, and/or certification fees generated by the enforcement of the Public Health Code.

e) The Department shall be established within 120 days after this ordinance is enacted.

f) The City of Los Angeles shall be the only governmental entity able to enforce the public health laws of the City and/or the County of Los Angeles within the City of Los Angeles. The City of Los Angeles shall not contract with or otherwise provide for enforcement of public health laws to the County of Los Angeles.

Sec. 5. Severability.

If any portion of this ordinance is for any reason held to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, that invalidity shall not affect the remaining portions of this ordinance which can be implemented without the invalid provision, and, to this end, the provisions of this ordinance are severable.

Sec. 6. Competing Measures.

In the event that this measure and another measure or measures relating to the establishment of a health department in the City of Los Angeles shall appear on the same ballot, the provisions of the other measures shall be deemed to be in conflict with

this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other relating to the establishment of a health department in the City of Los Angeles shall be null and void.

Sec. 7. Amendment and Repeal.

The provisions of the Los Angeles Municipal Code added by, amended by, or contained in this initiative measure may be amended to further its purposes by ordinance passed by a majority vote of the Council and approved by the Mayor. The provisions of the Los Angeles Municipal Code added by, amended by, or contained in this initiative measure shall not be repealed, except by an ordinance adopted either by petition or by the Council at its own instance and adopted by a vote of the electors, or by an amendment of the Charter superseding the aforementioned provisions.

Sec. 8. 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 _____

Date _____

File No. _____

Attachment 2

RESOLUTION

WHEREAS, the Council of the City of Los Angeles has taken action pursuant to an initiative petition to determine to place a certain initiative ordinance before the qualified voters of the City of Los Angeles at a Special Election consolidated with the State Primary Election held on June 3, 2014; 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:

CREATION OF A CITY OF LOS ANGELES PUBLIC HEALTH DEPARTMENT. INITIATIVE ORDINANCE ____.

Shall an ordinance: requiring the City of Los Angeles to establish a City Public Health Department and be the only governmental entity able to enforce City and County public health laws in the City; prohibiting the City from contracting with the County of Los Angeles for enforcement of public health laws; and providing that revenue for the Department shall be from fees generated by enforcement of public health laws; be adopted?

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

C.F. No. _____

RESOLUTION

Resolution providing that an initiative ordinance requiring majority approval 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 initiative ordinance of the City of Los Angeles, which requires approval by a majority vote in order to be adopted, is hereby proposed to be submitted to the qualified voters of the City of Los Angeles at a Special Election to be consolidated with the State Primary Election held on June 3, 2014:

ORDINANCE NO. _____

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

Section 1. Title.

This ordinance shall be known and may be cited as the "City of Los Angeles Public Health Protection Act."

Sec. 2. Findings and Declarations.

The people of the City of Los Angeles hereby find and declare all of the following:

- a) The promotion and protection of public health is one of the highest duties of government;
- b) Despite this importance, the City of Los Angeles does not have its own ability to promote and protect the public health of its citizens. Instead, it currently contracts out this responsibility to the County of Los Angeles;
- c) This arrangement has resulted in a waste of money, as fees paid to Los Angeles County under this arrangement have subsidized the healthcare needs of other areas of the County;
- d) This arrangement has also resulted in failures to prioritize the healthcare needs of the residents of the City of Los Angeles, to their detriment.

Sec. 3. Purpose and Intent.

The people of the City of Los Angeles hereby declare their intent and purpose in enacting this ordinance to be to better promote and protect the public health of the City of Los Angeles by establishing a City of Los Angeles Department of Public Health,

which will be responsible for promoting and protecting the public health, and enforcing public health laws of the City of Los Angeles.

Sec. 4. Section 31.10 is hereby added to the City of Los Angeles Public Health Code to read as follows:

Section 31.10 is hereby added to the City of Los Angeles Public Health Code to read as follows:

Section 31.10. Protection of Public Health.

a) The people of the City of Los Angeles wishing to place the highest priority on the protection of the public's health have voted to re-establish an independent city health department. Since 1964, the City of Los Angeles has contracted with Los Angeles County for health services despite the fact that the largest share of funding for health services flowing from state and federal sources is directed at City residents. As such, City resources are going to subsidize wealthier cities (per capita) with much smaller populations of needy people. Three cities in Los Angeles County - Long Beach, Pasadena and Vernon - have retained their own health departments which are better able to address the needs of these individual cities.

b) The City of Los Angeles shall establish a Los Angeles Health Department ("Department") to administer and enforce public health laws in the City of Los Angeles.

c) All costs for the establishment of the Department shall be derived from current fees collected and paid to Los Angeles County as a result of its activities to enforce public health laws in the City of Los Angeles.

d) Future revenue for the Department shall be generated from the collection of all fees, including, license, permit, and/or certification fees generated by the enforcement of the Public Health Code.

e) The Department shall be established within 120 days after this ordinance is enacted.

f) The City of Los Angeles shall be the only governmental entity able to enforce the public health laws of the City and/or the County of Los Angeles within the City of Los Angeles. The City of Los Angeles shall not contract with or otherwise provide for enforcement of public health laws to the County of Los Angeles.

Sec. 5. Severability.

If any portion of this ordinance is for any reason held to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, that invalidity shall not affect the remaining portions of this ordinance which can be implemented without the invalid provision, and, to this end, the provisions of this ordinance are severable.

Sec. 6. Competing Measures.

In the event that this measure and another measure or measures relating to the establishment of a health department in the City of Los Angeles shall appear on the same ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other relating to the establishment of a health department in the City of Los Angeles shall be null and void.

Sec. 7. Amendment and Repeal.

The provisions of the Los Angeles Municipal Code added by, amended by, or contained in this initiative measure may be amended to further its purposes by ordinance passed by a majority vote of the Council and approved by the Mayor. The provisions of the Los Angeles Municipal Code added by, amended by, or contained in this initiative measure shall not be repealed, except by an ordinance adopted either by petition or by the Council at its own instance and adopted by a vote of the electors, or by an amendment of the Charter superseding the aforementioned provisions.

Sec. B. The City Clerk is hereby authorized and directed to publish a notice containing the proposed ballot measure, specifying the date of June 3, 2014, 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

ORDINANCE NO. _____

An ordinance calling a Special Election to be held on Tuesday, June 3, 2014, for the purpose of submitting to the qualified voters of the City of Los Angeles a certain initiative ordinance requiring majority approval, and to consolidate this Special Election with the State Primary 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 June 3, 2014, for the purpose of submitting to the qualified voters of the City a certain initiative ordinance ordered to be placed on the ballot by the Council of the City of Los Angeles pursuant to an initiative petition. The initiative ordinance requires approval by a majority of the voters voting on the ordinance in order to be adopted.

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

**CREATION OF A CITY OF LOS ANGELES PUBLIC HEALTH
DEPARTMENT. INITIATIVE ORDINANCE ____.**

Shall an ordinance: requiring the City of Los Angeles to establish a City Public Health Department and be the only governmental entity able to enforce City and County public health laws in the City; prohibiting the City from contracting with the County of Los Angeles for enforcement of public health laws; and providing that revenue for the Department shall be from fees generated by enforcement of public health laws; be adopted?

Sec. 3. The initiative ordinance shall be designated on the ballot or ballot pages by a letter or number 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 initiative ordinance, that letter or number is hereby adopted and shall be the designation for the ballot title.

Sec. 4. To vote on the initiative ordinance, 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 initiative ordinance and a "No" vote shall be counted against adoption of the initiative ordinance.

Sec. 5. The Special Election hereby called shall be, and hereby is ordered to be, consolidated with the State Primary Election to be held in the City of Los Angeles on Tuesday, June 3, 2014.

Sec. 6. The voting polls on election day shall open at 7:00 a.m., June 3, 2014, and shall remain open until 8:00 p.m. of the same day when the voting polls shall be closed, except as provided in California Elections Code Section 14401.

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 State Primary Election, and the election 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 Order of the Registrar-Recorder of the County of Los Angeles to be adopted for the State Primary Election and that Order 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 holding of the State Primary Election in the City of Los Angeles. The Board of Supervisors of the County of Los Angeles shall have authority to canvass the returns of the Special Election, and the City Council of the City of Los Angeles upon receipt of the certified results of the canvass of election returns shall declare the results thereof.

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 _____.

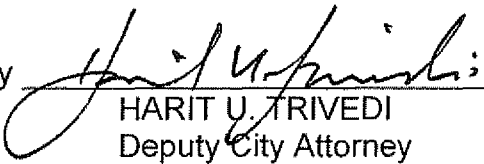
JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality
CARMEN A. TRUTANICH, City Attorney

By  _____
HARIT U. TRIVEDI
Deputy City Attorney

Date 6/14/13

File No. _____