



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 3 - 0 3 4 4
DEC 0 4 2013

REPORT RE:

**DRAFT ORDINANCE DIRECTING THE TRANSFER OF
SURPLUS MONEY FROM THE POWER REVENUE FUND OF
THE DEPARTMENT OF WATER AND POWER TO THE
RESERVE FUND OF THE CITY DURING FISCAL YEAR 2013/14**

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

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance authorizes the transfer of \$253,000,000 from the Power Revenue Fund of the Department of Water and Power (Department or DWP) to the City's Reserve Fund. The Board of Water and Power Commissioners (Board) has determined, following an audit of the Department's financial data for fiscal year 2012/13, that this amount is surplus available for transfer to the Reserve Fund.

Background

The Board is given City Charter mandated authority to control the revenue produced from the Power Revenue Fund as long as the Board deems those funds necessary for the uses prescribed in Charter § 679. These include: operation and maintenance, retirement of indebtedness, development of assets, reimbursements to other City departments for services or materials, promotion of business or conservation, employee benefits, maintaining bond reserve funds, and General Fund transfers. The Board resolution authorizing the transfer of this surplus money from the Power Revenue Fund states that such transfer is made subject to all covenants made by the Department with respect to transfers from this fund.

Summary of Ordinance Provisions

Charter § 344 is the sole Charter criterion for intra-City transfers to the Reserve Fund. It provides, in relevant part, at subsection (b):

“The Council may, by ordinance, direct that a transfer be made to the Reserve Fund from surplus money in the Water Revenue Fund or Power Revenue Fund with the consent of the Board of Water and Power Commissioners ..., as provided in this section.”

Charter § 344 defines surplus in the Power Revenue Fund “as the amount remaining in the ... Power Revenue Fund, less outstanding demands and liabilities payable out of the fund, at the end of the fiscal year prior to the fiscal year in which the transfer is to be made, as shown by audited financial statements.” Charter § 344 clarifies that any transfer made shall be consistent with any applicable contractual obligations. Charter § 344 also describes the process through which the Board may withhold its consent to make the transfer in whole or in part if, despite the existence of a surplus as defined, it finds that making the transfer would have a material negative impact on the Department’s financial condition in the year in which the transfer is to be made.

Council Rule 38 Referral

This draft ordinance has been approved by the Board of Water and Power Commissioners pursuant to Council Rule 38.

If you have any questions regarding this matter, please contact Deputy City Attorney Brian E. Stewart at (213) 367-5115. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:BES:sf
Transmittal

ORDINANCE NO. _____

An ordinance directing the transfer of surplus money from the Power Revenue Fund of the City of Los Angeles Department of Water and Power to the Reserve Fund of the City of Los Angeles during Fiscal Year 2013/14.

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

Section 1. Subject to audited financial data for fiscal year 2012/13 and all covenants made by the City of Los Angeles Department of Water and Power (Department) with respect to transfers from the Power Revenue Fund, subject to there having been, and only to the extent that there was, surplus money in the Power Revenue Fund at the close of the 2012/13 fiscal year, and subject to the declaration of consent adopted by the Board of Water and Power Commissioners, it is hereby directed that \$253,000,000 be transferred from the Power Revenue Fund of the Department to the Reserve Fund of the City of Los Angeles during the 2013/14 fiscal year.

Sec. 2. 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 _____.

HOLLY L. WOLCOTT, Interim City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  _____
BRIAN E. STEWART
Deputy City Attorney

Date DEC 04 2013

File No. _____