



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 4 - 0 0 7 0
FEB 2 7 2014

REPORT RE:

REVISED DRAFT ORDINANCE TO AMEND SECTION 5.120 OF THE LOS ANGELES ADMINISTRATIVE CODE REGARDING THE RESERVE FUND AND TO ADD A NEW ARTICLE 4.1 TO CHAPTER 6 OF DIVISION 5 OF THE LOS ANGELES ADMINISTRATIVE CODE REGARDING A BUDGET STABILIZATION FUND

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 previously prepared and transmitted for your consideration a draft ordinance to establish two accounts within the Reserve Fund – the Contingency Reserve Account and the Emergency Reserve Account, and to add a new Article 4.1 to Chapter 6 of Division 5 of the Los Angeles Administrative Code regarding a Budget Stabilization Fund. (City Attorney Report No. 11-0326). During your Honorable Body's consideration of that draft ordinance and related reports, you requested that various changes be made to the draft ordinance in order to reflect in more detail the Budget Stabilization Fund Policy adopted at that time. (CF No. 13-0455). Pursuant to your request, we have revised the draft ordinance and transmit it herewith, approved as to form and legality, for your consideration.

Council Rule 38 Referral

This draft ordinance has been transmitted to the City Administrative Officer and that office's comments are incorporated. The draft has also been provided to the Office of the Chief Legislative Analyst pursuant to Council Rule 38.

If you have any questions regarding this matter, please contact Assistant City Attorney Beverly Cook at (213) 978-7760. 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,

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

DM:BC:pj
Transmittal

ORDINANCE NO. _____

An ordinance amending Section 5.120 of Article 4 of Chapter 6 of Division 5 of the Los Angeles Administrative Code regarding the Reserve Fund and adding a new Article 4.1 to Chapter 6 of Division 5 of the Los Angeles Administrative Code regarding a Budget Stabilization Fund.

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

Section 1. Section 5.120 of Article 4 of Chapter 6 of Division 5 of the Los Angeles Administrative Code is amended in its entirety to read as follows:

Sec. 5.120. Creation of the Fund.

(a) The Reserve Fund is established by Charter Section 302. Pursuant to Charter Section 302, the Reserve Fund shall include funding for unanticipated expenditures and revenue shortfalls in the City's General Fund and includes two accounts within the Reserve Fund, the Contingency Reserve Account and the Emergency Reserve Account. It is the goal of the City Council that the amount allocated annually to the Reserve Fund, including the amount required by the Charter to be allocated to the Emergency Reserve Account, shall be not less than 5 percent (5%) of all General Fund receipts anticipated for that fiscal year in the adopted budget. The provisions and limitations applicable to the Reserve Fund, Contingency Reserve Account, and Emergency Reserve Account are set forth in Charter Section 302. However, the Charter provides that the City Council shall, by ordinance, establish policies for the use of the Contingency Reserve Account.

(b) **Policies for Use of the 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 Charter Section 302. The Contingency Reserve Account will be the source of additional funding needed as a result of unanticipated expenditures and revenue shortfalls. Transfers and appropriations from the Contingency Reserve Account shall be made in compliance with Charter Sections 340 and 341 in accordance with the policy decisions and determinations made by the Council and Mayor in connection with the City budget, as revised from time to time.

Sec. 2. A new Article 4.1 is added to Chapter 6 of Division 5 of the Los Angeles Administrative Code to read as follows:

CHAPTER 6, ARTICLE 4.1

BUDGET STABILIZATION FUND

Sec. 5.120.4. Findings and Purpose.

(a) Pursuant to Charter Section 302, there is hereby established within the City Treasury a fund to be known as the Budget Stabilization Fund (Fund). The purpose of the Fund is to provide a method to prevent overspending during prosperous years and to provide resources to help maintain service levels during lean years. The Mayor and City Council shall provide for deposits into the Fund from appropriate available sources of funding through the City budget process, and the Fund shall be administered in accordance with the Financial Policy for the Budget Stabilization Fund, as amended from time to time, in Council File No. 13-0455. The amount of each such deposit in the adopted budget for any given year shall be determined by calculating the anticipated growth in excess of 3.4 percent (3.4%) over the revenue in the prior fiscal year's adopted budget from the following seven general fund tax revenue sources: (1) Property Tax; (2) Utility Users' Tax; (3) Business Tax; (4) Sales Tax; (5) Transient Occupancy Tax; (6) Documentary Transfer Tax; and (7) Parking Users' Tax. The amount so determined shall be appropriated in the budget to be deposited in the Fund. The combined annual growth for the seven general fund tax revenue sources, specified herein as 3.4 percent (3.4%), shall be recalculated and revised, by ordinance, every five years based on the actual revenue received during the previous five years using the average amount of revenue received during the prior five-year calculation period as the base amount. The calculation shall be made more often as necessary to reflect significant changes in any one of the seven specified general fund tax revenue sources, such as the repeal of, or any other action that reduces or increases the tax rates for, any of those taxes. The required annual budget appropriation to the Fund may be reduced (1) to maintain the Reserve Fund level at 5 percent (5%) of the General Fund; (2) to comply with the City's CIEP policy; (3) in the event a fiscal emergency is declared by the City Council and the Mayor; or (4) if this policy is suspended by the City Council and Mayor, or by the Council by a two-thirds vote after veto by the Mayor, based on findings that the best interest of the City requires such suspension.

(b) In the event the combined growth rate for the seven General Fund tax revenue sources listed in subsection (a) herein, does not exceed 3.4%, or the recalculated rate, the amount that may be transferred from the Budget Stabilization Fund shall be the calculated amount of the combined growth rate (3.4%, or the recalculated amount) less the anticipated combined growth rate, not to exceed the following limitations:

Projected Growth Rate

Maximum Transfer From The BSF

3.4% or higher	0% of BSF Balance
Greater than or equal to 3.3%, but less than 3.4%	5% of BSF Balance
Greater than or equal to 3.2%, but less than 3.3%	10% of BSF Balance
Greater than or equal to 3.1%, but less than 3.2%	15% of BSF Balance
Greater than or equal to 3.0%, but less than 3.1%	20% of BSF Balance
Less than 3%	25% of BSF Balance

(c) In the event the combined balance of the Fund and the Reserve Fund exceed 15 percent (15%) of the General Fund supported portion of the adopted budget, an amount up to the total of the excess over that 15 percent (15%), but not to exceed 25 percent (25%) of the balance of the Fund, may be transferred or appropriated from the Fund for one-time uses that include, but are not limited to, capital projects, infrastructure repairs, debt repayment, payment of litigation settlements, and equipment purchases. The amount transferred or appropriated from the Fund in any fiscal year may exceed 25 percent (25%) of the balance in the Fund only if (1) a fiscal emergency is declared by the City Council and the Mayor; or (2) this policy is suspended by the City Council and the Mayor, or by the Council by a two-thirds vote after veto by the Mayor, based on findings that the best interest of the City require such suspension.

(d) Transfers and appropriations from the Fund shall be made in compliance with Charter Sections 340 and 341 in accordance with the policy decisions and determinations made by the Council and Mayor in connection with annual adoption of the City budget for the ensuing fiscal year, in order to mitigate revenue shortfalls due to economic recessions or revenue reductions and to address the resulting short-term budgetary shortfall.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy 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 *Beverly A. Cook*
BEVERLY A. COOK
Assistant City Attorney

Date 2-26-14

File No. _____