



REVISED

City Council Memorandum

City of Arts & Innovation

TO: CHARTER REVIEW COMMITTEE DATE: JUNE 16, 2021

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

SUBJECT: DRAFT FINAL REPORT TO THE CITY COUNCIL SUMMARIZING THE CHARTER REVIEW COMMITTEE'S FINAL RECOMMENDATION REGARDING THE ELECTRIC UTILITY GENERAL FUND TRANSFER

ISSUE: To review and advise on the draft Final Report to be presented to the City Council on July 6, 2021 summarizing the Charter Review Committee's ("Committee") recommendation regarding the electric utility general fund transfer.

RECOMMENDATION:

1. That the Committee receive, recommend any revisions to, and file this draft Final Report to be presented to the City Council on July 6, 2021.
2. That the Committee select a Committee member(s) to make the Committee's final presentation to City Council on July 6, 2021.

BACKGROUND:

At the June 9, 2021 Committee meeting, the Committee directed staff to draft a Final Report to City Council ("Final Report") which summarizes the Committee's City Charter amendment recommendation regarding the electric utility general fund transfer. Upon the Committee's review and approval of the Final Report on June 16, 2021, the Committee will present the Final Report to the City Council on July 6, 2021.

Summary of Charter Review Committee Process

On April 27, 2021, the City Council of the City of Riverside ("City Council") referred to the Charter Review Committee ("Committee") for review and consideration a proposed amendment to the City Charter based on the City of Riverside's Services Protection Measure. The proposal would add Section 1204.2 to the City Charter setting the "annual payment by the electric utility into the general fund" (i.e. "General Fund Transfer" or "GFT") at the amount not to exceed 11.5%. The City Council recommended the Committee review and make a recommendation as to the proposed City Charter amendment by June 16, 2021.

Since the City Council's April 27, 2021 referral, the 11-member Committee met four times,

including at two special meetings, to review and consider the proposed City Charter amendment based on the City of Riverside's Services Protection Measure, and to make a recommendation thereon. In addition to receiving input from the public, the Committee interviewed Councilmembers Edwards, Conder, and Melendrez regarding the General Fund Transfer.

On May 5, 2021, a sub-committee tasked with researching the General Fund Transfer presented to the full Committee its findings and three Charter amendment options:

1. To accept the City Council's referred proposed Charter amendment as-is without changes (i.e. GFT up to 11.5%).
2. To repeal both the GFT and the utility user tax ("UUT") and fix or cap the amount that can be transferred, with a reduction over time of the fixed or capped amount.
3. To reduce the 11.5% transfer incrementally over time.

A robust and lengthy discussion ensued, and no formal decision was made at that meeting.

On May 19, 2021, the sub-committee presented to the full Committee six GFT Charter amendment options:

1. Agree with what Council recommends (i.e. no changes).
2. Recommend an incremental decrease over a certain period of time.
3. Recommend a fixed dollar amount rather than a percentage.
4. Eliminate the electric GFT altogether (i.e. hard stop).
5. Propose a "sliding scale" based on population not dollar amount (i.e. increase 0.5% based on 1,000 population increase).
6. Increase the GFT (fixed rate or percentage).

After a robust and lengthy discussion, the Committee approved in concept a proposed amendment to the annual payment by the electric utility into the general fund ("General Fund Transfer" or "GFT") in the City Charter. The Committee proposed a maximum General Fund Transfer of \$38 million beginning in 2022, decreased by \$1 million annually, until the maximum General Fund Transfer decreased to \$30 million, whereupon the maximum General Fund Transfer would remain at \$30 million. The Committee directed staff to return with proposed City Charter amendment language for the Committee's review.

On June 9, 2021, the Committee reviewed, modified, and approved adding a new Section 1204.2 – Electric utility revenue to the City Charter. In addition, the Committee reviewed and approved proposed ballot measure language for the proposed Charter amendment. Both the charter amendment language and the ballot measure label language are provided in detail below.

Proposed City Charter Amendment Language (new section):

Sec. 1204.2 – Electric utility revenue

The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund as set forth in Section 1204(f), except as set forth in this section. For the electric utility, the annual payment required under Section 1204(f), beginning on January 1, 2022, shall not exceed \$38,000,000. The amount of the annual maximum payment shall then decrease by \$1,000,000 in each subsequent calendar year, until the amount of the maximum annual payment does not exceed \$30,000,000. The proceeds of the annual payment shall be used to maintain local general purposes as the City Council may by budget or other

appropriation direct including but not limited to 911 response, fire, paramedic, police, street repairs, parks, senior and/or disabled services, homelessness services, and other general services.

Issues Raised by Committee in Support: A fixed amount “de-links” the GFT from electric rates, thereby removing the incentive to increase electric rates to raise general fund revenue. The fixed amount of \$38,000,000 and annual decrease would reduce the cost of electricity to Riverside residents. A gradual decrease to the GFT would require the City to gradually reduce reliance on the GFT, resulting in better fiscal management. (Oral Discussions and Documents presented at May 5, 2021 Meeting).

Issues Raised by Committee in Opposition: The City should consider raising the GFT, not decreasing it. As the needs of our community grow, and as the cost of City services increase, we need to be able to raise revenue every year to protect those City services in the future. (Oral Discussions at May 5, 2021 Meeting). The City budget already has a very thin margin of error, and a GFT decrease would be problematic. (Oral Discussions at June 9, 2021 Meeting).

Votes:

Proposal in concept: **7 ayes, 3 noes, 1 abstention** (May 5, 2021).

Approval of Charter amendment and ballot measure language: **6 ayes, 2 noes, 1 abstention** (June 9, 2021).

Proposed Ballot Measure Question:

MEASURE ____

The Fiscal Responsibility Act of 2021

Beginning January 2022, City will discontinue charging an 11.5 percent tax on electricity replacing it with a \$38 million fixed amount transferred from RPU to the unrestricted general fund. This amount will be reduced annually by \$1 million until this reduction reaches \$30 million. This fixed transfer stabilizes the budget without drastic cuts allowing continued vital services to city residents. In addition, rate payers will experience lower utility bills, while promoting fiscal accountability from elected officials and City Leaders.

Legal Issues and Recommendations Regarding the Proposed Ballot Measure Question

California Elections Code section 13119(a) requires ballot questions to include the words: “Shall the measure (stating the nature thereof) be adopted”? Furthermore, if the proposed measure imposes a tax or raises the rate of the tax, the ballot question must include the amount of money to be raised annually and the rate and duration of the tax to be levied (Elec C § 13119(b)). Lastly, the ballot question is limited to 75 words (the title of the question does not count towards the 75 words). Staff recommends that the Committee restate the ballot question to comply with Elec C § 13119 and to be 75 words or less. For the Committee’s reference, Election Code section 13119 is attached hereto as **Attachment A**.

Finally, the ballot question must only include true and impartial descriptions that are not argumentative. The language of the ballot question cannot be false, misleading, or partial to one side. The last two sentences of the ballot question, beginning with “This fixed transfer . . .” and ending with “while promoting fiscal accountability from elected officials and City Leaders” could be subject to accusations that they are false, misleading, and/or partial statements. Staff recommends modifying the last two sentences of the ballot question.

FISCAL IMPACT:

Prepared by: Elliot Min, Deputy City Attorney

Approved as to form: Kristi J. Smith, Interim City Attorney

Attachments:

Attachment A – Cal Elec Code § 13119

Attachment B - Charter Review Committee Member Biographies