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REPORT TO THE COMMITTEE ON BUDGET AND FINANCE

MID-YEAR AMENDMENT OF THE BUDGET, APPROPRIATION ORDINANCE,  
SALARY ORDINANCE, AND TRANSFERS UNDER CHARTER SECTION 73

This report answers questions about the process to make mid-year changes to the City of San Diego budget, annual appropriation ordinance, and salary ordinance and how to accomplish transfers of appropriations pursuant to San Diego Charter section 73.

**1. WHAT IS THE CITY CHARTER PROCESS FOR REVISING THE BUDGET AFTER THE ANNUAL BUDGET HAS BEEN ADOPTED?**

Although the City Charter has an elaborate process for creating the annual budget, it is silent on whether the budget may be revised mid-year. This silence may be interpreted to find that the Charter does not allow any revision to the budget. Section 265(b)(14) requires the Mayor "to propose a budget to Council and make it available for public review, no later than April 15." Section 290 (b) requires the Council to "pass a resolution that either approves the budget as submitted by the Mayor or modifies the budget in whole or in part" by June 15 of each year. A budget revision after these dates arguably violates these provisions.

Notwithstanding this flaw in our charter, we can nonetheless rely on a well established principle that a municipality's "power to legislate generally includes, by necessary implication, the power to amend or repeal legislation," whether or not such power is expressly granted by that City's charter. *Blotter v. Farrell*, 42 Cal. 2d 804, 811 (1954); also see generally 6 McQuillin Mun. Corp. § 21:2 (3rd ed. 2010). In fact, the City's past practice conforms to this principle. As such, the budget revision process would be similar to the process used to adopt the annual budget as set forth in Charter section 290(b) and would begin with the presentation of a revised budget to the Council by the Mayor. See also Charter § 275 for general process to enact ordinances.

**2. WHAT IS THE CITY CHARTER PROCESS FOR AMENDING THE ANNUAL APPROPRIATION ORDINANCE AFTER THE ANNUAL BUDGET HAS BEEN ADOPTED?**

The City Charter does not specify a process for amending the annual appropriation ordinance. As discussed above, the Council could amend the annual appropriation ordinance mid-year if necessary. *Blotter v. Farrell*, 42 Cal. 2d at 811. The budget is a controlling document

for preparation of the annual appropriation ordinance. Charter § 290(b). Therefore, if the budget is revised, the appropriation ordinance should be amended to conform to the revised budget. Also discussed above, the process set forth in Charter section 290(b) would be applicable to amendments to the annual appropriation ordinance.

**3. WHAT IS THE CITY CHARTER PROCESS FOR AMENDING THE SALARY ORDINANCE AFTER IT HAS BEEN ADOPTED?**

The Charter does have very specific requirements for amendment to the salary ordinance. Charter section 70 provides:

All increases and decreases of salary or wages of officers and employees shall be determined at the time of the preparation and adoption of the budget . . . provided, however, that if during any fiscal year, the Council should find and determine that because of a significant change in living costs, the salaries and wages fixed for such fiscal year are not comparable to the level of other salaries and wages of other public or private employments for comparable services and as a result, the best interests of the City are not being protected or are in jeopardy, said Legislative Body, upon recommendation of the Manager or other department head, and if funds are available, may revise such salary and wage schedules to the extent necessary to protect the City's interests.

The above section clearly provides for mid-year amendments upon the recommendation of the Mayor and subsequent Council findings relating to costs of living, wages for comparable services and the interests of the City. Charter section 73 also addresses mid-year changes to salaries providing:

[T]he Council shall have no authority to transfer all or any part of the salary account during the fiscal year to any other purpose, save and except in the event of a public emergency, and then only for the purpose of insuring the safety and lives and property of the inhabitants of The City of San Diego.

Accordingly, an amendment of the Salary Ordinance mid-year to reduce salaries to provide for savings to address a projected budget deficit in a future year would violate the Charter.

**4. WHAT IS THE CITY CHARTER PROCESS FOR TRANSFERRING  
APPROPRIATED FUNDS?**

Charter section 73 recognizes that there may be a situation where funds appropriated for a particular purpose are greater than needed, while other appropriations may be insufficient to meet actual needs. Charter section 73 states:


Upon the written recommendation of the Manager, the Council may at any time transfer all or part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated for the same Department or office . . .

A transfer of funds under Charter section 73 is only available where there are excess funds available for redistribution without affecting the purpose of the original appropriation and would therefore not require amending the budget or the appropriation ordinance. To initiate a transfer, the Mayor makes a written recommendation to the Council to transfer the funds. The Council is limited to approving or denying the Mayor's recommended transfer.

Respectfully submitted,

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