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July 27, 2020

The Honorable Board of Supervisors
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RE: *Resolution Placing Proposed Charter Amendment concerning County Budgeting
on the November 3, 2020 General Election Ballot*

This firm represents the Association of Los Angeles Deputy Sheriffs (“ALADS”) in connection with the above-referenced matter.

In its haste to respond to recent calls to redirect critically necessary public safety funding to other purposes, the Board is on the threshold of violating its own procedures and state law. We urge you to reject the proposed Resolution placing an amendment to the County Charter on the November 3, 2020 General Election. If the Board proceeds, we will be compelled to seek immediate relief from the Court to remove the proposed measure from the ballot.

ALADS does not fear a healthy debate about the proper use of limited County resources, as we believe the general public places public safety as its highest priority. However, the unlawful attempt to place budgetary restrictions in the County Charter must not stand.

Procedural Error

The Employee Relations Ordinance of the County of Los Angeles is codified in Chapter 5.04 of the County Code. Its stated purpose is “to promote the improvement of personnel management and relations between the county of Los Angeles and its employees.” (L.A. County Code, § 5.04.020.) The ordinance generally requires negotiation of all matters affecting employee relations. Because the ordinance does not apply to subjects provided for in the County Charter, the ordinance provides an important and non-waivable notice requirement for proposed Charter amendments.

In short, section 5.04.250 (E)(1) states that the County must provide impacted labor organizations advance notice of a proposal to amend the County Charter. The notice must be provided “at least 90 calendar days prior to the final date to place the measure on the ballot.” The final date to place the budget measure on the ballot is August 8, 2020, which means that the County was obligated to provide the mandatory notice no later than May 10, 2020. These processes are separate from similar systems that exist for bargaining disputes, *see* Section 5.04.250 (C), and apply to all proposed Charter amendments and matters subject to referendum without regard to the presence of bargaining issues.

ALADS was not provided any notice regarding the proposed Charter amendment until July 17, 2020. Thus, if the Board votes to place the Charter amendment on the ballot, it has violated its own process in doing so.

The provision of at least 90 days’ notice is not merely a procedural nicety. The County Code contemplates accelerated negotiations, mediation and fact-finding processes that would occur during the 90-day period after notice is provided. Those processes, which are mandatory when requested by any party, *see* Section 5.04.250 (E)(2)-(3), simply have no time to occur unless the County complies with the 90-day notice requirement.

By this letter, ALADS is asserting its negotiations rights under Section 5.04.250 (E) of the County Code.

Furthermore, a legal challenge asserting that a proposed measure was not lawfully eligible for the ballot because of a procedural defect in placing the matter on the ballot is clearly subject to pre-election review by the courts (*Costa v. Superior Court* (2006) 37 Cal.4th 986, 1007).

Violation of Meet and Confer/Meyers-Milias-Brown Act (“MMBA”)

Even if the County Code was not specifically applicable to this situation, California law (Gov. Code, § 3504) also requires obligations on the Board before it can proceed to place a Charter amendment affecting employee relations of the ballot. (See, *Boling v. Public Employee Relations Board* (2018) 5 Cal.5th 898; *People ex rel. Seal Beach Police Officers Assn. v. City of Seal Beach* (1984) 36 Cal.3d 591.) The issue presented in *Seal Beach Police Officers Assn.* is directly on point here. The City attempted to evade state labor law by proposing an amendment to the City Charter. The California Supreme Court held that “the city council was required to meet and confer with the relators before it proposed charter amendments which affect matters within their scope of representation. The MMBA requires such action and the city council cannot avoid the requirement

by use of its right to propose charter amendments.” (*People ex rel. Seal Beach Police Officers Assn.*, *supra*, 36 Cal.3d 591, 602.)

By this letter, ALADS is asserting its negotiations rights under Government Code section 3504.

The Proposed Charter Amendment is Unlawful

The County of Los Angeles is a “political subdivision of the State.” (See, Cal. Const., art. XI, § 1(a).) Indeed, county powers are provided for by the Legislature. (See, *Id.* at § 1(b).) Importantly, the counties budgeting authority and the general provisions of the “County Budget Act” (Gov. Code, §§ 29000 et. seq.) apply to Los Angeles County, irrespective of the County Charter (Gov. Code, § 29002). Thus, it is not surprising that **no existing provision of the County Charter addresses County budgeting or the allocation of County funds.**

In *Totten v. Board of Supervisors* (2006) 139 Cal.App.4th 826, an ordinance enacted by the voters that dedicated a minimum amount of the counties on-going budget for public safety agencies was invalidated for violating the County Budget Act. As indicated by the appellate court, the County Budget Act delegates authority over the county budget to the board which “cannot be reasonably interpreted to include the electorate.” (*Totten v. Board of Supervisors*, *supra*, 139 Cal.App.4th at 835.)

The Court also referenced the prohibition on the electorate’s ability to “impair the exercise of essential governmental functions.” (*Id.* at 838.) Indeed, the Court’s instruction is particularly appropriate here:

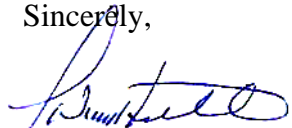
the fixing of a budget is included within the board of supervisors’ essential function of managing county financial affairs. Because of their experience in government and knowledge of local conditions and interests, members of the board of supervisors are particularly well qualified to make budgeting decisions. “The budgetary process entails a complex balancing of public needs in many and varied areas with the finite financial resources available for distribution among those demands. It involves interdependent political, social and economic judgments which cannot be left to individual officers acting in isolation; rather it is, and indeed must be, the responsibility of the legislative body to weigh those needs and set priorities for the utilization of the limited revenues available.” (citation omitted)
(*Id.* at 839.)

Moreover, the proposed Charter amendment would unlawfully bind the hands of future Boards. “It is the general rule that one legislative body cannot limit or restrict its own power or that of subsequent Legislatures and that the act of one Legislature does not bind its successors.” (*Ex parte Collie* (1952) 38 Cal.2d 396, 398; *Department of Water & Power v. Vroman* (1933) 218 Cal. 206, 218-219; *Thomson v. Board of Trustees* (1904) 144 Cal. 281, 283; *San Francisco Gas Light Co. v. Dunn* (1882) 62 Cal. 580, 584-585; *United Milk Producers v. Cecil* (1941) 47 Cal.App.2d 758, 764-765; see *Wills v. Los Angeles* (1930) 209 Cal. 448, 451-452.)

Letter to LA County Board of Supervisors
Re: Proposed Charter Amendment
July 27, 2020
Page 4

For all of the foregoing reasons, ALADS asks the Board to reject the proposed Resolution and to honor its legal obligations under both state law and the County Code.

Sincerely,



Thomas W. Hiltachk