

### **Proposed Amendment to Resolution 171**

To amend Charter § 602 to define the term "fiscal emergency," to amend Charter § 617 to specify the circumstances in which funding for capital projects may be withdrawn or capital projects abandoned, and to amend Charter § 618 to make it subject to the provisions of § 617.

Proposed by: Councilman Foster

Date: July 13, 2010

#### **Proposed Amendment:**

- (1) to add a definition of "fiscal emergency," to § 602 to mean: (a) the current expense budget is at least 10% below the prior year's expense budget as adopted, and (b) anticipated revenues for the current expense budget are at least 10% below budgeted amounts for at least two consecutive quarters, and (c) contingency funds have been exhausted, and (d) the unreserved and undesignated fund balances have been reduced to 25% of the amounts provided in the current budget, and (e) the County Council declares an emergency need for funds; and,
- (2) to add a new paragraph to § 617 to provide that, with a four-fifths affirmative vote of the full Council (1) to meet a fiscal emergency the Council may reduce funding for pending capital projects or abandon capital projects, and (2) without a fiscal emergency the Council may withdraw funding from a capital project (a) after a capital project is completed and all payments therefor have been made; or, (b) if enabling legislation has failed to pass for three successive years after funds are first appropriated for the capital project, or, (c) if enabling legislation has been enacted but has been petitioned to referendum and the voters at the referendum fail to approve the enabling legislation.
- (3) to provide that no capital project approved by enabling legislation is subject to reduction in funding or abandonment after the referendum period has expired, and that proceeds or funds that have been contractually committed may not be removed from a capital project or used for any other purpose.

Substantive: Because this is a Resolution and not an ordinance, the Charter requirement prohibiting substantive amendments without re-advertisement is inapplicable.

**KEY**

- Boldface**..... Heading or defined term.
- Underlining..... Addition to Charter proposed by original resolution
- ~~Strikethrough~~..... Deletion from Charter proposed by original resolution
- Double underline..... Proposed addition to original resolution
- ~~Double strikethrough~~..... Proposed deletion from original resolution
- \* \* \* ..... Existing text unaffected

\* \* \*

**Section 602 Definition of Terms Used in This Article**

\* \* \*

- 1        (g) The term “fiscal emergency” means:
- 2            a. the current expense budget is at least 10% below the prior year’s current expense
- 3                    budget as adopted; and,
- 4            b. anticipated annual revenues for the current expense budget are at least 10% below
- 5                    budgeted amounts for at least two (2) consecutive quarters; and,
- 6            c. contingency funds appropriated in the current expense budget have been exhausted;
- 7                    and,
- 8            d. the unreserved and undesignated fund balances have been reduced to 25% of the
- 9                    amounts provided in the current budget; and,
- 10          e. the County Council declares an emergency need for funds.

\* \* \*

**Section 617 Emergency Appropriations**

To meet a public emergency affecting life, health or property, the Council, upon the recommendation of the County Manager may make emergency appropriations from contingent funds, revenue received from anticipated sources but in excess of the budget estimates therefor,

or revenues received from sources not anticipated in the budget for the current fiscal year. To the extent that there may be no available unappropriated revenues to meet emergency appropriations, the Council may authorize the issuance of emergency notes which may be renewed from time to time. Notes and renewals shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made. The total of emergency appropriations in any fiscal year shall not exceed five percentum of all appropriations made in the budget for that year.

11           In addition, with the affirmative votes of four-fifths of the full Council, to meet a fiscal  
12 emergency, the Council may reduce funding for pending capital projects or abandon capital  
13 projects, or, without a fiscal emergency, the Council may withdraw funds from a capital project,  
14 (1) after a capital project is completed, and all payments therefor have been made, or (2), if  
15 enabling legislation has failed to pass for three successive years after funds are first appropriated  
16 for the capital project, or (3), if enabling legislation has been enacted but has been petitioned to  
17 referendum and the voters at the referendum fail to approve the enabling legislation. No capital  
18 project approved by enabling legislation is subject to reduction in funding or abandonment after  
19 the referendum period has expired. Bond proceeds or funds that have been contractually  
20 committed may not be removed from a capital project or used for any other purpose.

### **Section 618 Lapsed Appropriations**

21       Unless otherwise provided by law, all unexpended and unencumbered appropriations in the  
22       current expense budget remaining at the end of the fiscal year lapse into the County treasury.  
23       Subject to the provisions of Section 617, ~~N~~no appropriation for a capital project in the capital  
24       budget may lapse until the purpose for which the appropriation was made is accomplished or

25 abandoned; but any capital project stands abandoned if three fiscal years elapse without any  
26 expenditure from or encumbrance of the appropriation made therefor. The unrestricted balances  
27 remaining to the credit of the completed or abandoned capital projects shall be available for  
28 appropriation in the current or a subsequent expense or capital budget.

**Section 620 Restrictions on Capital Projects: Amendment to Capital Budget after Adoption of Budget**

29 No obligations of the County may be authorized in any fiscal year for or on account of any  
30 capital project not included in the County budget as finally enacted for that year; but upon receipt  
31 of a recommendation in writing from the County Manager, the Council, after public hearing and  
32 with the affirmative vote of four-fifths of the full Council may amend the County budget in  
33 accordance with the recommendation without increasing the total amount of appropriation  
34 therefor. The recommendation may include reduction in the amount appropriated for a capital  
35 project, with or without abandoning the project. Unrestricted balances from such capital projects  
36 shall be added to the funds set aside for contingencies in the county current expense budget and  
37 shall be available for appropriation in accordance with Section 616.