

MINUTE ITEM

12/15/76
KS

24. HARBOR REVENUE FUND - CITY OF LOS ANGELES - G05-04.

The attached Calendar Item 24, was withdrawn from the agenda.

Attachment: Calendar Item 24 (3 pages)

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HARBOR REVENUE FUND - CITY OF LOS ANGELES

BACKGROUND:

On August 25, 1976, Assemblyman Vincent Thomas requested the State Lands Division and the Office of the Attorney General to review certain documents concerning the operations of the Los Angeles Harbor to determine whether the terms and conditions of the grant to the City of Los Angeles are being complied with in good faith. (Ch. 656, Stat. 1911, as amended.) Said documents primarily concern the utilization of harbor revenue funds by the City of Los Angeles as set forth in the 1974 Report of the Auditor General. Staff and the Attorney General's office have completed a review of said documents and made further investigation in an effort to determine whether there is any evidence of a violation of the terms or conditions of said grant. This study did not indicate the necessity of making a complete audit of the Los Angeles harbor operations at this time. However, Commission action is indicated by virtue of the following:

The Los Angeles Harbor District is comprised of trust and non-trust lands. The harbor revenue fund consists of all moneys received or collected or arising out of the operation of the harbor. Thus, harbor revenues are derived from trust and non-trust property. Unless the source of such revenues can be specifically traced to non-trust property, they are presumptively trust funds. The City charter § 145 treats all harbor revenues as trust revenues. If the City wishes to expend harbor revenues for non-trust purposes it should amend its charter and it must segregate the revenues from trust and non-trust property.

Between the fiscal years 1924-1925 to 1959-1960, interest earned on the harbor revenue fund was credited to the city general fund. Further, the City Treasurer invested harbor revenue fund money with other funds under his control. The proportionate share of interest earned by the harbor revenue fund has not been accounted for

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nor has it been credited to the harbor revenue fund. In August 1972, the Harbor Department Chief Accountant concluded that the total amount owing to the harbor revenue fund was \$7,117,708.71. The Auditor General has fixed the amount at \$3,832,441.00. This difference is due to methods of compounding the interest.

CURRENT SITUATION:

Presently, the Board of Harbor Commissioners is transferring surplus harbor revenues to the city general fund to reimburse the City for the payment of principal and interest on general obligation bonds issued to finance the construction of harbor improvements. As of June 30, 1976, \$5,580,000.00 had been transferred pursuant to City Charter § 145(4). The maximum amount that may be so transferred has not been agreed upon between the City and the Board. The propriety of such transfers has been the subject of numerous opinions by the Legislative Counsel, the Los Angeles City Attorney, and the Attorney General. All the opinions conclude that the City may properly be reimbursed for the amounts of principal and for interest contributed to redeem the \$10,000,000 worth of bonds sold after the adoption of § 145(4), of the Charter on May 6, 1924. However, because the right of a trustee to be reimbursed is conditioned upon the state of its accounts, the Board should not proceed with such transfers until the City Treasurer has accounted for the interest monies owing to the harbor revenue fund and credited such moneys thereto. In addition, the maximum amount of money that may be transferred pursuant to Charter § 145(4) should be agreed upon by the City and the Board of Harbor Commissioners.

Pursuant to Chapter 1046, Statutes of 1970, § 11, the details of this matter should be reported to the Chief Clerk of the Assembly and the Secretary of State Senate on or before December 31, 1976.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DECLARE AND RESOLVE THAT:

(A) ALL MONEYS IN THE HARBOR REVENUE FUND ARE PRESENTED TO BE TIDELANDS TRUST FUNDS.

(B) THE CITY OF LOS ANGELES IS IN VIOLATION OF ITS GRANT BY RETAINING PRE-1961 INTEREST EARNED ON HARBOR REVENUES IN THE CITY GENERAL FUND.

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2. DIRECT THE CITY TO ACCOUNT FOR AND CREDIT PRE-1961 INTEREST EARNED ON HARBOR REVENUES TO THE HARBOR REVENUE FUND.
3. DIRECT THE BOARD OF HARBOR COMMISSIONERS TO REFRAIN FROM TRANSFERRING SURPLUS HARBOR REVENUES TO THE CITY GENERAL FUND UNTIL SUCH INTEREST HAS BEEN ACCOUNTED FOR AND CREDITED TO THE HARBOR REVENUE FUND.
4. DIRECT THE BOARD OF HARBOR COMMISSIONERS AND THE CITY TO DETERMINE THE MAXIMUM SUM THAT MAY BE TRANSFERRED FROM THE HARBOR REVENUE FUND TO THE CITY GENERAL FUND PURSUANT TO CITY CHARTER § 145(4).
5. AUTHORIZE THE EXECUTIVE OFFICER TO REPORT THIS MATTER TO THE CHIEF CLERK OF THE ASSEMBLY AND THE SECRETARY OF STATE ON OR BEFORE DECEMBER 31, 1976.
6. AUTHORIZE STAFF AND THE ATTORNEY GENERAL TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE FOREGOING INCLUDING, BUT NOT LIMITED TO LITIGATION.