

State Agency To Continue Inquiry Of Port Funds After Measure D Passes

Councilmen DeLong Says New Transfer Will 'Improve' Relationship Between City And Port

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The passage of Measure D by a majority of Long Beach voters has so far ended a boisterous dispute that lasted nearly three months involving port and city officials and trade industry groups.

The ballot measure passed November 2 with 55.4 percent of voters in favor, setting a new paradigm for the city's annual money transfer from the port in terms of the amount requested each year and how it will be calculated. The measure amends the City Charter, changing the money transfer from 10 percent of the port's net income to 5 percent gross operating revenue and "clarifies" that the city has sole authority over any new oil operations on port property.

But staff members of the California State Lands Commission, a three-member watchdog agency appointed by the governor, vows to keep a watchful eye over the city's use of port profits to look into the implications of the port remaining a financially viable entity if the city in fact is granted the new money transfer each year.

Paul Thayer, who recently retired from the position of executive director of the state commission, said, "Speaking for the staff, not the commission, we continue to be concerned about the effect on the port, should the total diversion of revenues authorized by proposition D actually occur."

He added, however, that the impact

on the port is largely hypothetical, and until the Long Beach City Council actually requests the new transfer and the Long Beach Harbor Commission grants the funds, the city remains in accordance with operating the port as a state trust under current law. State commission staff will continue to investigate the matter and only conduct a formal audit of the city's Tidelands Fund if state commissioners take action, which hasn't happened, Thayer said.

"This is all up in the air . . . This is all theoretical until the city starts asking for money," he said. "The mayor and the attorney have said it's up to the city council to decide whether or not it's going to ask for all this money. There's certainly no impact to the port until that happens."

Regardless of Measure D passing, the harbor commission still has the right, under the City Charter, to thwart any annual funds transfer if port staff can provide a substantial economic reason for doing so.

State Confrontation

Meanwhile, state lands commission staff presented an informational item at its October 29 meeting just a few days before the election, citing various concerns over how the measure was rushed onto the ballot without any analysis of impacts to the port.

While the city auditor contends the difference between the net and gross amounts would result in \$1 million to \$1.5 million more to the city per year, a recent five-year analysis by the port

found that changing the transfer would mean a windfall of about \$6.6 million more to the city's Tidelands Fund annually.

Port staff also said a potential downgrade to the port's bond rating for a proposed 30-year bond for capital improvement projects would mean additional interest costs ranging from \$39 million to \$158 million. The port may also lose \$100 million in additional oil revenues, which city officials said would most likely occur anyway, regardless of Measure D because of existing language in the City Charter.

The state commission staff report went on to state that the worst-case scenario would come out a total transfer of 20 percent of the port's net income each year to the city and cited portions of the public trust doctrine, reminding city officials of its "trustee responsibilities."

Mayor Bob Foster sternly refuted the state commission's claims during the meeting. "First of all, I think it's a little difficult to sit here, quite frankly, and sort of get lectured on our fiduciary responsibility under the public trust doctrine," he said. "Our first responsibility is to make sure the port is a financially viable robust economic entity, that it has the credit worthiness in that vein. I, and the city, will always make sure that happens. What you fail to hear about Measure D is that, in fact, there is a provision still in the existing formula and in the proposing formula that the port can say financial

conditions can prevent them from making that transfer.”

The mayor also said he disagreed with the state commission staff’s figures and brought up that he vetoed a proposed \$300 million port administration building, an expenditure he said “wasn’t necessary,” and blasted the port for approving substantial salary increases while the port is experiencing an economic downturn. “Let’s talk about real big numbers,” he said. “I take it personally when someone questions that . . . I’m sorry, I do . . . We’ve been good guardians of the public trust and we continue to be.”

Foster also let commissioners know he wasn’t pleased they were partially relying on newspaper reports (including copies of Business Journal articles distributed to commissioners) “I quite frankly would be at a loss to come before a commission and say ‘I’m giving you information that was in a newspaper.’ I’m sorry, that’s just simply inappropriate.”

City Attorney Robert Shannon echoed the mayor’s concerns: “By formulating what essentially is a political tract, staff is operating as nothing more than a shell for port related interests . . . This staff report is the best example of a disproportionate relationship,” he said.

Election Reactions

As for the election results, both campaigns of the issue described a somewhat successful outcome.

“While we are disappointed with the election results this morning, we are pleased that such a high percentage of the voters of Long Beach agreed that Measure D is an ill-fated attempt to further burden the port and is the wrong way to address City Hall’s budget challenges,” stated John McLaurin, president of the Pacific Merchant Shipping Association, which initiated a mailer campaign two weeks before election day urging residents to vote “no.” He added that the association will hold the city to its estimations of future impacts to the port and will “fight any transfer of property or money as a consequence of Measure D over and above the amounts that were the basis on which this measure was sold to the voters.”

On the other hand, Councilmen Gary DeLong said he wasn’t surprised that voters favored investing in the city’s beaches and coastal area as a priority. But he also said he learned that the city needs to do a better job educating port related businesses on how the Tidelands Fund is appropriated, since most of the debacle has been somewhat of a misconception, he believes.

“I think the change will actually improve the relationship between the

city and the port, because there will be less arguing over various accounting items, less adversity,” he said. “I think it’s incumbent upon the city to explain to those business interests how any additional funds will be invested in community assets. We need to do that because I think their concern was that additional monies would be frittered away, and we need to prove to them that it won’t be.”

In addition, DeLong contends that the Tidelands Fund has the potential of reaching a negative fund balance in the next three to four years mainly because of a decline in port funds and oil revenues, rather than maintenance expenditures, which he said have remained flat.

“The problem with the Tidelands Fund is there’s not a lot of discretionary expenditures, it’s ongoing maintenance,” he said. “So if you’re going to cut expenses, now you’re talking about do you provide less fire services to the Tidelands Fund, because fire is the largest expense? Do you reduce marine patrol, which is the police department? Do you cut the amount of lifeguards on your city beaches? Those are the real kind of conversations.” ■