



IN BRIEF

ON THE BALLOT

New Orleans' Savings Fund Charter Amendment, November 18, 2017

November 2017

Overview of the Proposition

New Orleans voters will decide whether to establish the Savings Fund of the City of New Orleans in the City's home rule charter. The Savings Fund would set aside a portion of the City's general financial reserve, or Fund Balance, for emergencies and other financial crises. The City Council would have to maintain the Savings Fund's balance at an amount equal to 5% of the City's average recurring General Fund expenditures for the previous five years. Currently, this amount is about \$27 million.

Use of the Savings Fund would require a two-step process. First, the City must face one or more of the following conditions:

- A council declaration by a two-thirds majority vote of an emergency due to an act of God, riot, war or a grave emergency that threatens widespread loss of life or grievous injury to health or property.
- A council determination by a two-thirds majority vote that a significant loss in City revenues due to an economic downturn of serious proportions has occurred or is occurring.
- A mandate by the United States Government that has been determined by the City Attorney to be in accordance with law. (City administrators stated this would include federal consent decrees for the City's police and jail.)

If at least one of these conditions exists, the council can make an appropriation from the Savings Fund by a two-thirds majority vote (five of its seven members). After making an appropriation, the council would have to fully replenish the Savings Fund in the following year's budget. However, if the City meets one of the three conditions at the time the council adopts the budget, the City is relieved of that year's obligation to replenish the Savings Fund.

Key Background and Findings

- The City's Fund Balance has grown substantially in recent years. In 2012, the City had a General Fund deficit of \$20 million. As of October, the City projected it will end 2017 with a \$49.7 million Fund Balance.
- Currently, the City Council can use all of the Fund Balance for any purpose by a simple majority vote. City administrators stated the Savings Fund proposal would safeguard a portion of its Fund Balance for times of critical need and bolster the City's improved financial position. The City Council would be able to access the Fund Balance in excess of the Savings Fund (\$22.7 million based on current projections) for any purpose.
- The three conditions under which the council can make an appropriation from the Savings Fund generally align with best practices for the use of emergency reserves. Maintaining adequate reserves is particularly important in a city like New Orleans that is susceptible to natural disasters. In addition, costly federal consent decrees present unique local circumstances that weigh in favor of an emergency reserve.
- A future council or city attorney could construe the broad federal mandate provision as creating a perpetual situation in which the council can tap the Savings Fund. However, the requirement of super-majority approval for appropriations offers a check on potential misuse of the fund.
- The amendment lacks a mechanism for ending a council declaration of either an emergency or a significant economic downturn. This increases the risk that a declaration could remain in place after the conditions that prompted it no longer exist.
- While the replenishment provision in the proposed charter amendment is aggressive, the goal of quickly restoring the Savings Fund is appropriate. And there is built-in tolerance for persistent crises. However, there is a risk that the council could use the broad federal mandate condition as a reason to avoid replenishment.

BGR Position

FOR. The proposed charter amendment to establish the Savings Fund is a sensible approach to safeguarding recent improvements in the City's financial position. Setting aside a portion of the General Fund balance for fiscal emergencies will help make sure the money is available when the City needs it. The conditions for the use of the Savings Fund generally align with best practice recommendations. The proposal provides flexibility in replenishing the Savings Fund after an appropriation if the City remains in financial duress. It also allows the City Council to increase the size of the fund as the City's financial position allows.

However, the proposal has some flaws. The overly broad federal mandate provision could put the City in a perpetual state in which it could tap the Savings Fund and avoid replenishing it. Also, the lack of limitations on the duration of declarations of emergencies or economic downturns increases the risk that the declarations will persist after conditions have improved. Both scenarios could result in misuse of the fund. The requirement of a super-majority council vote for appropriations from the Savings Fund offers a check on misuse. Still, it is imperative that the council adhere to the amendment's clear intent and limit appropriations to times when the City faces a critical financial need.

Read the full report at www.bgr.org.