

RESOLUTION NO. 78119

A RESOLUTION DECLARING THE RESULT OF THE ELECTION HELD IN THE CITY OF SAN DIEGO, CALIFORNIA, ON TUESDAY, APRIL 20TH, 1943, UPON CERTAIN PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF SAN DIEGO.

WHEREAS, a General Municipal Election was held in The City of San Diego, California, on Tuesday, the 20th day of April, 1943, in pursuance of the provisions of Section 10, Article II, of the Charter of The City of San Diego, and of the provisions of Ordinance No. 2622 (New Series) of the ordinances of said City, entitled, "An Ordinance proclaiming a General Municipal Election in The City of San Diego, California," passed and adopted by the Council of said City March 9, 1943, as amended by Ordinance No. 2631 (New Series) of the ordinances of said City, entitled, "An Ordinance amending Section 1 of Ordinance No. 2622 (New Series) of the ordinances of The City of San Diego, entitled, 'An Ordinance proclaiming a General Municipal Election in The City of San Diego, California,' adopted March 9, 1943," passed and adopted March 23, 1943; and

WHEREAS, at said General Municipal Election there were submitted to the qualified voters of said City, in pursuance of the provisions of Ordinance No. 2624 (New Series) of the ordinances of said City, entitled, "An Ordinance proposing and submitting to the electors of The City of San Diego at the General Municipal Election called for Tuesday, the 20th day of April, 1943, certain propositions to amend the Charter of The City of San Diego," passed and adopted March 9, 1943, and in pursuance of the provisions of Ordinance No. 2628 of the ordinances of said City, entitled, "An Ordinance proposing and submitting to the electors of The City of San Diego, at the General Municipal Election called for Tuesday, the 20th day of April, 1943, a certain proposition to amend the Charter of The City of San Diego," passed and adopted March 9, 1943, the following propositions to amend the present Charter of said City, to-wit:

PROPOSITION NO. 3.

Amend Section 40 of the Charter of The City of San Diego, so as to read as follows:

"Section 40. CITY ATTORNEY. A City Attorney shall be elected by the people for a term of four years. The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties. The Attorney and his deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to taking office.

The City Attorney shall appoint such deputies, assistants, and employees to serve him, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter.

It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the legal department, to give advice in writing, when so requested, to the Council, its Committees, the Manager, the Commissions, or Directors of any Department, but all such advice shall be in writing with the citation of authorities in support of the conclusions expressed in said written opinions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of him by law; to prepare in writing all ordinances, resolutions, contracts, bonds, or other instruments in which the City is concerned, and to endorse on each his approval of the form or correctness thereof; to preserve in his office a docket of all cases in which the City is interested in



any of the courts and keep a record of all proceedings of said cases; to preserve in his office copies of all written opinions furnished by him to the Council, Manager, Commission, or any officer. Such docket, copies and papers shall be the property of the City, and the City Attorney shall, on retiring from office, deliver the same, together with all books, accounts, vouchers, and necessary information, to his successor in office.

He shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper, document, or evidence necessary to be used in any suit, or required for the purpose of his office.

He shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption. He shall apply, upon order of the Council, to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or Commission which fails to perform any duty expressly enjoined by law or ordinance.

The City Attorney shall perform such other duties of a legal nature as the Council may by ordinance require or as are provided by the Constitution and general laws of the State.

The Council shall have authority to employ additional competent technical legal attorneys to investigate or prosecute matters connected with the Departments of the

City when such assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

The City Attorney shall receive a salary of \$6,500.00 per year, payable monthly.

In the event of a vacancy occurring in the office of the City Attorney by reason of any cause, the Council shall have authority to fill such vacancy, which said authority shall be exercised within thirty (30) days after the vacancy occurs. Any person appointed to fill such vacancy shall hold office only until the next regular municipal election, at which time a person shall be elected to serve for a full term of four years."

PROPOSITION NO. 4.

Amend the Charter of The City of San Diego by adding thereto a new section, to be numbered "Section 71a," to read as follows:

"Section 71a. REAPPROPRIATIONS AT BEGINNING OF FISCAL YEAR FOR SALARIES AND MAINTENANCE AND SUPPORT EXPENSES. If at the beginning of any fiscal year the appropriations necessary for the support of the various City offices, departments, services or institutions for such fiscal year shall not have been made, the several amounts appropriated in the Annual Appropriation Ordinance for the preceding year for the objects and purposes therein specified, so far as the same shall relate to salaries and wages and maintenance and support expenses, shall be deemed to be reappropriated for the several objects and purposes specified in said previous year's Annual Appropriation Ordinance until the Council shall adopt the Annual Appropriation Ordinance for the new



fiscal year; and during such interim the Auditor and Comptroller shall approve the payments necessary for the support of the various City offices, departments, services and institutions on the basis of the appropriations of the preceding fiscal year."

PROPOSITION NO. 5.

Amend Section 77 of the Charter of The City of San Diego, so as to read as follows:

"Section 77. CAPITAL OUTLAYS FUND. Notwithstanding any provision contained in this Charter to the contrary, save and except the limitations imposed by Section 76 of this Article, the Council by a vote of not less than five (5) of its members shall have the power to levy and collect, or cause to be collected, assessments or taxes during any fiscal year, for the creation and accumulation of a fund for capital outlays, and subject to the limitations of said Section 76 of this Article.

From and after the creation of such a capital outlay fund all proceeds derived from the sale of any City-owned real estate shall be transferred to such fund.

Whenever such capital outlay fund is created, as herein provided, it shall remain inviolate for the making of any capital outlays, as the term 'capital outlays' is hereinafter defined, and no moneys shall be disbursed therefrom excepting for such a purpose and upon a vote of not less than five (5) members of the Council; provided, however, that the Council may at any time submit a proposition to the electors of the City to obtain the consent of said electors to the use of the moneys, or any portion thereof, in said fund for some other specific purpose. Such proposition may be submitted at any election. It

shall require a two-thirds vote of all the voters voting upon such proposition to authorize the expenditure of the moneys in said fund, or any portion thereof, for such other purpose.

The term 'capital outlays' as used in this section shall be construed to mean and be confined to permanent public improvements, including the reconstruction and replacement of existing public improvements, but shall not include, or take the place of, or be in lieu of:

- (a) Harbor improvements or developments provided for by Section 54 of Article V of this Charter;
- (b) Specific public improvements for which appropriations are made in the Annual Appropriation Ordinance;
- (c) Departmental outlay appropriations contained in the Annual Appropriation Ordinance."

PROPOSITION NO. 6.

Amend Sections 157 and 158 of the Charter of The City of San Diego, so as to read as follows:

"Section 157. CONTRIBUTIONS TO FUND BY POLICE.

The Auditor and Comptroller of The City of San Diego shall retain from the pay of each regular member or employee of the Police Department a sum equal to six per cent (6%) of the salary paid to said member or employee, and all fines imposed upon members of the Police Department in keeping with the rules and regulations of said Department, to be forthwith paid into said Police Relief and Pension Fund, and no other or further retention or reduction shall be made from such pay of any member or employee of the Police Department to said fund."



"Section 158. CONTRIBUTIONS TO FUND BY COUNCIL.

The Council shall, for the purposes of said Police Relief and Pension Fund herein provided for, except as hereinafter provided, direct the payment annually, from the General Fund of The City of San Diego, into the Police Relief and Pension Fund, of the following moneys:

(a) One-third (1/3) of all rewards given or paid to members of the Police Department because of or in recognition of the performance of official duty.

(b) One-third (1/3) of all fines collected in the Municipal Court of The City of San Diego for a violation of any law, except such fines as may be otherwise provided for under the laws of the State of California.

(c) Five per cent (5%) of all revenues derived from licenses granted by The City of San Diego where said licenses are directly under the supervision of the Police Department.

(d) For the payment of a sum equal to all revenue paid into the Police Relief and Pension Fund by members or employees of the Police Department as provided for in Section 157 of this Article, said sum to be equal to the amount retained by the Auditor and Comptroller of The City of San Diego during the next preceding year; and all such further sum or sums as shall be required for maintenance of said Police Relief and Pension Fund."

PROPOSITION NO. 7.

Amend Section 197 of the Charter of The City of San Diego, so as to read as follows:

"Section 197. ALIEN LABOR ON PUBLIC WORKS PROHIBITED.

No alien shall be employed upon the public works of the City, whether such work is done within or outside the limits of the City, and whether such work is done di-

rectly by the City or under contract or sub-contract or any other arrangement whatsoever, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. If the work is being done directly by the City the officer directly in charge of the work shall file the said verified report covering any such extraordinary emergency with his superior officer or the officer or board which appointed him. The contractor to whom such contract is awarded shall forfeit as a penalty to the City ten dollars for each alien employed in the execution of said contract, or by virtue of the contract, by him, or by any subcontractor under him, upon any of the public works of the City, or upon any work herein mentioned, for each calendar day during which such alien is permitted or required to labor in violation of the provisions of this Section, and the said officer or public body awarding the contract shall cause to be inserted in the contract a provision to this effect. The term 'alien' as used herein shall mean any person who is not a born or fully naturalized citizen of the United States.



Provided, however, anything to the contrary in this section notwithstanding, that during a period when the United States is engaged in war, and for six (6) months following the cessation of hostilities, the City Council may by ordinance adopted by a vote of five (5) of its members, authorize the employment upon the public works of the City, of the nationals of countries allied with the United States or with which the United States is at peace."

AND WHEREAS, all the various election boards appointed in said Ordinance No. 2622 (New Series) have made returns of the said General Municipal Election to the City Clerk and to the Council, all as required by law; and

WHEREAS, said Council did on the second day next succeeding the date of said General Municipal Election then and there by resolution direct the City Clerk to make the canvass of the returns of said General Municipal Election; and

WHEREAS, said canvass has been completed, and the City Clerk has certified the results of the canvass to the Council; NOW, THEREFORE,

BE IT RESOLVED By the Council of The City of San Diego, as follows:

That the result of said election on the propositions of amending the Charter of The City of San Diego be, and it is hereby declared to be, as follows:

That the whole number of votes cast in said City at said General Municipal Election is Thirty-seven thousand four hundred seventy-nine (37,479).

That on Proposition No. 3, hereinbefore set out in full, and which appeared on the ballot as follows:

"PROPOSITION NO. 3. Amend Section 40 of the Charter of The City of San Diego.

This amendment provides that in the event of a vacancy occurring in the office of City Attorney, the City Council shall within thirty (30) days fill the vacancy. The person appointed by the Council shall hold office only until the next regular municipal election, at which time a person shall be elected for a full term of four years."

the vote was:

For said proposition,	<u>25,492</u>	votes
Against said proposition,	<u>3,834</u>	votes
Void ballots,	<u>15</u>	

and said proposition has received the vote of a majority of the qualified voters voting thereon at said election.

That on Proposition No. 4, hereinbefore set out in full, and which appeared on the ballot as follows:

"PROPOSITION NO. 4. Amend the Charter of The City of San Diego, by adding thereto a new section, to be numbered Section 71a.

This amendment provides that at the beginning of each fiscal year the several amounts appropriated in the Annual Appropriation Ordinance for the preceding fiscal year, for salaries and wages and maintenance and support expenses, shall be deemed to be automatically reappropriated for the same purpose, until the Council shall adopt the Annual Appropriation Ordinance for the new fiscal year; and authorizes the Auditor and Comptroller during such interim to approve the payments necessary for the support of the various city offices, departments, services and institutions on the basis of the appropriations of the preceding fiscal year."

the vote was:

For said proposition,	<u>21,502</u>	votes
Against said proposition,	<u>6,095</u>	votes
Void ballots,	<u>15</u>	

That on Proposition No. 5, hereinbefore set out in full, and which appeared on the ballot as follows:

"PROPOSITION NO. 5. Amend Section 77 of the Charter of The City of San Diego.

This amendment authorizes the creation and accumulation of a fund for capital outlays; empowers the City Council by a vote of not less than five of its members to raise by taxation in any fiscal year money for such fund, the amount raised being limited by the maximum tax rate of \$1.34 on each one hundred dollars of assessed valuation of the real and personal property within the City, established by Section 76



of the Charter; provides that no disbursements from said fund shall be made for any other purpose than capital outlays, unless another purpose is authorized by a vote of two-thirds of the electors of the City; defines the term 'capital outlays' to mean and be confined to permanent public improvements, including the reconstruction and replacement of existing public improvements."

the vote was:

For said proposition,	<u>18,718</u>	votes
Against said proposition,	<u>8,808</u>	votes
Void ballots,	<u>15</u>	

and said proposition has received the vote of a majority of the qualified voters voting thereon at said election.

That on Proposition No. 7, hereinbefore set out in full, and which appeared on the ballot as follows:

"PROPOSITION NO. 6. Amend Sections 157 and 158 of the Charter of The City of San Diego.

The amendment to Section 157 simply increases the contributions made to the fund from the present rate of a sum equal to 4% of the pay of each regular member or employee of the Police Department to a sum equal to 6% of such pay.

The amendment to Section 158 consists solely of the elimination of the second paragraph of Subdivision (d) of the section, which, as it now stands, provides that whenever the Police Relief and Pension Fund contains a sum of money amounting to one thousand dollars for each member of the Police Department, then all payments into the fund provided for in the section shall cease and shall be resumed only in the event that said fund shall be decreased below the amount specified."

the vote was:

For said proposition,	<u>20,663</u>	votes
Against said proposition,	<u>8,642</u>	votes
Void ballots,	<u>15</u>	

and said proposition has received the vote of a majority of the qualified voters voting thereon at said election.

That on Proposition No. 7, hereinbefore set out in full, and which appeared on the ballot as follows:

"PROPOSITION NO. 7. Amend Section 197 of the Charter of The City of San Diego.

This amendment consists in adding an additional paragraph to the Section which provides that during

a period when the United States is engaged in war and for six (6) months following the cessation of hostilities the Council may, by ordinance adopted by a vote of five (5) of its members authorize the employment upon the public works of the City of the nationals of countries allied with the United States or with which the United States is at peace."

the vote was:

For said proposition,	<u>20,877</u>	votes
Against said proposition,	<u>6,462</u>	votes
Void ballots,	<u>15</u>	

and said proposition has received the vote of a majority of the qualified voters voting thereon at said election.

The City Clerk of said City is hereby directed to cause this resolution to be published at least once in the official newspaper of said City.

Approved as  
to form by CLARENCE J. NOVOTNY  
City Attorney.

By Assistant City Attorney.



Passed and adopted by the said Council of the said City of  
San Diego, California, this 23rd day of April, 1943,  
by the following vote, to-wit:

YEAS--Councilmen: Simpson, Austin, Hartley, Boud, Mayor Bard

NAYS--Councilmen: None

ABSENT--Councilmen: Knox, Flowers

ATTEST:

HOWARD B. BARD

Mayor of the City of San Diego, California

FRED W. SICK

City Clerk of the City of San Diego, California

By AUGUST M. WADSTROM Deputy

I HEREBY CERTIFY that the above and foregoing resolution was  
passed by the Council of the said City of San Diego, at the time  
and by the vote, above stated.

FRED W. SICK

City Clerk of the City of San Diego, California

(SEAL)

By AUGUST M. WADSTROM Deputy

I Herby Certify the above to be a full, true and correct copy of Resolution  
No. 78119 of the Council of the City of San Diego, California, as adopted by said  
Council April 23, 1943

Fred W. Sick  
City Clerk

By \_\_\_\_\_  
Deputy



# **PROPOSED CHARTER AMENDMENTS**

The following proposed amendments to the Charter of the City of San Diego, California, will be submitted to the voters of the City of San Diego on Tuesday, April 20, 1943.

**FRED W. SICK, City Clerk.**



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Propositions Nos. 1 and 2 that will appear on the ballot at the General Municipal Election, Tuesday, April 20, 1943, have to do with the conveyance and exchange of tidelands with the United States Government.

### PROPOSITION NO. 3.

Amend Section 40 of the Charter of The City of San Diego, so as to read as follows:

"Section 40. CITY ATTORNEY. A City Attorney shall be elected by the people for a term of four years. The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties. The Attorney and his deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to taking office.

The City Attorney shall appoint such deputies, assistants, and employees to serve him, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter.

It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the legal department; to give advice in writing, when so requested, to the Council, its Committees, the Manager, the Commissions, or Directors of any Department, but all such advice shall be in writing with the citation of authorities in support of the conclusions expressed in said written opinions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of him by law; to prepare in writing all ordinances, resolutions, contracts, bonds, or other instruments in which the City is concerned, and to endorse on each his approval of the form or correctness thereof; to preserve in his office a docket of all cases in which the City is interested in any of the courts and keep a record of all proceedings of said cases; to preserve in his office copies of all written opinions furnished by him to the Council, Manager, Commission, or any officer. Such docket, copies and papers shall be the property of the City, and the City Attorney shall, on retiring from office, deliver the same, together with all books, accounts, vouchers, and necessary information, to his successor in office.

He shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper, document, or evidence necessary to be used in any suit, or required for the purpose of his office.

He shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption. He shall apply, upon order of the Council,



to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or Commission which fails to perform any duty expressly enjoined by law or ordinance.

The City Attorney shall perform such other duties of a legal nature as the Council may by ordinance require or as are provided by the Constitution and general laws of the State.

The Council shall have authority to employ additional competent technical legal attorneys to investigate or prosecute matters connected with the Departments of the City when such assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

The City Attorney shall receive a salary of \$6,500.00 per year, payable monthly.

In the event of a vacancy occurring in the office of the City Attorney by reason of any cause, the Council shall have authority to fill such vacancy, which said authority shall be exercised within thirty (30) days after the vacancy occurs. Any person appointed to fill such vacancy shall hold office only until the next regular municipal election, at which time a person shall be elected to serve for a full term of four years."

(THIS PROPOSITION WILL APPEAR ON THE BALLOT IN THE FOLLOWING FORM)

<p>PROPOSITION NO. 3. Amend Section 40 of the Charter of The City of San Diego. This amendment provides that in the event of a vacancy occurring in the office of City Attorney, the City Council shall within thirty (30) days fill the vacancy. The person appointed by the Council shall hold office only until the next regular municipal election, at which time a person shall be elected for a full term of four years.</p>	YES	
	NO	

**PROPOSITION NO. 4.**

Amend the Charter of The City of San Diego by adding thereto a new section, to be numbered "Section 71a," to read as follows:

"Section 71a. REAPPROPRIATIONS AT BEGINNING OF FISCAL YEAR FOR SALARIES AND MAINTENANCE AND SUPPORT EXPENSES. If at the beginning of any fiscal year the appropriations necessary for the support of the various City offices, departments, services or institutions for such fiscal year shall not have been made, the several amounts appropriated in the Annual Appropriation Ordinance for the preceding year for the objects and purposes therein specified, so far as the same shall relate to salaries and wages and maintenance and support expenses, shall be deemed to be reappropriated for the several objects and purposes specified in said previous year's Annual Appropriation Ordinance until the Council shall adopt the Annual Appropriation Ordinance for the new fiscal year; and during such interim the Auditor and Comptroller shall approve the payments



necessary for the support of the various City offices, departments, services and institutions on the basis of the appropriations of the preceding fiscal year."

(THIS PROPOSITION WILL APPEAR ON THE BALLOT IN THE FOLLOWING FORM)

<p><b>PROPOSITION NO. 4.</b> Amend the Charter of The City of San Diego, by adding thereto a new section, to be numbered Section 71a.</p> <p>This amendment provides that at the beginning of each fiscal year the several amounts appropriated in the Annual Appropriation Ordinance for the preceding fiscal year, for salaries and wages and maintenance and support expenses, shall be deemed to be automatically reappropriated for the same purpose, until the Council shall adopt the Annual Appropriation Ordinance for the new fiscal year; and authorizes the Auditor and Comptroller during such interim to approve the payments necessary for the support of the various city offices, departments, services and institutions on the basis of the appropriations of the preceding fiscal year.</p>	YES	
	NO	

**PROPOSITION NO. 5.**

Amend Section 77 of the Charter of The City of San Diego, so as to read as follows:

"Section 77. CAPITAL OUTLAYS FUND. Notwithstanding any provision contained in this Charter to the contrary, save and except the limitations imposed by Section 76 of this Article, the Council by a vote of not less than five (5) of its members shall have the power to levy and collect, or cause to be collected, assessments or taxes during any fiscal year, for the creation and accumulation of a fund for capital outlays, and subject to the limitations of said Section 76 of this Article.

From and after the creation of such a capital outlay fund all proceeds derived from the sale of any City-owned real estate shall be transferred to such fund.

Whenever such capital outlay fund is created, as herein provided, it shall remain inviolate for the making of any capital outlays, as the term 'capital outlays' is hereinafter defined, and no moneys shall be disbursed therefrom excepting for such a purpose and upon a vote of not less than five (5) members of the Council; provided, however, that the Council may at any time submit a proposition to the electors of the City to obtain the consent of said electors to the use of the moneys, or any portion thereof, in said fund for some other specific purpose. Such proposition may be submitted at any election. It shall require a two-thirds vote of all the voters voting upon such proposition to authorize the expenditure of the moneys in said fund, or any portion thereof, for such other purpose.



The term 'capital outlays' as used in this section shall be construed to mean and be confined to permanent public improvements, including the reconstruction and replacement of existing public improvements, but shall not include, or take the place of, or be in lieu of:

- (a) Harbor improvements or developments provided for by Section 54 of Article V of this Charter;
- (b) Specific public improvements for which appropriations are made in the Annual Appropriation Ordinance;
- (c) Departmental outlay appropriations contained in the Annual Appropriation Ordinance."

(THIS PROPOSITION WILL APPEAR ON THE BALLOT IN THE FOLLOWING FORM)

<p><b>PROPOSITION NO. 5.</b> Amend Section 77 of the Charter of The City of San Diego.</p> <p>This amendment authorizes the creation and accumulation of a fund for capital outlays; empowers the City Council by a vote of not less than five of its members to raise by taxation in any fiscal year money for such fund, the amount raised being limited by the maximum tax rate of \$1.34 on each one hundred dollars of assessed valuation of the real and personal property within the City, established by Section 76 of the Charter; provides that no disbursements from said fund shall be made for any other purpose than capital outlays, unless another purpose is authorized by a vote of two-thirds of the electors of the City; defines the term "capital outlays" to mean and be confined to permanent public improvements, including the reconstruction and replacement of existing public improvements.</p>	YES	
	NO	

**PROPOSITION NO. 6.**

Amend Sections 157 and 158 of the Charter of The City of San Diego, so as to read as follows:

"Section 157. **CONTRIBUTIONS TO FUND BY POLICE.** The Auditor and Comptroller of The City of San Diego shall retain from the pay of each regular member or employee of the Police Department a sum equal to six per cent (6%) of the salary paid to said member or employee, and all fines imposed upon members of the Police Department in keeping with the rules and regulations of said Department, to be forthwith paid into said Police Relief and Pension Fund, and no other or further retention or reduction shall be made from such pay of any member or employee of the Police Department to said fund."

"Section 158. **CONTRIBUTIONS TO FUND BY COUNCIL.** The Council shall, for the purposes of said Police Relief and Pension Fund herein



provided for, except as hereinafter provided, direct the payment annually, from the General Fund of The City of San Diego, into the Police Relief and Pension Fund, of the following moneys:

(a) One-third (1/3) of all rewards given or paid to members of the Police Department because of or in recognition of the performance of official duty.

(b) One-third (1/3) of all fines collected in the Municipal Court of The City of San Diego for a violation of any law, except such fines as may be otherwise provided for under the laws of the State of California.

(c) Five per cent (5%) of all revenues derived from licenses granted by The City of San Diego where said licenses are directly under the supervision of the Police Department.

(d) For the payment of a sum equal to all revenue paid into the Police Relief and Pension Fund by members or employees of the Police Department as provided for in Section 157 of this Article, said sum to be equal to the amount retained by the Auditor and Comptroller of The City of San Diego during the next preceding year; and all such further sum or sums as shall be required for maintenance of said Police Relief and Pension Fund."

(THIS PROPOSITION WILL APPEAR ON THE BALLOT IN THE FOLLOWING FORM)

<p>PROPOSITION NO. 6. Amend Sections 157 and 158 of the Charter of The City of San Diego.</p> <p>The amendment to Section 157 simply increases the contributions made to the fund from the present rate of a sum equal to 4% of the pay of each regular member or employee of the Police Department to a sum equal to 6% of such pay.</p>	<p>YES</p>	
<p>The amendment to Section 158 consists solely of the elimination of the second paragraph of Subdivision (d) of the section, which, as it now stands, provides that whenever the Police Relief and Pension Fund contains a sum of money amounting to one thousand dollars for each member of the Police Department, then all payments into the fund provided for in the section shall cease and shall be resumed only in the event that said fund shall be decreased below the amount specified.</p>	<p>NO</p>	

**PROPOSITION NO. 7.**

Amend Section 197 of the Charter of The City of San Diego, so as to read as follows:

"Section 197. ALIEN LABOR ON PUBLIC WORKS PROHIBITED. No alien shall be employed upon the public works of the City, whether such work is done within or outside the limits of the City, and whether such work is done directly by the City or under contract or sub-contract or any other arrange-



ment whatsoever, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. If the work is being done directly by the City the officer directly in charge of the work shall file the said verified report covering any such extraordinary emergency with his superior officer or the officer or board which appointed him. The contractor to whom such contract is awarded shall forfeit as a penalty to the City ten dollars for each alien employed in the execution of said contract, or by virtue of the contract, by him, or by any subcontractor under him, upon any of the public works of the City, or upon any work herein mentioned, for each calendar day during which such alien is permitted or required to labor in violation of the provisions of this Section, and the said officer or public body awarding the contract shall cause to be inserted in the contract a provision to this effect. The term 'alien' as used herein shall mean any person who is not a born or fully naturalized citizen of the United States.

"Provided, however, anything to the contrary in this section notwithstanding, that during a period when the United States is engaged in war, and for six (6) months following the cessation of hostilities, the City Council may by ordinance adopted by a vote of five (5) of its members, authorize the employment upon the public works of the City, of the nationals of countries allied with the United States or with which the United States is at peace."

(THIS PROPOSITION WILL APPEAR ON THE BALLOT IN THE FOLLOWING FORM)

<p>PROPOSITION NO. 7. Amend Section 197 of the Charter of The City of San Diego.</p> <p>This amendment consists in adding an additional paragraph to the Section which provides that during a period when the United States is engaged in war and for six (6) months following the cessation of hostilities the Council may, by ordinance adopted by a vote of five (5) of its members authorize the employment upon the public works of the City of the nationals of countries allied with the United States or with which the United States is at peace.</p>	YES	
	NO	



SENATE CONCURRENT RESOLUTION NO. \_\_\_\_\_ -

APPROVING CERTAIN AMENDMENTS TO THE CHARTER OF THE CITY OF SAN DIEGO, A MUNICIPAL CORPORATION IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, VOTED FOR AND RATIFIED BY THE QUALIFIED ELECTORS OF SAID CITY AT THE REGULAR MUNICIPAL ELECTION HELD THEREIN ON THE TWENTIETH DAY OF APRIL, 1943.

STATE OF CALIFORNIA)  
County of San Diego,) ss.  
City of San Diego.)

We, the undersigned, Howard B. Bard, Mayor of The City of San Diego, and Fred W. Sick, City Clerk of said City, do hereby certify and declare as follows:

The City of San Diego, a municipal corporation of the County of San Diego, State of California, now, and at all times herein mentioned, was a City containing a population of more than one hundred thousand inhabitants, and has been ever since the year 1931, and is now, organized and existing under and pursuant to the provisions of a freeholders' charter adopted in accordance with and by virtue of the provisions of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at the general municipal election held in said city on the 7th day of April, in the year 1931, in manner, form and substance as required by law, and was thereafter duly approved by joint resolution of the Legislature of the State of California, adopted on the 15th day of April, 1931,

That pursuant to and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Council of The City of San Diego, being the legislative body thereof, on its own motion, by Ordinance No. 2624 (New Series), passed and adopted by said Council on the 9th day of March, 1943, and by Ordinance No. 2628 (New Series),



passed and adopted by said Council on said 9th day of March, 1943, duly proposed to the qualified electors of The City of San Diego five certain amendments to the charter of said City, designated as Propositions 3, 4, 5, 6 and 7, respectively, and ordered said five proposed charter amendments to be submitted to said qualified electors at the General Municipal Election to be held in said City on the 20th day of April, 1943. X

That all of said proposed charter amendments were published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on the 19th day of March, 1943, in The San Diego Union, Y a daily newspaper of general circulation published in said The City of San Diego, and the official newspaper of said City, and in each edition thereof during the day of said publication.

That copies of said proposed charter amendments were printed in convenient pamphlet form and in type of not less than ten point, and an advertisement that copies thereof could be had upon application therefor at the office of the City Clerk of The City of San Diego was published in The San Diego Union, a daily newspaper of general circulation published in said City, and the official newspaper of said City, on the 24th day of March, 1943, and on each day thereafter until the day fixed for said election, all as required by Section 8 of Article XI of the Constitution of the State of California.

That copies of said proposed charter amendments could be had upon application therefor at the office of the City Clerk of said City until the day fixed for said election. That copies thereof were mailed to each of the qualified electors, as required by law.

That said proposed amendments were submitted, pursuant to the provisions of said Ordinance No. 2624 (New Series) and said Ordinance No. 2628 (New Series), to the qualified electors of said City at the General Municipal Election held in said City on the 20th day of April, 1943, being not less than forty



nor more than sixty days after the completion of the advertisement of said amendments in The San Diego Union, a daily newspaper of general circulation published in said City, and the official newspaper of said City.

The said Council did on the second day next succeeding the date of said election then and there by resolution direct the City Clerk to make the canvass of the returns of said election. That upon the completion of said canvass and the certification of the results thereof by the City Clerk to the Council, said Council did, by Resolution No. 78119, passed and adopted April 23, 1943, duly declare the result of said election from the canvass of the returns thereof.

The said Council did by said Resolution No. ~~78119~~ declare that the proposed amendments to the Charter of The City of San Diego, being Propositions 3, 4, 5, 6 and 7, were, and each of them was, ratified by a majority of the qualified electors of said City voting thereon.

The said amendments to the Charter, so ratified by the qualified electors of The City of San Diego, at said General Municipal Election, are in the words and figures as follows, to-wit:

PROPOSITION NO. 3.

Amend Section 40 of the Charter of The City of San Diego, so as to read as follows:

"Section 40. CITY ATTORNEY. A City Attorney shall be elected by the people for a term of four years. The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties. The Attorney and his deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters



for which they have been retained prior to taking office.

The City Attorney shall appoint such deputies, assistants, and employees to serve him, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter.

It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the legal department; to give advice in writing, when so requested, to the Council, its Committees, the Manager, the Commissions, or Directors of any Department, but all such advice shall be in writing with the citation of authorities in support of the conclusions expressed in said written opinions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of him by law; to prepare in writing all ordinances, resolutions, contracts, bonds, or other instruments in which the City is concerned, and to endorse on each his approval of the form or correctness thereof; to preserve in his office a docket of all cases in which the City is interested in any of the courts and keep a record of all proceedings of said cases; to preserve in his office copies of all written opinions furnished by him to the Council, Manager, Commission, or any officer. Such docket, copies and papers shall be the property of the City, and the City Attorney shall, on retiring from office, deliver the same, together with all books, accounts, vouchers, and necessary information, to his successor in office.

He shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office and, upon a receipt therefor, may demand and receive



from any officer of the City any book, paper, document, or evidence necessary to be used in any suit, or required for the purpose of his office.

He shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption. He shall apply, upon order of the Council, to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or Commission which fails to perform any duty expressly enjoined by law or ordinance.

The City Attorney shall perform such other duties of a legal nature as the Council may by ordinance require or as are provided by the Constitution and general laws of the State.

The Council shall have authority to employ additional competent technical legal attorneys to investigate or prosecute matters connected with the Departments of the City when such assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

The City Attorney shall receive a salary of \$6,500.00 per year, payable monthly.

In the event of a vacancy occurring in the office of the City Attorney by reason of any cause, the Council shall have authority to fill such vacancy, which said authority shall be exercised within thirty (30) days after the vacancy occurs. Any person appointed to fill such vacancy shall hold office



only until the next regular municipal election, at which time a person shall be elected to serve for a full term of four years."

PROPOSITION NO. 4.

Amend the Charter of The City of San Diego by adding thereto a new section, to be numbered "Section 71a," to read as follows:

"Section 71a. REAPPROPRIATIONS AT BEGINNING OF FISCAL YEAR FOR SALARIES AND MAINTENANCE AND SUPPORT EXPENSES. If at the beginning of any fiscal year the appropriations necessary for the support of the various City offices, departments, services or institutions for such fiscal year shall not have been made, the several amounts appropriated in the Annual Appropriation Ordinance for the preceding year for the objects and purposes therein specified, so far as the same shall relate to salaries and wages and maintenance and support expenses, shall be deemed to be reappropriated for the several objects and purposes specified in said previous year's Annual Appropriation Ordinance until the Council shall adopt the Annual Appropriation Ordinance for the new fiscal year; and during such interim the Auditor and Comptroller shall approve the payments necessary for the support of the various City offices, departments, services and institutions on the basis of the appropriations of the preceding fiscal year."

PROPOSITION NO. 5.

Amend Section 77 of the Charter of The City of San Diego, so as to read as follows:

"Section 77. CAPITAL OUTLAYS FUND. Notwithstanding any provision contained in this Charter to the contrary, save and except the limitations imposed by Section 76 of this Article, the Council by a vote of not less than five



(5) of its members shall have the power to levy and collect, or cause to be collected, assessments or taxes during any fiscal year, for the creation and accumulation of a fund for capital outlays, and subject to the limitations of said Section 76 of this Article.

From and after the creation of such a capital outlay fund all proceeds derived from the sale of any City-owned real estate shall be transferred to such fund.

Whenever such capital outlay fund is created, as herein provided, it shall remain inviolate for the making of any capital outlays, as the term 'capital outlays' is hereinafter defined, and no moneys shall be disbursed therefrom excepting for such a purpose and upon a vote of not less than five (5) members of the Council; provided, however, that the Council may at any time submit a proposition to the electors of the City to obtain the consent of said electors to the use of the moneys, or any portion thereof, in said fund for some other specific purpose. Such proposition may be submitted at any election. It shall require a two-thirds vote of all the voters voting upon such proposition to authorize the expenditure of the moneys in said fund, or any portion thereof, for such other purpose.

The term 'capital outlays' as used in this section shall be construed to mean and be confined to permanent public improvements, including the reconstruction and replacement of existing public improvements, but shall not include, or take the place of, or be in lieu of:

- (a) Harbor improvements or developments provided for by Section 54 of Article V of this Charter;
- (b) Specific public improvements for which appropriations are made in the Annual Appropriation Ordinance;



(c) Departmental outlay appropriations contained in the Annual Appropriation Ordinance."

PROPOSITION NO. 6.

Amend Sections 157 and 158 of the Charter of The City of San Diego, so as to read as follows:

"Section 157. CONTRIBUTIONS TO FUND BY POLICE. The Auditor and Comptroller of The City of San Diego shall retain from the pay of each regular member or employee of the Police Department a sum equal to six per cent (6%) of the salary paid to said member or employee, and all fines imposed upon members of the Police Department in keeping with the rules and regulations of said Department, to be forthwith paid into said Police Relief and Pension Fund, and no other or further retention or reduction shall be made from such pay of any member or employee of the Police Department to said fund."

"Section 158. CONTRIBUTIONS TO FUND BY COUNCIL. The Council shall, for the purposes of said Police Relief and Pension Fund herein provided for, except as hereinafter provided, direct the payment annually, from the General Fund of The City of San Diego, into the Police Relief and Pension Fund, of the following moneys:

(a) One-third (1/3) of all rewards given or paid to members of the Police Department because of or in recognition of the performance of official duty.

(b) One-third (1/3) of all fines collected in the Municipal Court of The City of San Diego for a violation of any law, except such fines as may be otherwise provided for under the laws of the State of California.

(c) Five per cent (5%) of all revenues derived from licenses granted by The City of San Diego where said licenses



are directly under the supervision of the Police Department.

(d) For the payment of a sum equal to all revenue paid into the Police Relief and Pension Fund by members or employees of the Police Department as provided for in Section 157 of this Article, said sum to be equal to the amount retained by the Auditor and Comptroller of The City of San Diego during the next preceding year; and all such further sum or sums as shall be required for maintenance of said Police Relief and Pension Fund."

#### PROPOSITION NO. 7.

Amend Section 197 of the Charter of The City of San Diego, so as to read as follows:

"Section 197. ALIEN LABOR ON PUBLIC WORKS PROHIBITED. No alien shall be employed upon the public works of the City, whether such work is done within or outside the limits of the City, and whether such work is done directly by the City or under contract or sub-contract or any other arrangement whatsoever, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. If the work is being done directly by the City the officer directly in charge of the work shall file the said verified report covering any such extraordinary



emergency with his superior officer or the officer or board which appointed him. The contractor to whom such contract is awarded shall forfeit as a penalty to the City ten dollars for each alien employed in the execution of said contract, or by virtue of the contract, by him, or by any subcontractor under him, upon any of the public works of the City, or upon any work herein mentioned, for each calendar day during which such alien is permitted or required to labor in violation of the provisions of this Section, and the said officer or public body awarding the contract shall cause to be inserted in the contract a provision to this effect. The term 'alien' as used herein shall mean any person who is not a born or fully naturalized citizen of the United States.

Provided, however, anything to the contrary in this section notwithstanding, that during a period when the United States is engaged in war, and for six (6) months following the cessation of hostilities, the City Council may by ordinance adopted by a vote of five (5) of its members, authorize the employment upon the public works of the City, of the nationals of countries allied with the United States or with which the United States is at peace."

And we further certify that we have compared the foregoing amendments with the original proposals submitting the same to the qualified electors of said City and find that the foregoing is a full, true and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of said The City of San Diego to be affixed hereto this 23rd day of April, 1943.

Howard B. Bard.  
Mayor of The City of San Diego,  
California.

Ked Ulick  
City Clerk of The City of San  
Diego, California.



and

WHEREAS, Said proposed charter amendments are now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF CALIFORNIA, THE ASSEMBLY CONCURRING, a majority of all the members elected to each house voting therefor and concurring therein, That said amendments to said charter herein set forth, as submitted to and adopted and ratified by the qualified electors of said City, be, and the same are, hereby approved as a whole, without amendment or alteration, for and as amendments to and as part of the charter of said The City of San Diego.





**Ed Fletcher Papers**

**1870-1955**

**MSS.81**

**Box: 74 Folder: 11**

**Personal Memorabilia - San Diego  
- City Charter Amendments**



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