



## Legislation Details (With Text)

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**File created:** 4/24/2019    **In control:** Board of Port Commissioners  
**On agenda:** 5/14/2019    **Final action:** 5/14/2019  
**Title:** RESOLUTION APPROVING A \$2,500,000 TRANSFER OF FUNDS, PURSUANT TO BPC POLICY NO. 90, FROM THE FY 2019 BUDGETED PERSONNEL EXPENSE APPROPRIATION TO THE NON-PERSONNEL EXPENSE APPROPRIATION TO FUND ADDITIONAL EXPENSES ASSOCIATED WITH INFORMATION TECHNOLOGY, LEGAL MATTERS, AND RECRUITMENT

**Sponsors:**

**Indexes:**

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**Attachments:** 1. 13. 2019-0162 Draft Resolution

| Date      | Ver. | Action By                   | Action  | Result |
|-----------|------|-----------------------------|---------|--------|
| 5/14/2019 | 1    | Board of Port Commissioners | adopted |        |

**DATE:** May 14, 2019

**SUBJECT:**

**RESOLUTION APPROVING A \$2,500,000 TRANSFER OF FUNDS, PURSUANT TO BPC POLICY NO. 90, FROM THE FY 2019 BUDGETED PERSONNEL EXPENSE APPROPRIATION TO THE NON-PERSONNEL EXPENSE APPROPRIATION TO FUND ADDITIONAL EXPENSES ASSOCIATED WITH INFORMATION TECHNOLOGY, LEGAL MATTERS, AND RECRUITMENT**

**EXECUTIVE SUMMARY:**

Continuing information technology expenses, various legal matters, and unbudgeted senior recruitment expenses may require an increase to the non-personnel expense appropriation. To ensure that the District does not exceed the non-personnel expense appropriation by year-end, staff is requesting a transfer of \$2,500,000 from the favorable variance in the personnel appropriation to the non-personnel appropriation.

**RECOMMENDATION:**

Adopt a resolution approving a \$2,500,000 transfer of funds, pursuant to BPC No. 90, from the FY 2019 budgeted personnel expense appropriation to the non-personnel expense appropriation to fund additional expenses associated with information technology expenses, legal matters, and recruitment.

**FISCAL IMPACT:**

Approval of this agenda item will authorize a funds transfer of \$2,500,000, pursuant to BPC Policy

No. 90, from the FY 2019 budgeted personnel expense appropriation to the non-personnel expense appropriation. In an abundance of caution to stay within the non-personnel expense appropriation, the District anticipates additional funds may be needed in the last quarter of FY 2019 for various expenses associated with information technology, legal matters, and recruitment.

### **COMPASS STRATEGIC GOALS:**

This agenda item supports the following Strategic Goal(s).

- A thriving and modern maritime seaport.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port with an innovative and motivated workforce.
- A financially sustainable Port that drives job creation and regional economic vitality.

### **DISCUSSION:**

Staff projects that continuing unbudgeted information technology expenses, various legal matters, and unbudgeted senior recruitment expenses may require an increase to the non-personnel expense appropriation. Pursuant to Board Policy No. 90, Board approval is required for transfers between these appropriated expenses. In an abundance of caution, to ensure that the District does not exceed the non-personnel expense appropriation by the end of fiscal year (FY) 2019, staff is requesting a transfer of \$2,500,000 from the personnel appropriation, which currently has a favorable variance due to vacancies, into the non-personnel appropriation. There will be no impact to the total adopted FY 19 budget.

### **General Counsel's Comments:**

The Office of the General Counsel has reviewed and approved this agenda as to form and legality.

### **Environmental Review:**

The proposed Board action, including without limitation, a resolution approving transfer of funds to fund additional expenses associated with information technology expenses, legal matters, and recruitment does not constitute an "approval" or a "project" under the definitions set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of the proposed Board action that requires the District or the Board's approval, including without limitation District proposed legislation or a request for funding, will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a "no project alternative" or adopting a Statement of Overriding Consideration, if required. The current Board action in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

In addition, the proposed Board action complies with sections 21, 35, 81, and 86 of the Port Act,

which allow for the Board to pass resolutions, to do all acts necessary and convenient for the exercise of its powers, the use of funds for expenses of conducting the District, and the transfer of funds from one appropriated item to another in the budget allowance. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

Finally, the proposed Board action does not allow for “development,” as defined in Section 30106 of the California Coastal Act, or “new development,” pursuant to Section 1.a. of the District’s Coastal Development Permit (CDP) Regulations because it will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, the District’s projects require processing under the District’s CDP Regulations. If a project is formulated as a result of the proposed Board action, the Board will consider approval of the project and any improvements associated after the appropriate documentation under District’s CDP Regulations has been completed and authorized by the Board, if necessary. The proposed Board action in no way limits the exercise of the District’s discretion under the District’s CDP Regulations.

**Equal Opportunity Program:**

Not applicable.

**PREPARED BY:**

Robert DeAngelis  
Chief Financial Officer/Treasurer