

**City of Burbank**  
**City Attorney's Impartial Analysis on Measure T**  
**Adding Section 610A to the City of Burbank Charter**

**Measure T:**

**City Attorney's Impartial Analysis:**

If a majority of Burbank voters approve this measure, new Charter Section 610A ("§610A") will continue the existing practice of including a fee in retail electric rates to fund the transfer of no more than 7% of Burbank Water and Power's (BWP) gross annual sales of electricity to the City's General Fund in order to pay for essential City services.

In 1958, Burbank voters amended the Charter to allow this transfer (§610). For decades, retail electric rate payers funded these transfers through a fee in rates with a percentage embedded in rates, a percentage as a line item to the rates or a combination.

In 2016, Charter §610 was challenged in court. The court determined the fee is a tax, subject to Burbank voter approval; and ordered the City to stop collecting the fee. City has appealed, which suspends the court's order. Since the ruling, BWP continues to collect the fee and make transfers to the General Fund. Council is placing transferred amounts into a holding account, pending final resolution.

Although voters approved a Charter amendment to §610 in 2007, the court found voter-approval requirements for a tax were not met because §610 did not explicitly authorize funding the transfers from retail electric rate payers.

City Council placed this Measure on the ballot to add Charter §610A -Utility Department Transfers- to resolve the court's ruling. §610A explicitly approves the existing practice of including a fee in retail electric rates to fund the transfers to the General Fund as follows:

- City Council is authorized to set retail electric rates annually that include the cost of transfers.
- Burbank Water and Power is authorized to include the cost of transfers within retail electric rates or as a separate line item fee.
- Amount of the fee will not exceed 7%.
- City Council may transfer up to 7% of BWP's gross sales of electricity from retail electric rate payers to the City's General Fund.
- Applies retroactively to the 2016/2017 fiscal year.
- Authority to impose the fee will remain in effect until changed by the voters.

The estimated, annual revenue generated from the fee and transferred to the General Fund is approximately \$12.5 million. Transferred amounts pay for fire, police, street repairs, street lighting, libraries, park/recreation programs/facilities.

A "no" vote means §610A is not approved and will not go into effect. Without passage of §610A and if City loses the court appeal, the fee to fund the transfers must stop, resulting in no money to fund future transfers to the General Fund. A "no" vote will likely result in a \$12.5 million reduction in the General Fund, reflecting the annual revenue loss.

A "yes" vote adds §610A to the Charter continuing the long-standing funding mechanism for the approximately \$12.5 million annual transfer to the General Fund. Passage of this Measure will not increase retail rate payers' bills because current rates already include the cost of the transfers. A "yes" vote results in continued funding of the General Fund transfers, paying for essential City services.

Amy Albano  
Burbank City Attorney

**The above statement is an impartial analysis of Measure T. If you desire a copy of the measure, please call the Burbank City Clerk's Office at (818) 238-5851 and a copy will be mailed to you at no cost. You may also access the full text of the measure and other election material from the internet on the City's home page at [www.burbankca.gov](http://www.burbankca.gov)**