



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 22, 2016

TO: President Steven G. Nawrocki and Members of City Council

CC: Sam Azad, City Manager

VIA: Gina Dutcher, City Clerk

FROM: Daniel C. Kogovsek, City Attorney, Law Department

SUBJECT: A RESOLUTION SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, A BALLOT QUESTION TO AMEND TITLE XIV OF THE PUEBLO MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 14 AND THE ADOPTION OF ORDINANCE NO. 9014 WHICH PROVIDES THAT THE SURPLUS OR RETAINED EARNINGS OF ALL HOSPITALS LOCATED WITHIN THE CITY OF PUEBLO IN EXCESS OF \$25,000,000 AT THE END OF ANY FISCAL YEAR SHALL BE FORFEITED AND SUBJECT TO IMMEDIATE TRANSFER TO THE CITY OF PUEBLO FOR THE PURPOSE OF EDUCATIONAL AND HEALTH CARE PROGRAMS WITHIN THE CITY OF PUEBLO

SUMMARY:

This Resolution refers initiated Ordinance No. 9014, referred to as "*Limitation on Hospital Surplus,*" to the voters of the City of Pueblo at the November 8, 2016 Special Municipal Election.

PREVIOUS COUNCIL ACTION: None.

BACKGROUND

Petition Representatives Dr. Malik M. Hasan and Mr. Ronald P. Hudzinski have circulated and submitted a Petition signed by registered electors equal in number to five (5) percent of the total votes cast in the last General Municipal Election Per Section 18-1 and 18-2 of the City Charter.

The City Clerk issued a Certification on August 8, 2016 validating the Initiated Petition for Ordinance No. 9014 determining that the number of signatures on said Petition to be Sufficient under the City Charter. to qualify this ballot question as an Initiative to be submitted to the voters of the City of Pueblo.

FINANCIAL IMPLICATIONS:

Not Applicable

BOARD/COMMISSION RECOMMENDATION:

Not Applicable

STAKEHOLDER PROCESS:

Petition Representatives have submitted the Proposed Ordinance to the City Council as an Initiative under the City Charter.

ALTERNATIVES:

The City Clerk issued a Certification on August 8, 2016 which validated the Initiated Petition for Ordinance 9014 by finding the number of signatures on said petition to be sufficient under the City Charter. Pursuant to the City Charter, Council is required to either adopt Ordinance 9014 within 30 days without alterations, or submit the citizen's Initiated Ordinance to a vote of the people at the November 8, 2016 Special Municipal Election.

RECOMMENDATION:

Approval of the Resolution

Attachments: Proposed Ordinance No. 9014

RESOLUTION NO. _____

A RESOLUTION SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, A BALLOT QUESTION TO AMEND TITLE XIV OF THE PUEBLO MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 14 AND THE ADOPTION OF ORDINANCE NO. 9014 WHICH PROVIDES THAT THE SURPLUS OR RETAINED EARNINGS OF ALL HOSPITALS LOCATED WITHIN THE CITY OF PUEBLO IN EXCESS OF \$25,000,000 AT THE END OF ANY FISCAL YEAR SHALL BE FORFEITED AND SUBJECT TO IMMEDIATE TRANSFER TO THE CITY OF PUEBLO FOR THE PURPOSE OF EDUCATIONAL AND HEALTH CARE PROGRAMS WITHIN THE CITY OF PUEBLO

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The question of adopting Ordinance No. 9014, thereby amending Title XIV of the Pueblo Municipal Code by the addition of a new Chapter 14 shall be submitted to a vote of the eligible electors of the City at the City's Special Municipal Election to be held on November 8, 2016. The ballot question (submission clause and title) therefore shall be as follows:

Question No. 301 (*Limitation on Hospital Surplus*)

SHALL TITLE XIV OF THE PUEBLO MUNICIPAL CODE BE AMENDED BY THE ADDITION OF A NEW CHAPTER 14 AND THE ADOPTION OF ORDINANCE NO. 9014 WHICH PROVIDES THAT THE SURPLUS OR RETAINED EARNINGS OF ALL HOSPITALS LOCATED WITHIN THE CITY OF PUEBLO IN EXCESS OF \$25,000,000 AT THE END OF ANY FISCAL YEAR SHALL BE FORFEITED AND SUBJECT TO IMMEDIATE TRANSFER TO THE CITY OF PUEBLO FOR THE PURPOSE OF EDUCATIONAL AND HEALTH CARE PROGRAMS WITHIN THE CITY OF PUEBLO?

YES _____
NO _____

The text of Ordinance No. 9014 is as follows:

ORDINANCE NO. 9014

AN ORDINANCE AMENDING TITLE XIV OF THE PUEBLO MUNICIPAL CODE
BY THE ADDITION OF A NEW CHAPTER 14

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF PUEBLO, that (brackets indicate matter being deleted; underscoring indicates new matter being added):

SECTION 1.

The Pueblo Municipal Code is hereby amended by the addition of a new Chapter 14 of Title XIV to read as follows:

CHAPTER 14 **LIMITATION ON HOSPITAL SURPLUS**

Section 14-14-1. Findings and Purpose.

The electors of the City of Pueblo find that the health care cost in the City of Pueblo are higher than in the City and County of Denver. The health insurance cost for the consumer and employers are 30% to 48% higher when the cost of a 41 year-old person is compared. This is despite the difference in cost-of-living which is 11% higher in Denver than in Pueblo. The electors of the City of Pueblo find that the main cause for this difference is the hospital health care costs which are directly related to poor patient care especially in the area of patient safety. Another cause of increased costs is acquisition of private physicians' practices with the addition of unnecessary facility fees. The electors of the City of Pueblo find that the inflated health care costs have discouraged the influx of new businesses to the City, resulting in severe adverse economic impact.

Section 14-14-2. Limitation Upon Hospital Surplus

Every hospital as defined in P.M.C. 11-12-2-(3) that is physically located within the City of Pueblo is hereby subject to limitation upon the amount of surplus or retained earnings at the end of any fiscal year of \$25,000,000.00, the surplus shall be forfeited and subject to immediate transfer to the City of Pueblo. Such surplus so forfeited to the City of Pueblo shall be deposited by the City into a special fund for the purpose of being used for educational and healthcare program within the City of Pueblo. Any hospital which is a component of a larger health system shall be allowed to repay any outstanding loans from the parent hospital system properly due and owing at the time of the enactment of this Chapter; however such hospital is otherwise prohibited from transferring any surplus to the parent health system prior to paying the forfeit required by this Chapter.

Section 14-14-3. Offset

Every hospital subject to the limitation on retained surplus outlined in Sec. 14-14-2 are hereby compelled to utilize retained surplus to enact managerial and personnel measures to bring quality of patient safety as defined in P.M.C. 11-12-2(6) and efficiency of care to a high level whereby the result of medical treatment is consistent with the expected results in light of the patient's expected condition.

Section 14-14-4. Violation

In the event that any not-for-profit hospital fails to transfer its retained surplus in conformity with Subsection 1 of this Chapter:

- a) Any exemption from property tax or levy against real estate owned by such not-for-profit hospital shall be revoked by the City of Pueblo in conformity with Sec. 14-7-1 of the Pueblo Municipal Code. City Council shall upon notice of failure of a not-for-profit hospital to forfeit the surplus described in Section 1 shall take steps to remove the property tax exemption pursuant to C.R. S. 39-3-111.5(1)(d).
- b) Any exemptions to sales and use taxes provided to such not-for-profit hospital shall be revoked by the City of Pueblo forthwith upon notice of the not-for-profit hospital's failure to forfeit the surplus
- c) Any such not-for-profit hospital shall be required to refund in full the amounts collected which are higher than allowed under Sec. 14-14-2. The refund shall be refunded to the patient or any other entity which was overcharged.

SECTION 2:

This Ordinance shall become effective upon a majority vote in favor thereof by the registered electors of the City voting thereon at the Special Municipal Election to be held on Tuesday, November 8, 2016.

SECTION 3.

The City Council does hereby find, determine, and declare that the ballot title set forth in Section 1 hereof fairly expresses the true meaning and intent of the proposed Ordinance.

SECTION 4.

The City Clerk shall (a) at least ten (10) days prior to the November 8, 2016 Special Municipal Election publish a Notice of Election upon the proposed Ordinance, which notice shall contain the full text of the proposed Ordinance, and (b) certify the Ballot Title to the Pueblo County Clerk and Recorder by no later than sixty days before the November 8, 2016 election as provided in Section 1-5-203(3), C.R.S. To minimize publication expenses, the notice required to be published by this section may be combined with any other notice published concerning such Special Municipal Election.

SECTION 5.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate the policies and procedures described herein.

SECTION 6.

This Resolution shall become effective upon final passage and approval.

INTRODUCED: August 22, 2016

BY: _____
COUNCILPERSON

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK