



CHARTER COMMITTEE AGENDA REPORT

MEETING DATE: MARCH 12, 2014

ITEM NUMBER: 8-A

SUBJECT: PROPOSED PENSION LANGUAGE

DATE: MARCH 12, 2014

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INTRODUCTION

The following is a discussion of additional proposals governing pension increases for consideration into the proposed charter.

PROPOSAL 1-EXISTING EMPLOYEES

Proposal 1 is redlined into the language the Charter Committee has already approved as follows:

On or after the effective date of this Charter, ~~except for any increase previously authorized in a valid and binding memorandum of understanding or contract, no employee or officer of the City shall not receive an increase~~ any pension in employee retirement or other defined benefits, other post-employment benefits, employer contributions for post-retirement benefits including post-retirement health benefits to be paid for by the City or for which the City is liable for unless such increase is without approval by a 2/3rds majority of the voters at a general election. A defined retirement benefit includes any pension, deferred compensation, health insurance, or other post employment compensation or benefit, including a defined retirement benefit that was previously reduced.

As indicated in the title, the proposed language aims to prevent any increase in any retirement benefits to current employees. Although the redlined version suggests vast changes between what the Charter Committee has already agreed upon and what is being proposed, the true difference is that this proposal requires a 2/3rds majority, instead of majority, voter approval for any increase in retirement benefits. Since the Charter Committee already approved the majority voter requirement for any pension increase, the Charter Committee must decide whether it wishes to change the

percentage of votes required for approval.

The second substantive difference between the current provision approved by the Charter Committee and the proposal is the “definition” or application. The current provision requires voter approval for “employee retirement benefits, other post employment benefits, including post-retirement health benefits to be paid for by the City or for which the City is liable...” The proposal instead provides a definition of retirement benefit as “any pension, deferred compensation, health insurance, or other post employment compensation or benefit, including a defined retirement benefit that was previously reduced.” In our opinion, there is no substantive difference between these two provisions.

PROPOSAL 2-NEW EMPLOYEES

On or after the effective date of this Charter the City shall not offer or grant to a new employee or officer of the City or to an existing employee making a permanent transfer to another category of City employment, any pension or other defined retirement benefit greater than the pension or other defined retirement benefit given to the most recently hired employee participating in the same category of City employment and pension or other defined retirement plan, unless such increase is approved by a 2/3rds majority of the voters at a general election.

As with Proposal 1, Proposal 2 seeks to ensure that a 2/3rds majority voter approval applies to new employees also. Thus, as with Proposal 1, the Charter Committee must decide whether it should reconsider the percentage of votes required for pension increases. Additionally, Proposal 2 explicitly states that the voter approval requirement apply to new employees, even if it is only one new employee. However, if the draft charter is approved, we believe it would apply to all employees both existing and those hired after the effective date, as either would constitute an “increase” in retirement benefits. Thus, there is no substantive difference with this additional proposal, other than the percentage requirement for passage.

PROPOSAL 3-RETROACTIVE APPLICATION

Any increase in an employee or officer pension or other defined retirement benefit shall not be applied “retroactively” back to an employee’s date of hire or any other prior date, unless approved as a separate ballot issue by a 2/3rd's majority of the voters at a general election.

As indicated above, the existing language would apply to any pension increases on or after the effective date of the charter, if approved – any retroactivity prior to the start date of a new MOU would be a pension “increase.” Thus, the proposed provision would reiterate what is already provided in the language already approved by the Committee.

PROPOSAL 4-EXEMPTION

Any increase in pension benefits or other defined retirement benefits or a “retroactive” application of an increased benefit, authorized prior to the effective date of this Charter in a valid and binding Memorandum of Understanding (“MOU”) or contract or mandated by law, is exempt from this provision.

Currently, the language approved by the Charter Committee exempts from voter approval any “previously authorized [increase] in a valid and binding memorandum of understanding.” This was intended to avoid any complications given the City’s current negotiations with employee associations. Thus, Proposal 4 is virtually identical in nature to the language currently approved by the Charter Committee.

CONCLUSION

With the exception of the 2/3rds majority vote requirement, the proposals set forth above are consistent with the language previously approved by the Charter Committee.

PROPOSAL 5-FINANCIAL REPORT

Proposal 5 requires a financial analysis prior to any retirement benefit increase being presented to voters for approval. Proposal 5 states,

Prior to authorizing a vote by citizens to consider a proposed increase in defined retirement benefits or a "retroactive" application of a proposed increase in defined benefits, the City Council shall have an impartial comprehensive financial analysis prepared that fully describes the financial impacts on the City. The financial impacts shall include the annual pension contributions, annual cost, liability, unfunded liability, actuarial estimates of the preceding categories using an earnings / discount rate 10% lower and separately 10% higher than the rate used by the California Public Employees Retirement System or "CalPERS" at the time the actuarial estimates are calculated, and any other risk to the City of such a proposed increase in benefits or "retroactive" application of a proposed increase in benefits ("Financial Impact Report"). The Financial Impact Report shall be prepared by an independent licensed and certified Actuary or Certified Public Accountant having continuous experience in the actuarial and accounting fields during the previous five (5) years. At least 14 days prior to the City Council authorizing a vote at a general election the Financial Impact Report shall be fully published on the City's website with the ability to be electronically copied by the public and available to the public at the Office of the City Clerk for inspection. The financial impact on the City shall be impartially described in the voting materials as allowed by law.

A procedure similar to this is already required by the Civic Openness In Negotiations ("COIN") provision that the Charter Committee approved for inclusion into the proposed charter. In addition, whenever a ballot measure is proposed to revise a charter, the fiscal impacts of that proposed change must be identified in the Impartial Analysis. Such an analysis may not be as rigorous as that suggested in the above language, so the Committee needs to determine whether they want a more detailed and comprehensive financial analysis as suggested.