

# Agenda Report

TO: CITY COUNCIL

FROM: CITY MANAGER

SUBJECT: CONSIDERATION OF A POSSIBLE BALLOT MEASURE REGARDING  
COMPULSORY AND BINDING ARBITRATION IN  
EMPLOYER/EMPLOYEE LABOR RELATIONS

## RECOMMENDATION

It is recommended that the City Council consider a possible ballot measure regarding compulsory and binding arbitration in employer/employee labor relations.

## BACKGROUND

During May 1999 the Public Safety Committee and the City Council considered and subsequently adopted a resolution opposing Senate Bill 402. In addition, staff was directed to develop a binding arbitration policy that would cover all city employees. While staff has been researching compulsory and binding arbitration experiences in other California cities, Senate Bill 402 has been making its way through the State legislature. On Friday, August 25, 2000 the State Senate passed Senate Bill 402, which mandates, with one exception discussed below, compulsory and binding arbitration for public safety employee groups (police and fire) in all California cities.

Senate Bill 402 is now awaiting the Governor's signature. The Governor's staff has sent clear signals that the Governor will sign Senate Bill 402 as currently written.

In reaction to this, the League of California Cities is threatening to sue the State challenging the constitutionality of Senate Bill 402 because it removes control of over 60% of a typical city's budget from local elected officials, and puts it in the hands of an unelected arbitrator.

The main purpose of Senate Bill 402 is to mandate a system of compulsory and binding arbitration to resolve "impasse" at the collective bargaining table for police and fire unions. It applies to public safety unions only because members of those unions do not have the right to strike.

Under certain circumstances binding arbitration is a useful tool in the negotiation process. It allows the parties' issues to be resolved and requires both parties to accept the outcome. To be a useful tool both parties need equal status in the process

Both parties do not have to agree to arbitration under Senate Bill 402. The public safety unions alone can force a city into arbitration. The arbitrator is given authority in disputes over basic decisions, for which a council was elected, and can render a legally binding opinion/decision about the amount of city funds to be paid for a particular benefit. In this case, compulsory and binding arbitration forces elected officials to give up their authority to make decisions over salaries, retirement and other benefits to an arbitrator who knows little, if anything, about the financial condition of a city or the priorities set by a city council.

One alternative provided for in the legislation is for charter cities to put in place an alternative compulsory and binding arbitration policy through a charter amendment. This process would involve holding a special election before the end of this year. The legislation states that a city's charter must be amended by January 1, 2001. If the City Council were to hold a special election, the necessary policy would have to be formulated, the charter amendment written and the required election resolutions would have to be adopted by City Council no later than September 18, 2000, to hold a special election on December 19, 2000.

Council has indicated an interest in adopting binding arbitration for all labor groups. Staff believes that Pasadena could craft a more balanced approach to binding arbitration than that contained in Senate Bill 402.

There are several components the City could pursue which staff believes would be an improvement over Senate Bill 402. Those are:

1. Binding arbitration could be initiated when both parties agree that there is no further ability to negotiate. In the case of Senate Bill 402, only the labor groups can require binding arbitration.
2. The City and the employee organization could share the cost of binding arbitration. Senate Bill 402 imposes these costs on the employee organization.

3. Another component could be to make sure that all mediation efforts were exhausted prior to initiating binding arbitration.
4. Composition of the arbitration panel as well as the process for selecting an arbitration panel could be mutually agreed upon by both labor and management rather than dictated by Senate Bill 402.
5. Arbitration could be available on an issue-by-issue basis.
6. The process could include mutually agreed upon triggers for calling in mediators, declaring impasses and initiating the binding arbitration process.

Staff has researched whether other cities in California are planning charter amendments in reaction to Senate Bill 402 and found none. There are other cities that have enacted compulsory and binding arbitration for public safety labor relations. Policies from the cities of Anaheim, Alameda, Oakland, Sacramento and San Jose share some common traits. They apply to public safety unions only, the city or the employee organization can initiate binding arbitration, the arbitration panel decides the disputes on an issue by issue basis based on the parties' last offers of settlement and the costs of arbitration are shared equally by the parties.

While a better process could be developed and offered to the voters within the constraints of the Senate Bill 402 time limits, staff believes Senate Bill 402 faces many obstacles that may delay its implementation. In addition to the League of Cities litigation, it has also been suggested that individual charter cities could initiate separate legal challenges of the basis that the legislature cannot circumvent a voter approved city charter. Staff believes that some cities will choose this path.

Because of the potential roadblocks legal actions may place in the path of Senate Bill 402, staff believes that it is not prudent to rush into a special election now. Depending on the results of the legal actions, Pasadena may have the opportunity to craft our own local policy with the assistance of all the labor groups, with a reasonable schedule that allows for collaboration and meaningful deliberation by the City Council.


FISCAL IMPACT

Should the City Council decide to hold a special election, the City Clerk has estimated a total cost of approximately \$200,000. The City Clerk's Office is also researching the possibility of an election by mail that may further defray the cost of holding such a special election.

Respectfully submitted,

  
FOR CYNTHIA J. KURTZ  
City Manager

Prepared and Approved by:

  
ROBERT K. PERSON  
Assistant to the City Manager