

Agenda Report

June 2, 2003

TO: City Council

THROUGH: Legislative Policy Committee

FROM: City Manager

RE: Opposition to AB 507 (Hancock), Public Employment,
Regarding a Requirement to Provide Released Probationary
Employees with Written Notice of Reasons

RECOMMENDATION

It is recommended that the City Council take a position in opposition to AB 507 (Hancock), which, as introduced, would impose a mandatory duty on public employers to provide a written notice of reasons to probationary employees who are released from probation, and authorize the Mayor to send letters to the appropriate authorities conveying the City's position.

BILL SUMMARY

Under current employment laws, there is no provision requiring a public agency to provide notice of reasons for release to probationary employees who are released from employment during their probationary period. This law would amend Labor Code Section 1915 to require public agencies to provide written notice of the reasons for release of the employee during the probationary period.

BACKGROUND

The probationary period provides an employer the opportunity to evaluate an employee's performance, competence, and fitness for duties for which the employee has been tentatively appointed. Currently, an employee on probation may fail probation and be released from employment at any time and without right of appeal at the discretion of the appointing authority, except in instances where discrimination has been alleged. In such cases, the employee may utilize

the Discrimination Complaint Procedure provided by the City of Pasadena, the federal Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH).

Employees separated during the probationary period are not typically advised of the reasons for release from probation so that a perception of the release being a "just cause termination" are not created or relied upon as a basis for claiming a right to appeal or litigating the release from employment.

Given significant increases in employment related litigation in recent years, coupled with the City's interest in maintaining the integrity of its probationary period as a means of evaluating employees prior to granting regular status, as well as its interest in avoiding litigation over denial of appeal rights when "just cause" reasons are provided, SB 507 is an unnecessary intrusion on local governments in managing important employment matters.

AB 507 was introduced to the State Assembly on February 18, 2003. It was heard in and passed by the Assembly Public Employees, Retirement and Social Security Committee on April 2, 2003 (6 yes; 3 no), and the Assembly Committee on Appropriations on April 9, 2003, where it is being held pending further analysis. It is not known when this Bill may progress to the Assembly floor.

FISCAL IMPACT

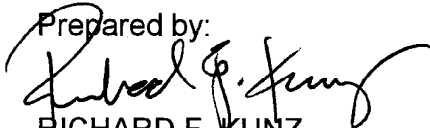
The fiscal impact cannot be determined at this time, but it is anticipated that providing the reasons for probationary releases from employment could result in increased litigation.

Respectfully Submitted,



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City Manager

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Approved by:



KARYN S. EZELL
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