

Agenda Report

TO: CITY COUNCIL DATE: JULY 24, 2000

FROM: FIRE AND POLICE RETIREMENT BOARD

SUBJECT: PROPOSED CHARTER AMENDMENTS TO THE
FIRE AND POLICE RETIREMENT SYSTEM (ARTICLE XV)
FOR THE NOVEMBER 2000 BALLOT

RECOMMENDATION:

It is recommended that the City Council direct the City Attorney to draft appropriate resolutions and arguments to call for an election in November 2000, to amend provisions in the Fire and Police Retirement System section of the City Charter related to membership of the Fire and Police Retirement Board, compulsory service retirement based on age, and employment restrictions on retired persons.

BACKGROUND:

Pursuant to the City Charter, the Fire and Police Retirement Board manages the City's private retirement system for the benefit of employees of the police and fire departments. The City's private retirement system was closed to new members in July, 1977. At that point, new safety employees became members of the State of California Public Employees Retirement System.

Fire and Police Retirement Board

In August and September 1999, the Fire and Police Retirement Board discussed possible revisions to particular sections of Article XV of the City Charter related to the Fire and Police Retirement System. Specifically, the Board considered restrictions on employment of retired persons, noting that the Charter language was archaic and should be repealed. The Board also felt its configuration should be modified to permit any active or retired member of the retirement system an opportunity to be elected to that body. Another Board concern was the Charter provision mandating service retirement at age 60. The Board felt this provision should be eliminated to bring the City's system into alignment with the State of California Public Employees Retirement System and thus eliminate the potential of a future age discrimination case.

Current Charter Provisions

A. Board configuration:

The portion of Section 1502, which would be amended, relates to the active duty members of the Board. Currently the five (5) member Board consists of a member of the City Council; two qualified electors appointed by the City Council and not connected with the government; and two active duty members, one from the Fire Department and the other from the Police Department.

At the present time, there are 35 active members remaining in the City's private retirement system, 19 in the Fire Department and 16 in the Police Department. With the active member base approaching retirement age (50 years old), very few have indicated an interest in the required four-year term of a Board member. The Board believes that at some time in the future there will be no active duty employees from which to elect Board members. On the other hand, there are approximately 360 retirees/beneficiaries whose interests are also directly impacted by Board decisions. To prevent the circumstance where there are no active Fire or Police Department members to serve on the Board, the Board proposes that the City Charter be amended to permit election of either an active or retired member of the retirement system to serve on the Board.

B. Restrictions on employment of retired persons:

Section 1506 provides that no service or disability retiree may be appointed to any position for the City (including commissions), or receive any payment for service. The only exception is if the retiree is elected to an office.

The State of California Public Employees Retirement System, Government Code Section 21221, allows a retired person to serve without being reinstated from retirement to temporary positions requiring specialized skills or during an emergency for up to 960 hours per calendar year, among other options (including serving on commissions).

The Board proposes that the City Charter be amended to more closely follow the restrictions in the California Public Employees Retirement System. That is, retirees should be permitted to work for the City on a temporary basis, for no more than 960 hours per calendar year, performing duties with which they are already familiar. The retired employees would not be used to supplant existing positions, but rather to augment particular units temporarily in need of additional trained personnel.

C. Compulsory service retirement age:

Section 1509.13 of the City Charter mandates service retirement at the age of 60 for fire and police personnel within the City's private retirement system. At the option of the City Manager, the Chief of Police and the Chief of the Fire Department may be exempted from this requirement, up to the age of 65.

California Government Code Section 12942 states the following in part:

Every employer in this state shall permit any employee who indicates in writing a desire in a reasonable time and can demonstrate the ability to so do, to continue his or her employment beyond any retirement date contained in any private pension or retirement plan.

This employment shall continue so long as the employee demonstrates his or her ability to perform the functions of the job adequately and the employer is satisfied with the quality of work performed.

Any employee indicating this desire and continuing the employment shall give the employer written notice in reasonable time, of intent to retire or terminate when the retirement or termination occurs after the employee's retirement date.

Staff to the Board consulted with Buck Consultants, Actuary to the Fire and Police Retirement System, regarding the cost of repealing the mandatory service retirement age in the Charter. In a limited review of the issue, Buck Consultants expressed the opinion that the cost to the system would be de minimis. Currently, there is a 75% limit on benefits delineated in Section 1509.15 of the City Charter (“ . . . in no event shall the initial service retirement allowance exceed seventy-five percent (75%) of the member's final compensation.”). Approximately four (4) members have the probability of reaching the 75% limit which would be attained over the age of 60.


In light of the information outlined above, the Board proposes that the mandatory service retirement age in the City Charter be repealed.

FISCAL IMPACT

The cost to the retirement fund for the Charter amendments to be placed on the County ballot would be \$8,000 per measure, or a total of \$24,000 for the three proposed amendments. This cost is in addition to the school reform measures that may be placed on the ballot. If the City Council wants the Charter amendment text included in the supplemental Voter Information pamphlet, there would be an additional cost of \$2,400 per measure, or \$7,200 for the three. The maximum fiscal impact would be \$31,000 for three measures plus the text printed in the supplemental Voter Information pamphlet.

Implementation of the three proposed amendments to the Charter should have limited fiscal impact on the retirement fund, based on information from the Board's Actuary.

Respectfully submitted,



John Tennant, Chair
Fire and Police Retirement Board

Prepared by:



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