



City of Phoenix

To: Mayor Greg Stanton

Date: October 16, 2013

Members of the City Council

From:

Vice Mayor Bill Gates *Bill Gates*

Subject: CITY COUNCIL PENSION FAIRNESS AND SPIKING ELIMINATION AD HOC SUBCOMMITTEE PROCESS AND RECOMMENDATIONS

On September 9, 2013, Mayor Greg Stanton created the Pension Fairness and Spiking Elimination Ad Hoc City Council Subcommittee. As the Subcommittee Chair, I have worked closely with my colleagues, Council members Thelda Williams, Tom Simplot, and Daniel Valenzuela on the charge of the Subcommittee. On October 4, 2013, I issued an update on the progress of the Subcommittee at that time. This memo includes additional information on the Subcommittee meeting held October 8, 2013, and also includes the Ad Hoc Subcommittee recommendations to the City Council.

The Subcommittee held public meetings on September 17, September 23, October 1, and October 8, 2013. Three of these meetings were preceded by Executive Sessions, so that the Subcommittee could receive legal advice regarding pension issues. The Subcommittee received and considered the following information: a review of pension reform efforts to date including implementation of the Sick Leave Snapshot on July 1, 2012; overall results of the 2012 Total Compensation Study; membership, eligibility criteria, benefit formulas, and average annual benefit amounts for the City of Phoenix Employees' Retirement System, the Arizona Public Safety Personnel Retirement System, and the Elected Officials Retirement Program; vacation and sick leave accrual and payout practices; the impact of sick and vacation leave on pension; and general information on other cities' retirement formulas and benefits.

In addition, the Subcommittee requested and received information on the City's labor negotiation process; additional information on leave policies including a review of the impact of sick leave taken on City operating costs, readily available information from comparable cities regarding sick and vacation leave accrual and payout formulas and final average compensation formulas; charts and graphs with information on accumulated sick leave at retirement as well as vacation and sick leave payouts for retirees from 2011-2013; short term disability program components and comparisons to national and local comparable cities; "compensation" as defined in the Phoenix City Charter and Arizona Revised Statutes; and a detailed review of compensation components used to calculate pension including information on payment authority documents for general City employees, general City middle managers and executives, public safety employees and public safety middle managers and executives.

Public comment was heard at each of the Subcommittee meetings. In addition, each meeting was posted as a special meeting of the City Council for the purpose of allowing City Council members who do not serve on the Subcommittee the opportunity to be present and comment during the call to the public. A total of 84 comments were made over the course of the four meetings. In addition, a total of 70 cards were submitted by individuals who did not wish to speak, but who indicated they were opposed, and 1 card was submitted by an individual who did not wish to speak, but who indicated he was in support.

On October 1, 2013, Subcommittee members expressed the need for additional time to formulate a recommendation for consideration by the City Council. The Ad Hoc Subcommittee directed staff to present analysis at a future meeting on legal issues and practical implications relating to including the following compensation components in the pension calculation:

- Allowances (car, phone)
- Sellbacks (vacation, sick leave)
- Deferred Compensation
- Retirement Contribution Reimbursement
- Enhanced Regular Compensation Periodic Payments (public safety only)

At that time, the Subcommittee also requested a further examination of implementing a Paid Time Off (PTO) system and costing for a potential short term disability program as it relates to changes in accrual of sick and vacation time. Subcommittee members also asked for definitions of “compensation” and “spiking,” and asked staff to explore alternatives to longevity pay and performance pay in the City’s compensation package. Finally, the Subcommittee requested a timeline for any changes made to compensation or pension calculations, and how the timeline might be different for at will employees and employees currently under a contract.

On October 8, 2013, the Subcommittee met to review information requested on October 1, and formulate recommendations to the full City Council for consideration at the October 22, 2013 City Council Policy Session. At that meeting, the Subcommittee received information on PTO systems in the public, private and non-profit sectors, and additional information on costs and considerations associated with implementation of a short term disability program. The Ad Hoc Subcommittee reviewed definitions of “compensation” and “spiking” from several sources.

On October 8, 2013, the Subcommittee made the following recommendations to the City Council:

The Subcommittee recommended to the City Council that the following items be included in the definition of compensation for the purpose of pension calculation for employees in the City of Phoenix Employees’ Retirement System (COPERS):

- Base salary and wages
- Premium pay, including, but not limited to shift differentials, and linguistic pay, military differential pay, and holiday pay
- Overtime pay
- Compensatory time
- Longevity and performance pay

The Subcommittee recommended to the City Council that the following items **not** be included in the definition of compensation for the purpose of pension calculation for COPERS employees:

- Payments toward expenses incurred in the performance of employment obligations, whether paid as reimbursements or as set allowances, and including but not limited to communications allowances and transportation allowances
- Lump-sum payouts on unused accrued sick leave upon retirement (except unused leave accrued pursuant to the sick leave “snapshot” effective July 1, 2012)
- Lump-sum payouts on unused accrued vacation leave upon separation (except unused leave accrued pursuant to new vacation policies yet to be developed)
- Reimbursements to employees for retirement contributions

The items included and excluded above are intended also to apply to public safety employees, unless state law addresses them differently. The Public Safety Enhanced Regular Compensation payments made upon reaching certain sick and vacation milestones, and the enhanced pay instead of uniform allowance for Police personnel after 17 years, also are recommended not to be considered as compensation for the purposes of calculating pension.

The intent of the Subcommittee is that changes to any of the above items that are considered part of labor agreements would become effective upon the expiration of those agreements on July 1, 2014. For Executives and Middle Managers, the Subcommittee recommended that changes become effective January 1, 2014, if practicable and legal.

The Subcommittee requested staff work with the City’s actuarial consultant to model the impact of these changes to the pension systems.

Additionally, the Subcommittee recommended the City Council:

- Direct staff to pursue the possible implementation of a combined paid time off system and short-term disability program to replace the current leave system;
- Direct staff to negotiate with bargaining groups about the replacement of the longevity payment system with an alternate form of compensation; and
- Have City staff further explore potential changes to deferred compensation for future employees.

The motions were unanimous with the exception of deferred compensation and the treatment of existing leave balances. I was the sole dissenting vote on those items.

The City Council is scheduled to discuss these recommendations on October 22, 2013.