CITY OF BEVERLY HILLS
STAFF REPORT

Meeting Date:	September 10, 2013
To:	Honorable Mayor and Members of the City Council
From:	City Attorney
Subject:	Proposed Local Ordinance Governing Labor Negotiations
Attachments:	1. California Government Code Section 7507

INTRODUCTION

At its study session of August 20th, the City Council discussed the Mayor's request to adopt local regulations governing the labor negotiation process. At that meeting, the City Council requested that the City Attorney's office return to the Council with a report outlining the proposed substance of an ordinance based on the discussion at the meeting of the 20th. The Council also asked that the report explain how the proposed ordinance would interact with State law provisions that also address the issues discussed at the meeting of the August 20th, including economic analyses of proposed labor agreements and transparency in negotiations. This report responds to the Council direction.

DISCUSSION

A. *State Law Provisions*

California Government Code Section 7507 currently addresses some of the issues discussed by the City Council at the study session of August 20th. Section 7507 (attached) imposes certain requirements on the City Council when the Council considers changes to retirement plan benefits or other post employment benefits. When considering such changes, Section 7507 requires the City Council to secure the services of an actuary to provide a statement of the actuarial impact of the proposed changes upon future annual costs, including normal cost and any additional accrued liability.

The analysis of the actuary must be made public at a City Council meeting at least two weeks prior to the adoption of the changes that have been

analyzed. Furthermore, if the future annual cost of the changes exceeds one-half of one percent of the future costs of existing benefits, then an actuary must be present to provide information as needed at the public meeting at which the adoption of a benefit change shall be considered. The State law also prohibits the City Council from placing on the consent calendar the adoption of any benefit governed by Section 7507.

B. Proposed Local Provisions

Based on the City Council discussion at the meeting of August 20th, the following proposed local provisions appeared to have support from a majority of the City Council:

(1) A decision to adopt or amend a memorandum of understanding (or other agreement) with a labor organization will require that the matter be placed on the agenda at two meetings of the City Council. The meetings shall be at least ten days apart.

(2) The proposed memorandum of understanding will be posted on the City's website at least seventy two hours before the first meeting at which the agreement will be considered by the City Council.

(3) Unless reported by the City Council as provided in paragraph (4) below, the following procedures will be followed for the adoption or amendment of a memorandum of understanding:

a. The principal negotiator for the City will not be an employee of the City and will have expertise in labor negotiations.

b. The City will hire a fiscal impacts consultant to prepare an independent fiscal analysis of any tentative agreement that will be considered for adoption at a City Council meeting. The fiscal analysis will be made public and posted on the City's website at least seventy two hours prior to the first meeting at which the agreement is considered by the City Council.

(4) If the City Council chooses not to follow any of the procedures set forth in paragraph (3), the City Council shall report this fact orally at each meeting at which the agreement is considered.

C. <u>Intersection of State and Local Provisions</u>

As noted above, State law already requires that the city follow certain procedures when considering retirement plan benefits and other post employment benefits. These are the type of benefits that have created the most controversy in recent years and the economic impact of these benefits is less easily understood than the economic impact of increases in salary or current benefits. For proposed changes to these types of benefits, the State law requires that a financial analysis be prepared and that the proposal be considered at two City Council meetings. As a practical matter, the analysis will also be prepared by someone outside the City organization because the analysis must be prepared by an actuary and the City does not have an actuary on staff nor is it likely to have an actuary on staff.

The proposed local provisions would be broader than the existing State law and would govern other amendments to memoranda of understanding, even if there is no change to retirement or other post-employment benefits.

The City Council may wish to consider whether to include in any local ordinance a provision that defers to the State law procedures when considering amendments to a memorandum of understanding that would change retirement plan or other post employment benefits. This would avoid potentially duplicative procedures when considering matters that would otherwise be governed by both the State law and local ordinance.

FISCAL IMPACT

To the extent that the City engages a fiscal impacts consultant to prepare a report in cases where the report is not otherwise required by State law, the proposed local provisions would create a small fiscal impact.

RECOMMENDATION

The City Attorney's Office recommends that the City Council provide further direction concerning whether the Council wishes to proceed with consideration of a local ordinance governing the labor negotiation process and, if so, whether to include the provisions discussed in this report or others.

Laurence S. Wiener

Approved By

Attachment 1

GOVERNMENT CODE - GOV

TITLE 1. GENERAL [100 - 7914] *(Title 1 enacted by Stats. 1943, Ch. 134.)*
DIVISION 7. MISCELLANEOUS [6000 - 7598] *(Division 7 enacted by Stats. 1943, Ch. 134.)*
CHAPTER 21. Public Pension and Retirement Plans [7500 - 7522.74] *(Heading of Chapter 21 renumbered from Chapter 19 (as added by Stats. 1974, Ch. 1478) by Stats. 1977, Ch. 579.)*

ARTICLE 1. General Provisions [7500 - 7514.5] *(Article 1 heading added by Stats. 2012, Ch. 296, Sec. 10.)*

7507. (a) For the purpose of this section:

(1) "Actuary" means an actuary who is an associate or fellow of the Society of Actuaries.

(2) "Future annual costs" includes, but is not limited to, annual dollar changes, or the total dollar changes involved when available, as well as normal cost and any change in accrued liability.

(b) (1) Except as provided in paragraph (2), the Legislature and local legislative bodies, including community college district governing boards, when considering changes in retirement benefits or other postemployment benefits, shall secure the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal cost and any additional accrued liability, before authorizing changes in public retirement plan benefits or other postemployment benefits.

(2) The requirements of this subdivision do not apply to:

(A) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(B) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(c) (1) (A) With regard to local legislative bodies, including community college district governing boards, the future costs of changes in retirement benefits or other postemployment benefits, as determined by the actuary, shall be made public at a public meeting at least two weeks prior to the adoption of any changes in public retirement plan benefits or other postemployment benefits. If the future costs of the changes exceed one-half of 1 percent of the future annual costs, as defined in paragraph (2) of subdivision (a), of the existing benefits for the legislative body, an actuary shall be present to provide information as needed at the public meeting at which the adoption of a benefit change shall be considered. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(B) The requirements of this paragraph do not apply to:

(i) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(ii) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(2) With regard to the Legislature, the future costs as determined by the actuary shall be made public at the policy and fiscal committee hearings to consider the adoption of any changes in public retirement plan benefits or other postemployment benefits. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(d) Upon the adoption of any benefit change to which this section applies, the person with the responsibilities of a chief executive officer in an entity providing the benefit, however that person is denominated, shall acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary. For the adoption of benefit changes by the state, this person shall be the Director of Human Resources.

(e) The requirements of this section do not apply to a school district or a county office of education, which shall instead comply with requirements regarding public notice of, and future cost determination for, benefit changes that have been enacted to regulate these entities. These requirements include, but are not limited to, those enacted by Chapter 1213 of the Statutes of 1991 and by Chapter 52 of the Statutes of 2004.

(Amended by Stats. 2012, Ch. 665, Sec. 41. Effective January 1, 2013.)