



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 1/18/2011

Report Type: Consent

Title: Procedures for Election to the Retirement Hearing Commission

Report ID: 2011-00033

Location: Citywide

Recommendation: Adopt a Resolution: 1) adopting new procedures for the election of employee members to the Sacramento City Retirement Hearing Commission; and 2) repealing Resolution 89-712.

Contact: Stephanie Mizuno, Assistant City Clerk, (916) 808-8093, Office of the City Clerk

Presenter: None

Department: City Clerk

Division: City Clerk

Dept ID: 04001011

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Resolution

City Attorney Review

Approved as to Form
Matthew Ruyak
1/13/2011 12:16:28 PM

City Treasurer Review

Prior Council Financial Policy Approval or
Outside City Treasurer Scope
Russell Fehr
12/27/2010 12:03:40 PM

Approvals/Acknowledgements

Department Director or Designee: Dawn Bullwinkel - 1/11/2011 7:06:08 PM

Assistant City Manager: Patti Bisharat - 1/12/2011 12:46:19 PM

Description/Analysis:

Issue: The current election procedure to fill miscellaneous member seats on the Retirement Hearing Commission is outdated and administratively arduous for both the candidate and elections official and should be modernized.

Policy Considerations: This action would replace outdated procedures with a modernized and streamlined process.

Environmental Considerations: Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

Sustainability Considerations: None.

Commission/Committee Action: None.

Rationale for Recommendation: The 20-year old elections procedure is outdated, administratively arduous, no longer represents best practices, and should be updated.

Financial Considerations: None

Emerging Small Business Development (ESBD): None.

Background:

The Retirement Hearing Commission (Commission) is a five member legislative body consisting of the City Manager (or designee), Finance Director (or designee), one city resident appointed by the City Council, and two active miscellaneous members of the Sacramento City Employees Retirement System (SCERS) who are elected by the membership. Under the City Charter, the Commission is responsible for hearing appeals by any person who has a direct financial interest and is adversely affected by a decision of the retirement system manager with respect to a person's claims for benefits or refund under the SCERS system.

Over the years the active membership of the SCERS system has steadily declined and is now at approximately 80 active members. Every year there are fewer members available and/or interested in serving on the Commission. The current procedure for filling miscellaneous seats on the Commission requires a member to officially declare interest with the City Clerk, gather at least 15 signatures of active members on an official nomination petition, and submit the petition to the Clerk. If more than one member qualifies, an election is held. If one member does not receive a majority of votes in the first election, a run-off election with the top-two vote receivers is held. If only one member is nominated, that member is automatically elected.

The process made sense when the membership was larger and interested individuals could gather signatures at their immediate work locations. With the number of active members decreasing every year, it is impracticable to get the required signatures without driving to various work locations throughout the City. Additionally, the process is administratively intensive, inefficient, and has not been updated in over 20 years.

To provide active SCERS members with an easier and more efficient manner of becoming a candidate for and/or being elected to the Retirement Hearing Commission, the following is being proposed: (1) eliminate the requirement to obtain sponsoring signatures of active members and replace that step with the submission of a member "statement of interest," with no support signatures needed; (2) add the option of submitting a 50 word qualification statement for inclusion in the ballot, to provide voters with information that describes the member's interest and reasons for wanting to serve on the Commission; (3) replace the requirement that one candidate receive a "majority" of votes to win election with a "plurality" of votes (most votes wins), and thereby hold only one election. The City Council and all active members will continue to receive notices of all vacant positions, election procedures, and activities. The recall and appeal procedures will not change.

On November 12, 2010, active members were notified of the proposed changes to the elections procedure and were asked to submit questions or concerns by December 10, 2010. The responses received supported the modernization of the elections procedure. No negative comments were collected.

RESOLUTION NO.

Adopted by the Sacramento City Council

Date Adopted

REPEAL RESOLUTION 89-712 AND ADOPT PROCEDURES FOR THE ELECTION OF EMPLOYEE MEMBERS TO THE SACRAMENTO CITY RETIREMENT HEARING COMMISSION

BACKGROUND

- A. The Sacramento City Charter provides that the two employee members of the Retirement Hearing Commission of the Sacramento City Employees Retirement System shall be selected under election procedures established by the City Council.
- B. The current election procedure, as provided in City Council Resolution 89-712, to fill the employee member seats on the Retirement Hearing Commission is outdated and administratively arduous for both the candidate and elections official and should be modernized.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- 1. The Procedures for the Election of Employee Members to the Sacramento City Retirement Hearing Commission, attached as Exhibit A and made a part of this Resolution, are adopted.
- 2. Resolution 89-712 is repealed.

Contents:

Exhibit A – Procedures for the Election of Employee Members to the Sacramento City Retirement Hearing Commission

EXHIBIT A

PROCEDURES FOR THE ELECTION OF EMPLOYEE MEMBERS TO THE SACRAMENTO CITY RETIREMENT HEARING COMMISSION

Pursuant to Article XVII of the Sacramento City Charter, the City Council adopts the following procedures (hereinafter "Procedures") for the election of the two employee members of the Retirement Hearing Commission of the Sacramento City Employees Retirement System (hereinafter the "Commission").

SECTION 1 - GENERAL PROVISIONS

a. City Clerk to Conduct Elections

The City Clerk of the City of Sacramento shall be responsible for conducting an election to determine employee members of the Commission. The City Clerk may designate, appoint, or assign any Assistant, Deputy, or employee to oversee or participate in the conducting of said Commission election procedures.

b. Liberal Construction of Procedures

These Procedures shall be liberally construed to promote their objectives, and no error, omission, or irregularity shall invalidate an election if there has been a substantial compliance with these Procedures. The City Council may amend these Procedures to provide for any procedure not specified herein.

c. Eligible Electors and Candidates

For purposes of these Procedures, "eligible electors" and "eligible candidates" are those active City employees who are members of the Sacramento City Employees Retirement System (SCERS). Members of the Public Employees Retirement System (PERS) are not eligible electors under these Procedures.

d. Appeals

The City Council shall hear any and all appeals taken by an active employee member challenging procedures followed by the City Clerk in the conduct of the election, or challenging the results thereof, or challenging any other aspects of any election held under these Procedures. Appeals with the Council must be filed no later than ten (10) days following the City Clerk notifying the City Council of the results of the election.

SECTION 2 - CONDUCT OF ELECTIONS

a. Procedure Established

(1) The following election procedure is established for the selection of the active employee members of the Commission.

(2) The Retirement System Manager shall furnish the City Clerk with a list of all active employees who are eligible to participate in an election as a candidate or elector.

b. Notice of Commission Vacancy

(1) Notification to City Council

Prior to posting the notice of a Commission vacancy, the City Council shall be notified of the intent to conduct an election, the reasons and grounds for such election, the date of election, manner of election, and number of vacancies.

(2) Regular Election

At least sixty (60) calendar days prior to the expiration of the term of any employee member, the City Clerk shall post and/or provide written notice to the eligible electors for each employee member vacancy for that year, stating that an election will be held to elect the member representative on the Commission.

(3) Special Election

If a vacancy is created on the Commission by the death, resignation, recall, removal from office, or inability to serve of a current employee member of the Commission, written notice shall be posted and/or provided within thirty (30) calendar days by the City Clerk upon receipt of written information that a vacancy exists or will occur on the Commission.

c. Content of Notice

The notice shall be given by the City Clerk. The notice shall be in writing and shall contain the following and a copy thereof shall be posted on the City's official posting board and delivered to each active member:

(1) A statement that an election will be held to elect the employee member to the Commission and the date of election.

(2) A statement explaining the manner and the time period in which candidates may submit a Statement of Interest for election.

d. Eligibility of Candidate

Any regular full-time eligible employee of the City, other than the City Manager or the Finance Director, who is an active member of the Sacramento City Employees Retirement System, shall be eligible to be a candidate in the election for the vacancy.

e. Statement of Interest Period

The interest period shall be open upon posting of the written notice of the Commission vacancy. The interest period shall remain open for fifteen (15) calendar days following posting of the notice. Statements of Interest shall be received by the City Clerk prior to the closing of posted business hours on the closing date of the interest period.

f. Statement of Interest

A Statement of Interest shall be made on a form supplied by the City Clerk and made available no later than the date of posting. In making a statement of interest, the expressed interest of the candidate to fill the vacant seat on the Commission shall be secured in writing on the statement.

g. Validity of Statement of Interest

To ensure qualification, the person submitting a Statement of Interest will be checked against the list of active members of the SCERS system.

h. Single Candidate - Appointment to Commission

If only one (1) candidate submits a Statement of Interest, he/she shall be deemed to have been automatically elected as an employee member on the Commission.

i. Multiple Candidates. Fixing Type of Election

If more than one (1) candidate submits a Statement of Interest, and is validated as an active member of the SCERS system, an election shall be held within sixty (60) calendar days of posting notice of the Commission vacancy.

j. Notice of Election

Upon fixing the dates of the election, the City Clerk shall give notice of the election. The notice shall contain the following:

(1) The names of the candidates as they will appear on the ballot.

(2) The times, dates, place of election, and description of electors eligible to vote in the election.

k. Posting Notice

The City Clerk shall post in the City's official posting board written notice of the election and deliver such notice to each active member no later than thirty (30) calendar days prior to the election.

I. Manner of Election and Ballot

The election shall be conducted by secret ballot. The ballot shall be prepared by the City Clerk. The placement of the names of candidates on the ballot shall be determined by the City Clerk by lot. Only the name of the candidate, his/her position in City employment, and Statement of Interest shall appear on the ballot. Each elector shall vote for only one (1) candidate whose name appears on the ballot. Write-in candidates shall not be permitted in this election nor counted if written.

m. Mail Ballot Election

Ballots shall be delivered to eligible voters following the Statement of Interest period, and no later than twenty (20) days prior to the date of the election. All ballots cast under the provisions of these Procedures shall be received by the Office of the City Clerk no later than the close of posted business hours on the election day. Eligible voters, at their own discretion, may cast a vote in the Office of the City Clerk in lieu of using the delivered ballot.

n. Canvass of Returns

On the next regular business day following the date of the election no later than the hour of 10:00 a.m., the City Clerk shall publicly commence the canvass of the votes cast in the election and shall continue said canvass until completed. Said canvass shall continue without interruption until completed. Any ballot which is not properly marked and signed in accordance with the instructions provided with the ballot shall be void and shall not be tallied by the City Clerk in the canvass. All ballots shall be preserved by the City Clerk for a period of six (6) months following the date of the election.

o. Election of Candidate

The candidate receiving a plurality of the valid votes cast in the election shall be declared elected by the City Clerk.

q. Conflict of Interest Statement Required

The City of Sacramento's adopted Conflict of Interest Code requires all newly elected and vacating members to file a Form 700, Statement of Economic Interests, pursuant to the regulations of the Political Reform Act. Commission members who are re-elected to office shall file their regular annual statement on the specified date. Failure to file the necessary Conflict of Interest Statement may subject the member to a fine by the City Clerk, disqualification or removal from the Commission, or referral to the Fair Political Practices Commission for action.

r. Declaration of Results

Upon completion of the canvass and upon election of the Commission representative, the City Clerk shall publicly notify the City Council, the elected Commissioner, and all interested parties of the results of the election.

SECTION 3 - RECALL PROVISIONS

a. Recall Authorized

Any Commission member representative may be recalled from his/her position on the Commission by any eligible elector specified in section 1-c. The grounds for recall shall be limited to acts or conduct of such member undertaken by said member in the performance of his/her duties on the Commission which do not involve the exercise of quasi-judicial discretion in connection with hearings conducted before the Commission. It is the intent of this paragraph to permit and encourage the employee member representative to exercise his/her independent judgment in such hearings and to limit the grounds for his/her recall from office to other acts and conduct not related to the quasi-judicial function performed by the Commission and its members.

b. Commencement of Recall Proceedings

Proceedings may be commenced for recall of any Commission member representative by the service and filing of a notice of intention to circulate a recall petition pursuant to section 3-d. Proceedings may not be commenced against the member unless, at the time of commencement, the member has held office for at least six (6) months, no recall petition has been filed against such member within the preceding six (6) months, and the member's term of office has at least six (6) months or more remaining.

c. Recall Petition

The petition filed with the City Clerk shall be signed by not less than thirty percent (30%) of the eligible electorate on the day the petition is filed with the City Clerk.

d. Notice of Intention

No signature may be affixed to the petition until the proponents have served and filed a notice of intention to circulate a recall petition on the Commission member to be recalled. The notice shall contain the following:

(1) The name of the Commission member.

(2) A statement, not exceeding 200 words in length, of the grounds for the proposed recall.

(3) The names, signatures and classification titles of at least one but not more than five proponents of the recall. The notice of intention shall be served by personal delivery, or by certified mail on the Commission member, and a copy thereof, with an

affidavit of the time and manner of service, shall be filed with the City Clerk within seven (7) days of serving the notice of intention.

e. Answer

Within seven (7) days after the filing of notice of intention, the Commission member may file with the City Clerk an answer in not more than 200 words to the statement by the proponents and, if an answer is filed, shall serve a copy thereof by personal delivery or by certified mail on one (1) of the proponents named in the notice of intention within seven (7) days after the filing of the notice of intention. The statement and answer are intended solely for the information of the electorate and no insufficiency in the form or substance thereof shall affect the validity of the election.

f. Contents of Petition and Distribution of Notice to Electorate

Before any signature may be affixed to a recall petition, each page of each section must bear all of the following:

- (1) A request that an election be called to elect a successor to the Commissioner.
- (2) A copy of the notice of intention, including the statement of grounds for recall.
- (3) The answer of the Commissioner sought to be recalled, if any. If the Commissioner sought to be recalled has not answered, the petition shall so state.
- (4) The signature requirements specified in section 3-h of these Procedures.

All petition sections shall be printed in uniform size and darkness with uniform spacing. The notice, statement, and answer, if any, shall be posted by the City Clerk in the City's official posting board.

g. Circulation of Petition

Seven (7) days after the distribution of the notice, statement and answer, if any, the recall petition may be circulated and filed. Signatures shall be secured and the petition filed within forty (40) days following the filing of the notice of intention.

h. Signatures and Form of Recall Petition

The signatures to the petition can be circulated in sections; however, the recall petition in its entirety must be submitted for filing at one time. The petition sections shall be designed so that each signer shall personally affix his/her signature, printed name, date of signing, and classification title. A space, at least one inch wide, shall be left blank after each name for the use of the City Clerk in verifying the petition.

i. Declaration of Circulator

Each section of the petition shall have attached to it a declaration signed by the circulator of that section of the petition, setting forth all of the following:

- (1) The printed name of the circulator.
- (2) That he/she circulated that section and saw the appended signatures being written.
- (3) That according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.
- (4) That the circulator is a member of the eligible electorate.
- (5) The dates between which all the signatures to the petition were obtained.
- (6) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury, with the signature of his/her name. The circulator shall state the date and the place of execution on the declaration immediately following the circulator's signature.

j. Examination and Filing of Petition

The petition shall be submitted to the City Clerk for filing by the proponents, or by any person or persons authorized, in writing, by a proponent. All sections of the petition shall be submitted for filing at the same time.

Upon physical submission of the petition or sections thereof to the City Clerk, the City Clerk shall examine the same to determine whether the same qualifies for filing as follows:

- (1) The City Clerk shall ascertain the number of eligible electors from records provided by the Retirement System Manager; and
- (2) The City Clerk shall count the number of signatures appearing upon the petition. If from the foregoing count the City Clerk deems the number of signatures prima facie equal or is in excess of the minimum number of signatures required by these Procedures, the City Clerk shall accept the same for filing and it shall be deemed filed as of the date of the City Clerk's determination. If, from the City Clerk's examination, the City Clerk determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, the petition shall not be filed. Any petition not accepted for filing shall be returned to the proponents of the recall.

k. Examination of Signatures

After the petition has been filed as herein provided the City Clerk shall examine the same to determine:

(1) Whether, as of the date of filing the petition, based upon examination of the records of the Retirement System Manager, that each person who placed his/her signature on said petition was, in fact, an eligible elector to vote in the recall election as of the date of such filing; and

(2) Whether each signature bears in immediate proximity thereto a date, printed name and classification title as hereinabove described.

If any signature appearing on the petition is undated or bears a date which is prior or subsequent to the time during which signatures may be placed upon such petition, the City Clerk shall disregard such signatures. If it appears that a date following any signature was placed there by a person other than the signer such signature will be disregarded.

I. Time Limit for Examination

The City Clerk's examination process shall be completed not later than ten (10) days from the filing of the petition. The City Clerk shall attach to the petition a certificate showing the results of the examination. The City Clerk shall, within five (5) days after her/his certification forward a copy of such certification to each of the proponents of the recall who signed the notice of intention and to the City Council at its next regular meeting. The certificate shall contain:

- (1) The name of the Commissioner whose recall is sought.
- (2) The number of signatures required by these Procedures.
- (3) The total number of signatures on the petition.
- (4) The number of valid signatures on the petition.
- (5) The number of signatures which were disqualified.

m. Insufficient Petition

If the certificate shows that the petition is insufficient, no action shall be taken on it; but the petition shall remain on file. No insufficiency in a petition against any Commissioner shall bar the later filing of a new petition against that Commissioner. The City Clerk will notify the City Council at its next regular meeting of the insufficiency of said petition and all pertinent information relating thereto.

n. Order for Special Election

If the petition is sufficient, the City Clerk shall order a special election to be held to determine whether the voters will recall the employee member sought to be recalled. Except as otherwise hereinafter provided, the procedure for said election shall be that specified by these Procedures for the filling of a Commission vacancy.

o. Notice of Election

The notice of election required by Section 2-c of these Procedures shall contain a separate printed copy of the statement of the proponents and of the answer, if any, of the employee member sought to be recalled.

p. Form of Recall Question

There shall be printed on the recall ballot, the following question: "Shall (name of person) be recalled from the Retirement Hearing Commission?" Following the question shall be the words "yes" and "no" on separate lines, with a voting square at the right of each, in which the voter shall indicate his/her vote for or against the recall.

q. Canvass of vote

The City Clerk shall canvass the returns and declare the results as in a regular election. If a plurality of those voting at the election voted in favor of the recall of the incumbent from office, the incumbent shall be deemed removed from office upon the qualification of a successor.

r. Disqualification from Office

A person who has been recalled, or who has resigned from the Commission while recall proceedings were pending against him/her, shall not be a candidate for such office within one (1) year after resignation or recall.