

## OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

**Date Issued:** September 8, 2006

**IBA Report Number:** 06-37

**Budget Committee Agenda Date:** September 13, 2006

**Item Number:** 1

**Subject:** City Council Position Control Policy

### OVERVIEW

The City Charter currently gives the Council the authority to reorganize City departments (Section 26) and to appropriate funds for conducting the affairs of such departments (Section 71). However, nowhere in the Charter or the Municipal Code is the City Council given explicit authority over the number of budgeted positions. While the Council has previously exercised position control through its authority to control funding, the IBA recommends consideration of a new Council position control ordinance that would grant explicit authority to increase the number of budgeted positions to the City Council.

### FISCAL/POLICY DISCUSSION

In the past, it has been widely understood that Council approval was needed to add positions to the budget during the budget process. However, this was largely (or entirely) attributable to the fact that new positions require funding, and the Council has explicit authority to control funding. In theory, if the funding is not approved, then the positions could not be added. This implicit authority is evidenced in the throng of supplemental positions that had accumulated over the past years. Adding supplemental positions was essentially a means to add employees without having to formally add budgeted positions, which would have required Council approval.

While it is clear that Council has the authority to control the funding of positions, it is less clear to what extent the Council has the explicit authority to authorize new permanent positions, without regard to the associated funding. For instance, if savings are realized in a particular department, would the Mayor have the authority to add a new permanent position to that department if it did not increase the department's total appropriation? Further legal analysis may be warranted to determine where the authority currently lies in such situations.

As the policy-setting body, the City Council has a vested interest in the number and types of positions that are budgeted. The IBA believes that the authority to add permanent positions – during either the annual budget process or midyear programmatic adjustments – should reside with the Council. We recommend consideration of a position control ordinance that would make this authority explicit. It should be clearly noted, however, that the authority to add budgeted positions is separate and distinct from the authority to *fill* positions that are *already budgeted*, which we believe is an administrative decision for which authority is and should be granted to the Mayor.

The IBA understands that from time to time there may be the need to increase the number of employees in a particular department, for instance, if there is an emergency or if workload is greater than anticipated. In these instances, we believe that the Mayor should have the discretion to increase the workforce beyond the number of budgeted positions on a temporary basis within the duration of a single fiscal year. However, if these temporary positions are to extend beyond a fiscal year and be made permanent, Council approval should be required. It is unclear whether the authority for the Mayor to add temporary positions is currently granted by the Charter or Municipal Code, and we recommend a legal analysis to clarify this as well.

**[SIGNED]**

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Tom Haynes  
Fiscal & Policy Analyst

**[SIGNED]**

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APPROVED: Andrea Tevlin  
Independent Budget Analyst