




City of San Diego
Councilmember Scott Sherman
Seventh District

MEMORANDUM

DATE: March 22, 2013

TO: Councilmember Kevin Faulconer, Chair, Audit Committee

FROM: Councilmember Scott Sherman 

RE: Request to Initiate Audit Committee Review of Mayor's Proposal to Allow ex-City Councilmembers to Draw Full Pension and Full Salary Simultaneously

Mayor Bob Filner has indicated his plan to have the City Council pass legislation to create a Former Elected Officials' "Re-Employment" program that would allow ex-City Councilmembers who are already drawing a full pension to be re-hired by the city and receive a full salary as well.

This proposal raises significant concerns – both in terms of public perception of double dipping and the reality of the City Council passing legislation that holds ex-politicians to a double standard.

The Mayor has already exercised Provisional Hire authority to grant employment to one former City Councilmember. As we are quickly approaching a 90-day cutoff point, I am concerned about a possible rush to pass this legislation without proper oversight and financial analysis.

Fortunately, the City of San Diego has an Audit Committee and Independent City Auditor who are tasked with examining these kinds of financial questions.

Indeed, the Audit Committee was created in the wake of a pension scandal and the creation of the city's first controversial double-dipping program, the Deferred Retirement Option Plan (DROP).

The San Diego Municipal code empowers the Audit Committee to *"review any issues that come to the Committee's attention which pertain to the accuracy and reliability of the City's financial practices and representations and which could have a negative impact on the ability of the public to reasonably rely upon such financial practices and representations."*

Given the Audit Committee's authority under the Municipal Code, and in keeping with the City Auditor's mission to "advance open and accountable government through accurate, independent, and objective audits and investigations that seek to improve the economy, efficiency, and effectiveness of City government," I am requesting that the Audit Committee discuss the potential effects of the Mayor's proposal.

Some questions to consider for discussion include:

- What is the potential impact to the tax status and tax compliance of the pension system if a narrow class of city officials (ex-City Councilmembers) are granted this re-employment option?
- Has the City sought or received an advice letter from the Internal Revenue Service approving the Mayor's proposal?
- Existing city law seems to allow re-hiring retirees for up to 90 days a year as provisional hires. What was the original justification for establishing a Provisional Hire program? Did the justification for creating the Provision Hire program ever anticipate *full-time, permanent re-employment* for these Provisional Hires?
- How many provisional employees have been utilized by the city during the past three years? How long a period of time did they work? Did they draw full pensions and full salaries during their re-employment? How much is spent annually on provisional employees? Is there a system in place to track the 90-day provisional period?
- How many other cities or counties in the country allow a select group of former city employees – specifically City Councilmembers – to enjoy a re-employment option to draw a full pension and full salary simultaneously?

These questions are merely some of the many issues that should be fully reviewed, examined, and answered before this proposal is considered by the City Council.

I appreciate your consideration of this request.

cc: Members of the Audit Committee
Honorable Members of the City Council
Eduardo Luna, City Auditor
Honorable Mayor Bob Filner