

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Item Number: 1-C

Item: The Size and Makeup of the City Council (Tie-break issue)

OVERVIEW

On January 1, 2006, the City of San Diego transitioned to a Mayor-Council form of government. Under the prior Council-Manager form of government, the Mayor held a voting seat as part of the City Council along with the elected representatives of each of the City's eight Council Districts, constituting a nine-member City Council.

With the transition to the Mayor-Council form of government, the Mayor assumed the executive duties formerly accorded to the City Manager, and is no longer a member of the City Council. This transition left the City Council with eight voting members, and as a result, has brought about the possibility of tie-votes on legislative issues.

A report by the City Attorney to the Committee on Rules, Open Government, and Intergovernmental Relations, dated January 24, 2006, highlighted the challenge with the current arrangement. According to the Attorney's report, having eight voting members on the City Council creates the possibility that votes on crucial issues could end in deadlock, as no "tie-breaking" procedure is provided by the City Charter.

FISCAL/POLICY DISCUSSION

Three primary options may be considered to address the problems of potential tie-votes. First, the number of Council Districts may be increased to an odd number (nine or eleven) through a formal redistricting process. Second, an at-large Council Member may be added to the City Council, either as Council President or as a ninth "at-large" member, while retaining the current number of districts. Finally, a tie-breaking procedure could be implemented under the current arrangement.

The City Charter currently requires redistricting to occur every ten years following the decennial Census. The last redistricting process took place in calendar year 2000. Per

Charter requirement, the City will be required to redistrict again in 2010, at which time additional Council districts could be created. Charter Section 255(b) allows for the consideration of increasing the number of Council districts to nine at the time of the next redistricting. Unfortunately, waiting until the redistricting process in 2010 does not resolve the potential problem of tie-votes in the meantime.

One possible alternative would be to accelerate the redistricting process in an effort to increase the number of Council districts as soon as possible. This option would provide a solution sooner than waiting for the decennial Census. However, there are several problems with this option as well, chiefly, that the current Mayor-Council form of government is only in a trial form. Per City Charter, the new form of government will remain in effect until December 31, 2010 unless the public votes to extend or make permanent the current form. If, for instance, the redistricting process were to be accelerated to increase the number of Council districts to nine, and the voters fail to extend or make permanent the Mayor-Council form of government, the City would revert back to the Council-Manager form of government and the Mayor would once again assume a voting seat on the City Council. If this scenario were to occur, the Council would once again be confronted with the dilemma of having an even number of voting members, and the City would likely have to again change the number of Council districts at the decennial redistricting, a process that would be confusing and undesirable. Redistricting after the decennial Census would alleviate this concern, since voters will have had the opportunity to decide whether to extend or make permanent the current form of government.

Another problem with an accelerated redistricting process is the limited effectiveness it would have as a result of logistical constraints. The redistricting process is a substantial undertaking, one that involves considerable resources and a generous timeframe. While the Charter requires that a final redistricting plan be adopted within nine months of the receipt of U.S. Census Bureau data, the actual work time is much longer. The prior Redistricting Commission submitted, in its final report, a recommended timeline for the next redistricting process. This timeline essentially spans from July 2010, when the City Clerk begins soliciting applications for Redistricting Commission Members, until September 2011, when the Final Redistricting Plan is filed with the City Clerk and the Registrar of Voters, a process that encompasses approximately 15 months. Even if the process were to begin immediately following the upcoming November 2006 election (assuming voter approval), the final redistricting plan would not be in effect until the June 2008 election. Given the high probability of a run-off in any new Council district, the earliest that a new Councilmember would take office is likely to be December 2008 – nearly three years into the trial period of the Mayor-Council form of government.

While an accelerated redistricting process would certainly address the tie-vote issue for the remaining two years of the Mayor-Council trial period, it does not appear to be warranted given the substantial costs the process would incur, the chance that the current

form of government will not be extended or continued, and that it does not solve the tie-vote issue until nearly 2009.

QUESTIONS/COMMENTS

The following questions are designed to facilitate discussion of both the temporary tie-breaking procedure and issues related to the decennial redistricting.

How should a tie-breaker be determined? One possibility is to have the Council President's vote act as the tie-breaker. Another option would be to opt in favor of the status quo rather than change, essentially meaning that a tie vote results in defeat. This method has precedent in legislative houses of other countries, such as the British House of Commons. In other legislative houses, a tie vote simply results in defeat since an outright majority is required for a bill to pass. Another possibility is identified in the City Attorney's report: The Oakland City Council has eight members but allows the mayor to vote when necessary to break a tie. It should be noted that any recommended tie-breaker would require a legal analysis by the City Attorney, and possibly voter approval.

How many Council districts are desired? While Section 255(b) of the City Charter provides for consideration of nine Council districts, it is possible that even more districts would be desirable depending on the City's population growth. Even if the Mayor-Council form of government is not continued, it may be desirable to have more than eight Council districts to ensure adequate representation of the City's population.

Is there a need for an at-large Councilmember? If the current form of government is extended or made permanent, it may be desirable to have a Councilmember who represents the entire City. Many other municipalities elect at-large Councilmembers in addition to an at-large Mayor and Councilmembers that represent individual districts. One option would be to have the Council President, who sets the legislative agenda for the City, be a Council Member elected at-large.

CONCLUSION

Given the cost and timeframe associated with the redistricting process, the IBA does not recommend pursuing an accelerated redistricting process as a means of addressing the tie-vote issue. Instead emphasis should be placed on identifying a temporary tie-breaking procedure that can be employed until the next regularly scheduled redistricting occurs following the decennial Census. Concurrently, consideration should be given as to how the City will be redistricted in 2010 should the voters decide to extend or make permanent the current form of government.

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