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# DEFERRED COMPENSATION PLAN BOARD REPORT 08-47



Date: January 6, 2009

To: Board of Deferred Compensation Administration

From: Staff

Subject: Board Elections

Recommendation:

That the Board of Deferred Compensation Administration:

- 1) Approve a recommendation from staff to include section headings in the Board's Election Policies & Procedures
- 2) Approve the recommendations of the Plan Governance and Administrative Issues Committee to make the following amendments to the Board's Election Policies and Procedures:
  - Section D, Paragraph 4 - specify a lower number of required signatures needed for the nomination of Candidates Separated from City Service;
  - Sections C, H, & I - include a phrase regarding the use of Employee ID numbers to identify Department of Water and Power participant ballots;
  - Section C – Change the scheduled election date from June to May
  - After section D - include a section on the Board's understanding of the ethics guidelines regarding third party candidate support.

Discussion:

*This report was first presented to the Board at the November 18, 2008 meeting. It was determined that this report should be revisited at a future Board meeting at which one or both of the committee members present at the October Plan Governance Committee Meeting would be in attendance. This would allow the Committee members the opportunity to explain their reasoning in regards to the potential amendments to the Election Policy, particularly regarding the amendments to Section D, Paragraph 4.*

On October 2, 2008, the Plan Governance and Administrative Issues Committee met to discuss the feasibility of the following proposals/issues brought to the attention of the

Board and staff by the Elections Division of the City Clerk and Board member Richard Kraus:

- Earlier scheduling of elections in order to avoid conflicts with primaries and the LACERS Board election and allow for additional training time;
- Change scheduling of ballot counting so as not to conflict with regular Board meeting dates;
- Clarify policies with respect to how candidates can access eligible voters in order to campaign for their positions;
- Clarify union campaign support and its relationship to State ethics requirements; and
- Clarify policies with respect to how Department of Water and Power ballots are identified.

As a result of its review, the Committee and staff are prepared to make the following recommendations and proposed changes to the Board's Election Policy (see attachment for current policy and hi-lighted proposed modifications).

### **Section Headings**

Staff is recommending that the Board's Election Policies & Procedures be organized by lettered sections. This would bring greater clarity when discussing the policy, particularly in regards to potential amendments. For the remainder of the report, all proposed amendments to the Election Policies & Procedures will be identified by the proposed section headings.

### **Access to Eligible Voters**

The Committee reviewed the current nomination process as it relates to the retired seat. In order to qualify for a place on the election ballot, current policy states that potential candidates for all elected positions must obtain 100 to 200 signatures from their respective constituencies. The Committee concluded that the nomination process is more difficult for candidates retired or otherwise separated from City service due to more limited opportunities for contact with their constituency. As a result, the Committee agreed that a modification to the policy would therefore be wise and reviewed the following options:

- (a) Change the policy to mirror that of both LACERS and Fire and Police Pensions which both allow their retiree representative candidates to self nominate by submitting a Notice of Intent to the City Clerk in lieu of filing a nominating petition; or
- (b) Adopt a policy in which those separated from City service are permitted to obtain fewer signatures than active employee candidates.

After reviewing the options, the Committee found that a more modest signature requirement would be appropriate since it would make the nominating process less burdensome to retired participants who might have difficulty identifying peers who were retired and also maintained accounts in the Plan. However, after considering what

would be the optimal signature range for the nominating petition, the Committee decided to refer the precise numbers to the full Board for discussion.

For this policy change, the Committee recommends that the following language be added to the Board's Election Policy in the fourth paragraph of Section D, which would include the appropriate range of signatures as determined by the Board:

*"In order for Candidates Separated from City service to qualify for a place on the election ballot, the petitions shall be signed by no fewer than \_ nor more than \_ individuals who are both members of the Plan and separated from City service."*

In addition, the phrase "Active Employee Member Candidates" would need to be added to the first sentence of the fourth paragraph of Section D.

### **Third Party Candidate Support**

The Committee next reviewed whether the Plan's policy should address third party support of candidates. Deputy City Attorney Richard Bobb, having researched this matter through City Attorney Renee Stadel, indicated that the funds that unions or similar third parties use to support candidates would be considered gifts (and subject to ethics reporting rules) to the extent there is coordination between the candidate and the third party entity. If there is no coordination, the reporting and gift limits would not apply. Staff explained to the Committee that its proposed language to be added to the Election Policy on this matter was made general in nature to make it clear that the Board was not interpreting ethics rules.

The Committee agreed that the Election Policy should include some mention of "third party candidate support" for all potential candidates and other interested parties and is recommending to the Board that the Board's general understanding of the application of the ethics rules be stated in the Election Policy. The Committee therefore recommends that the following language be added to the Election Policy as a new Section E under the heading of "Third Party Candidate Support":

*"It is the Board's understanding that any funds used by unions or similar third parties in order to support candidates for positions on the Board would be considered gifts and subject to ethics reporting laws to the extent there is coordination between the candidate and the third party entity. If there is no coordination, the reporting and gift limits would not apply. Notwithstanding this statement, it is not the intent of the Board or its staff to assume responsibility for the interpretation or application of State/City ethics rules."*

### **Scheduling of Elections**

According to the Elections Division of the City Clerk, the first week in May would be the earliest possible time to hold the Plan's elections given the scheduled municipal and in-house elections. The Committee therefore recommends that future elections be moved

to the first week of May since doing so would allow approximately one month to train newly elected Board members. This change would be reflected in the first sentence of the second paragraph of Section C.

In addition, staff and the Elections Division of the City Clerk will be coordinating important dates to avoid scheduling conflicts with planned Board and Committee meetings.

**Employee ID**

The Committee reviewed the need for an amendment to the Plan’s Election Policy regarding Department of Water and Power (employees). The Elections Division of the City Clerk had informed staff that for DWP elections, employee ID numbers should be used to identify ballots in lieu of the last four digits of the social security number. Given this information, the Committee is recommending that the Board amend the Election Policy to include employee ID numbers as the form of identification on the ballot for DWP employees.

The Committee recommends the following amended language to the Elections Policy:

“(Employee ID Numbers for DWP Employees)”

This phrase will immediately follow where the Election Policy refers to the “last four digits of the social security number,” which is found in Section C, Section H, and Section I.

Submitted by: \_\_\_\_\_  
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Reviewed by: \_\_\_\_\_  
Steven Montagna

Approved by: \_\_\_\_\_  
Maryanne Keehn