

PERSONNEL AND ANIMAL WELFARE COMMITTEE REPORT relative to increasing the number of exempt positions as allowed in Charter Section 1001(b)(4).

Recommendations for Council action:

1. REQUEST the City Attorney, with the assistance of the Personnel Department, to prepare and present an Ordinance in accordance with City Charter Section 1001(b)(4) to provide for the following:
 - a. Increase the number of Citywide exemptions pursuant to City Charter Section 1001(b) from the current cap of 150 persons to 200 persons.
 - b. That candidates for exempt positions meet the requirements as stipulated in the exemption request forwarded by the Office of the Mayor.
 - c. When the position is vacated, the exemption shall terminate unless reauthorized in accordance with the Ordinance and the provisions of the City Charter.
2. INSTRUCT the Personnel Department to report on the current list of exempted positions by Department and to include in the report:
 - a. Information listing the incumbents of each Department's current exemptions under City Charter Section 1001, Subsection (b), with analysis regarding the percentage of these exemptions in comparison with that Department's regular authorized position count.
 - b. Responses from Departments having exemption counts that exceed their one percent count describing the work performed by those positions and the need to continue these exemptions.

Fiscal Impact Statement: None submitted by the Personnel Department. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted.

Summary:

On August 19, 2014, your Committee considered a July 31, 2014 Personnel Department report in response to an Adopted Budget Recommendation relative to the number of exempt positions as allowed in City Charter Section 1001(b)(4). According to the Personnel Department, in the adopted 2014-15 Budget, Item No. R-143, it was instructed to report to the Personnel and Animal Welfare Committee with an analysis, impacts, recommendations, and actions necessary to increase the maximum number of exempt positions as allowed in Charter Section 1001 (b)(4) to a total of 250 exemptions.

Charter Section 1001 provides for the use of exempt positions throughout the City. Charter Section 1001(b) establishes, with approval by the Mayor and review by the Council, up to 150 positions that may be exempted from the civil service provisions of the Charter for the purpose of "providing

management or professional, scientific, or expert services of an exceptional character." Furthermore, Charter Section 1001(b)(4) states in part that "Council may, by ordinance adopted by two-thirds vote, increase the maximum number of exempt positions as provided in subsection (b) to no more than one percent (1%) of the regular authorized positions in the City workforce, provided that if the maximum number of exempt positions is increased pursuant to this subsection, the number of positions created by subsections (a) (4), (5) and (c) of this section shall be counted toward the maximum allowable exemptions...."

Given the current level of exemptions and the size of the City's workforce at the current time, there is the possibility to add 194 exemptions for a total of 344 exemptions under Charter Section 1001(b). As the maximum number of exemptions noted in the City Charter is a percentage rather than a fixed number, if the Council determines that the maximum number of positions that would otherwise be exempted under Charter Section 1001(b) would not exceed 250, the ordinance would require specific wording to address that direction.

The adoption of an ordinance providing for exempt positions in excess of the current maximum number of 150 under Charter Section 1001(b) would not have an effect of an immediate increase in exemptions. The approval criterion remains the same for any new exempted positions as set forth in Charter Section 1001(b). Departments would submit a request to the Mayor's Office, and if approved, a recommendation is forwarded from the Mayor to the Council for its review and approval. Council would continue to have ten meeting days to either disapprove by a two-thirds majority or not act on the Mayor's recommendation at which time the Mayor's recommendation is deemed approved. After further consideration and having provided an opportunity for public comment, the Committee moved to continue this matter.

Subsequently, on November 4, 2014, your Committee further considered the above matter. After consideration and having provided an opportunity for public comment, the Committee moved to recommend that an Ordinance be prepared and presented to increase the number of exemptions as detailed above in Recommendation No. 1. Additionally, the Committee moved to instruct the Personnel Department to report back in regard to the number of exempt positions by Department as detailed above in Recommendation No. 2. This matter is now submitted to Council for its consideration.

Respectfully Submitted,

PERSONNEL AND ANIMAL WELFARE COMMITTEE

MEMBER **VOTE**

KORETZ: YES

O'FARRELL: YES

FUENTES: ABSENT

ARL

11/4/14

-NOT OFFICIAL UNTIL COUNCIL ACTS-