



Office of the Los Angeles City Attorney
Hydee Feldstein Soto

REPORT NO. R23-0226
Jun 13, 2023

REPORT RE:

**DRAFT BALLOT RESOLUTION RELATED TO A CERTIFIED INITIATIVE PETITION
REGARDING LIMITS ON HEALTHCARE EXECUTIVE COMPENSATION**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

The City Clerk has presented the City Council with a certified initiative petition in support of a proposed ordinance regarding limits on healthcare executive compensation. The City Charter requires Council to take certain actions upon presentation of a certified initiative petition. This report summarizes the background of the initiative petition, the provisions of the proposed ordinance, and Council's options under the Charter. Accompanying the report is a draft ballot resolution to facilitate Council action on the initiative petition.

Background

On February 14, 2023, a group of proponents submitted an initiative petition to the City Clerk containing voter signatures in support of a proposed ordinance regarding limits on healthcare executive compensation. On March 13, 2023, the City Clerk completed its preliminary review of the initiative petition and accepted it for processing. The City Clerk thereafter reviewed a random sample of the voter signatures contained on the petition in accordance with Charter Section 451 and the City Election Code. The results of that random sample review were inconclusive, so the Clerk proceeded to order a full review of the petition conducted by the County Registrar. On June 5, 2023, the County Registrar completed that examination and certified that the initiative petition



contains a sufficient number of valid voter signatures to qualify for presentation to the City Council. On June 7, 2023, the City Clerk presented the certified petition to Council.

Summary of the Proposed Initiative Ordinance

The proposed ordinance would limit a healthcare executive's annual compensation to no more than \$450,000. The compensation limit would apply to an executive, manager, or administrator at any private healthcare facility, including nonprofits, within the City of Los Angeles. A Covered Healthcare Facility would include a hospital, clinic, skilled nursing facility, and other specified facilities. The proposed ordinance would authorize the City Attorney to implement and enforce its provisions, and authorize private lawsuits, penalties and fines.

More specifically, the proposed ordinance would incorporate the following elements:

1. Compensation for Executives at specified Healthcare Facilities cannot exceed the total annual compensation of the President of the United States, currently \$450,000.
 - a. This would apply to arrangements on or after the City Clerk certified that the initiative petition had sufficient signatures to qualify for the ballot.
 - b. A Covered Healthcare Facility would include privately owned facilities in the City, including nonprofits, such as a hospital, clinic, psychiatric hospital, skilled nursing facility affiliated with a hospital or psychiatric hospital, and residential care facility for the elderly affiliated with a hospital. A Covered Healthcare Facility also would include a physicians group, health care service plan, medical foundation clinic, or other facility or entity, if it is affiliated or has a contractual relationship with a hospital.
 - c. A Covered Executive would include an individual employed at a Covered Healthcare Facility whose primary duties are executive, managerial, or administrative, regardless of whether they are an Employee or Contractor. Examples include CEOs and other executive officers, executive directors, vice presidents, administrators, and comparable positions. A Covered Executive would not include a medical or healthcare professional whose primary duties are the provision of medical services, research, direct patient care or other non-executive, non-managerial, and non-administrative services.
 - d. Covered Compensation would include all remuneration paid, earned or accrued in a fiscal year including: wages, salary, paid time off, bonuses, below market rate loans or loan forgiveness, transportation, travel, meals, housing, vehicles, parking, stock options, and payments or contributions to insurance, deferred compensation and/or for severance. Covered

Compensation would not include contributions to employee benefit plans covered by the Employee Retirement Income Security Act (ERISA).

2. Within twelve (12) months of the close of the fiscal year, Covered Executives are required to refund excess compensation amounts plus interest and penalties, as applicable. Failure to return excess compensation would subject the individual to enforcement mechanisms specified below.
3. Covered Healthcare Facilities will be required to file annual reports documenting compliance and disclosing executive compensation, maintain records of compliance for four years, and make books and records available for inspection and audit by the City Attorney. A Covered Healthcare Facility would be liable for up to \$1,000 for each day a compliance report is delinquent.
4. The proposed ordinance would allow for implementation and enforcement of the above provisions as follows:
 - a. The City Attorney, an aggrieved person or entity, or any other party acting on behalf of the public would be allowed to bring a civil action against an employer who violates the proposed ordinance. Before an aggrieved party can file a lawsuit, they must first submit a request to the City Attorney's Office to commence the action. The City Attorney may accept or decline the request, and only if the request is denied, can the individual proceed with the lawsuit.
 - b. Any person who violates the proposed ordinance may be subject to penalties, including up to \$1,000 for each violation, as well as reimbursement to the City for the full cost of investigating and prosecuting such violation(s).
 - c. Upon prevailing, a party acting on behalf of the government may be awarded attorneys' fees and damages including twice the amount of the required refund, penalties and interest. Non-governmental parties bringing an enforcement action on behalf of the public would only be entitled to equitable relief and attorneys' fees.
5. The City is required to appropriate sufficient funds to enable enforcement of the above provisions.

Council Options

Charter Section 452(b) requires the City Council to take one of the following actions when presented with a valid and certified initiative petition requesting adoption of a proposed ordinance:

- (1) Adopt the proposed ordinance;

(2) Submit the proposed ordinance to a vote of the electors of the City at a special stand-alone election held no earlier than 110 days but no later than 140 days after the Council acts; or

(3) Determine to submit the proposed ordinance to a vote of the electors of the City at either the next regular City election or the next Statewide election occurring more than 110 days from the date of Council action (i.e., the City's Primary Nominating Election held on March 5, 2024).

Charter Section 452(b) provides that Council must take one of these actions within 20 days after the presentation of a valid certified petition. For this initiative, that deadline is June 27, 2023.

We have attached a draft resolution for Council to adopt to submit the proposed ordinance to the voters. Consistent with Charter Section 452(b)(3), the resolution would place the ordinance on the ballot at the next regular City election occurring in more than 110 days. That election is the City's Primary Nominating Election to be held on March 5, 2024.¹

If you have any questions regarding this matter, please contact Deputy City Attorney Dania Minassian at (213) 978-7184 or Assistant City Attorney Harit Trivedi at (213) 978-7100. They or another member of this Office will be available when you consider this matter to answer questions you may have.

Very truly yours,

HYDEE FELDSTEIN SOTO, City Attorney

By



VALERIE L. FLORES

Chief Assistant City Attorney

HT:sl
Attachment

¹ If Council wishes to adopt the proposed ordinance directly or to call an earlier special election on the ordinance, we are prepared to transmit the appropriate ordinances and resolutions for those options upon Council's request.