



Memorandum

TO: MAYOR AND CITY COUNCIL

FROM: Councilmember Sam Liccardo

SUBJECT: REVISED RETIREMENT
REFORM BALLOT MEASURE

DATE: March 6, 2012

APPROVED:

3-6-12

RECOMMENDATIONS:

Should the contemplated ballot measure be approved by the voters, no later than immediately upon the certification of the passage of the measure by the Registrar of Voters, direct the City Attorney to file an action for declaratory relief in the trial court of competent jurisdiction. In filing the action, the City shall seek a judicial determination of whether the City may adjust the compensation of current employees through additional retirement contributions or pay reductions.

BACKGROUND

The City has fairly and fully negotiated the proposed ballot measure over the last 9 months in accordance with governing law, including the *Seal Beach* decision. Throughout that time, the Council has assiduously considered the legal opinions of the City Attorney and outside counsel, and has carefully evaluated the arguments posed by attorneys representing our unions.

The Council has very good reason to believe that the proposed ballot measure will survive a legal challenge. Our unions' attorneys have asserted that the courts will not abide by an approach in which City can prod an employee to make the election to choose a lower tier of benefits, by requiring payment of a larger contribution to the plan if the employee declines to do so. Through the last nine months, we have seen ten of our eleven bargaining units propose voluntary "opt-in" plans with reduced benefits, seemingly conceding the legality of the use of VEP's in the City's current proposal. Three of the unions have proposed to "encourage" that election of a lower tier of benefits by reducing compensation for those who decline to "opt in." Two more unions have even proposed to mandate increasingly severe reductions in pay if a specific percentage of *other employees* in the same bargaining unit decline to choose the alternative tier of benefits. We also know that in the months prior to these negotiations, several unions agreed to increase employee contributions to their unfunded liabilities. Our unions' own actions and proposals appear to validate the lawfulness of the proposed reforms before us.

While I would not be voting to put a measure on the ballot if I did not feel confident of its lawfulness, it is obviously not a view shared by all of my colleagues. I propose that we approve a resolution to ensure that we seek a legal blessing from a state Superior Court or a U.S. District Court immediately upon passage of the measure.