

Alternative Pension Reform Settlement Framework Agreement

Background

In April 2015, the City began discussions with the San Jose Police Officers' Association (SJPOA) and the International Association of Fire Fighters, Local 230 (Local 230) to settle litigation surrounding Measure B, a pension reform ballot measure that passed in June 2012. On July 15, 2015, the parties agreed upon an Alternative Pension Reform Framework (Framework) that presents a path toward the settlement of litigation over Measure B. The Framework is subject to a final overall global settlement with all parties related to the Measure B litigation. The Framework is specific to employees represented by SJPOA and Local 230, however discussions are continuing with the Federated bargaining units and Federated Retirees' Association.

Over the next 30+ years, the savings from the modification to Tier 2, closing of the retiree healthcare defined benefit plan, and continuation of the elimination of the Supplemental Retiree Benefit Reserve (SRBR) are estimated to be **\$1.7 billion**, for Police and Fire.

Proposed Implementation Plan

- The implementation plan is contingent on reaching an agreement with the other parties to litigation. The City and the Federated bargaining units met on August 31, 2015 to continue those discussions and will continue meeting.
- Once a global settlement is reached and before the quo warranto process begins in court, which is a legal proceeding used to overturn a ballot measure post-election, the parties will agree on ballot measure language for November 2016 that will include provisions to ensure:
 - Actuarial soundness of the pension plan
 - Only voter-approved retirement benefit enhancements
 - No retroactive retirement benefit enhancements
 - Any other mutually agreed upon language
- The parties will agree upon and submit a factual stipulation and stipulated judgment in the quo warranto case finding that Measure B is invalid.
 - This will be non-precedent setting and will not include a finding that the City acted in bad faith.
- If the quo warranto process does not result in an invalidation of Measure B, the November 2016 ballot measure would implement the Framework Agreement for Police and Fire.

Rehires and Recruits

Until the implementation of the alternative pension reform settlement framework is complete, employees who have left City service and return to the Police or Fire Departments, or new employees, will be placed in the current Tier 2. Implementation will require a court declaring Measure B to be void and/or the voters replacing Measure B. Any implementation will occur after the Council is allowed to modify the municipal code to permit employees to retroactively be placed into either the revised Tier 2 (new employees) or Tier 1 (if rehired and formerly Tier 1). This will create an amortized unfunded liability that the City and these employees will share equally.

The following is a summary of the Framework's key provisions that would affect current or future employees.

Tier 2 Key Points

- “Backloaded” 2.7% at 57 formula with 80% maximum, which is a service-based formula where the employee earns a fixed benefit per year of services which is lower for earlier years of service and increases by a specified amount as an employee earns additional years of service.
- CPI or max 2.0% Cost of Living Adjustment
- Eligible to retire with five (5) years of service
- 50/50 cost sharing of Normal Cost and Unfunded Liability
 - Ramp-Up of 0.33% per year for Unfunded Liability
- Revised Tier 2 will be retroactive for current sworn Tier 2 employees who will share 50/50 in the amortized unfunded liability created by making the changes retroactive.
- Rehired former Tier 1 employees will go back into Tier 1. These employees will share 50/50 in the amortized unfunded liability created by making the changes retroactive for those Tier 1 employees who have since returned and gone into Tier 2.

Retiree Healthcare Key Points

- Closes the defined benefit retiree healthcare plan and establishes a Voluntary Employee Beneficiary Association (VEBA) for new and current Tier 2 employees. The contribution rate will be 4% into the VEBA.
- Offer Tier 1 employees a one-time irrevocable opt-out into the VEBA, pending IRS approval. The contribution rate for those who opt-out will be 5% in the VEBA. Those who stay in the defined benefit plan will have a contribution rate of 8%. The difference between the contribution amount for those who opt-out and those who stay in the defined benefit plan (3%) will be from post tax earnings.
- A new lowest cost healthcare plan will be offered with a \$3000 deductible - the current 85/15 cost sharing would not change for active employees.
- A floor will be set for the lowest cost healthcare plan so that the level of coverage does not go below the “silver” level of benefits as specified by the Affordable Care Act.
- Retirees will be offered an In-Lieu Premium Credit of 25% of the monthly premium for those who choose to forego the retiree healthcare plan.

Disability Process and Definition Key Points

- Reinstate the previous definition of disability, an employee injured or sick during service and unable to perform the duties of the position then held or any other position in the same classification of positions.
- The retirement board will appoint a 3-member independent medical review panel for disability retirement applications.
- Disability retirement applications must be submitted within one month of separation from the City and not deferred past four (4) years.
- A workers’ compensation offset will be applied to Tier 2 members up a maximum of \$10,000 per employee.
- The parties will convene a Public Safety Wellness Improvement Committee with goals to streamline the process, reduce costs, increase prevention and expedite an employee’s return to work.

Supplemental Retiree Benefit Reserve (SRBR)/Guaranteed Purchasing Power (GPP) Key Points

- The SRBR (“13th Paycheck”) will continue to be eliminated, preserving the achieved savings.
- A GPP program will be put in place so that current and future Tier 1 retirees can maintain 75% of purchasing power of their pension benefit.
 - There are currently approximately 56 retirees in the Police and Fire Plan under 75%.