



CITY OF HOUSTON

Finance Department

Interoffice

Memorandum

To: Controller Chris Brown

From: Ronald C. Lewis, City Attorney
Tantri Emo, Chief Business
Officer/Director of Finance

Date: April 17, 2019

cc: Mayor Sylvester Turner
Marvalette Hunter, Chief of Staff

Subject: Proposition B Implementation Cost

Please find below responses to your April 4th memorandum, supplementing the information discussed during a meeting of our departments on April 9, 2019.

Response 1 (for item #1):

The 730 number does not relate to employee reductions. It relates to the number of employees in the Fire department who are in a similar position with regard to current eligibility for pay increases under Prop B.

Response 2 (for items #2 and 3.a-b):

Please see Response 1. The criteria for qualifying for parity with police for incentives and base pay for police officers is determined by the terms of the current meet and confer agreement between the City and the Houston Police Officers' Union and, of course, Prop B. Your staff advised that you have the meet and confer agreement.

The impact of Prop B was estimated in the summer of 2018 based on assumptions made by Finance. Human Resources has now done an analysis that is more specific to individual fire fighters. The timing of the certain events, such as the current meet and confer, also impacts prior assumptions. Finally, the analysis is no longer based on assumptions about the possible legal interpretations of Prop B.

Response 3 (for item #4a and #5):

See Response 2 above. You inquire about incentive pays referenced in paragraphs (d), (e), (f), (i) and (j) of Prop B.

Paragraph (i):

We do not currently have the information necessary from members of HFD who are enrolled in school to be able to determine what amount will be paid in tuition reimbursement.

Paragraphs (e) and (f):

These incentives are affected by the timing of the current HPOU meet and confer which was approved before Prop B was incorporated into the Charter. Prop B language appears to have been based on old meet and confer provisions. Prop B is not retroactive in application. This obviates paragraphs (e) and (f) of Prop B.

Paragraph (j):

Only HPD officers who are required to wear business attire on a regular basis (3 out of 5 days a week) get a clothing allowance. All members of HFD are required to wear their uniforms when on duty.

Paragraph (d).

Arson investigators are not classified as firefighters according to Prop B.

Response 4 (for item #3c and #4b):

Prop B's implementation requires the resolution of legal, practical and technical issues. The City legal department, along with outside counsel, have applied relevant and appropriate legal guidance to inform the City's interpretation of Prop B and we are comfortable with our conclusions. In pending litigation, the City's pleadings state:

Local laws must be clear, definite, and free from ambiguity, so that their meaning may be ascertained. They must be sufficiently definite to give a person of ordinary intelligence fair notice that contemplated conduct is forbidden. An ordinance violates due process and is fatally vague when persons regulated by it are exposed to some risk or detriment without fair warning of the nature of the proscribed conduct, or if it invites arbitrary and discriminatory enforcement.

As one example of poor drafting and construction, Prop B would require the City to pay members of the Houston Fire Department for work that they do not do. Members do not engage in patrol activities as do police officers. Police officers are incentivized to work in the patrol division and accept the attendant risk. Prop B seems to suggest that it is possible to pay the same incentive pay to members, even though they do not work in the patrol division or take the same risks as do police officers and seeks to direct patrol incentive pay to some members. I understand that as early as last summer, you found this verbiage in Prop B to be nonsensical.

Prop B is also incomplete. For instance, Prop B fails to specify how implementation should be achieved. For example, Prop B does not address issues relating to payroll system configuration, system testing, validation of pay amounts. Moreover, and critically, Prop B did not specify a funding source.