

**MEMORANDUM FROM CITY ATTORNEY**

**June 28, 2024**

**To:** John Jansons, City Manager

**Re:** City Council Compensation

In June 2023 the state legislature passed Senate Bill 329, which becomes effective on January 1, 2024. SB 329 amends Section 36516 of the Government Code. Under existing law, the Government Code provides that a city with a population under 35,000 can adopt an ordinance to set council compensation up to \$300/month. Gov't Code 36516(a)(2)(A). Amended Section 36516 provides that council compensation for a city with a population under 35,000 can be set in an amount up to \$950. It should be noted that this amount is the maximum that can be set upon adoption of the ordinance, and that, as explained below, periodic increases beyond these base amounts are permitted.

SB 329 states two reasons for the increase. First, “[t]he compensation schedule for general law cities has not been adjusted since 1984, meaning that city council compensation has not kept pace with inflation.” (SB 329 § 1(a).) Second, “[a]llowing cities to adjust their compensation for inflation since 1984 may help city councils become more diverse because increased compensation can help individuals from across different income levels receive sufficient income from their service to help ensure that they can continue to serve the public and support their families.” (SB 329 § 1(b).)

Effective January 1, 2024, Section 35616 increased the maximum compensation amounts as follows:

- (A) In cities up to and including 35,000 in population, up to and including nine hundred fifty dollars (\$950) per month.
- (B) In cities over 35,000 up to and including 50,000 in population, up to and including one thousand two hundred seventy-five dollars (\$1,275) per month.
- (C) In cities over 50,000 up to and including 75,000 in population, up to and including one thousand six hundred dollars (\$1,600) per month.
- (D) In cities over 75,000 up to and including 150,000 in population, up to and including one thousand nine hundred dollars (\$1,900) per month.
- (E) In cities over 150,000 up to and including 250,000 in population, up to and including two thousand five hundred fifty dollars (\$2,550) per month.
- (F) In cities over 250,000 population, up to and including three thousand two hundred dollars (\$3,200) per month.

Section 36516 also includes a formula for increasing councilmember compensation following the original adoption of an ordinance, which formula was amended by SB 329. The increases may not exceed the greater of the following:

- The increase cannot exceed 5% for each calendar year;
- The increase cannot exceed the amount of inflation since January 1, 2024, based on the California Consumer Price Index. The inflation-based increase is capped at 10% for each calendar year. [This alternative was added by SB 329.]

This means the Council can increase compensation annually either a fixed CPI amount, not to exceed 5% per year; or, by up to 10%, depending on CPI. The advantage of the fixed amount is that the increase is not dependent on actual CPI for each year, so if the CPI is low or negative, the compensation would increase by the fixed percentage regardless. The advantage of the CPI-up-to-10% increase is that in times like the last couple of years where inflation is so high, council compensation increases would more closely match cost of living increases.

If the Council were to adopt an increase in compensation, the entire Council would become eligible for the salary increase by virtue of one or more Council members beginning a new term of office, following the November 2024 election, but no earlier. Gov't Code § 36516.5. The increased compensation would not apply to the current council before then. If there is interest in such an ordinance, the city should work backwards from November 5<sup>th</sup> and account for first reading, second reading, and 30 day effective date.

A few additional things to note:

- An elected mayor may by ordinance or ballot measure may be provided with additional compensation. Gov't Code § 36516.1.
- Council may increase compensation by amounts lower than those provided for in the statute.
- The enacting ordinance cannot provide for automatic increases.
- The increases are not compounded year-to-year but rather are based on the amount of compensation as adopted by the most recent ordinance.
- All increases must be adopted by ordinance.
- Benefits are not included in the definition of compensation.
- Any or all of the compensation may be waived by a councilmember at any time.
- SB 329 adds the following requirements to the adoption of or amendment to an ordinance. These would apply for any ordinance adopted after January 1, 2024.
  - Any proposed ordinance, including findings justifying the need for increased compensation, must be presented at the first meeting – typically, legislative actions do not require findings, so it is noteworthy that council compensation increases do.
  - The adoption of the ordinance can take place at the second meeting, which must be held at least seven days after the first meeting -- this differs from the typical five-day waiting period between the introduction and adoption of an ordinance.

Respectfully submitted,

Hilda