Little Hoover Commission: Update Hearing

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Infrastructure Financing and Public Pensions Reform

Written Testimony

By

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First of all, I want to thank the Commission for the invitation to contribute to hearing, updating recent actions taken by the legislature on pension reform.

The League's position on pension reform has been submitted to the Commission. The position was developed within our organization with the help of our City Managers' Department. The City Managers' Department established a hardworking task force of managers who started meeting over two years ago to develop a recommendation for the League on the need for pension reform. The final product was also adopted by the League Board of Directors a year ago in July of 2011 and this has been the document that has guided our legislative efforts on pension reform.

The League's position is very consistent with the Governor's 12 point plan released last year. Most of the proposals match almost identically with Governor Brown's proposal with the exception of the Governor's proposal for a hybrid plan and the recommendation that employees and employers cost share for pension "normal costs" at a 50/50 level. Our primary differences with the Governor's proposal in these two areas were as follows:

- The League supports a hybrid proposal, but suggested that any proposal target a 70 percent "replacement ratio" of retirement benefit to final salary. The League reasoned that a 70 percent replacement ration would allow us to continue to recruit and retain a high quality workforce.

- The Governor's proposal for a 50/50 cost sharing arrangement was restricted to the "normal costs" of the system. While this proposal was a good start in the right direction, we firmly believed that not only the "normal costs" should be shared by employers and employees, but also the costs for a pension system's unfunded liability.

In addition to these concerns, the League believed that any comprehensive pension reform proposal needed to deal with the current costs for current employees. Most of the Governor's proposal was/is prospective. While it is important to set the stage for future employees and better manage future costs, the current costs of the system is where the immediate problem lies with local government. It is important here to note that local government pension costs are in an entirely different place than the state of California. Unlike the state, most of a local government budget is made up of personnel costs and most of those personnel costs are for public safety employees and when it comes to pensions they tend to have the most expensive formulas. Approximately 60% of a full-service city budget is made up of public safety services, again, most of which are personnel costs.

The ability to address current costs for current employees also runs into what has been very unforgiving law, termed vested rights. Under this theory, the courts have ruled to date you essentially cannot reduce pension benefits for current employees. While some of this theory defies reason, it seems to be the state of the law for the present. We have also submitted to the Commission a paper worked up by the League on this issue. Given the barrier of the vested rights theory, employers are left with few alternatives to deal with the huge and growing costs of pensions. In some communities, this has played out in workforce reductions/layoffs. The League contends that this is not good for employers, employees or taxpayers.

To address this problem, the League also asked the Governor and the Conference Committee to seriously consider a provision that permitted employers and employees to bargain over ALL the costs of a pension system, not just the "normal costs" included in the Governor's proposal. We believe this was accomplished in the final pension package. The language provides a defensible statutory framework that permits employers and employees in a collectively bargaining setting to AGREE to share not only the normal costs, but also the unfunded liability, which has been primarily the responsibility of the employer.

In addition, the package also permits local agencies to adopt any negotiated agreements on cost sharing on a bargaining unit by bargaining unit basis. While this may not seem revolutionary, it is a big help to agencies over the current law that requires changes of this and other nature to be applied across an entire classification of employees. As an example, if the classification of non-safety employees in a city has 5 collective bargaining units, all 5 units must agree before it can apply to any one unit. Or, to put it another way, one bargaining unit that holds out can prevent the implementation in other units even if they have agreed to it at the collective bargaining table. We expect this to be an important step ahead.

In conclusion, the recently passed pension reform package contains a number of important tools for local governments to address growing pension costs. It is certainly far from a “perfect package,” but waiting for perfection from the legislative process is a long wait and we have immediate problems. It is a step in the right direction and to be successful in dealing with pension costs, it places a lot of responsibility on local governments to straighten out these problems at the collective bargaining table. In many ways this problem started at the local government collective bargaining table and it should end there too.

The League has sent a letter to Governor Brown asking him to sign the legislation.