



Midpeninsula Regional
Open Space District

LEGISLATIVE, FINANCE, AND PUBLIC AFFAIRS COMMITTEE

R-17-107
August 29, 2017

AGENDA ITEM 3

AGENDA ITEM

Board Compensation Legislation

GENERAL MANAGER'S RECOMMENDATION

Receive board compensation report from staff and provide direction regarding legislative approaches, if any, which can be presented to the Board.

SUMMARY

At the direction of the Board of Directors at their January 11, 2017 meeting, the Legislative, Finance, and Public Affairs Committee (LFPAC) received a Board compensation report from staff at their March 7, 2017 meeting. The purpose of the report was to examine the landscape of opportunities that might alleviate the effects of the steadily rising cost of living in the District on Board members. The Board received data on District Board attendance trends, local city compensation and benefits trends, and data from a California Special Districts Association (CSDA) survey of California compensation-related codes for special districts for the LFPAC to consider.

Based on the data received, LFPAC members directed staff to look further into four areas to calculate Board compensation:

- Utilize the Consumer Price Index (CPI)
- Days of service per month
- Compensation for each meeting
- Mileage reimbursement

Staff will present data on the first three of the areas and examine potential pros and cons of each approach. The issue of mileage reimbursement was addressed by the Board in its approval of updates to Board policy 6.04 and 6.06 on August 9, 2017.

The LFPAC Committee will consider the data, discuss, and recommend further action regarding legislative action, if any, which can be presented to the Board.

DISCUSSION

District Board compensation rules are included under Section 5536 of the California Public Resources Code (PRC) (Attachment 1). Established in 1984, this section applies to nine

Regional Park and/or Open Space Districts, of which Midpen is one. In general, it specifies that Board members are compensated \$100 per day in which they attend a meeting on Board business to a maximum of five meetings per month (\$500). It goes on to say that the Board may pass a resolution or ordinance that allows Board Members to participate in medical and dental plans available to permanent employees of the District on the same terms available to those District employees, or on terms and conditions as the Board may determine. The Board elected to provide this benefit to Board Members in 1999.

1. Utilize the Consumer Price Index (CPI)

This option would allow Board member compensation to rise (or fall) consistently as the local cost of living changes. District models already exist for this approach. Under Article 7 of the Memorandum of Understanding (MOU) with the District's Field Employee Association (FEA), annual cost of living salary adjustments are determined utilizing the February Consumer Price Index (CPI) for All Urban Consumers (CPI-U) for the "San Francisco-Oakland-San Jose, CA." According to the Bureau of Labor Statistics "The CPI-U includes expenditures by urban wage earners and clerical workers, professional, managerial, and technical workers, the self-employed, short-term workers, the unemployed, retirees and others not in the labor force." Table 1 illustrates the last ten years of CPI-U adjustments.

Table 1: February CPI-U changes 2008-2017

| <u>Year</u> | <u>CPI-U</u> | <u>Per Day Compensation</u> |
|-------------|--------------|-----------------------------|
| 2007 | | \$100.00 |
| 2008 | 2.77% | \$102.77 |
| 2009 | 1.16% | \$103.97 |
| 2010 | 1.79% | \$105.83 |
| 2011 | 1.70% | \$107.62 |
| 2012 | 3.00% | \$110.85 |
| 2013 | 2.45% | \$113.57 |
| 2014 | 2.45% | \$116.34 |
| 2015 | 2.53% | \$119.29 |
| 2016 | 3.02% | \$122.89 |
| 2017 | 3.44% | \$127.11 |

In a similar, but different, scenario water districts are afforded the ability through the California Water Code (Sections 20200 – 20207) (Attachment 2) to change their own Board compensation up to 5% without additional state legislation. Limits are set and processes are defined around such changes. Updates are subject to Board ratification. In 2015, the Santa Clara Valley Water District increased their compensation by 5% to its current amount of \$273.03 per day. While the approach does not perfectly mirror the CPI-based approach, it may be possible to adopt it with the CPI constraints on the level of increase each year.

Pros:

- In line with existing District CPI-related salary increase processes.
- Allows for compensation adjustments without additional state involvement.
- Water Districts have set a legislative precedent with their Board-initiated compensation increases.

Cons:

- Perception of regular increases may be unfavorable.

2. Days of service per month

This option would mirror a change to the Public Resources Code that East Bay Regional Parks District (EBRPD) in the 1980s. Rather than increase its per-meeting compensation, the EBRPD, which is covered by the same Public Resources Code section as Midpen (PRC 5536) amended this code section with legislation several years ago to allow them to have ten compensable meetings per month. The rest of the Districts covered by PRC 5536 may have up to five compensable days. EBRPD staff noted that several of their Board members do hit the 10 compensable days each month, but it did vary month to month.

To understand the degree to which Board members utilize the compensation opportunities afforded to them, an analysis of monthly Board stipend reports was performed. Over the last two years, Board Members attend an average of 3.4 Board-related meetings per month that are eligible for compensation according to Board stipend records. Table 2 provides a breakdown of the average number of compensable meetings per month, as well as individual monthly minimums and maximums over the 24-month period.

Table 2: Summary of Board Monthly Attendance: 2015-16

| Ward | Board Member | Average | Min | Max |
|------|--------------|---------|-----|-----|
| 1 | Siemens | 3.3 | 1 | 6 |
| 2 | Kishimoto | 3.3 | 1 | 8 |
| 3 | Cyr | 3.9 | 2 | 7 |
| 4 | Riffle | 3.7 | 2 | 6 |
| 5 | Hanko | 3.0 | 1 | 5 |
| 6 | Hassett | 3.4 | 1 | 6 |
| 7 | Harris | 3.2 | 1 | 5 |

Pros:

- EBRPD set a legislative precedent regarding additional compensable days. As such, this approach may garner more legislative support.

Cons:

- Given current monthly statistics of Board attendance it may be difficult to justify the need for additional days to the state legislature

3. Compensation for each meeting

On occasion, Board members attend multiple District-related meetings or events on a single day. California Public Resources Code (PRC) Section 5536 counts this as one compensable day where they receive \$100. This option would afford them the ability to be compensated for each meeting attended at the rate specified in PRC 5536.

Pros:

- Board members more likely to max out their compensable days each month. According to Table 2, which summarizes two years of average Board attendance, Board members have a greater potential to increase their monthly compensation by \$100-\$200 each month.

Cons:

- Unless it is paired with an increase in eligible compensable days, Board members may quickly run up against the current 5-day cap on compensable days specified in PRC 5536.
- A potential risk exists where short, serial meetings could be scheduled with the purpose of boosting compensable events.

FISCAL IMPACT

Depending on the approach(s) selected, the District budget would need to be augmented to accommodate the increased compensation. A more detailed analysis will be provided once this determination has been made.

1. Utilize the Consumer Price Index (CPI)

Cost increases would parallel FEA cost of living salary increases, which are outlined in Table 2. While it is not certain what future CPI increases will be, utilizing an average of the last five years of CPI increases (2.8%) listed in Table 1 and the average monthly Board member attendance in Table 2 yields the following table:

Table 3: Estimated Annual Board Compensation Increase from CPI-U

| Year | CPI-U | Daily Comp | Total Board Compensation | Annual Increase |
|------|-------|------------|--------------------------|-----------------|
| 0 | 2.8% | \$100.00 | \$28,560.00 | \$0.00 |
| 1 | 2.8% | \$102.78 | \$29,352.83 | \$792.83 |
| 2 | 2.8% | \$105.63 | \$30,167.67 | \$814.84 |
| 3 | 2.8% | \$108.56 | \$31,005.12 | \$837.46 |
| 4 | 2.8% | \$111.58 | \$31,865.83 | \$860.71 |
| 5 | 2.8% | \$114.67 | \$32,750.43 | \$884.60 |

2. Days of service per month

Given the number of days per month where Board members currently attend District meetings beyond the state designated limit of five, the cost would be minimal. If Board members were to maximize their participation, it would potentially add an additional \$42,000 in Board compensation costs. This is similar to EBRPD. The maximum increase the Board compensation budget line item would be: (+5 compensable days/month) x (\$100/compensable day) x (12 months) x (7 Board members) = **+\$42,000 in Board compensation**

3. Compensation for each meeting

Based on the data presented in Table 2: Summary of Board Monthly Attendance: 2015-16 the number of meetings exceeding the current maximum allowable five compensable days is rare. However, if each Board member were to maximize his or her eligible compensation days, the cost for Board compensation would be \$42,000 per year. Based

on average meetings per month listed in Table 2, this would be a \$13,440 per year increase.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

This item is not a project subject to the California Environmental Quality Act.

NEXT STEPS

Based on the recommendations by members of LFPAC, staff will bring a legislative proposal to the Board for consideration.

ATTACHMENTS:

1. California Public Resources Code 5536
2. California Water Code, Sections 20200 – 20207

Responsible Department Head:
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State of California**PUBLIC RESOURCES CODE****Section 5536**

5536. (a) The board shall establish rules for its proceedings.

(b) The board may provide, by ordinance or resolution, that each of its members may receive an amount not to exceed one hundred dollars (\$100) per day for each attendance at a meeting of the board. For purposes of this section, a meeting of the board includes, but is not limited to, closed sessions of the board, board field trips, district public hearings, or meetings of a committee of the board. The maximum compensation allowable to a board member on any given day shall be one hundred dollars (\$100). Board members shall not receive any other compensation for meetings, and no board member shall receive more than five hundred dollars (\$500) compensation under this section in any one calendar month, except that board members of the East Bay Regional Park District may receive compensation for not more than 10 days in any one calendar month. A board member may elect to waive the per diem. In addition, the board may provide, by ordinance or resolution, that each of its members not otherwise eligible for an employer-paid or partially employer-paid group medical or group dental plan, or both, may participate in any of those plans available to permanent employees of the district on the same terms available to those district employees or on terms and conditions as the board may determine. A board member who elects to participate in any plan may also elect to have the premium for the plan charged against his or her per diem and may further elect to waive the balance of the per diem.

(c) All vacancies on the board shall be filled in accordance with the requirements of Section 1780 of the Government Code, except that, in the case of vacancies caused by the creation of new wards or subdistricts, the directors shall, prior to the vacancies being filled, determine by lot, for the purpose of fixing the terms of the first directors to be elected to the wards or subdistricts, which ward or subdistrict shall have a four-year term and which ward or subdistrict shall have a two-year term. The persons who fill the vacancies caused by the establishment of new wards or subdistricts shall hold office until the next general election and until their successors are elected and qualified for the terms previously determined by lot.

(d) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(Amended by Stats. 2005, Ch. 700, Sec. 18. Effective January 1, 2006.)

State of California

WATER CODE

Section 20202

20202. In any ordinance adopted pursuant to this chapter to increase the amount of compensation which may be received by members of the governing board of a water district above the amount of one hundred dollars (\$100) per day, the increase may not exceed an amount equal to 5 percent, for each calendar year following the operative date of the last adjustment, of the compensation which is received when the ordinance is adopted.

No ordinance adopted pursuant to this chapter shall authorize compensation for more than a total of 10 days in any calendar month.

(Amended by Stats. 1989, Ch. 111, Sec. 1.)