

Mayor's current pay, this proposal could be modified to peg the Mayor's salary to 90% or 95% of a superior court judge's salary.)

Unlike these other cities, where the mayor's salary is automatically changed based on judicial salaries, this option would allow (but not require) the PEC to waive a salary increase in a two-year period if either of the following occurs:

- (a) the GPF revenue for the current fiscal year is projected to be less than the GPF revenue for the prior fiscal year, or
- (b) the City Council declares in the most recent budget resolution that the City is experiencing a severe and unanticipated financial event or an extreme fiscal necessity or is in a state of fiscal crisis or fiscal emergency.

This provision, which is included in all six options (A1 to C), is intended to allow the PEC to waive or reduce a salary increase in cases where the City is facing significant financial hardship and where it may be inappropriate or controversial to award the Mayor a large pay increase when the City is struggling. While the decision to waive or reduce the salary increase would be in the PEC's discretion, the precondition, that a financial urgency exists, would be objectively determined. GPF projections for a fiscal year are adopted in the budget and can be compared to the actual revenues from the prior year. From the 2010-11 fiscal year through the most recently completed 2022-2023 fiscal year, the GPF has declined three times.

Fiscal Year to Fiscal Year GPF Change

| Fiscal Year | GPF Change |
|--------------------|-------------------|
| FY 10-11 | -2.8% |
| FY 11-12 | 6.9% |
| FY 12-13 | 0.8% |
| FY 13-14 | 1.4% |
| FY 14-15 | 8.5% |
| FY 15-16 | 12.1% |
| FY 16-17 | -1.2% |
| FY 17-18 | 6.9% |
| FY 18-19 | 10.0% |
| FY 19-20 | -2.8% |
| FY 20-21 | 11.9% |
| FY 21-22 | 2.3% |
| FY 22-23 | 20.5% |

The declaration of a "severe and unanticipated financial event," "extreme fiscal necessity," or "fiscal crisis or fiscal emergency" are also objectively determined, as these are official legal terms that the City Council must use in its budget resolution if it wants to waive certain minimum funding or staffing requirements – for example, to waive minimum library funding, minimum City Auditor's Office staffing, or the Democracy Dollars program minimum staffing and funding. The City Council has further defined or elaborated on these terms in Council Resolution [No. 89803](#) (Jun. 22, 2023).

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- Every two years, the PEC changes the Mayor's salary by the change in salary of the largest non-sworn public employee union in the City.
- The PEC, in its discretion, may waive or reduce a salary increase for that two-year period if either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) if the GPF revenue for the current fiscal year is projected to decline.

This option automatically ties the Mayor's salary increases to that of the largest non-sworn City employee union, presently SEIU 1021, except that, because the PEC would be setting the Mayor's salary every two years, the Mayor's raises would take effect months to over a year after those of City employees. For context, the current SEIU Local 1021 contract provides the following wage increases:

- 5% effective the first full pay period in July 2022;
- 2.5% effective the first full pay period in July 2023;
- 2.5% effective the first full pay period in January 2024;
- 2% effective the first full pay period in July 2024; and
- 2% effective the first full pay period in March 2025.

From staff's discussion with Budget Office staff, employee union wage increases tend to apply uniformly across the board to all represented employees in the union, although in some cases certain job classifications will receive extra compensation in the agreement. For example, in the most recent agreement, a 5 to 7.5% "special equity" pay increase was awarded to engineers. In such cases, the PEC would only consider the bargaining unit-wide increase of the largest non-sworn bargaining unit.

Staff is unaware of another city that bases mayoral salary increases on represented employee increases. However, when the PEC sets the salaries of the City Attorney and the City Auditor, it must consider the compensation of the highest paid staff in those offices. While those are likely not represented employees, PEC staff understand that in Oakland management raises generally track the raises provided to represented employees.

As with Options A1 (superior court) and A2 (inflation adjustment), the PEC would have the ability to waive or reduce the increases if the City is facing a significant fiscal hardship or revenues decrease. Another addition the PEC may consider for this option (or potentially others) is that, if the largest employee union agrees to amend its contract to reduce costs, the PEC would then be authorized or required to decrease the Mayor's salary by the same percentage as the cost reduction. San Francisco utilizes this later approach.

Advantages of this option may include that:

- The increase will almost always be automatic, with very little PEC discretion except in times of fiscal crisis;
- The increase matches negotiated increases with City employees, reflecting what City leadership considers to be fair to employees and affordable to the City; and
- It is administratively simple to implement.

Disadvantages to this option may include that:

- Basing the mayor's salary on public employee union compensation may create a conflict of interest or the appearance of a conflict if the Mayor was involved in those salary negotiations;
- Using public employee wage increases to set compensation may lead to mayors being significantly over or under-compensated compared to executives in peer jurisdictions and top staff; and
- It provides the PEC with little discretion to exercise its best judgment on what is a fair and competitive salary.

Option B1: Adjust to Provide Comparable and Equitable Pay

Proposal Summary:

- Every four years, taking effect at the start of a new mayoral term, the PEC adjusts the Mayor's salary considering:
 - The salaries of the chief executives (city manager or mayor in a strong mayor system) in comparable California jurisdictions;
 - The salary of the highest-paid mayoral employee;
 - The salary of City Department heads; and
 - Inflation since the last adjustment.
- The PEC, in its discretion, may postpone or temporarily reduce a salary increase in any fiscal year in which either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) the GPF revenue for the current fiscal year is projected to decline.

This option closely resembles the process the PEC already uses to set the City Auditor and City Attorney's salaries. Under this option, salary-setting would generally not be automatic, but also would not be fully discretionary. The PEC would set the Mayor's salary after weighing enumerated criteria, none of which are based on the PEC's subjective evaluation of the Mayor's performance. However, similar to its salary-setting role with respect to the City Attorney and City Auditor, the PEC would have discretion in deciding how to weigh these potentially conflicting considerations, as well as which peer California jurisdictions to select as a benchmark for a chief executive's salary.

However, selecting comparable peer jurisdictions and deciding how to account for their executives' pay may be more complicated in the context of setting the Oakland Mayor's salary than it is with respect to the City Attorney or City Auditor, which are more specialized positions that tend to have similar duties and responsibilities to other elected and non-elected city attorneys and auditors in the state. A mayor's powers and responsibilities can vary significantly between cities, which often affects compensation. Mayors are generally paid significantly more in so-called "strong mayor" cities, where the mayor is the executive of the city, and less in "weak mayor" cities, where the mayor typically is a member of council with no additional executive powers. Oakland's form of government, which includes a City Administrator rather than a city manager, is sometimes described as falling between these two systems,² which may make one-to-one comparisons more difficult. In addition, city managers are typically paid significantly more than even more traditional strong mayors. This raises the question of whether the salary of Oakland's Mayor should be set equal to other strong mayors or city managers, or at some lower rate?

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Appendix I. Mayoral Salary in Ten Largest California Cities and Perceived Controversy

In response to Commissioner questions and feedback at and after the October PEC meeting, staff have updated the chart from the memo for that meeting identifying the salary setting practices of California’s ten largest cities to also include a city’s population, number of public employees, mayoral salary as of 2022, excerpts and links to recent articles about the salary-setting process in that city, and a subjective assessment by a leader of the local chapter of the League of Women Voters as to how controversial recent salary adjustments have been in that city. As to the latter, nine out of the ten local League chapter leaders identified by the State League responded to this survey.

| City & Population ¹ | Mayor Type | City Staff ² | 2022 Salary ³ | Mayoral Salary Rule | Recent Coverage and Perceived Recent Controversy of Salary-Setting Process |
|--------------------------------|------------|-------------------------|--------------------------|---|---|
| Anaheim 344,461 | Weak | 3,286 | \$10,877 | Follows rules for general law cities. Charter Sec. 502. | <u>Local LWV: 1/5 controversy.</u> “[I am] not aware of any controversy. Not aware of any recent changes.” <u>Article:</u> None found |
| Bakersfield 410,647 | Weak | 2,116 | \$48,211 | Set at \$24,000/year. Charter Sec. 20. | <u>Local LWC: no response</u> <u>Article (Opinion):</u> “A case can be made for for increasing the pay of Bakersfield City council members, but not on the scope of Sacramento's and San Jose's. Bakersfield council members receive \$785.79 monthly, which is a combination of being given a car allowance and what compensation the Charter mandates. The mayor earns \$2,000 monthly and is given a car. But council members and the mayor also the receive fully-paid medical, dental and vision insurances costing from \$7,720.79 (single rate) to \$23,243.46 annually.” Bakersfield, 4/6/2022 |
| Fresno 545,567 | Strong | 5,015 | \$141,520 | Salary set by City Council. Charter Sec. 308. | <u>Local LWV: N/A</u> “No I do not know of any controversy surrounding the mayor's salary in recent memory.” <u>Article:</u> “A proposal from the Fresno City Council would give elected officials a dramatic pay raise in future years. ... “This [proposal tying council and mayor pay to Fresno County supervisor pay, which is based |

¹ U.S. Census Bureau, “Annual Estimates of the Resident Population for Incorporated Places in California: April 1, 2020 to July 1, 2022,” <https://www2.census.gov/programs-surveys/popest/tables/2020-2022/cities/totals/SUB-IP-EST2022-POP-06.xlsx>.

² State Controller, “Government Compensation in California,” <https://publicpay.ca.gov/>.

³ State Controller, “Government Compensation in California,” <https://publicpay.ca.gov/>.

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| | | | | | on superior court judge pay] provides the greatest transparency while also taking the ability to vote on future raises out of the hands of councilmembers,” [Councilmember] Maxwell said. ... The mayor’s salary — currently at \$130,000 — would be tied to the city council and earn a multiple of just over 160% of that rate. That would bump up the next mayor’s salary to \$219,447. ... Fresno Mayor Jerry Dyer is not convinced this is the best plan. “I am concerned with the message this will send to our employees as well as our tax payers, as the raises are significant. I think a more moderate approach should be taken that provides annual pay raises similar to that of employees,” Dyer.” <i>GV Wire</i> 6/21/22 [Note: proposal passed.] |
| Long Beach 451,307 | Weak | 6,705 | \$169,497 | Set at \$67,500 + CPI (set in 1988). <i>Charter Sec. 203.</i> | <u>Local LWW: 1/5 controversy.</u> “[N]ot aware of any controversy.” <u>Article:</u> “The council placed a voluntary pay cut item on the agenda during a Sept. 8 meeting in which the city’s budget was approved. A motion that direct money saved from elected officials’ salaries to city libraries and parks did not get approved. Instead, the forgone salaries will be distributed to the city’s general fund, which is used to pay for public services. The mayor’s salary is \$157,145.16 annually, while the council salary is \$39,290.47, according Gross. Due to federal tax laws and pension agreements, the city could not slash these salaries by 10% across the board, as workers did. Instead, the city made an approximate cut to their individual salaries to equate a 10% pay cut and called it a donation.” <i>LB Post</i> , 10/13/2020 |
| Los Angeles 3,822,238 | Strong | 68,322 | \$301,588 | 30% more than Councilmembers (who receive salaries equal to superior court judges). <i>Charter Sec. 218.</i> | <u>Local LWW: 1/5 controversy.</u> “[T]his issue is so off the radar in LA, we have so many more pressing issues, I think I can safely tell you that there has been almost no mention of it from any sector of the political spectrum.” <u>Article:</u> “The proposed pay raise, public campaign financing and ethics reforms will be linked in a single ballot measure in June, meaning that voters must grant elected officials the pay raise if they want to adopt the reforms.” <i>LAT</i> , 2/14/1990 |
| Oakland 430,553 | Strong | 6,117 | \$226,557 | Council set salary to 70% to 90% of the average City Manager or CEO salary of | <u>Local LWW: 4/5 controversy, but “short-lived.”</u> “The only controversy over the Mayor's salary anyone, including longtime residents and committee members, could recall was the recent one in 2023 of the |

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| | | | (Note. ⁴) | 6 nearest-in-size cities. <i>Charter Sec. 300.</i> | <p>setting of Mayor Thao's salary. People believe that may have been because the previous Mayor Schaf did not accept increases or the City Council did not comply with its mandate to review and adjust the salary at regular intervals. ... The belief is that the context of Oakland's sizeable deficit made the initial recommendation of a maximal salary increase particularly controversial. ”</p> <p>Article: “Caving to public pressure, the Oakland City Council gave the city’s mayor the smallest pay raise allowable under the law, marking the first salary bump the position has received in a decade.” <i>Oaklandside</i>, 7/19/2023</p> <p>Editorial: “The charter requires the City Council to review the mayor’s salary in odd-numbered years. The mayor’s salary under the charter is to be not less than 70% nor more than 90% of the average salaries of the city managers of the six California cities with the three immediate higher and the three immediate lower populations. It’s a nonsensical standard and comparison. City managers or administrators are usually highly trained professionals with years of education and experience in municipal management and finance. Their skill sets and responsibilities are completely different from those of a mayor.” <i>EBT</i>, 7/17/2023</p> |
| Sacramento 528,001 | Weak | 5,606 | \$146,749 | Appointed Compensation Committee sets salaries that are “reasonable and consistent with other cities similar in size and structure.” <i>Charter Sec. 29.</i> | <p><u>Local LWV: 1/5 controversy.</u> “The LWV Sacramento County has not found the Mayor’s salary to be publicly controversial except perhaps among the members of the commission that sets the salary for the Mayor and City Council.”</p> <p>Article: “[Mayor] Steinberg’s annual salary will increase from \$158,652 to \$164,205 starting June 17, the city’s Compensation Commission decided ... [which] was roughly 3.5%, which was the amount of the raises most unionized city employees received last year.” <i>SacBee</i>, 5/5/2023</p> |
| San Diego 1,381,162 | Strong | 12,829 | \$236,851 | Salary equal to salary of superior court judge. <i>Charter Sec. 24.1.</i> | <p><u>Local LWV: 1/5 controversy.</u> “The mayor's salary has not been controversial. In 2018, Measure L passed, which set the mayor's salary equal to that of California Supreme Court judges.”</p> |

⁴ Note: The State Controller’s Data does not match the City’s figures for mayoral pay. The City Council recently adopted a Mayoral salary of \$216,202.42, which was about a \$13,000 increase over the 2022 salary for this position.

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| | | | | | <p>Article: “Before voters approved Measure L, the awkwardness and potential political costs of voting to give themselves raises had prevented San Diego council members from doing so for more than 15 years.” <i>SDUT</i>, 6/2/2023</p> |
| San Francisco 808,437 | Strong | 39,238 | \$357,084 | <p>Every 5 years, Civil Service Commission sets salaries based on average of 5 Bay Area counties. In other 4 years, salaries are adjusted for inflation, but capped at 5%. If City employee unions amend their MOUs to save costs, the Commission shall amend the Mayor’s salary to achieve comparable savings. <i>Charter Sec. A8.409-1.</i></p> | <p><u>Local LWW: N/A</u> “LWVSF has not been part of any discussions or advocacy around mayor compensation for the past few years at least. We are aware that there is usually discussion about the mayor’s compensation by the residents and the media, such as this recent example from the San Francisco Chronicle [below] about San Francisco’s mayor being the highest-paid in California.”</p> <p>Article: “San Francisco Mayor London Breed had the highest compensation among California city mayors last year, exceeding the compensation of mayors in more populous cities, including Los Angeles, San Diego and San Jose. ... Though Breed may have an unusually high salary relative to her peers, her compensation is still a fraction of what a top manager at a private company would earn, said Steven Falk, former interim city administrator of Oakland and a longtime city official who has served in six California cities.” <i>SF Chron</i>, 7/10/2023</p> |
| San Jose 971,233 | Weak | 8,475 | \$209,402 | <p>Appointed Salary Setting Commission sets salary taking “commensurate with salaries then being paid for other public or private positions having similar full time duties, responsibilities and obligations.” City Council may reduce salaries. <i>Charter Sec. 407.</i></p> | <p><u>Local LWW: N/A</u> “There is no one available who feels they have enough background/experience on this to comment for your survey.”</p> <p>Article: “A city commission on Monday unanimously approved salary increases for San Jose elected leaders, including a whopping \$58,000 raise for Mayor Sam Liccardo and a \$28,000 raise for city councilmembers. But on Tuesday morning, Liccardo rejected the raise in a new memo released by his office. Instead, Liccardo suggested aligning current and future mayoral salary increases with those typical for most employees, about 3 percent annually. ... [V]oters approved Measure U last fall [ie 2018], which removed councilmembers and the mayor from approving their own salaries — a hot button issue that voters agreed was a conflict of interest. Previously, the commission made recommendations for raises, but the City Council voted to adopt them, which became a highly-politicized affair. Now, the commission</p> |

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| | | | | | approves the salaries outright, taking the decision-making out of the elected officials' hands." SJ Spotlight, 4/22/2019 |
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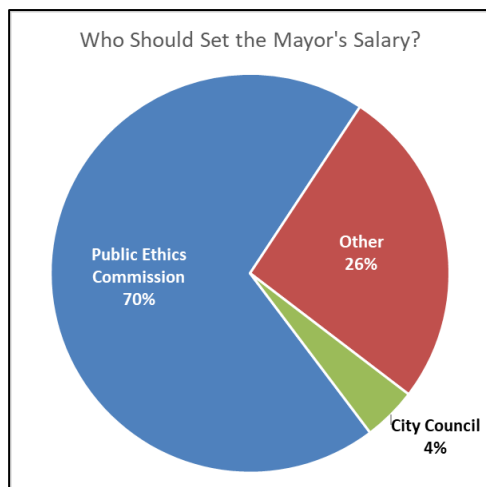
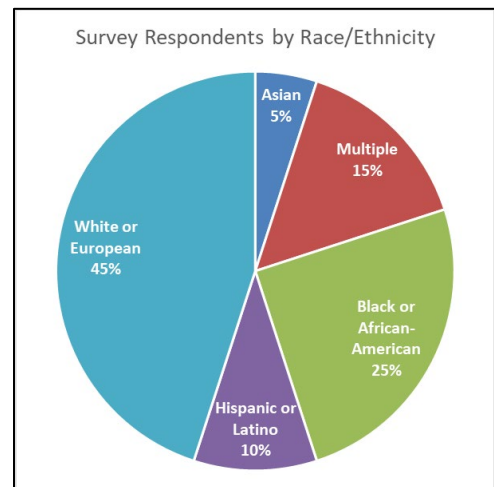
Appendix II: Public Comment Survey on Mayor's Salary

To solicit greater public comment on this item, the PEC designed and created a survey asking respondents whether the PEC should be assigned the role of setting the Mayor's salary or not and, if so, what criteria should the PEC use, and what level of discretion should the PEC have. The survey was open from November 20 through November 29 and distributed by email to the PEC's distribution list twice, shared through the PEC's social media accounts, and posted to NextDoor.

The PEC received a total of 23 responses to its survey. Of those respondents, 20 volunteered their demographic information to the Commission. Of those, 5 percent identified as Asian, 25 percent Black or African American, 10 percent as Hispanic or Latino, 45 percent as White or European, and 15 percent identified with multiple race and ethnicity categories, and 74 percent identified as Female, and 26 percent as Male¹. Because this was not a randomized sample, like traditional oral public comment at government meetings, the responses are not necessarily representative of the views of all Oaklanders.

Overall, commenters responding to this survey generally favored the PEC taking on the responsibility of setting the Mayor's salary. Public commenters seemed to generally think that all the factors the PEC has identified as potential criteria for setting the Mayor's salary were important considerations; however, the most popular consideration was the City's financial condition. Finally, public commenters were mostly split in thinking that the PEC should have some to a great deal of leeway in setting the salary.

The overall survey responses to each question are below, along with any unique answers or other volunteered comment provided by a survey respondent.



1. Who do you think should set the Mayor's Salary?

Answers provided for "Other":

- "All city employees should receive percentage salary increases by the same city civil service system. The mayor should be no different and should also have held the office at least two-three years. An increase a few months after taking office is ridiculous."
- "I feel both entities should set the Mayor's salary."
- "Not sure who. Definitely not Council. What would Ethics Commission consider in setting salary?"
- "Oakland property tax payers (who live in the city)"
- "Oakland registered voters"

¹ The survey used demographic categories used by the U.S. Census for consistency and comparability.

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- “The voters should set the salaries for all elected officials in Oakland!”

2. If given this responsibility, please rank how important the following factors should be in setting the salary (0 = Not at all important, 4 = Very important):

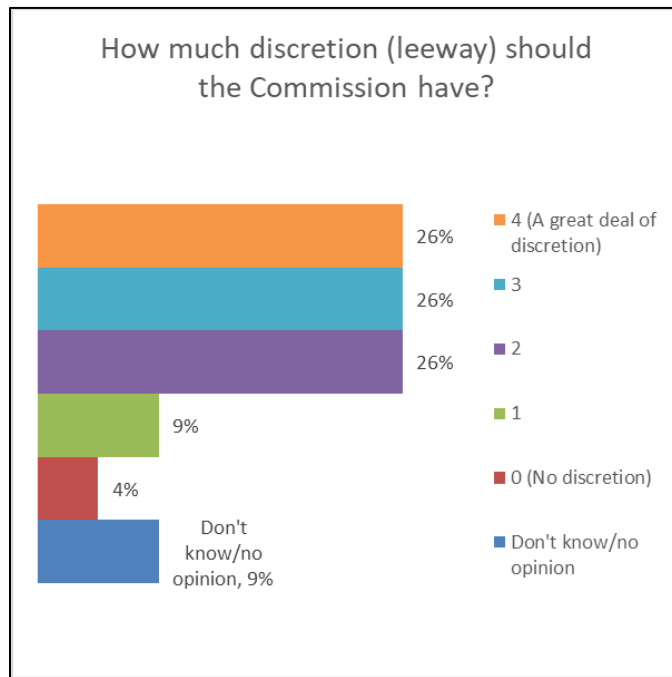
| Factors for Consideration | 0 | 1 | 2 | 3 | 4 | Don't know/no opinion |
|--|-----|-----|-----|-----|-----|-----------------------|
| Salary of the top-paid employee in the Mayor’s Office | 26% | 0% | 9% | 4% | 48% | 13% |
| Salaries of other City Department heads | 17% | 4% | 13% | 4% | 57% | 4% |
| Salaries of chief executives in Cities similar in size to Oakland | 22% | 0% | 22% | 9% | 48% | 0% |
| Inflation since the last Mayoral salary adjustment | 17% | 17% | 4% | 9% | 48% | 4% |
| Pay increases received by civil service employees since the last Mayoral salary adjustment | 22% | 17% | 4% | 17% | 39% | 0% |
| The financial condition of the City | 0% | 0% | 4% | 9% | 83% | 4% |

3. Are there other important factors not listed above that should be considered when setting the Mayor's salary?

- “Efficiency of doing the work since elected. No reason why the position shouldn't get an annual review”
- “Ethics of course “
- “How long they have been mayor”
- “I feel that the Mayor's salary should only be raised after the first two years of holding the office.”
- “No”
- “Salary should be comparable to similar jurisdictions.”
- “See my comment above.”
- “She needs to step up and clean the city, do her job as a mayor before she get a raise.”
- “Since Oakland does not have a strong mayor system, the mayor's salary should be compared against the mayoral salaries in similar sized cities who have similar responsibilities.”
- “the Mayor's performance, of course”
- “The salaries should be frozen until Oakland's problems are resolved”
- “The time in the job”
- “There should be some performance and results measurement by third party evaluator.”
- “Where Oakland ranks in crime compared to nearby cities”
- “Whether or not the mayor is effective and responds to constituents demands”
- “Yes, whether we're under a strong mayor system, or not.”

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4. If given this responsibility, how much discretion (leeway) should the Ethics Commission have in setting the amount of the Mayor's salary?



5. What else would you like the Ethics Commission to know about this topic?

- "A goal should be to provide the greatest transparency in the mayoral salary setting process."
- "Haven't seen much ethics yet in Oakland government. Who are you? Hope we trust you?"
- "I am soooo embarrassed to admit that I live in Oakland."
- "I've lived here approx 35 years and da Mayor and da DA are taking this city down"
- "I feel that there must be 'safety nets' in place to ensure that there are no 'cozy' relationships between the Mayor and any person involved in deciding the Mayor's salary! No Commissioner should be a former/current staff person of the Mayor! We don't need or want another situation like the CPUC and PG&E!"
- "Make sure a mayor doesn't hire relatives, boyfriends, girlfriends, children, neighbors"
- "More education of public and MUCH more community engagement is needed on this matter before any vote."
- "No comments."
- "Not sure how this issue was pitched as something within this Commission's jurisdiction. Not sure what other entity in the City should do this. This is an important topic especially at this time of budget shortfalls."
- "See my first comment."
- "The current situation in Oakland re: the Mayor's salary is untenable and wholly unethical - it MUST be changed."
- "The Ethics Commission should also look at either a stipend or pay for the Planning Commission and Port Commission, even if it means going to the ballot."

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- “This commission needs to be made of regular people living in Oakland from every demographic”
- “This topic seems to be a hot one at the moment, largely because most Oakland residents feel the City government is corrupt and our tax dollars are going anywhere except into taking care of our city. A large raise for elected officials feels like graft. Our streets are filthy and badly deteriorated. Our cars are being stolen right out of our driveways, traffic laws are a joke. So when we hear about raises for city officials, we feel violated. We want public officials that care more about fixing what's broken than getting a raise. Which makes us want public officials to have salaries more in line with what the rest of us receive--people who struggle to pay all our bills, instead of sitting in their offices feeling so important that they don't have time to answer our emails or phone calls. We trust used car salesmen more than the mayor and the dispute over her salary is one reason why.”



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Ryan Micik, Chair
Charlotte Hill, Vice Chair
Alea Gage
Arvon J. Perteet
Vincent Steele
Francis Upton IV

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
Ana Lara-Franco, Commission Analyst
DATE: September 29, 2023
RE: Discussion of Options for Setting the Mayor's Salary

At its July 18, 2023 meeting, the City Council passed a motion directing the City Administrator to bring back a proposal for a November 2024 ballot measure transferring the duties of setting the Mayor's salary from the City Council to the Public Ethics Commission (Commission or PEC). At its August retreat, PEC commissioners indicated that, rather than wait for the Administrator's proposal, they would prefer that the PEC recommend to the Administrator whether the PEC should take on this responsibility, and if so how.

This item was agendaized to provide an opportunity for the public to provide comment, and for commissioners to discuss, what the Commission may wish to recommend. Based on this discussion, and any initial feedback, guidance, or request for additional information from commissioners, staff anticipates returning to the PEC this December with a proposal or proposals for the Commission's consideration.

To further this initial discussion, this memorandum provides background information on how the Mayor's salary is set; how the PEC sets salaries for other City elective offices; how other California jurisdictions set their mayors' salaries; and policy questions the PEC may wish to consider as part of this discussion.

Background - Elected Official Salary-Setting in Oakland

Under the City Charter, the PEC sets the salaries for the City Council, City Attorney, and City Auditor. Under Section 202 of the Charter, the PEC bi-annually adjusts city councilmember salaries by the increase in the consumer price index over the preceding two years, up to a total of five percent. Under Sections 401(1) and 403(1), the PEC must annually adjust the salaries for the City Attorney and City Auditor to "provide for competitive compensation and equitable alignment," taking into account the highest paid employee in each office, other department head salaries, and salaries for comparable public officials in other California cities and counties. The PEC's authority to set the salary for the City Attorney and City Auditor is recent; voters transferred this responsibility to the PEC with the passage of Measure X in 2022. The PEC set the City Attorney and City Auditor's salaries for the first time in 2023.

The only elected City official that the PEC does not set the salary for presently is the Mayor. Under Section 300 of the Oakland City Charter, the City Council sets the Mayor's salary in every odd-numbered year, which must be "not less than 70% nor more than 90% of the average salaries of City Managers'/Chief Executive Officers of California cities within the three immediate higher and the three immediate lower cities in population to Oakland."

Charter Provision for Elected Official Salary-Setting

Mayor's Salary (Sec. 300). *The Mayor shall be nominated and elected from the City at large and shall receive an annual salary payable in equal monthly installments, and without any additional compensation or fees provided for in Section 202 of this Charter. The salary shall be set by the Council, which shall be not less than 70% nor more than 90% of the average salaries of City Managers'/Chief Executive Officers of California cities within the three immediate higher and the three immediate lower cities in population to Oakland, The Mayor's salary shall be reviewed by the City Council in odd-numbered years and may be adjusted by the Council as provided for herein.*

Council Salaries (Sec. 202). *The Public Ethics Commission shall bi-annually adjust the salary for the office of Councilmember by the increase in the consumer price index over the preceding two years, up to a total of five percent. If the increase in the consumer price index over the preceding two years exceeds five percent, the Commission shall have the discretion to adjust the salary for the office of Councilmember by an amount not exceeding five percent for each year, but not more than the total CPI per year.*

City Attorney Salary (Sec. 401(1)). *... The salary of the elected City Attorney shall be set annually by the Public Ethics Commission to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Attorney and salaries for other City department heads, and shall be comparable to the salaries of City Attorneys and other comparable positions, such as County Counsel or Port Attorney, in California cities, counties and agencies selected by the Commission. The City Attorney's salary may not be reduced during the City Attorney's term of office except as part of a general reduction of salaries of all officers and employees in the same amount or proportion.*

City Auditor Salary (Sec. 403(1)). *... The salary of the City Auditor shall be set annually by the Public Ethics Commission, to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Auditor and salaries for other City department heads, and shall be comparable to the salaries of public sector auditor positions in California cities and counties selected by the Commission. The City Auditor's salary may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion.*

Pursuant to the Charter, the City Council last set the Mayor's salary on July 18, 2023. At the time, the Mayor was earning a salary of \$202,999. According to a staff report prepared by the City Manager, the average salary for the city managers of Fresno, Sacramento, Long Beach, Bakersfield, Anaheim, and Stockton was \$308,860. Therefore, the available 70% to 90% salary range was between \$216,202 and \$277,974. The City Council adopted the lower range of that scale.

At that same meeting, Councilmember Fife also moved, and the City Council approved on a 6-2 vote, a motion to have the City Administrator "return to Council in a timely manner with proposed legislation to amend the City Charter in November of 2024 to move the responsibility for setting the Mayor's salary from the City Council to the independent Public Ethics Commission, as is now the case for other elected officials, including the City Attorney, City Auditor and Councilmembers." The City Administrator is likely to bring back his recommendation to the City Council in early 2024.

How the Mayor's Salary is Set in Other California Jurisdictions

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There are two types of cities in California: general law cities, which are subject to the state's general laws, and charter cities, which are cities that have adopted a city charter (akin to the city's constitution) and have some home rule autonomy from the state's general laws with regards to matters of municipal concern, including elected officials' salaries. Oakland, like most large cities, is a charter city.

For general law cities, state law sets mayoral compensation. In cities with a population of more than 250,000 residents, city councilmembers, including a mayor who is a member of the council, may be paid up to \$1,000 per month. That amount may be adjusted by no more than "5 percent for each calendar year from the operative date of the last adjustment of the salary in effect" when the salary ordinance was adopted. (Government Code Section 36516.) \$12,000 per year is very low, and likely reflects that, in most general law cities, the office of councilmember is a part-time position.

Charter cities like Oakland, however, are not governed by the State's general laws with regards to councilmember or mayoral salary. PEC staff surveyed the ten largest California cities (all of which are charter cities) and found many different approaches to mayoral salary-setting. In Fresno, the City Council has wide discretion in setting the mayor's salary. Other cities adopt a stricter approach, where there is very little discretion in salary-setting. For example, both Los Angeles and San Diego base their mayor's salaries on a superior court judge's salary. Anaheim follows the salary rules for general law cities. Other cities provide some discretion in salary amount, while setting standards for the types of factors that should be considered in setting compensation. For example, Sacramento and San Jose use appointed bodies to set salaries, while directing those bodies to take into account compensation provided in similar-sized cities.

The power and responsibilities of the mayor should also be considered in salary setting. Cities are generally described as having one of two forms of government (or a blend of both): the City Manager form of government, sometimes called the "weak mayor" form, where the city manager is the chief executive of the city and the mayor is a member of the city council, and the Mayor-City Council form of government, sometimes called the "strong mayor" form, where the mayor is the executive of the city and not a member of council. Because mayors in strong mayor cities have more power and responsibilities than mayors in weak mayor cities, they tend to have higher compensation. In California, five cities are commonly described as being either "strong mayor" cities or having "strong mayor" attributes: Fresno, Los Angeles, Oakland, San Diego, and San Francisco.

Comparison – Mayoral Salary-Setting in the Ten Largest California Cities

| Jurisdiction | Type of Mayor | Mayoral Salary Rule |
|---------------------|----------------------|---|
| Anaheim | Weak | Follows rules for general law cities. <i>Charter Sec. 502.</i> |
| Bakersfield | Weak | Set at \$24,000/year. <i>Charter Sec. 20.</i> |
| Fresno | Strong | Salary set by City Council. <i>Charter Sec. 308.</i> |
| Long Beach | Weak | Set at \$67,500 + CPI (set in 1988). <i>Charter Sec. 203.</i> |
| Los Angeles | Strong | 30% more than Councilmembers (who receive salaries equal to superior court judges). <i>Charter Sec. 218.</i> |
| Oakland | Strong | Council set salary to 70% to 90% of the average City Manager or CEO salary of 6 nearest-in-size cities. <i>Charter Sec. 300.</i> |
| Sacramento | Weak | Appointed Compensation Committee sets salaries that are “reasonable and consistent with other cities similar in size and structure.” <i>Charter Sec. 29.</i> |
| San Diego | Strong | Salary equal to salary of superior court judge. <i>Charter Sec. 24.1.</i> |
| San Francisco | Strong | Civil Service Commission sets salaries based on average of 5 Bay Area counties. Commission may reduce salaries if City and employee unions reduced their salaries. <i>Charter Sec. A8.409-1.</i> |
| San Jose | Weak | Appointed Salary Setting Commission sets salary taking “commensurate with salaries then being paid for other public or private positions having similar full time duties, responsibilities and obligations.” City Council may reduce salaries. <i>Charter Sec. 407.</i> |

Questions the PEC May Wish to Discuss

In discussing how the mayor’s salary should be set, commissioners may wish to consider the following questions:

1. Who should set the Mayor’s salary?

Should the salary be set by the City Council (current law), the PEC (which sets all other City elected official salaries), or some other body (like the Civil Service Commission, as in San Francisco)?

- The City Council may provide political accountability to the voters for the process. However, it also risks politicizing the salary-setting process, where the mayor’s salary might depend significantly on whether or not his or her allies control the Council.
- A politically-insulated body, like the PEC, may lead to a fairer process where charter criteria, such as setting the salary based on compensation in peer jurisdictions, are more likely to be followed over political considerations. However, heightened scrutiny over the salary-setting process may pressure the PEC to make political decisions and subject the PEC to criticism that could undermine public trust in the PEC’s other mandates around campaign finance and government ethics compliance.

2. How much discretion should the salary-setting body have?

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Should the salary-setting body have complete discretion to set the salary on whatever factors it deems relevant? Should the body have some discretion, while having to base its decision on certain charter-defined criteria, as the PEC does for the City Attorney and City Auditor? Or should there be very little to no discretion, similar to the PEC's limited role in adjusting the councilmembers' salaries for inflation or how San Diego ties mayoral pay to superior court judge compensation, or Los Angeles to a multiple of councilmember compensation?

- More discretion may enable a salary-setting body to better take into account unique circumstances, such as fiscal crises, in deciding whether to raise salaries and by how much. However, it may make the process more susceptible to abuse or accusations of abuse, and invite the salary-setting body to subjectively evaluate how well elected officials are performing, which is a political judgment.
- Conversely, less discretion narrows the opportunity for abuse, but reduces the salary-setting body's ability to address unique circumstances. If the salary-setting body has no discretion, it may not be necessary to assign salary-setting to an independent body.

3. What factors, if any, should or must the salary-setting entity consider?

For the City Auditor and City Attorney, the PEC must provide for competitive compensation and equitable alignment and take into account:

- The salary for the highest paid professional employee in the official's office;
- The salary of other City department heads; and
- The salary for the same office in other California cities and counties.

Other considerations might include inflation, anticipated raises for represented employees, the financial condition of the City, or other factors.

The PEC may also wish to discuss, for the mayor, what might constitute a comparable office in other cities? Should the salary of weak mayor cities be considered, or only strong mayors? Should city manager pay be considered, or only elected official pay? Should jurisdictions outside of California be considered?

4. If the PEC sets the Mayor's salary, should the factors the PEC applies or considers be the same as those used for setting the salaries of the City Council, City Auditor, and/or City Attorney, or different?

Using the same or a similar standard would likely be more administratively simple for staff and promote compensation fairness across elected offices. (This may mean recommending that the salary-setting process for the City Council, City Attorney, and City Auditor be adjusted in the same measure that reassigns mayoral salary-setting to the PEC.) On the other hand, there may be differences in the nature of the different offices that should require the application or consideration of different standards.