

CONSENT CALENDAR
May 24, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Ben Bartlett (Author), Councilmember Rigel Robinson, Kate Harrison, and Terry Taplin (Co-Sponsors)

Subject: Budget Referral and Updated Guidelines and Procedures for City Council Office Staff Expenditures

RECOMMENDATION

Refer to the Budget and Finance Committee to consider updates to the guidelines and procedures for City Council office budget expenditure accounts with regards to City Council staff salaries and fringe benefits expenditures and an accompanying Budget Referral of approximately \$1,226,619.52 for the FY 22-23 June Budget process.

CURRENT SITUATION

As of March of 2022, four of eight Council Offices retain more than one Legislative Assistant, while the Mayor retains four Legislative Assistants in addition to a Chief of Staff. This reflects the trend over the last two decades of an increase in demand faced by Council Offices for constituent services and legislative policy output. Despite this increase, Council budget policy still assumes a staff level fixed at one Legislative Assistant per Council Office, though recent adjustments provide for budgeting the Mayor's Office at actual staff costs.

The most recent adjustment to Council staff budgeting policy was made in response to the 2019 unionization of Legislative Assistants with the SEIU 1021 Community Services & Part-Time Recreation Leaders Association Chapter. The City officially ratified a contract with the new unit on June 15, 2021 that, among other things, provided an increased hourly wage for Legislative Assistants more closely commensurate with internal comparators as determined by a 2006 report from the City Manager, and placed Legislative Assistants on a salary schedule based on annual steps like other unionized positions in the City. After the adoption of the contract, Resolution No. 65.540-N.S. which provided for and regulated Council Office budgets was replaced by Resolution No. 70,054-N.S. This new Resolution adjusted Council budgets to allow for one full-time Legislative Assistant per office under the new agreement but did not account for the reality that half of Council Offices currently have had more than one Legislative Assistant. Because the new contract provides for annual step increases, Council Offices which now use their staff funds to retain two part time Legislative Assistants will be forced to reduce hours or terminate staff as they progress through annual steps.

BACKGROUND

The Berkeley City Council and the people of Berkeley take great pride in their extremely active, engaged, and forward thinking legislative branch. This is directly tied to the expectations of Berkeley's residents, who have through their votes on ballot measures and their vocal advocacy demanded this level of activity. Additionally, this demand has risen over time. The population of Berkeley has increased by more than 20,000 since 2000, and interest in critical legislative issues including affordable housing, climate change, homelessness, transit, and public safety reimagining has increased substantially. Simultaneously, the City's budget and the total number of employees have steadily increased. The Council provides legislative output, municipal oversight, and constituent services that are more comparable to neighboring cities and counties with substantially larger populations and budgets than Berkeley. The Council's legislative assistants are key to providing these services. Legislative Assistants aid with the management of a Councilmember's policy initiatives and district projects, write legislation, provide administrative office support, research and analyze policy and legislation, guide constituents in accessing critical public and nonprofit assistance, and may be called upon to represent their Councilmember before constituents, community groups, business interests, city staff and other elected officials.

Until recently, the Mayor, Councilmembers, and their aides have been significantly underpaid as compared to external and internal comparators.

In 2020, the adoption of Measure JJ by nearly two thirds of Berkeley voters¹ affirmed that residents have high expectations of their local government and that the work required to deliver on those expectations should be compensated fairly and accurately. Measure JJ changed the status of City Councilmembers from part-time to full-time to reflect the increased demands of the position from when it was first created, and increased the salary for Councilmember and the Mayor to one sufficient for working class residents to be able to afford to run for office.²

Alongside the trend of increased demand on Council Offices for legislative and constituent services, the inauguration of the Council Policy Committee system in 2018^{3,4} and the transition to full time Council positions in 2020 have both driven an increase in the workload for legislative staff. Half of Council Offices now maintain more than one Legislative Assistant, reflecting that the volume of legislative work per Council Office often exceeds 40 hours of labor per week. There are currently six Council Policy Committees, four interagency committees, and a varying number of Mayoral task

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<https://www.cityofberkeley.info/uploadedFiles/Clerk/Elections/Summary%20Results%20Nov.%202020.pdf>, pg. 3

² <https://www.cityofberkeley.info/uploadedFiles/Clerk/Elections/2020%20Ballot%20Measures.pdf>, pg. 33

³ https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-11_Item_C_Structure_for_City_Council_-_Supp.aspx

⁴ https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/12-11_Annotated_Agenda.aspx

forces.⁵ Many Councilmembers also sit on regional boards, commissions, working groups and task forces, including, for example, the Association of Bay Area Governments Executive Board, Alameda County Transportation Commission, and the East Bay Community Energy Board of Directors among numerous others.

These committees and other bodies provide vital legislative functions, but also add significant workload in both staffing and preparing for these meetings each week. In addition to two regular meetings a month, Policy Committees have additional special meetings scheduled on an ad hoc basis, especially during the bi-annual budget processes, and additional work conducted by the staff, especially when a Councilmember chairs a Committee. Critically, committee members are now responsible for writing more detailed and comprehensive legislative briefs and memos as well as shepherding amended legislative matters referred from Commissions and other bodies. Due to the enhanced demand for legislative work, full and part-time Legislative Assistants regularly work hours substantially beyond their scheduled appointment.

Over the past two decades, Council has attempted to address Legislative Assistant compensation, resulting in incremental improvement.

In 2006, in recognition of Legislative Assistant salary and classification disparities, the Council passed Resolution No. 63,259-N.S. directing the City Manager to conduct a salary equity study for the City Council Legislative Assistants and report the findings to the Council to include “a comparison with their peers in neighboring jurisdictions...[and] the salary range, qualifications and responsibilities for this job class.”⁶

The resulting 2006 study⁷ from the City Manager found that Legislative Assistants were significantly underpaid as compared to external and internal comparators—namely the Assistant Management Analyst in the City Manager’s office. The City Manager recommended an increase to Council office salary budgets, at the time \$44,433 excluding benefits, to the minimum salary level of an Assistant Management Analyst (AMA), which would have increased the annual salary allocation by approximately \$10,248 per Council office. In 2015, nearly a decade after the City Manager’s study was submitted to Council, the Mayor and Council voted to implement the 2006 Study recommendation and also acknowledged certain structural deficiencies including that Council Offices had to pull from their discretionary budgets “intended for office supplies and other office-related costs” in order to sufficiently fund staff costs.⁸ Council ultimately referred an additional \$80,000 total to be split between the 8 Council offices. This

⁵https://www.cityofberkeley.info/Clerk/City_Council/City_Council_Committee_and_Regional_Body_Appointees.aspx

⁶<https://www.cityofberkeley.info/citycouncil/agenda-committee/2006/packet/041006/2006-04-18%20Draft%20Item%2019%20MOORE%20-%20Salary%20Equity.pdf>

⁷<https://www.cityofberkeley.info/recordsonline/api/Document/AQwW5T053smoW4FSgoqqfPzrtx2b5Xydz2Wp12sEq9AYYtJ0JDbJ32ymekuaq6i5xy%C3%89%C3%8117rVEBYmrBFWpzKvwec%3D/>

⁸[https://www.cityofberkeley.info/Clerk/City_Council/2015/03_Mar/Documents/2015-03-10_Item_10_Refer_\\$80,000.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2015/03_Mar/Documents/2015-03-10_Item_10_Refer_$80,000.aspx)

increased staff capacity but only to the bottom end of the AMA classification range for one position.

In 2019, the Legislative Assistants across Council and Mayoral offices unionized as part of the SEIU 1021 Community Services & Part-Time Recreation Leaders Association. The contract approved in June 2021⁹ provided for a wage step range roughly commensurate with the AMA classification. As part of that range, Legislative Assistants now receive annual pay increases along the established range like other City employees. In order to effectuate the new labor agreement, Council modified the guidelines that regulate Council Office budgets, replacing Resolution No. 65.540-N.S. with Resolution No. 70,054–N.S.¹⁰

While the wage floor for Legislative Assistants has increased under the contract, historic budget deficiencies persist. Indeed, the current budget policy artificially constrains certain Council appointments to less than full-time appointments in cases where two Legislative Assistants are needed. As a result, offices with multiple Legislative Assistants have to ration one full-time salary between two people, a fraught situation that create awkward and precarious work schedules, inequitable compensation, burnout, high turnover, less diverse staff, less thorough legislative and constituent services, and the siphoning of office funds intended for supplies and other office-related costs. In addition, since the Legislative Assistant contract now provides for yearly step increases pursuant to favorable performance reviews like most other City positions, the Mayor and Council offices with multiple Legislative Assistants will quickly overshoot their budgets, which were designed for only one Legislative Assistant per office.

Adequately and equitably funding these positions is key to meeting the City’s Strategic Plan goal of attracting and retaining a talented and diverse City government workforce. The two alternatives considered would address these shortcomings and respond to the change in legislative conditions by providing offices that wish to hire two full-time Legislative Assistants the opportunity to do so.

ALTERNATIVES CONSIDERED

Maintaining the status quo would result in those Council Offices which retain more than one Legislative Assistant encountering structural budget deficits within one to three years. For example, an Office budgeted at the FY 2023 rate of \$109,539 for staff salaries with two staff, one for 30 hours a week and one for 20, would have a \$12,224.89 surplus in their salaries fund. The surplus would drop annually, to \$7,370.43 in the second year and \$2,239.85 in the third, and finally become negative in the fourth year at -\$3,111.47. In this scenario, Offices will be forced to cut hours or lay off staff. Though this can be remediated by reallocating non-personnel funds towards staff costs,

⁹https://www.cityofberkeley.info/Clerk/City_Council/2021/06_June/Documents/06-01_AC_Time_Critical_Item_Leg_Assistants_MOU.aspx

¹⁰https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-12_Item_06_Council_Office_Expense_Account.aspx

doing so would delay but not prevent structural issues in most circumstances and results in other challenges and inequities associated with insufficient office funds.

The Budget and Finance Committee should instead consider pooling individual Council Staff Office Budgets together into a single Council Office Staff Budget, and fund it sufficient for each Office to hire two FTEs. This would raise funding to a level reflective of the demonstrated demand for Legislative Assistant work and stabilize those Offices with multiple Legislative Assistants, while simultaneously enabling budgeting practices and cost savings not practical with individual Council Staff Office Budgets. In this scenario each Council Office would be able to draw funding for up to 2 FTEs or their equivalent from the fund, with the precise dollar amount fluctuating from Office to Office based on the tenure of an Office's staff and the breakdown of fulltime and part-time positions.

The primary advantage of a pooled approach is in allowing more accurate budgeting practices. Normally, variation in seniority and temporary vacancies within a department create a high probability of actual costs falling close to the middle of the step range per budgeted position. It is therefore more accurate to budget staff costs at that median range, which frees some money for other priorities. The small size of each Council Office Staff Budget prevents this, instead requiring that they be budgeted at the top of the range. A pooled budget for 16 FTEs would likely be large enough to budget at the middle, allowing for more accurate budgeting and possible relocation of resources.

A pooled fund would allow for budgeting practices more reflective of the City's policies for other departments. The Budget and Finance Committee should consider what additional restrictions and policies should govern use of the fund. These should include a restriction on initial step placements for new hires at the first four steps of the Legislative Assistant salary range, and a requirement that the 80 hours available to each department be split between no more than three individual staff members. These restrictions are important for maintaining the stability of the fund while allowing for the hiring discretion necessary of political positions. While these limits would place some restrictions on Councilmembers, they would retain their ability to supplement their allocation from the fund with expenditures from their non-personnel budget.

This pooled approach is a significant change from current practices and will require input and guidance from Budget staff to create and implement. Additionally, it could allow one Council Office to draw significantly more or less from the pool than others, though this would reflect variation in funding but not actual staff resources. For example, an office with two new staff at the first step would pull more from the fund than an office with staff both at the final step, though each Office would still only be receiving the benefit of 2 FTEs.

A second alternative to address this issue would be to simply increase the amount allocated per council office from one FTE to two. While this would achieve short term stabilization of Council Staff Office Budgets and be simpler and easier to implement

than the pooled approach, it would not achieve long-term stabilization and cost control features.

FINANCIAL IMPLICATIONS

The current baseline allocation for each Council Office Staff budget for FY 2023 is approximately \$187,663. This includes \$109,539 for salary and \$78,124 for fringe benefits, the largest share of which is health insurance costs. This totals \$1,501,305 across the eight Council Offices, not accounting for additional voluntary contributions from Councilmembers' own salaries.

Pooling the Council Office Staff Budgets and budgeting at the median of the step range would cost approximately \$2,727,925 in total. This would be \$1,226,620 more than current spending but \$274,686 less than the prior alternative.

Individually allocating each Council Office Staff Budget funding for two FTEs would increase costs to \$375,326 per Office or \$3,002,612 total, representing an increased allocation of \$1,501,305.

It is important to consider that these numbers represent allocations and not actual expenditures. Adopting a prohibition on the rollover of surplus funds budgeted for salaries alongside the current prohibition for fringe benefits could reduce the actual cost of the individual proposal.

Finally, these cost estimates are based on projections for salary costs given scheduled raises per already agreed labor contracts for FY 2023, but assume FY 2022 allocations for fringe benefits. This may slightly underestimate the cost for both the status quo and the first alternative, and significantly overestimate cost for the pooled alternative. Some fringe benefits, like healthcare, are unrelated to the salary of the position, while some rise with compensation. While the pooled approach budgets salaries at the median of the range, it assumes the full cost of 16 positions regardless of step for fringe benefits. Additional information from staff concerning the breakdown and calculation of fringe benefits cost would help to refine these figures.

ENVIRONMENTAL SUSTAINABILITY

No discernible impact.

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