Charter Review Advisory Commission

ARTICLE X - OFFICERS AND EMPLOYEES

Recommended Section for Review: Article X, Section 1002

Current Charter Language:

Article X, Section 1002
“Notwithstanding any other provisions of this Charter to the contrary, in the event that the City assumes, by annexation, contract, or otherwise, any of the functions of any special district or any other agency or entity, the City Council may prescribe by ordinance the qualifications and conditions, including, but not limited to, residency, rank, compensation, and seniority, applicable to the employment by the City of employees of the special district, agency or entity from which functions are assumed. Qualifications for and conditions of said employment shall comply with rules and regulations of the Civil Service Commission regarding retirement seniority, minimum age, height, weight, and promotional eligibility.”

Recommended Charter Language:

Article X, Section 1002
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Problem Statement

The Charter reference to minimum height and weight requirements is no longer legally permissible, and as such does not comport with the City’s current practices. Therefore, Staff is recommending the removal of this language to comply with current legal principles and the City’s practices.

Background

This section was originally elected in October 1973 and first became effective January 1974.
(originally Article VII, Section 14, and renumber November 8, 1994, to current Article X, Section 1002). Height and weight requirements, especially in law enforcement positions, were not uncommon during this time and many other cities and counties had similar requirements. However, subsequent legal challenges to these requirements throughout California began in the late 1970’s and early 1980’s. In various jurisdictions and multiple court decisions have held that these height and weight requirements have a discriminatory impact as these requirements tend to exclude individuals based on national origin - and as such a discriminatory adverse impact, even though the total selection process is not adverse in impact.

In keeping with these legal decisions, the City practices do not require any minimum height and weight requirements and there are no Municipal Code sections, Civil Service Rules or classification specifications that reference any minimum height and weight qualifications. Therefore, there are no further amendments that are necessary in order to completely remove any references to these outdated requirements.

To this end, Staff is only recommending the deletion of this inapplicable and outdated language, and the removal of this language without any further changes are encompassing of what is necessary to comply with the City’s current practices and the current legal requirements.

Background Materials

Attachment A - City Charter Article X, Section 1002

Charter Comparisons

Comparable cities charters no longer include this information due to legal compliance.
ARTICLE X OFFICERS AND EMPLOYEES

SECTION 1002. QUALIFICATIONS PRESCRIBED BY ORDINANCE.

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(Amended Election 11/8/94 effective 5/22/95; Amended Election 10/9/73 effective 1/17/74)

Historical Notes:
The title of this Article was amended Election 11/8/94 effective 5/22/95. Prior to Election of 11/8/94 this Article was numbered VII.

Section 1**: Amended Election 10/11/49 effective 12/19/49; Amended Election 10/9/51 effective 3/6/52; Amended Election 10/13/53 effective 3/16/54; Repealed Election 10/11/77 effective 11/2/77.
Section 3**: Reserved.
Section 4**: Repealed Election 11/8/94 effective 5/22/95.
Section 5**: Amended Election 10/14/47 effective 3/3/48; Repealed Election 11/8/94 effective 5/22/95.
Section 6-7**: Repealed Election 10/14/47 effective 3/3/48.
Section 8**: Repealed Election 11/8/94 effective 5/22/95.
Section 10-13**: Repealed Election 11/8/94 effective 5/22/95.

These section numbers refer to a numbering system that was in place prior to the Election of 11/8/94.
City of Stockton

Legislation Details

File #: 13-0937  Version: 1
Type: Item(s) for Discussion  Status: Agenda Ready
In control: Council City Charter Review Ad-Hoc Committee

Attachments:
- Revisions - SEC 1002
- Block I - Section 1002 Staff Report

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SECTION 1002. QUALIFICATIONS PRESCRIBED BY ORDINANCE.

CURRENT CHARTER PROVISION:

Notwithstanding any other provisions of this Charter to the contrary, in the event that the City assumes, by annexation, contract, or otherwise, any of the functions of any special district or any other agency or entity, the City Council may prescribe by ordinance the qualifications and conditions, including, but not limited to, residency, rank, compensation, and seniority, applicable to the employment by the City of employees of the special district, agency or entity from which functions are assumed. Qualifications for and conditions of said employment shall comply with rules and regulations of the Civil Service Commission regarding retirement seniority, minimum age, height, weight, and promotional eligibility.

PROPOSED AMENDMENT:

Notwithstanding any other provisions of this Charter to the contrary, in the event that the City assumes, by annexation, contract, or otherwise, any of the functions of any special district or any other agency or entity, the City Council may prescribe by ordinance the qualifications and conditions, including, but not limited to, residency, rank, compensation, and seniority, applicable to the employment by the City of employees of the special district, agency or entity from which functions are assumed. Qualifications for and conditions of said employment shall comply with rules and regulations of the Civil Service Commission regarding retirement seniority, minimum age, height, weight, and promotional eligibility.

ARGUMENT IN FAVOR:

The charter reference to minimum height and weight requirements is no longer legally permissible. Multiple court decisions have held that these height and weight requirements have a discriminatory impact since they tend to exclude individuals based on gender and national origin. Therefore, references to height and weight as factors regarding employment by the City should be deleted from the Charter.

Word Count: 60
THE ORIGINAL STAFF REPORT RELATED TO THIS CHARTER AMENDMENT IS ALREADY INCLUDED AT THE BEGINNING OF THIS ATTACHMENT. IT HAS NOT BEEN INCLUDED AGAIN AS AN ATTACHMENT TO THE CRAC AGENDA TO AVOID REDUNDANCY.
3.5 **13-0937 ARGUMENTS AND PROPOSED REVISIONS TO ARTICLE X - OFFICERS AND EMPLOYEES 04:21 PM**

**Legislation Text**

**Revisions - SEC 1002**

**Block I - Section 1002 Staff Report**

Chair Miller, Charter Review Ad-Hoc Committee stated that there are no questions to the Commission’s recommendation of striking out two words, "height, weight."

**Motion 2013-11-12-0305** to approve forwarding amendments to Charter Article X, SEC 1002 to the full Council for consideration as presented by the Charter Review Advisory Commission.

**Moved by:** Councilmember Burgos Medina, seconded by Councilmember Holman.

**Vote:** Motion carried 3-0

**Yes:** Councilmember Miller, Councilmember Holman, and Councilmember Burgos Medina.
AD-HOC COMMITTEE FINAL RECOMMENDATION
AS IT WOULD APPEAR ON THE BALLOT AND CHARTER IF ADOPTED

ARTICLE X, SECTION 1002 Qualifications Prescribed by Ordinance

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