

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution authorizing ratification of a Settlement Agreement by and between the City and IAFF Local 1604 Representing Firefighters for the settlement of a labor contract grievance and a Public Employment Relations Commission Unfair Labor Practice (ULP) regarding the Disability Leave Supplement required by RCW 41.04.500 et. seq.

FISCAL IMPACT

This Settlement Agreement clarifies the process and covers the critical areas as outlined by State Statute RCW 41.04.500 et seq. Disability Leave Supplement. The proposed resolution results in no impact to the City for the 2017-2018 budget.

STAFF CONTACTS

Julie Howe, Acting Director, 452-2069
Human Resources

POLICY CONSIDERATION

Shall the City ratify the agreement entered into with the IAFF Local 1604 representing Firefighters for claims regarding the City's administration of the Disability Leave Supplement required by RCW 41.04.500 et. Seq.?

BACKGROUND

What is the Disability Leave Supplement?

- It is a benefit provided by state statute that applies to firefighters and police officers that have experienced an on-the-job injury.
- The benefit makes up the difference between the worker's compensation payment and the employee's base pay at the time of injury.
- This difference is split, ½ paid by the employer and ½ paid by the employee, through the employee's accrued leave, if they have any.
- The disability leave supplement must begin no later than the 6th day after the date of injury/illness, and lasts for no less than 6 months from the date of injury/illness.
- The Disability Leave Supplement statute allows the City to provide a more generous disability leave supplement than the minimum required by the statute.

In August of 2015, City staff noticed that it was processing disability leave supplement payments for law enforcement officers and firefighters beyond the six month baseline set by State Statute RCW 41.04.500 – 41.04.550 (attached), and more generous than referenced in the respective collective bargaining agreements. The City took action at that time to correct the error going forward. Further analysis found that leave account adjustments needed to reflect the supplement benefit limit of six months from date of injury rather than the date of application for benefit. As a result of these actions, on March 16, 2016, the Union filed a grievance on behalf of its members and subsequently filed an unfair labor practice complaint with PERC on March 22, 2016, (and as amended July 20, 2016), alleging the City unilaterally reduced bargaining unit members' workers' compensation supplement.

In an effort to resolve the dispute the City and Union met on multiple occasions. During one ULP mediation session, the Union pointed out that the way the City was calculating the benefit was below the statutory minimum in some circumstances (although this method had been agreed to historically by the Union). Legal, Human Resources, and Finance immediately audited the calculation method and instituted changes in August of 2016 so as not to be below the statutory minimum threshold calculation. The Union agreed to continue the ULP hearing and hold the grievance in abeyance while the City audited its calculation method and recalculated the overpayment reflecting both the newly instituted calculation method and the six-month limit.

As a result of the ongoing discussions the City and the Union have entered into a settlement agreement (attached) resolving the outstanding Grievance and ULP. This agreement clarifies the process and covers the critical areas as outlined by State Statute. The key elements of the Settlement Agreement are as follows:

1. For bargaining unit members who suffer from a duty-related injury or illness they shall only have nine months from the date of the injury or illness within which they will be entitled to receive the Supplement.
2. The Supplement shall be paid for a cumulative period of six months as long as such periods occur within the nine month window that begins to run on the date of the injury or illness.
3. The Supplement shall be paid starting on the first day a member experiences time loss.
4. For purposes of computing how much accrued paid leave a member must use to equal 100 percent of the member's regular pay, including applicable add-to-pay, the City will pay the member a disability leave supplement equal to 87.5 percent of the member's regular pay including the time-loss payment.
5. The member's share of the Supplement (12.5 percent of regular pay) shall be contributed using a deduction from the member's accrued paid leave, while available, as its portion of the disability leave supplement.
6. The Union and the City agree that the City will do a look back accounting of the amount of sick leave used by members who have used the Supplement for a work related injury or illness over the past three years and will be allowed to either recover sick leave owed to the City or it shall restore sick leave owed to the individual members based on such accounting.

The proposed resolution results in de minimis fiscal impacts to the City. If an IAFF member experiences an on the job injury that results in inability to work, RCW 41.04.500 et. seq. requires the employer and employee (through deduction of sick leave hours) to contribute to a disability leave supplement so the employee does not experience a wage loss for a limited time. Under this settlement agreement, the employee may now be required to contribute fewer sick leave hours than the prior practice. Under city policy, IAFF members who retire are entitled to 10 percent of their sick leave balance up to 1440 hours at their current rate of pay at retirement. This settlement could result in an increase in cost to the city in the future as the IAFF members retire if the retiree has a sick leave balance and previously had received a disability supplement under RCW 41.04.500.

The Settlement Agreement is effective January 1, 2017.

As part of this agreement the Union will withdraw its grievance and the ULP with PERC.

EFFECTIVE DATE

If approved, this Resolution becomes effective immediately upon Council adoption.

OPTIONS

1. Adopt the Resolution authorizing ratification of a Settlement Agreement by and between the City and IAFF Local 1604 Representing Firefighters for the settlement of a labor contract grievance and a Public Employment Relations Commission Unfair Labor Practice (ULP) regarding the Disability Leave Supplement required by RCW 41.04.500 et. seq.
2. Do not adopt the Resolution and provide alternative direction to staff.

RECOMMENDATION

Option 1

MOTION

Move to adopt Resolution No. 9284 authorizing ratification of a Settlement Agreement by and between the City and IAFF Local 1604 Representing Firefighters for the settlement of a labor contract grievance and a Public Employment Relations Commission Unfair Labor Practice (ULP) regarding the Disability Leave Supplement required by RCW 41.04.500 et. seq.

ATTACHMENTS

Proposed Resolution No. 9284

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

- A. Settlement Agreement
- B. RCW 41.04.500-550