

2% COLA — City Council committee votes pension reform

By Alan Z. Forman, *Investigative Voice*, June 11, 2010

At a daylong hearing that saw one member moved to tears and another share hugs and kisses with an adversary, the Baltimore City Council advanced major revenue legislation Thursday designed to overcome a \$121 million budget deficit that must be resolved within the next three weeks by the end of the current fiscal year.

Voted favorably out of the council's Taxation, Finance and Economic Development Committee, the major stumbling block to solving what Mayor Stephanie Rawlings-Blake has termed "the biggest budget crisis in modern history" was a revised pension-reform bill that would dramatically alter the retirement program for more than 5,000 city police and firefighters.

Retirees packed the gallery as the committee debated the controversial legislation — a revised version of an earlier bill introduced several weeks ago by Committee Chair Helen L. Holton (D-8th) and Councilman William H. Cole 4th (D-11th) at the behest of the mayor — reintroduced in its current form at Monday's council meeting.

ANOTHER LAWSUIT LOOMING

One lawsuit has already been filed in federal court over the pension legislation and a second suit looms on the horizon if the council passes the current bill.

"The substantial part of this ordinance should survive a legal challenge," City Solicitor George A. Nilson told the taxation committee Thursday.

"We have not yet been served — but we are more than capable to defend.

"It's very important you act on this bill," he told the committee, "and not concern yourselves with the litigation. That's the job of the Law Department."

Urging the council members to hold their ground and not worry about the current litigation and the threat of a second lawsuit, Nilson asked the committee to "please have confidence in our ability to defend.

"We think this bill will survive a contract law challenge."

Before the hearing began, the union president who is threatening a second lawsuit — Stephan G. Fugate, president of Baltimore Fire Officers Association Local 964, which represents some 335 fire officers — could be seen exchanging hugs and kisses on the cheek with Committee Chair Holton. He later reiterated to *Investigative Voice* that if the legislation passes, his union will file a second lawsuit.

“We’re heading to court,” Fugate said following the hearing. “We’ll wait until the bill is passed, then we’ll take legal action.”

“I’m very disappointed with the process.”

TWO AMEMDMENTS ADDED

The committee passed the bill and sent it to the full council for consideration at its next regular meeting Monday night.

Before doing so, however, it added two amendments, including a two percent COLA (cost of living adjustment), and would have considered more than 15 pages of proposed amendments by the unions; however, when Holton declined to have the committee deal with all the union amendments as a whole, the unions withdrew the proposal.

Despite the unions’ charges that the council has ignored their interests, Holton said, “We’ve listened to their concerns. At the introduction [of the initial pension legislation] they said they were going to court.

“But in a crisis situation, we have to do what’s in the interest of everyone.

“We’re in a crisis,” she said, “a financial crisis.... We don’t have a \$64 million check to write” — a reference to what the current system will cost the city in the next fiscal year, and which the city can’t afford.

The director of the Baltimore Department of Finance told the committee, “The bill represents the minimum change that must be made to the employees’ pension system.

“I believe that these changes are absolutely necessary to the financial health of the City of Baltimore,” the director, Edward J. Gallagher, told the five committee members, Holton, Cole, Council Vice-President Edward Reisinger (D-10th), Vice-Chair Bill Henry (D-4th), and Carl Stokes (D-12th), who were joined by Council Members James B. Kraft (D-1st), Mary Pat Clarke (D-14th) and Council President Bernard C. “Jack” Young.

'OLD GUYS OUT THERE RIPPING US OFF'

Clarke received a round of applause from union members when she praised the city’s police and firefighters “for all you do for us,” and said she wants “the retirees and their widows to get what they need to stay whole,” bringing the 14th District councilwoman to tears. She also criticized the fact that “the press is told it’s all those old guys out there ripping us off.”

Said Daryl J. Buhrman Sr., a 19-year police veteran who has been retired for 19 years and is secretary of the Baltimore Retired Police Benevolent Association: “We’re not asking for pie in the sky. We’re just asking for what’s right.”

Buhrman never got to address the committee because the hearing ran so long.

Henry was applauded when he said, “We have to come back and do more work on these reforms,” then questioned, “Maybe we’re trying to bite off too much reform in one piece of legislation?”

Based on Gallagher’s projections, along with a report by Public Financial Management Inc., an independent consulting organization, the mayor and council say the proposed legislation will save the city nearly \$400 million over the next five years.

According to the mayor, who cited the PFM report, “the City Council approach brings financial issues with the system to a manageable level — from a \$455.2 million five-year problem to a \$67.4 million five-year problem, and from \$1.3 billion to \$514.7 million over 10 years.”

NOT AS FAR APART AS THEY SEEM

However, the two sides may not be as far apart as they seem. The unions proposed “a lower COLA of two percent” and an elimination of the variable used to calculate benefits more than two years ago, Tom Lowman, a union consultant, told *I.V.* during a recess at the hearing.

Lowman, a member of the Baltimore-based actuarial, benefits and investments consulting firm Bolton Partners, told the committee that if they replaced the variable with a two percent COLA, “that will roughly match the city’s numbers.”

Nonetheless, Holton told Lowman: “Slow down, you’re giving us information we haven’t seen before.”

According to Robert F. Cherry Jr., president of the Fraternal Order of Police, “our proposal saves the city money.

“We feel very confident,” he said.

Regarding the prospect of a second lawsuit, Charles O. Monk, an attorney with the regional mid-Atlantic law firm Saul Ewing, which represents the unions, said, “If we think the bill is unconstitutional, we’ll amend the lawsuit.

“If they give us the two percent COLA, we’ll let the city out of the [pension] contract.”

However, he added: “A pension is the highest promise the city can make. And now they want to break that promise.”