

NYC[®] Quadrennial Advisory Commission

Testimony of the 2015 Quadrennial Advisory Commission for the Review of Compensation Levels of Elected Officials

**Before the New York City Council Committee on Governmental Operations
and Committee on Rules, Privileges and Elections**

**Hearing on Proposed Local Laws and Rules
Relating to Compensation of New York City Elected Officials**

February 3, 2016

INTRODUCTION

Over the last two-and-a-half months of 2015, the Quadrennial Commission analyzed the compensation for New York City's elected officials by looking broadly at the relationship between the pay of those officials and their constituents, the value of good government, characteristics of New York City, mandated duties and responsibilities for each office, implicit ceilings on government pay, the passage of time since the last raise (9 years), changes in median household income, how New Yorkers are faring economically, and many other factors. The Commission recommended salary increases for all elected officials and linked the salary increases for City Council members to several significant structural reforms. In January, after 30 days review, the Mayor endorsed the Commission's recommendations and submitted them to the City Council for its consideration.

The City Council proposes to adopt local laws and Council rules to codify the Quadrennial Commission's proposed structural reforms and to adopt all the recommended salary increases except for the office of City Council member. The Council's proposed law increases Council members' salaries by \$10,185 beyond the Commission's recommended salary of \$138,315.

THE CITY COUNCIL'S PROPOSED LAWS AND RULE CHANGES

The City Council's proposed laws and rule changes are praiseworthy in many respects. They will bring about important governmental reforms that have been suggested for decades. But the Council has not yet made its case for the proposed additional raise for its members.¹

The Quadrennial Commission applauds the Council for accepting the Commission's central concept that raises for elected officials should, among other things, reflect the economic conditions of their constituents.² The Council also deserves praise for accepting the Commission's structural recommendations that lulus be eliminated and the job of Council member be classified as full-time, as is the case for all other City elected officials.³ These two structural reforms have been talked about by reformers for at least three decades. However, never before have they been recommended forcefully by a Commission. When this Commission

¹ Some have criticized the Council proposal for being the first time the Council has departed from Quadrennial Commission pay recommendations. But no other Quadrennial Commission had proposed reforms that make significant structural changes. The Council's proposed new laws and rules adopt all those reforms. The proposed extra pay for Council members relates to one of those reforms.

² See 2015 Quadrennial Commission Report (hereinafter "Report") at e.g., p. 1, para 1, p. 51, para 1, pp. 52-53, p. 54, para 3.

³ For the Commission's reasons for urging classification as full time and elimination of lulus, see Report, pp. 21-25.

recommended raises for City Council members in our Report, we stated that the proposed raise for Council members was “conditioned upon, and inseparable from, the change to full-time classification and elimination of lulus.”⁴ Prior Councils had not enacted such reforms despite suggestions by good government groups and prior Quadrennial Commissions. This Council has commendably done so.

In addition, the Council deserves praise for accepting the reform recommendations of the Commission and good government groups that

(1) changes be made that would facilitate future Commissions recommending that pay changes not take effect until after the next election, akin to the U.S. Constitution’s 27th Amendment;⁵ and

(2) disclosure forms of elected officials should be placed on-line.⁶

As the Quadrennial Commission wrote, the City Council has evolved over the past 30 years to become an “able body with a sense of its representative obligations and policy-making responsibilities;” it is “no longer a rubber stamp or a junior partner [but now is] a fully functioning branch of government.”⁷ The Council’s positive evolution has been reflected in the pay raises it has been given over the past three decades, and in the raise that our Commission

⁴ Report, p. 25, para 1, and p. 55, para 5.

⁵ At Report pages 62 to 64, the Commission indicated the legal and equitable reasons why its proposed raises should take effect as of January 1, 2016, despite arguments for a delay until January 1, 2018 — after the next election. Nonetheless, at pp. 65-66, the Commission, in its “Thoughts for the Future Based on Our Experience,” recommended that the City explore making that change for the future. The Council has now proposed a local law which would “afford future commissions greater flexibility to consider—and make it more likely they will recommend—that increases in compensation go into affect in the session after which they are voted on and approved.” (See Int. No. __, Sec. 1.)

⁶ See Int. No. __, and see Report, p. 67, item 5.

⁷ See Report pp. 17-25 and 55-58, with the quoted language at pp. 18 and 57.

recommended. Indeed, throughout the history of Quadrennial Commissions, from the pay levels in 1983 (four years before the first Commission) up to our Commission, City Council members received the largest percentage increase of all the City's elected officials: 136.84 percent.⁸ This year, our Commission continued this trend by proposing the largest percentage increase be given to Council members—15 percent.⁹ (A similarly large increase was proposed only for the mayoralty.)

**THE PROPOSED ADDITIONAL SALARY INCREASE FOR
THE OFFICE OF CITY COUNCIL MEMBER**

The proposed law now before the City Council would give the office of Council member an additional salary increase of \$10,185. This is an added 9.1 percent increase to members' current base salary of \$112,500. (It would bring Council member salaries to a level that is 7.36 percent higher than our Commission recommended.) The Council's proposal is that this additional increase be awarded to the office of Council member because their job will now be formally classified as full-time—as is already the case for all other City elected officials.¹⁰

⁸ See Report, Appendix, p. D-3, "Changes from 1983–Current."

⁹ The Quadrennial Commission proposed all City elected officials and the District Attorneys be given a "base salary increase" of 12 percent. See Report, p. 53. For the offices of Mayor, City Council member and Comptroller—the Commission proposed an additional bump upward because of increased responsibilities: (3% for the offices of Mayor and Council member and 1% for the office of Comptroller.) The Council's 3% bump was based upon its increased responsibilities since 2006 (Report, pp 57-58).

The additional \$8,940 assigned Council members on account of the even distribution of money previously spent on lulus, was "not actually a raise." (See Report, p. 58.) Therefore, contrary to almost all press coverage, the actual "raise" for Council members proposed by the Quadrennial Commission was 15 percent, not 23 percent.

¹⁰ A few reports suggest a basis for the proposed additional increase was the elimination of lulus as well as the banning of outside income. However, after separating out \$25,000 allocated to the Speaker, the remaining money previously spent on lulus was evenly divided among Council members by adding \$8,940 to each member's salary.

The Commission did not recommend any additional “bump” in pay because of the formal classification of members as full time. We noted our research indicated that only a fraction of Council members (no more than four) appear now to have outside income of the sort that would be prohibited by a full-time requirement. To avoid potential unfairness to those members, the Commission recommended that the Council consider “grandfathering” for their current terms of office those few Council members who now have non-city employment that will be barred.¹¹ The Council has proposed that.

Moreover, in the course of accepting then Speaker Christine Quinn’s proposal for a 25 percent pay increase, the 2006 Quadrennial Commission noted that the Speaker had informed them that “by and large Council members serve full-time.” The 2006 Commission added that its “recommended salary increase reflects this fact.”¹² Its recommendation was that Council members receive a 25 percent base salary increase, far higher than the recommended raise for any elected official except the District Attorneys. (The Mayor, for example, got a raise of 15.38 percent.) The 2006 Commission’s large salary increase for Council members, which was enacted, “reflect[ed]” the increased responsibilities given to the Council by the 1989 Charter but it also “reflected” the fact most City Council members worked full-time in practice if not by law.

Over the decades, the number of Council members earning outside income that will in the future be banned has steadily declined. Today, there are very few, probably four or fewer, current Council members who would be impacted by the new full-time rule and they are grandfathered until January 1, 2018, if they notify the Speaker of their intention to continue to do

¹¹ See Report, p. 24, n.57.

¹² See Report, p. 56, quoting the 2006 Commission’s report.

so.¹³ Indeed, because of the grandfathering, until January 2018 there will be no current Council members adversely affected by the full-time requirement.

For all these reasons, the Quadrennial Commission did not recommend any additional bump in pay for City Council members on account of the change in classification to full-time.¹⁴ Nonetheless, we recognize that requiring Council members to work full time does remove an option, including for individuals thinking of running for the Council for the first time. Some value could be assigned to removing the option. However, any such value is limited in this case where the trend has been running rapidly toward members choosing to work full time.

The Council is free, as a matter of law, to adopt increases in pay that exceed the recommendations of a Quadrennial Commission, which is an advisory body. The question is what is the basis for proposing this extra increase. We would like to understand, and the public is entitled to understand, the Council's reasons for its proposed additional pay increase.

Frederick A. O. Schwarz, Jr., Chair

Jill Bright, Commissioner

Paul Quintero, Commissioner

February 3, 2016

¹³ See Int. No. ___, Sec. 3.

¹⁴ In 1936, when the Charter was changed to require that all other City elected officials be classified as "whole time," there were no pay increases given to the elected officials whose outside income was to be limited. Indeed, their pay was cut back to their salaries in 1929 when pay raises had been given just before the crash. For example, the Mayor's pay was cut from \$40,000 to \$25,000. (See Lawrence Arnold Tanzer, "The New York City Charter of November 3, 1936." (1937).) Of course, the repercussions of the Great Depression were unique. No one would make such a pay cut proposal now. Nonetheless, it shows no tradition underlies the raise proposed by the City Council.