

FILED
OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND
AGENDA REPORT

11 JUL -7 PM 7:07

TO: City Council
ATTN: President Reid and Councilmembers
FROM: Councilmember Libby Schaaf
DATE: July 19, 2011

RE: **A Resolution Submitting On The Council's Own Motion, A Proposed Charter Amendment, Entitled, "Police and Fire Retirement Plan Funding Reform," Which Will Allow the Police and Fire Retirement System Board and City Council to Set an Actuarially Sound Deadline For Fully Funding Its Retirement Plan, To Be Submitted To The Electors At The Next Special or General Municipal Election; And Directing The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With The Next Election Date**

This Resolution proposes amending the City Charter to allow the Police and Fire Retirement System (PFRS) Board and City Council to set a final-funding date for the PFRS fund based upon findings from the PFRS Board's official actuary. An actuarially sound deadline may be set at a date later than July 1, 2026, which is the current ultimate date for 100% PFRS funding, as defined in Article XXVI of the Oakland City Charter. This resolution also allows for smoothing during the Fund's final years to protect the City from negative impacts of market volatility.

FISCAL IMPACT

Councilmember Schaaf respectfully requests that the Council approve this resolution and assign an associated ballot to the next regularly scheduled election, so that a ballot will not cause a new election to occur.

An extension to the PFRS Full-Funding Deadline will likely lead to a lowering of the annual contribution obligation that the City must currently resume making to the PFRS Fund, currently set at approximately \$45M annually. Actual payments will depend on several factors including the City's decision to issue or not issue Pension Obligation Bonds as well as fluctuations in market conditions that affect the PFRS Fund.

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BACKGROUND

The Police and Fire Retirement System (PFRS) Board holds complete plenary and fiduciary authority over PFRS assets, as defined in Article 16 of the California Constitution, which defines public retirement boards. The California Constitution also clarifies that the PFRS Board holds exclusive responsibility for fund administration as well as a mandate to act solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system.

The PFRS fund was closed in 1976 when the City elected to utilize the California Public Employees' Retirement System ("PERS") for all City Employee Pensions, both for sworn and non-sworn employees. All subsequent sworn police and fire personnel that the City hired became members of PERS. However, the City must continue to contribute to the closed PFRS Fund each year so that all PFRS financial liabilities are fully-funded by July 1, 2026, hereafter referred to as the "Full-Funding Deadline."

PROGRAM DESCRIPTION

The City is obligated to make annual contributions to the PFRS fund so that the fund is fully funded by the Full-funding Deadline, currently defined at July 1, 2026 in Article XXVI, Section 26.6 of the City Charter. The July 1, 2026 is mandated in the City Charter even though the PFRS actuary currently projects that PFRS beneficiaries have life expectancies extending to 2050, resulting in a front-loading of the City's payment obligations to the retirement system that may not be fiscally necessary.

The PFRS fund is currently significantly underfunded due primarily to the fund's exposure to investment losses related to the global economic recession. Market volatility puts the City at risk of having to make unreasonably large annual contributions as the Full-Funding Deadline draws near and this risk may be reduced in a fiscally sound manner by amortizing yearly gains and losses over an actuarially sound period of time from the year such gains and losses are realized beginning ten years preceding the Full-Funding deadline. An extension of the contribution period, as justified by an actuarial valuation, could result in significant savings to the City without affecting its duty and ability to fund the PFRS liability and pay retirement benefits to its members. Therefore, the City can adopt a financially and administratively prudent approach to PFRS fund budgeting by amending the City Charter to extend the PFRS Full-Funding Deadline, provided that such extensions are supported by actuarial reports.

By approving this resolution the City Council will submit to the qualified electors of the City of Oakland at its next municipal election, a proposed Charter amendment that allows for an extension of the PFRS Full-Funding Deadline by mutual agreement of the City and the PFRS Board. Any actual

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extension of the PFRS Full-Funding Deadline shall be contingent upon an actuarial report, produced by the PFRS Board's actuary, which supports such an extension.

By approving the resolution the City Council will authorize and direct the City Clerk, at least 88 days prior to the next special or general municipal election date, to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this resolution. Any ballot associated with this resolution should be combined with a predetermined election so that this ballot will not cause a new election to occur.

The proposed Charter Amendment text shall be as follows:

Article XXVI: POLICE AND FIRE RETIREMENT SYSTEM

Section 2619(6)

The City shall contribute to the Retirement System such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section, to provide the benefits payable under this Article and Articles XIV and XV. The City contributions made periodically during the year shall be such as when added to member contributions will actuarially fund all liabilities for all members prior to July 1, 1976, by July 1, 2026. The date of July 1, 2026 may be changed, provided that both the City and Board approve and provided that such full-funding deadline is based on and supported by an actuarial study commissioned by the Board, known hereafter as "Full-Funding Deadline." Additionally, notwithstanding any other language or provision of this Article XXVI or the City Charter, the Board and the City shall have authority by mutual agreement to approve further extensions of the Full-Funding Deadline, provided that actuarial studies commissioned by the Board support each such subsequent change. The Board's and the City's approvals must be authorized by separate resolutions of the Board and the City Council. Additionally, to protect the City from market volatility, beginning ten years prior to the Full-Funding Deadline, each year's gains and losses shall be amortized over a period of years from the year such gains or losses are realized. The amortization period shall be set by the board based on an actuarial study commissioned by the board. Nothing in this section shall prevent the City from paying more than its minimum obligation to the Fund.

Any fund established pursuant to the 1971 amendment to this subsection and implemented by Retirement Board Resolution No. 3968 which provided for payment of improved or additional benefits shall continue only for the purposes stated herein. Any monies held in such fund as of July 1, 1976, and any interest credited thereon pursuant to Section 2602(a) shall continue to be payable to members of this system as follows: [remaining text not amended].

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In accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Charter amendment, and said date shall be posted in the Office of the City Clerk. Furthermore, in accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed Charter amendment in the manner provided for by law.

KEY ISSUES AND IMPACTS

The value of assets in the PFRS Trust has dramatically decreased over the last two years due to the economic downturn of the last few years. The Unfunded Actuarial Accrued Liability ("UAAL") associated with the PFRS fund is currently estimated to be approximately \$435M – an increase from \$375M as of two years ago, according to the City's Finance Agency.

In March 1997, the City issued Pension Obligation Bonds (POBs) in the amount of \$417 million to pay the City's contributions to the System through June 2011. In accordance with an agreement entered into at the time the POBs were issued in 1997, the City was not required to contribute until the new fiscal year of July 1, 2011. The City's contribution to PFRS is set to resume July 1, 2011 at an annual amount of \$45.6 million, also according to the City's Finance Agency. An extension to the PFRS Full-funding Deadline, should the PFRS Board's actuary find that such an extension is actuarially sound, will help to lessen the dramatic impact that continued annual payments will have on the City's general fund - regardless of whether the City decides to issue new POBs to help fund the UAAL.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed resolution will, if approved by the voters of Oakland, may change the City's annual payments to the PFRS fund. Changes to the annual PFRS Fund payments will directly impact the City's General Fund (1010).

Environmental: The proposed ordinance is unlikely to lead to any environmental impact.

Social Equity: The proposed resolution is unlikely affect conditions of social equity as no changes to PFRS payments will cause the fund to be less than fully funded.

DISABILITY AND SENIOR CITIZEN ACCESS

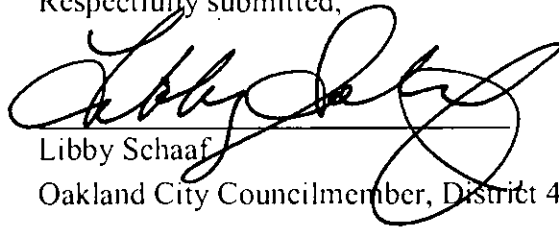
There is no direct impact or benefit to seniors or people with disabilities.

ACTION REQUESTED OF THE CITY COUNCIL

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Councilmember Schaaf recommends that the City Council receives the report and approves the ordinance.

Respectfully submitted,



Libby Schaaf
Oakland City Councilmember, District 4

Prepared by:
Bruce Stoffmacher, Policy Analyst
Office of Oakland Councilmember Libby Schaaf

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Approved as to Form and Legality


Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER SCHAAF

A Resolution Submitting On The Council's Own Motion, A Proposed Charter Amendment, Entitled, "Police and Fire Retirement Plan Funding Reform," Which Will Allow the Police and Fire Retirement System Board and City Council to Set an Actuarially Sound Deadline For Fully Funding Its Retirement Plan, To Be Submitted To The Electors At The Next Special or General Municipal Election; And Directing The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With The Next Election Date

WHEREAS, City Charter Article XXVI established the Oakland Police and Fire Retirement System ("PFRS") in 1951 to provide retirement benefits for Police and Fire Department sworn (uniformed) employees and created an independent Police and Fire Retirement Board ("PFRS Board") to manage and administer the funds of the PFRS; and

WHEREAS, pursuant to Article 16 of the California Constitution public retirement boards are independent boards and the Constitution, accordingly (1) grants the PFRS Board plenary authority and the sole and exclusive fiduciary responsibility over the assets of the PFRS and the sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries and (2) mandates that the PFRS Board discharge its duties with respect to the PFRS solely in the interest of, and for the exclusive purposes of providing benefits to participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system; and

WHEREAS, in 1976 the PFRS was closed and all subsequent sworn police and fire personnel that the City hired became members of the California Public Employees' Retirement System ("PERS"); and

WHEREAS, City Charter section 2619(6) requires that the City contribute to the PFRS, periodically during the year such amounts as may be necessary, when added to member contributions to actuarially fund all liabilities for all PFRS members by July 1, 2026, hereafter referred to as the "Full-Funding Deadline"; and

WHEREAS, while actuaries project that payments to beneficiaries of the PFRS may extend beyond 2050, the City Charter currently requires that the PFRS Plan be fully funded by 2026, resulting in the possible front-loading of the City's payment obligations to the retirement system, which may not be fiscally necessary; and

WHEREAS, use of a later date may be possible without jeopardizing the payment of future pensions from the trust; and

WHEREAS, an extension of the contribution period justified by an actuarial valuation, could result in significant savings to the City without affecting its duty and ability to fund the PFRS and pay retirement benefits to its members; and

WHEREAS, market volatility puts the City at risk of having unreasonably large contributions as the Full-Funding Deadline draws near and this risk may be reduced in a fiscally sound manner by amortizing yearly gains and losses over an actuarially sound period of time from the year such gains or losses are realized beginning ten years preceding the Full-Funding Deadline; and

WHEREAS, it is financially and administratively prudent to amend the City Charter to authorize the City and the PFRS Board to approve extensions of the Full-Funding Deadline in the future by mutual agreement, provided that such extensions are supported by actuarial reports; and

WHEREAS, for the foregoing reasons, the City Council desires to submit to the qualified electors of the City of Oakland at its next municipal election, a proposed Charter amendment, now, therefore be it

RESOLVED: That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to the next special or general municipal election date, to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this resolution; and be it

FURTHER RESOLVED: That the proposed Charter Amendment shall be contingent upon the findings of an actuarial study to be commissioned by the PFRS Board; and be it

FURTHER RESOLVED: That the implementation of the Charter Amendment by the City, if it is approved by the voters, shall and will be contingent upon a finding by the PFRS Board that the proposed extension of the Full-Funding Deadline, which is approved by the PFRS Board and the City, would not have a detrimental or compromising effect on the members' retirement benefits or rights; and be it

FURTHER RESOLVED: That any further extensions of the Full-Funding Deadline by mutual agreement of the City and the PFRS Board, shall and will be contingent upon an actuarial report that supports each such extension; and be it

FURTHER RESOLVED: That the City Charter hereby is amended, to add, delete, or modify sections as set forth below (sections number and titles are indicated in bold type; additions are indicated by underscohnng and deletions are indicated by sthke-through type; portion of the provisions not cited or not shown in underscoring or strike-through type are not changed); and be it

FURTHER RESOLVED: That the proposed Charter Amendment text shall be as follows:

Article XXVI: POLICE AND FIRE RETIREMENT SYSTEM

Section 2619(6)

The City shall contribute to the Retirement System such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section, to provide the benefits payable under this Article and Articles XIV and XV. The City conthbutions made periodically during the year shall be such as when added to member contributions will actuarially fund all liabilities for all members prior to July 1, 1976, by July 1, 2026. The date of July 1, 2026 may be changed, provided that both the City and Board approve and provided that such full-funding deadline is based on and supported by an actuarial study commissioned by the Board, known hereafter as "Full-Funding Deadline". Additionally, notwithstanding any other language or provision of this Article XXVI or the City Charter, the Board and the City shall have authority by mutual agreement to approve further extensions of the Full-Funding Deadline, provided that actuanial studies commissioned by the Board support each such subsequent change. The Board's and the City's approvals must be authorized by separate resolutions of the Board and the City Council. Additionally, to protect the City from market volatility, beginning ten years prior to the Full-Funding Deadline, each year's gains and losses shall be amortized over a period of years from the year such gains or losses are realized. The amortization period shall be set by the Board based on an actuarial study commissioned by the Board. Nothing in this section shall prevent the City from paying more than its minimum obligation to the Fund.

Any fund established pursuant to the 1971 amendment to this subsection and implemented by Retirement Board Resolution No. 3968 which provided for payment of improved or additional benefits shall continue only for the purposes stated herein. Any monies held in such fund as of July 1, 1976, and any interest credited thereon pursuant to Section 2602(a) shall continue to be payable to members of this system as follows: [remaining text not amended].

and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter

3 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Charter amendment, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed Charter amendment in the manner provided for by law; and be it

FURTHER RESOLVED: That each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

PROPOSED CHARTER AMENDMENT

MEASURE _____

"Police and Fire Retirement Plan Funding Reform"

Measure _____. Shall the Charter be amended to allow the City of Oakland to change the deadline for fully funding its Police and Fire Retirement Plan to a new financially responsible deadline?	Yes	
	No	

FURTHER RESOLVED: That the City Clerk and City Administrator hereby are authorized and directed to take any and all actions necessary under law to prepare for and conduct the next municipal election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the next municipal election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2011

PASSED BY THE FOLLOWING VOTE:

BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID
 AYES-
 NOES-
 ABSENT-
 ABSTENTION-

ATTEST: _____
LATONDA SIMMONS
 City Clerk and Clerk of the Council
 of the City of Oakland, California