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2009 MAR -5 PM 6:33

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator (510) 238-3301  
Dan Lindheim  
City Administrator

Oakland City Council  
Oakland, California

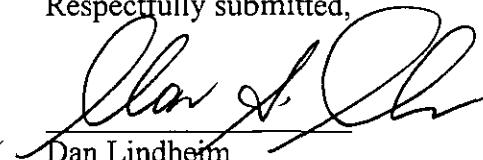
March 3, 2009

Dear President Brunner and Members of the City Council:

Re: **Resolution Submitting on the Oakland City Council's Own Motion, a Proposed Charter Amendment, Entitled, "Measure Allowing All Widows And Widowers of the City of Oakland Police and Fire Retirement System Who Remarry to Receive Spousal Retirement Benefits" to be Submitted to the Electors at the Election of June 2, 2009; Directing the City Clerk to Fix the Date for Submission of Arguments and to Provide for Notice and Publication in Accordance with the Law and Authorizing Certain Other Election Activities**

Attached is a report from the Oakland Police and Fire Retirement System (PFRS) Board recommending the City Council adopt the proposed resolution submitting a proposed Charter amendment which will allow eligible surviving spouses whose benefits were discontinued as a result of having remarried prior to January 1, 1985 to resume receiving spousal retirement benefits. The potential fiscal impact of the proposed change is \$1.7 million, exclusive of election costs; this amount ultimately will become the City's liability.

Respectfully submitted,

*for*   
Dan Lindheim  
City Administrator

Attachment

Item: \_\_\_\_\_

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OAKLAND

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**Oakland Police and Fire Retirement System Board**  
**150 Frank H. Ogawa Plaza**  
**Oakland, CA 94612**

***AGENDA REPORT***

**TO:** Finance and Management Committee  
**FROM:** Police and Fire Retirement Board  
**DATE:** March 10, 2009

**RE: Resolution, Submitting On The Oakland City Council's Own Motion, To Be Submitted To The Electors At The Next Municipal Special Election, A Proposed Charter Amendment, Entitled, "Measure Allowing All Widows And Widowers Who Remarry To Receive Spousal Retirement Benefits At An Estimated Lifetime Cost of \$1.7 Million," And Directing The City Clerk To Fix The Date For Submission Of Arguments And To Provide For Notice And Publication In Accordance With The Law And Authorizing Certain Other Election Activities**

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**SUMMARY**

This report is to present the Oakland Police and Fire Retirement System (PFRS) Board's recommendation that the City Council adopt a resolution submitting a proposed Charter amendment, entitled "Measure Allowing Eligible Surviving Spouses Whose Benefits Were Discontinued As A Result of Having Remarried Prior to January 1, 1985 To Resume Receiving Spousal Retirement Benefits."

In 1986, the PFRS retirement plan was amended to allow eligible widows and widowers who remarry on or after January 1, 1985 to continue to receive spousal retirement benefits. (City Charter section 2612(1)(a), amended in 1986.) Before the 1986 amendment, widows and widowers of PFRS members who remarried, were not entitled to receive spousal retirement benefits. In 1984, the California Public Employees' Retirement System ("PERS") plan was amended to allow eligible widows and widowers of PERS members to continue to receive spousal retirement benefits upon remarriage if the remarriage occurred on or after January 1, 1985; like PFRS, widows and widowers of the PERS members who remarried were not entitled to continue to receive spousal retirement benefits before the PERS amendment. Both amendments precluded retroactive application of the amendment and applied prospectively only, eliminating any potential liability to provide retirement benefits to widows and widowers who remarried before the amendments became effective.

The proposed Charter amendment will provide that widows and widowers of PFRS members who remarried before January 1, 1985 are eligible to receive spousal retirement benefits beginning on the effective date of the 2009 amendment. Eligible widows and widowers must file an application with the PFRS requesting the benefits.

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Finance and Management Committee  
March 10, 2009

## FISCAL IMPACT

Approximately 4,200 closed records of PFRS members were reviewed to help determine the potential fiscal impact on the Plan. There were four records found with notations indicating that their member spouses passed away and the widows remarried prior to January 1, 1985. These widows are presumed to still be alive.

The latest actuarial valuation dated July 1, 2007 shows the Plan funded ratio to be 63.7 percent. The unfunded actuarial liability is \$332,096,000. The Plan's actuary provided an estimated cost if continuance benefits were extended to otherwise eligible Police and Fire Retirement System surviving spouses who remarried after member deaths where the death occurred prior to January 1, 1985. Because of the limited amount of information available, the actuary used the June 30, 2007 valuation assumptions as follows:

- Discount rate: 8.0%
- Post-retirement increases: 4.75%
- Spouse mortality: RP-2000 Table for Females
- Where information was unavailable, spouse ages were assumed to be 3 years younger than the deceased member.
- Where information was unavailable, the member was assumed to be age 55 at date of death.

To illustrate how the pension amount is determined, a typical service retiree with 25 years of service will receive 50 percent of the salary of his or her active rank. Upon the death of the member, the widow or widower would typically receive 2/3 of the pension amount paid to the member. If the City negotiates a Memorandum of Understanding with the union that provides a 4 percent increase in salaries for active police officers, the widow's or widower's pension also would increase by 4 percent.

This issue was presented to the PFRS Board by a widow whose husband died in the line of duty. She remarried before January 1, 1985 and recently submitted an application asking the PFRS Board to grant her a continuance of her spouse's retirement benefits. Based on the rank from which that widow's spouse retired (police officer), her pension amount is estimated to be \$60,200 (50% of the compensation currently paid to police officers). Because PFRS pensions are based on the compensation currently paid to members of the police or fire department who hold the rank that the widow's spouse held when he/she retired, the pension amount will increase proportionately as salaries increase.

The estimated cost to provide annual benefit payments to the four widows mentioned above is \$237,000. The lifetime annuities to the four widows are approximately \$1.7 million. Additionally, there will be a one-time cost to place this item on a special election ballot in 2009 or 2010. The cost estimate is currently not available from the County, but is estimated to be at least 1.5 million for all measures.

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The cost will be covered by the PFRS fund. We note however, that because the City is ultimately responsible for funding the PFRS retirement plan, the amendment has the potential to increase the amount of funding that will be necessary to fully fund the retirement plan by allowing a new class of widows and widowers (i.e. those who remarried before January 1, 1985) to receive spousal retirement benefits. Therefore, the total cost to the City is \$2 million. The ongoing pension payment to eligible surviving spouses will be paid as part of the normal retiree payroll process each month.

## BACKGROUND

The Police and Fire Retirement System (PFRS) is a closed defined benefit plan, which was created in 1951 pursuant to Article XXVI of the City Charter. A defined benefit plan provides its members a prescribed retirement pension based on the plan formula.

Article XXVI of the Oakland City Charter established the Police and Fire Retirement System to provide retirement benefits for Oakland Police and Fire sworn employees and created the Police and Fire Retirement System Board to manage and administer the PFRS fund.

The PFRS plan pays its retired members a percentage of the compensation currently paid to sworn personnel who hold the rank the retired member held prior to retirement. Surviving spouses of PFRS members may receive up to two-thirds of the member's pension amount as spousal retirement benefits, except under special circumstances such as members killed in the line of duty, which results in a 100 percent spousal retirement benefit. Payment of spousal retirement benefits is approved by the PFRS Board by Resolution during its monthly meetings. PFRS differs from PERS which bases its pensions on the employee's highest twelve months' of salary plus an adjustment for changes in the cost of living.

On June 3, 1986, Measure I was passed by the voters authorizing eligible widows and widowers of members of the Police and Fire Retirement System and the Oakland Municipal Employees' Retirement System to continue receiving spousal benefits upon remarriage, if the remarriage occurred on or after January 1, 1985. Prior to the amendment widows and widowers who remarried were not eligible to continue to receive spousal retirement benefits.

## KEY ISSUES AND IMPACTS

Like the PERS statute on which the Charter provision was based, the Charter provision currently in place treats spouses who remarried prior to January 1, 1985 differently than those who remarried on or after January 1, 1985. If a widow or widower remarried on or after January 1, 1985 he/she is eligible to continue to receive spousal retirement benefits; if he/she remarried before January 1, 1985 he/she is not eligible to continue to receive spousal retirement benefits. Both the PERS and PFRS amendments were designed to apply prospectively to avoid any potential liability for coverage of widows and widowers who remarried before the amendment took effect.

The PFRS Board finds this situation to be inequitable to spouses of members who remarried prior to January 1, 1985, particularly those whose spouses were killed in the line of duty.

**RECOMMENDATION(S) AND RATIONALE**

The Police and Fire Retirement Board recommends that City Council adopt a resolution submitting to the voters an amendment to Article XXVI of the Charter of the City of Oakland Police and Fire Retirement System that would remove the January 1, 1985 date and permit all widows and widowers of members of the Police and Fire Retirement System who remarry to receive spousal retirement benefits.

**ACTION REQUESTED OF THE CITY COUNCIL**

The Police and Fire Retirement Board requests that the City Council adopt a resolution submitting a Charter amendment to the voters at the next Municipal Special Election that would provide spousal benefits to all eligible widows and widowers of the Police and Fire Retirement System, including those who remarried prior to January 1, 1985.

Respectfully submitted,

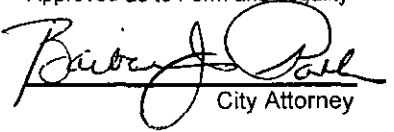
POLICE AND FIRE RETIREMENT BOARD

By: Robert Crawford  
Robert Crawford, President

Prepared by:  
Yvonne S. Hudson, HR Manager  
Retirement and Benefits

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

  
City Attorney

2009 MAR -5 PM 6:33 RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**Resolution, Submitting On The Oakland City Council's Own Motion, To Be Submitted To The Electors At The Next Municipal Special Election, A Proposed Charter Amendment, Entitled, "Measure Allowing All Widows And Widowers Who Remarry To Receive Spousal Retirement Benefits At An Estimated Lifetime Cost of \$1.7 Million," And Directing The City Clerk To Fix The Date For Submission Of Arguments And To Provide For Notice And Publication In Accordance With The Law And Authorizing Certain Other Election Activities**

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

**WHEREAS**, the original retirement plan provided under Article XXVI of the City Charter for PFRS members provided spousal retirement benefits to widows and widowers of PFRS members who married the PFRS member at least one year before their retirement ("surviving spouses"); and

**WHEREAS**, the original retirement plan provided under Article XXVI of the City Charter provided that surviving spouses of members of the PFRS who remarry are not entitled to receive spousal retirement benefits after they remarry; and

**WHEREAS**, in 1984 to the State of California Public Employees' Retirement System ("PERS") was amended to allow surviving spouses who remarry to receive spousal retirement benefits after they remarry; and

**WHEREAS**, in 1986, the PFRS was amended to allow surviving spouses of PERS members who remarry on or after January 1, 1985 to receive spousal retirement benefits (section 2612(1), subdivision (a) of the City Charter); and

**WHEREAS**, the City Council of the City of Oakland desires to amend City Charter section 2612(1) to provide spousal benefits to all surviving spouses of members of the PFRS, including those who remarried before January 1, 1985; now, therefore, be it

**RESOLVED:** That the City Council of the City of Oakland hereby authorizes and directs the City Clerk, at least 88 days prior to the 2009 election 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 text of the proposed charter amendment shall be as follows, with deletions indicated by ~~strikethrough~~ and additions underlined:

**Section 2612.**

(1) In cases in which a benefit is payable to the dependent of a deceased member under the provisions of this Article, such benefit shall be payable to the family of such member in the following order of succession:

(a) ~~To the surviving spouse of such member, as long as he or she shall not remarry prior to January 1, 1985~~ provided that, if death occurred after retirement, the surviving spouse shall have been married to the decedent at least one (1) year prior to the member's retirement; and provided further that in the event such decedent leaves a surviving child or children and if death occurred prior to retirement, an additional amount shall be paid to such surviving spouse during the lifetime of each child until said child shall have married or attained the age of eighteen (18) years as follows: For one child, twenty-five percent (25%) of the allowance provided for in this Article; for two children, forty percent (40%) of such allowance, and for three or more children fifty percent (50%) of such allowance, provided that the aggregate payments to the surviving spouse under this section shall not exceed seventy-five (75%) percent of the compensation attached to the rank held by the decedent at the time of his or her death. Upon a remarried spouse's death, the member's retirement allowance shall cease unless there are eligible children.

(b) In the event the decedent shall not leave surviving an eligible spouse to receive said allowance, but shall leave a child or children under the age of eighteen (18) years, or should the decedent leave an eligible spouse and a child or children under the age of eighteen (18) years and the spouse dies while said child or children are yet under the age of eighteen (18) years, then the retirement allowance is payable to such child or children collectively until the youngest child attains the age of eighteen (18) years, provided that no child shall receive any such allowance after attaining the age of eighteen (18) years or marrying.

(c) In the event the decedent shall leave surviving him no eligible widow, child or children but shall leave a parent or parents dependent on said member for their support, then to such parent or parents collectively in an amount or amounts to be determined by the Board in the proportion that the degree of support furnished by decedent bears to the allowance which would have been payable to an eligible widow of such decedent.

(d) All widows and widowers of members of the Police and Fire Retirement System who remarried prior to January 1, 1985 shall be eligible to receive survivor benefits beginning on the effective date of the amendment of this section which shall be placed on the 2009 ballot.

(e) Nothing in this section or any other provision of this Charter shall be interpreted or construed to give surviving spouses who remarried prior to January 1, 1985 the right to receive any survivors benefits for any period before the effective date of the amendment of this section which shall be placed on the 2009 ballot.

(f) To receive survivor benefits following passage of this amendment which shall be placed on the 2009 ballot, widows and widowers must file an application with the Police and Fire Retirement System Board. Survivor benefits shall be payable beginning on the first day of the month following the date upon which the Board approves the application and awards benefits to the widow or widower.

(2) In the event a deceased member leaves no dependents qualified to receive an allowance, there shall be payable a death benefit as follows:

(a) If death occurs before retirement, a sum equal to the member's accumulated contributions in the Fund plus an amount equal to one-twelfth (1/12th) of the annual compensation attached to the rank held by such member at the time of death for each completed year of service as a member at the time of death for each completed year of service as a member of the Police or Fire Department, not to exceed six (6), to his designated beneficiary, and if none, then to the estate of such member.

(b) If death occurs after retirement, then the sum of One Thousand Dollars (\$1,000.00) to the beneficiary designated by such member, or if none, then to the estate of such decedent.

**FURTHER RESOLVED:** That 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; and be it

**FURTHER RESOLVED:** That 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; and be it

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



**PROPOSED CHARTER AMENDMENT**

**MEASURE ALLOWING ELIGIBLE SURVIVING SPOUSES OF MEMBERS OF  
OF  
THE CITY OF OAKLAND POLICE AND FIRE RETIREMENT SYSTEM WHO  
ARE NOT ENTITLED TO RECEIVE SURVIVOR BENEFITS BECAUSE THEY  
REMARRIED BEFORE JANUARY 1, 1985 TO RECEIVE SPOUSAL  
RETIREMENT BENEFITS AT AN ESTIMATED LIFETIME COST OF \$1.7 MILLION**

MEASURE \_\_\_\_\_

Measure \_\_\_\_ . Shall the Oakland City Charter be amended to permit all widows and widowers of members of the City of Oakland Police and Fire Retirement System who remarry to receive spousal retirement benefits?

Yes	No
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**FURTHER RESOLVED:** that the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the \_\_\_\_\_ 2009 election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct the 2009 election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California