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OFFICE OF THE CITY CLERK  
OAKLAND

**CITY OF OAKLAND**  
**AGENDA REPORT**

11 JUL -7 PM 7:07

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

RE: A Resolution Submitting On The Council's Own Motion, A Proposed Ordinance, Entitled, "Measure Establishing a Rainy Day Fund" Requiring the City to Set Aside Money When There Is an Unusually Large Surplus, Which May Be Used In Years When There Is a Revenue Shortfall to Preserve or Restore Services, 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

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**SUMMARY**

A resolution has been prepared for submittal to the City Council for a proposed Ordinance Entitled, "Measure Establishing a Rainy Day Fund" requiring the City of Oakland to set aside money collected when there is an unusually large surplus, which may be used to preserve or restore services in years when there is a revenue shortfall. Should this resolution be approved by the City Council and subsequently approved by voters, then the City shall establish a Treasury Fund known as a "Rainy Day Fund."

**FISCAL IMPACT**

Councilmember Schaaf respectfully requests that the Council approve this resolution and assign this ballot to the next regularly scheduled election date.

A Rainy Day Treasury Fund is intended to cause the City Budgeting Process to be spared some of the extreme fiscal woes, such as unsustainable service cuts, employee lay-offs, and employee terminations, which are currently occurring at the time of this report's submission. A Rainy Day Treasury Fund will lead to a more fiscally prudent approach to municipal governing.

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# CITY OF OAKLAND

## AGENDA REPORT

**TO:** City Council  
**ATTN:** President Reid and Councilmembers  
**FROM:** Councilmember Libby Schaaf  
**DATE:** June 30, 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**

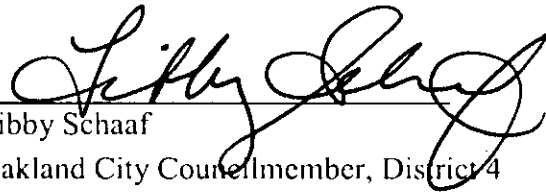
There is no direct impact or benefit to seniors or people with disabilities.

### **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 Stoffinacher, Policy Analyst  
Office of Oakland Councilmember Libby Schaaf

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Office of the City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBERS

A Resolution Submitting On The Council's Own Motion, A Proposed Ordinance, Entitled, "Measure Establishing a Rainy Day Fund" Requiring the City to Set Aside Money When There Is an Unusually Large Surplus, Which May Be Used In Years When There Is a Revenue Shortfall to Preserve or Restore Services, 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**, the last ten years have demonstrated that good financial times are followed by downturns, which inevitably affects government revenues; and

**WHEREAS**, The last ten years have demonstrated that good financial times are followed by downturns, which inevitably affects government revenues; and

**WHEREAS**, In the present recession, the City of Oakland has struggled to balance its budget after losing tens of millions of dollars in General Purpose Fund revenues; and

**WHEREAS**, This sudden reduction in revenues has forced the City to make painful cuts in City services and to furlough and lay-off employees, including police officers; and

**WHEREAS**, The City of Oakland's needs a stronger fiscal policy to guard against recessionary periods; and

**WHEREAS**, A Rainy Day Fund would require the City to set aside money in good times so that it is available to cover revenue shortfalls in bad economic times; and

**WHEREAS**, Rainy Day Funds have been successfully used at the local and state levels of government to weather unexpected fiscal downturns and to smooth out revenues year-to-year; and

**WHEREAS**, Such smoothing enables governments to maintain critical services during economic downturns, and

**WHEREAS**, For the foregoing reasons, the City Council desires to submit to the qualified electors of the City of Oakland at it next municipal election, a proposed Ordinance.

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 Ordinance shall be as follows:

## RAINY DAY FUND

### Creation:

1. There is hereby established a fund in the Treasury of the City of Oakland to be known as the "Rainy Day Fund".

### Purpose:

2. The purpose of the Rainy Day Fund is to ensure that the City of Oakland sets aside money in years when revenues are increasing so that it is available to offset shortfalls in years when revenues are decreasing. Rainy Day Fund monies are intended to preserve existing services or restore services that have been reduced during times when revenues have declined. It is not the intention of this section to supplant any reserve or other fiscal policies adopted by the Oakland City Council to the extent they do not conflict with section.

### Deposit Rules:

3. If the Budget Office projects that total General Purpose Fund (Fund 1010) revenues for the upcoming fiscal year will exceed total General Purpose Fund revenues for the current fiscal year by more than three percent (3%), the adopted budget shall appropriate fifty percent (50%) of the anticipated General Purpose Fund revenues in excess of that three percent (3%) growth to the Rainy Day Fund.

4. If the Budget Office projects that the Consumer Price Index for the upcoming fiscal year shall exceed the index for the current fiscal year by more than two percent (2%), the trigger for allocations to the Rainy Day Fund as set forth in subsection (3) above shall instead be the projected percentage of growth in the Consumer Price Index plus one percent (1%). The City of Oakland shall base this projection on the Consumer Price Index produced by the United States Bureau of Labor Statistics for the San Francisco-Oakland-San Jose metropolitan region, or any smaller geographic area that includes the City of Oakland.

5. If the amount held in the Rainy Day Fund exceeds fifteen percent (15%) of projected total General Purpose Fund revenues for the upcoming fiscal year, no further appropriations to the Rainy Day Fund are required.

6. Notwithstanding subsections (3) and (4) above, if (A) the projected total General Purpose Fund revenues for the upcoming fiscal year are less than \$511,400,000 or (B) the City is carrying any negative fund balances in its General Fund Group, Lighting Landscape Assessment District or Internal Service Fund greater than the Rainy Day Fund appropriation for that year and so long as that amount is applied towards those negative fund balances; then there shall be no requirement that the adopted budget appropriate any money to the Rainy Day Fund.



**Withdrawal Rules:**

7. If the Budget Office projects that total General Purpose Fund revenues for the upcoming fiscal year will be less than the current fiscal year's total General Purpose Fund revenues, the adopted budget may appropriate Rainy Day Fund monies up to that revenue shortfall to cover the costs of city employees and the costs of supplies and equipment that directly affect the ability of the City to provide services; however, the adopted budget shall not appropriate more than sixty percent (60%) of the current Rainy Day Fund balance absent a declaration of fiscal necessity by the City Council.

8. Other than in cases of year-to-year revenue decline described in subsection (7), no money shall be appropriated from the Rainy Day Fund, and no mandatory deposit into the Rainy Day Fund under subsections (3) and (4) shall be suspended, without a declaration of fiscal necessity.

9. For the purposes of this Ordinance, a fiscal necessity can only be declared if at least six (6) out of eight (8) City Council members vote in favor of such declaration. Within twenty-four (24) hours of declaring a fiscal necessity, the City Administrator shall notify the largest-circulation daily and the largest-circulation weekly print local news organizations of such a declaration, the reason for it, as well as how much money is being withdrawn from the Rainy Day Fund.

**Reporting:**

10. Each year, upon completion of the City's financial audited statements, the City Administrator shall separately report the status of the Rainy Day Fund to the City Council. This report shall at least identify the Rainy Day Fund balance at the start and end of the fiscal year, how much interest accumulated in the Rainy Day Fund during the fiscal year, and how much money was withdrawn from the Rainy Day Fund. The Budget Office shall also report to the City Council, as part of the budget process, the balance of the Rainy Day Fund.

**Other:**

11. For the purposes of this section (Section 813), total General Purpose Fund revenues means all revenues allocated to the General Purpose Fund other than loans from other funds.

12. For the calculations required under subsections (3), (4), and (7), the previous fiscal year's total General Purpose Fund revenues shall not include any money deposited into the Rainy Day Fund and shall include any money withdrawn from the Rainy Day Fund.

13. In conjunction with the year-end close of the City's audited financials or CAFR, the City shall reconcile the revenue projections triggering any budgeted allocations to or withdrawals from the Rainy Day Fund with actual revenue results and rebalance the Rainy Day Fund and the General Purpose Fund allocation accordingly.

14. If the City Council or the voters take an action that changes General Purpose Fund revenue sources in any material manner, such as reducing or increasing a tax rate or imposing or eliminating a fee, the revenue changes caused by that action will not be counted as part of the triggers for allocations to or withdrawals from the Reserve during the first year in which the action is implemented.

15. The City Council may, by ordinance, amend and clarify any ambiguities in this section (Section 813), so long as such clarifications and modifications are consistent with and in furtherance of the purpose of the Rainy Day Fund.

and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 11 of the Oakland City Charter, 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 City Charter, 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 \_\_\_\_\_**

**Establishing a Rainy Day Fund**

Measure _____. <i>Shall the City create a "Rainy Day" fund for money collected when there is an unusually large surplus, which may be used to preserve or restore services in years when there is a revenue shortfall?</i>	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

