

OAKLAND CITY COUNCIL

2011 MAR -3 PM 8:13

RESOLUTION NO. _____ C.M.S.

RESOLUTION SUBMITTING, ON THE CITY COUNCIL'S OWN MOTION, TO THE ELECTORS AT THE JUNE 7, 2011 SPECIAL ELECTION (OR ON THE DATE THEREAFTER THAT THE SPECIAL ELECTION IS SET), AMENDING CHARTER SECTION 2607 TO SPECIFY ANNUAL BENEFIT INCREASES FOR MEMBERS OF THE POLICE AND FIRE RETIREMENT SYSTEM; CONSOLIDATING THE ELECTION WITH THE STATEWIDE SPECIAL ELECTION; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE STATEWIDE SPECIAL ELECTION

WHEREAS, the City of Oakland is facing an unprecedented budget deficit in its General Purpose Fund due to the local impacts from the global, national, state, and regional recession; and

WHEREAS, as a result of that economic recession City of Oakland General Purpose Fund revenues have gone from \$491 million in 2006 down to a projected \$401 million for the 2011 fiscal year; and

WHEREAS, the City's General Purpose Fund deficit is projected to be at least \$46 million in FY 2011-12 and \$62 million in FY 2012-13 and

WHEREAS, the City of Oakland has made significant cuts to the General Purpose Fund Budget which have impacted all agencies, departments, and programs; and

WHEREAS, cuts to the General Purpose Fund have resulted in including, but not limited to, laying off sworn and non-sworn employees and reducing staff salaries by implementation of mandatory furlough days, and

WHEREAS, the Police and Fire Retirement System ("System"), based on the definition of "benefits" in the Charter, is currently underfunded by \$494 million and given the low funding level of the System, a one-time or ongoing investment into the System has become a matter of fiscal urgency; and

WHEREAS, the payment holiday that the City negotiated with the System will expire in July 2011 and the City will be required to deposit an annual contribution to the System of approximately \$45.6 million; and

WHEREAS, the System pays its members benefits composing a percentage of the compensation paid to active personnel who hold the rank the retired member held prior to retirement; and

WHEREAS, if the City is required to pay the System so that the System can continue to pay the escalating benefits of the System members, the City will be forced to layoff currently working police officers and firefighters; and

WHEREAS, the City has considered alternative, less drastic, means including two new taxes which were rejected by the voters in the November 2010 election, including a public safety parcel tax and a telephone tax to support the General Purpose Fund; and

WHEREAS, faced with the current budget deficit combined with the rejection of new taxes by the electorate, resuming annual General Purpose Fund contributions would be impossible as even without this obligation the City will be required to make major reductions to core services detrimentally affecting the health and safety of the citizens of Oakland; and

WHEREAS, the active elements currently deemed attached to the rank include, among other things (1) Base Pay/ Cost of Living Adjustment ("COLA") (2) Holiday Pay, (3) Uniform Allowance, (4) Shift Differential, and (5) Longevity Pay; and

WHEREAS, increases to these pay elements increase the benefits that the System members receive; and

WHEREAS, increases in benefits to members have far outpaced and exceeded cost of living increases and inflation; and

WHEREAS, maintenance of the integrity and soundness of the pension system is at risk because due to the economic recession combined with the escalating System benefits, the City will not be able to make payments to the System; and

WHEREAS, unless this Charter amendment is enacted, members of the System may be at risk of not receiving any benefits because in Fiscal Year 2011-12, the City's total obligation to the System in unfunded liabilities combined with bond debt service payments will total approximately \$109.1 million; and

WHEREAS, the City's General Purpose Fund cannot sustain such obligations without the System being amended to address future increases; and

WHEREAS, there is an emergency or severe fiscal crisis which reasonably and necessarily would be ameliorated by the enactment of this Charter amendment; now therefore be it

RESOLVED:: That the City Council of the City of Oakland does hereby submit to the voters at the June 7, 2011 special election (or the date thereafter that the election is set), not more than 88 days and not more than 150 days from the date of passage of this resolution, the text of the proposed amendment.

Section 1. The City Charter is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by strike-through type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed).

Section 2. The Oakland City Charter is hereby amended to read as follows:

ARTICLE XXVI; POLICE AND FIRE RETIREMENT SYSTEM

Section 2607.

The following words and phrases, as used in this Article, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," "Death allowance," or "allowance" shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life, unless a different term of payment. is definitely provided by the context.

"Compensation" as distinguished from benefits under the Labor Code of the State of California, shall mean the monthly remuneration payable in cash, by the City, without deduction, for time during which the individual receiving such remuneration is a member of the Police or Fire Department, but excluding remuneration paid for overtime and for special details or assignments as provided in Sections 91 and 97* of the Charter.

"Benefit" shall include "retirement allowance," "death allowance," "allowance," and "death benefit." . In no event shall any increase from year to year to a Benefit exceed two percent.

"Compensation attached to the average rank held" shall mean the compensation attached to the lowest rank held during the three years immediately preceding retirement plus one thirty-sixth (1/36) of the difference between it and the compensation attached to any higher rank held during that period of each month, and fraction thereof, the higher rank was held

For the purposes of the Retirement System established by this Article, the terms "member of the Police or Fire Departments," "member of the Department," "member of the System," or "member" shall mean any regularly appointed member of the Police or Fire Department of the City of Oakland who became members of the Retirement System established by this Article, prior to July 1, 1976, including matrons or substitute matrons of the City Prison and emergency patrolmen and horsemen.

"Retirement System" or "System" shall mean the Police and Fire Retirement System established by this Article.

"Charter" shall mean the Charter of the City of Oakland.

"Interest" shall mean interest at the rate adopted by the Retirement Board.

"Retirement Board," or "Board" shall mean the Police and Fire Retirement Board created by this Article.

"Children" shall include, with respect to service retirement, children adopted at least five (5) years prior to retirement, and with respect to disability retirement and death before retirement, children adopted at any time prior to such retirement or death.

Words used in the masculine gender shall include the feminine and neuter genders; singular numbers shall include the plural, and the plural the singular, and wife shall include husband, and widow shall include widower.

"Accumulated contributions" shall mean contributions made by the member since May 3, 1943, plus credited interest.

Section 3. Severability. If a court of competent jurisdiction determines that any provision of this amendment, or its application to any person or circumstance is unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this amendment or the application of this amendment to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 4. Majority Approval; Effective Date. This amendment shall be effective only if approved by a majority of the voters voting thereon and after the vote is declared by the City Council. The effective date of this amendment shall be July 1, 2011.

FURTHER RESOLVED; That the form of the question is:

Measure ____. Shall Oakland City Charter be amended to specify annual benefit increases for members of the Oakland Police And Fire Retirement System to not exceed two percent?	YES	
	NO	

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to June 7, 2011 (or the date thereafter the special election is set), to file with the Alameda County Clerk certified copies of this resolution; 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 and against said proposed Ordinance and rebuttals, and said date shall be posted in the Office of the City Clerk; and be it

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 election and the Council hereby appropriates all monies necessary for the City Administrator and City Clerk to prepare and conduct the election in a manner consistent with state and local laws, and be it

FURTHER RESOLVED: That the City Council of the City of Oakland does hereby request that the Board of Supervisors of Alameda County order the consolidation of the Oakland Municipal election with the statewide special election of June 7, 2011 (or the date thereafter that the special election is set), consistent with provisions of State Law; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election.

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