

Bruce J. Park
Office of the City Attorney

OFFICE OF THE CITY CLERK

OAKLAND CITY COUNCIL

2006 JUN 28 PM 4:02

RESOLUTION No. 80058 C.M.S.

Resolution Submitting On the Council's Own Motion To Be Voted Upon At The Municipal General Election To Be Held on November 7, 2006, A Proposed Charter Amendment, Entitled "MEASURE AMENDING CITY CHARTER SECTION 2601(E) TO PROVIDE THAT THE POLICE AND FIRE RETIREMENT BOARD SHALL MAKE INVESTMENTS IN ACORDANCE WITH THE PRUDENT PERSON STANDARD AS REQUIRED BY THE CALIFORNIA CONSTITUTION", Which Will Remove Investment Restrictions That Currently (1) Prohibit The Board From Investing More Than Fifty Percent of the Retirement Fund In Equities (Stock and Mutual Funds) And (2) Prohibit Investment In Non-Dividend Paying Stocks Unless The Board Approves Such Investment In Advance On A Case-By-Case Basis

WHEREAS, Article XXVI of the Oakland City Charter established the Police and Fire Retirement System ("PFRS") to provide retirement benefits for Police and Fire Department sworn employees and created the Police and Fire Retirement Board to exclusively control the administration and investment of the funds of the system (the "Police and Fire Retirement Fund"); and

WHEREAS, Oakland City Charter section 2601(e) provides that the total amount of retirement system funds invested in common stocks and mutual funds "shall not exceed fifty (50) percent of the book value of all invested funds of the retirement system."; and provides further that the Police and Fire Retirement Fund may be invested only in common stocks that "at the time of purchase, have paid cash dividends for not less than five years next preceding the date of investment or prior to the purchase of such stocks, the Board shall expressly approve purchase of same by motion adopted with not less than five (5) Board members voting in favor of such purchase"; and

WHEREAS, the California Constitution requires that the PFRS Board and other California public pension boards discharge their duties and exercise their powers in accordance with the prudent person standard and "diversify the investments of the system so as to minimize the risk of loss and maximize the rate of return, unless under the circumstances it is clearly not prudent to so; and

WHEREAS, the prudent person standard is well established by court decisions and is consistent with the standard that the Employment Retirement Income Security Act ("ERISA") has established for private pension systems; and

WHEREAS, based on a survey of other city and county retirement systems' investment guidelines and the recommendation of the Police and Fire Retirement Board's investment advisors, allowing the Board to make investments solely in accordance with

investment return and maintain a prudent investment position; and

WHEREAS, for the foregoing reasons, the City Council and the City of Oakland Police and Fire Retirement Board desire to amend City Charter section 2601(e) to permit the Police and Fire Retirement Board to invest the PFRS retirement fund assets in accordance with the prudent person standard, thereby removing the aforesaid investment restrictions; and

WHEREAS, section 10400 et seq. of the Elections Code allows for the Oakland Municipal General Election of November 7, 2006 to be consolidated with the Statewide General election to be held on the same date; now, therefore be it

RESOLVED: That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to November 7, 2006 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 text shall be as follows:

Article XXVI of the Charter of the City of Oakland is amended at section 2601(e) to read:

(e)The Board shall possess power to make all necessary rules and regulations for its guidance and shall have exclusive control of the administration and investment of the fund established for the maintenance and operation of the system, subject to the terms, conditions, limitations and restrictions hereinafter set forth. All funds received by the Board not required for current disbursements shall be invested in, but not limited to: . . .

(3) Common Stocks provided that:

a. The Board shall make investment decisions regarding total of such investments together with the total of all holdings of shares of diversified management investment companies (Mutual funds) (4 next below) shall not exceed fifty (50) percent of the book value of all invested funds of the retirement system in accordance with the prudent person standard as defined by applicable court decisions and as required by the California Constitution. . . .

~~c. Such stocks shall, at the time of purchase, have paid cash dividends for not less than five years next preceding the date of investment or prior to the purchase of such stocks, the Board shall expressly approve purchase of same by motion adopted with not less than five (5) Board members voting in favor of such purchase. . . .~~

(4) Shares of diversified management investment companies (Mutual Funds) provided that:

- a. The Board shall make investment decisions regarding total of such investments together with the total of all holdings of shares of common stocks (3 next above) shall not exceed fifty (50) percent of the book value of all invested funds of the retirement system in accordance with the prudent person standard as defined by applicable court decisions and as required by the California Constitution. . . .

and be it

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 therein, in addition to any other matter required by law the following:

PROPOSED CHARTER AMENDMENT

MEASURE _____

MEASURE TO _____

Measure _____. Shall section 2601(e) of the Charter of the City of Oakland be amended to provide that the Police and Fire Retirement Board shall make investment decisions regarding common stocks and mutual funds in accordance with the prudent person standard as established by court decisions and as required by the California Constitution?	Yes	
	No	

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 November 7, 2006 election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the November 7, 2006 election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 18 2006, 2006


PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE -8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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