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CITY OF OAKLAND  
AGENDA REPORT

TO: City Council  
FROM: Councilmember Libby Schaaf  
DATE: July 26, 2011

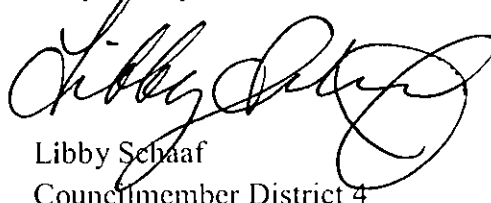
RE: A Resolution Submitting On The Council's Own Motion, A Proposed Charter Amendment, Entitled, "Measure Allowing the Police and Fire Retirement System Board and City Council to Set an Actuarially Sound Deadline For Fully Funding Its Retirement Plan", To Be Submitted To The Electors At The Next Special 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

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The attached revised Resolution contains three minor modifications from the previously published version.

1. Because the City Council did not pass this resolution at its meeting of July 19, 2011, this resolution needs language added to meet Oakland Municipal Code and state Election Code requirements for the submission of arguments. (OMC section 3.08.230.) The City Attorney's Office has recommended that the following language be added: "Further Resolved, direct arguments shall be filed with the City Clerk by August 2, 2011. Rebuttal arguments shall be filed with the City Clerk by August 9, 2011."
2. To eliminate any potential controversy or confusion regarding whether this measure could result in an extension of the tax override to match any extensions of the full funding deadline, the following language is added: "WHEREAS, any extension of the Full-Funding Deadline pursuant to this proposed City Charter amendment will not extend or otherwise change the expiration date in the year 2026 of the property tax levied annually by the City for the purpose of funding its obligations to PFRS known as the 'tax override'; and"
3. As a result of meet and confer with the Oakland Police Officers Association, the following language is added to the Charter revision: "Any findings by the PFRS Board shall be consistent with their fiduciary responsibility to assure the competency of the PFRS assets and to provide the members' retirement benefits and rights conferred by the Oakland City Charter, Article 26".

Respectfully submitted,



Libby Schaaf  
Councilmember District 4

Item \_\_\_\_  
City Council  
July 26, 2011

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FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2011 JUL 21 PM 6:09

**REVISED**

Approved as to Form and Legality  
**DRAFT**  
Office of the City Attorney

# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER SCHAAF

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**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

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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**, any extension of the Full-Funding Deadline pursuant to this proposed City Charter amendment will not extend or otherwise change the expiration date in the year 2026 of the property tax levied annually by the City for the purpose of funding its obligations to PFRS known as the "tax override"; 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

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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 underscoring and deletions are indicated by strike-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 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 actual 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. Any findings by the PFRS Board shall be consistent with their fiduciary responsibility to assure the competency of the PFRS assets and to provide the members' retirement benefits and rights conferred by the Oakland City Charter, Article 26. 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

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**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; and be it

**FURTHER RESOLVED:** That direct arguments shall be filed with the City Clerk by August 2, 2011. Rebuttal arguments shall be filed with the City Clerk by August 9, 2011.

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

Item \_\_\_\_  
City Council  
July 26, 2011