



BALLOT MEASURE SUBMITTAL FORM

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Alameda County

AUG 19 2011

Reg. of Voters

BALLOT MEASURE QUESTION

Jurisdiction Name: **City of Oakland**

Election Date: **November 15, 2011**

Note: The information as it appears within the measure question text box will be printed on the ballot.

Insert ballot question text here:

Measure J. 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

PERCENTAGE NEEDED TO PASS

50% +1

FULL TEXT OPTION

Full Text to be printed in the Voter Information Pamphlet:

YES (note: must submit separate copy of Full Text along with this form)

NO


AUTHORIZED REPRESENTATIVE

Print Name:

Tamika Thomas

Date:

August 18, 2011

Signature: 

CONTACT INFORMATION (for office use)

Phone #:



CONTACT INFORMATION (for public)

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510.238.3612

E-Mail:



E-Mail/Website:

<http://www2.oaklandnet.com/OAK030369>

City of Oakland
Police and Fire Retirement Plan (PFRS)
Ballot Measure

FULL TEXT

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 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

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY

BALLOT TITLE:

Proposed Charter Amendment Extending the City's Deadline for Fully Funding the Police and Fire Retirement System Plan, and Granting the Police and Fire Retirement Board the Authority to Set the Amortization Period for the Plan's Gains and Losses

BALLOT SUMMARY:

This measure would give the City of Oakland more time to fully fund the Police and Fire Retirement System ("PFRS") if (1) the PFRS Board and the City Council agree to a later full funding deadline and (2) the PFRS Board determines the new deadline will not detrimentally affect the fund's ability to pay retirement benefits and costs for PFRS members and their beneficiaries. Currently, the City is required to fund all costs, liabilities and retirement benefits for all PFRS members by July 1, 2026.

In addition, beginning ten years prior to the City's deadline for fully funding the retirement plan, this measure would grant the PFRS Board the authority to set an amortization period for the retirement plan's gains and losses. The PFRS Board would be allowed to spread significant gains and losses resulting from events, such as fluctuations in the stock market and unexpected decreases in the retirement plan's membership, over a greater number of years.

The City Charter and the California Constitution grant the PFRS Board the sole authority to manage and administer PFRS. PFRS provides retirement benefits for police officers and firefighters who were hired by the City from July 1, 1951 through June 30, 1976. The City Charter mandates that the PFRS Board obtain a study from an actuary every three years to determine the schedule and the amounts that the City is required to contribute each year to fully fund PFRS by the full funding deadline.

Implementation of the proposed Charter amendment is contingent upon findings by the PFRS Board that each proposed extension of the funding deadline and each proposed change in the amortization period and payment schedule and amounts would protect the assets of PFRS and the benefits of the retirees and beneficiaries. The findings would be the result of actuarial studies commissioned by the PFRS Board.

This measure is not a tax. It does not create a new tax or authorize the extension of any existing tax.

A "yes" vote will approve the changes to the Police and Fire Retirement System: a "no" vote will reject the changes.

**City ATTORNEY
Barbara J. Parker**

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, 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 any extension of the Full-Funding Deadline pursuant to this proposed City Charter amendment will not authorize the collection of the property tax levied annually by the City for the purpose of funding its obligations to PFRS known as the "tax override" beyond the year 2026, unless there is a separate two-thirds vote of the people, pursuant to California Law; 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 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 strikethrough type; portion of the provisions not cited or not shown in underscoring or strikethrough 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 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. 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 XXVI. 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].

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE J

This proposed City Charter amendment would amend Charter Section 2619(6) to allow the City and the City of Oakland Police and Fire Retirement Board ("PERS Board"), by mutual agreement, to extend the deadline for the City to fully fund the Police and Fire Retirement System ("PFRS"). PFRS provides retirement benefits for police officers and firefighters who were hired by the City from July 1, 1951 through June 30, 1976.

The current City Charter requires that the City fully fund all costs, liabilities and retirement benefits for all members of PFRS and their beneficiaries by July 1, 2026. The City must contribute sufficient amounts each year to provide retirement benefits and to fully fund PFRS by July 1, 2026.

This proposed amendment would extend the deadline for fully funding PFRS from July 1, 2026 to a later date(s) that is mutually agreeable to the City Council and the PFRS Board, which manages and administers PFRS. The extension would have to be supported by an actuarial study showing that the new deadline will not detrimentally affect the City's ability to fund retirement benefits and costs for PFRS members and their beneficiaries.

The proposed Charter amendment also authorizes the PFRS Board to adjust the way that gains and losses are amortized. The PFRS Board would be allowed to spread system gains and losses resulting from events, such as losses in the stock market and unexpected decreases in the retirement plan's membership, over a greater number of years.

Ten years from the date by which the City is required to fully fund PFRS, the PERS Board would be allowed to set an amortization period for gains and losses based upon an actuarial study secured by the PFRS Board. Any change in the schedule or amounts must be approved by the PFRS Board and its actuary.

The implementation of the proposed Charter amendment is contingent upon a finding by the PFRS Board that the proposed extension and amortization would protect the benefits of PFRS retirees and the assets of PFRS. The findings would be based upon an actuarial study commissioned by the PFRS Board.

This' is not a tax. The proposed Charter amendment would not result in the increase or extension of any tax currently levied by the City.

City Attorney
Barbara J. Parker

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE J

SUMMARY

The Police and Fire Retirement System (PFRS) was established by Oakland City Charter Article XXVI in 1951 to provide retirement benefits for sworn Police and Fire personnel.

The PFRS fund was closed in 1976 when the City elected to utilize the California Public Employees' Retirement System (PERS) for all subsequent City employees, both for sworn Police and Fire personnel and non-sworn employees.

The City must continue to contribute to the closed PFRS Plan each year so that all PFRS financial liabilities are fully-funded by July 1, 2026 (Full-Funding Deadline), as currently defined in Article XXVI, Section 2619 (6) of the City Charter.

Voter approval of Measure J would authorize the City to extend the Full-Funding Deadline to a later date if mutually agreed upon by the PFRS Board and the City Council and supported by an actuarial study. Such extension(s) would reduce the City's current annual payment obligation to PFRS however it would not reduce the plan's unfunded liability.

Additionally, to mitigate market volatility, Measure J states that beginning 10 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 incurred. The amortization period shall be set by the Board based on an actuarial study commissioned by the Board.

FINANCIAL IMPACT

Measure J would likely extend the City's pension obligation over a longer period of time, thereby reducing the City's annual payment obligation currently at \$45.6 million starting July 1, 2011. The current actuary projects that benefit payments to PFRS beneficiaries may extend beyond 2050.

Measure J, however, does not produce savings as the City's total obligation to fund PFRS over the life of the PFRS Plan - currently estimated to be \$494 million - remains the same. Instead, Measure J reduces the City's current obligation by spreading its annual payments to PFRS over a longer period.

The magnitude of the City's annual payment reduction depends on several factors, including market volatility and the extension of the Full-Funding Deadline. An actuarial study, as required in Measure J to reset the Full-Funding Deadline, would determine the date the plan could be extended to that assures the ability of the PFRS assets to provide for the members' retirement benefits.

Measure J would also smooth gains and losses over an actuarially sound period of time approved by the PFRS Board and the City Council beginning ten years prior to the Full-Funding Deadline. This could reduce large swings in the City's annual cash payments due to market performance as the Full-Funding Deadline nears, thereby mitigating the City's exposure to market volatility. However, actual impact on the City's cash flow from the smoothing mechanism cannot be estimated given unpredictable market conditions.

We relied on the best data available at this time; however, actual results would be dependent upon variables such as the actuarial studies, Full-Funding Deadline, and market volatility as described above.

ARGUMENT IN FAVOR OF POLICE AND FIRE RETIREMENT PLAN FUNDING REFORM

This Retirement Plan Reform Measure creates better financial stability for the City of Oakland, while keeping its promise to pay police and fire retirees the benefits they've earned. It could reduce the City's yearly pension contribution requirement by millions of dollars over the next few years - all without increasing taxes, adding debt or cutting City Services.

More than 25 years ago Oakland closed its Police and Fire Retirement System to new hires and over 20 years ago set the year 2026 as the system's full-funding deadline. 2026 may well be an unnecessarily early deadline, making the City's current contribution requirement higher than it needs to be – especially in times of financial hardship. Additionally, since contributions a stock market crash near the 2026 deadline could force the City into having to make unreasonably high contributions. This risk gets higher the closer we get to a fixed deadline of 2026.

This Reform Measure would replace the arbitrary deadline of 2026 with one that is flexible and reasonable. It would also spread-out impacts from the stock market, so the City's contribution payments remain smoother and more predictable. All changes under this Measure would require approval and on-going review by an independent financial expert.

Please improve Oakland's financial stability -vote "Yes" on this Retirement Plan Reform Measure.

Libby Schaaf,
Oakland City Councilmember District 4

Rebecca Kaplan,
Oakland City Councilmember At-Large

Robert J. Muszar,
President, Retired Oakland Police Officers Association

Jay Ashford,
Member, Oakland Budget Advisory Committee

Bruce Nye
Chair, Make Oakland Better Now!

Lies, Lies, Lies, and more Lies

For obvious reasons the proponents opted not to submit a Rebuttal Argument, their claims are simply too outrageous.

Even the OPFRS actuary, Bartell and Associates questions their "*extension*" scheme, suggesting it actually does add debt.

Save millions while not increasing taxes. What are they smoking? The slick 1988 Measure O, Pension Savings Act, by *its* 10 year "*extension*" is costing Oakland taxpayers an additional \$1,000,000,000.00 (billion). Individual home owners will each pay an additional \$10,000.00.

But, the biggest "Whopper" comes from the City Attorney, Barbara Parker. She falsely proclaims Councilmember Schaafs Charter amendment would not result in an increase or extension of taxes.

It is not rocket science - when payments are extended, you pay longer, resulting in more money. The payments are not reduced, they are fixed at 0.1575% and increase with your assessed property value - the tax is continually increased and extended.

Truth be told - this is a scheme to sell additional Pension Bonds. Oakland foolishly pioneered the Pension Bond scheme in 1985 with the sale of millions in bonds. It purchased New York Life Annuities, but rather than use the annuities to pay retirees, they are used to pay additional bond debt.

Those bonds were restructured in 1988 and three more times, 1998, 2005, and 2008. In 1998 the City entered into an interest rate "Swap" agreement, now costing \$17 mil. Compounding their mismanagement, additional bonds were sold in 1997, for \$437 mil and restructured in 2001.

Vote NO! on Measure J.

Don't Be Fooled

This proposal, marketed as Police and Fire Pension Reform, is a HIDDEN TAX . Columnist, Daniel Borenstein authored an enlightening article, (September 5, 2010) elaborating on the deception and the enormity of this tax.

As Borenstein pointed out - this TAX is HUGE - it is more than your tax assessments for LLAD, the Library, Measure Y, and OUSD (\$195.00) combined. In fact, if your home value is \$520,000. This hidden tax is more than the total of all the special assessments on your Tax bill. The City takes in over \$62 mil. annually - more than the Library, Parks/Rec and Violence Prevention budgets combined.

This tax is quietly tucked away on your tax bill under Voter Approved Debt Service. The rate, 0.1575% of property value, amounts to \$787.00 on a \$500,000 home, and \$1,181.00 on a \$750,000 home.

The accompanying Resolution, by Councilwoman Schaaf, is patently false. She unabashedly states, this proposal ***will not authorize collection*** of this property tax beyond 2026. Originally, it would have ended in 2016. But, by a 1988 deceptive ballot measure, cleverly titled, "Pension Savings Act", it was extended to 2026 - ten years of additional TAXES.

Don't be fooled - the "Resolution" is not controlling, it carries no weight. Libby can make whatever outrageous statements she likes - the electorate votes on the Proposed Charter Amendment, not the Resolution, nor the ballot arguments. The only thing that matters is the proposed language in Section 2619(6) - nothing else.

Not surprisingly, there is no language in the body of the "proposed amendment" indicating the tax will be terminated, More importantly, Municipalities don't terminate tax collections - they perpetuate them. This proposal is a sham - Vote No!

FYI, see Valentine v. City of Oakland (1983) 148 Cal. App. 3d 139.