

CHARTER AMENDMENT INCREASING CITY EMPLOYEES' CONTRIBUTIONS TOWARD THE COST OF THEIR PENSION BENEFITS, PROHIBITING PENSION "SPIKING" AND PROVIDING A REFORMED PENSION PLAN FOR FUTURE CITY EMPLOYEES

Be it ordained by the People of the City and County of San Francisco ("City") that:

The People of the City and County of San Francisco hereby enact the following Charter Amendment entitled "The San Francisco Pension Reform Act" to increase the amount that City employees contribute toward their pension benefits when the City's pension costs increase, while exempting lower-paid employees. This measure also prohibits pension "spiking" and provides a reformed pension plan for future employees. This measure will help protect essential City services and jobs, and will ensure that the City employees' pension system is funded in a sustainable manner.

SECTION 1. FINDINGS AND PURPOSE

This year, San Francisco taxpayers must contribute \$357 million to fund City employees' pension costs. Within four years, the City's required direct contribution from taxpayers is projected to reach \$600 million – an average increase of \$60 million per year. These costs may force the City to cut an additional \$243 million in essential services and jobs over the next four years to meet its pension obligations to retirees.

Currently, regardless of the actual costs of funding the pension system, most employees contribute a fixed rate toward the cost of their pensions. The City's required contribution, however, is not fixed. The City now contributes nearly twice the amount that most City employees contribute. Within four years, the City's contribution level is projected to be four times that of City employees.

These escalating pension costs come at a time when the City is facing large deficits. In 2011, the City faced a \$379 million budget shortfall and is expected to face an even larger deficit next year. Pension costs are draining the City's general operating funds, and are significantly impairing the City's ability to provide basic services to its residents such as education, police and fire protection, street and infrastructure repair, parks, sports and recreational facilities, health

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services for low-income families and after-school programs for children. For the City to continue to provide important public services and sustainably fund the pension system, changes to existing pension formulas and additional employee contributions are needed.

This measure recognizes, however, that lower-paid employees will be less able to afford increases in pension costs than higher-paid employees. Accordingly, the measure protects lower earning employees: employees making below \$50,000 annually will be exempt from any increases while those earning \$60,000 annually will only face minimal increases in their level of required contribution. City employees who earn more and qualify for larger pension benefits would pay a greater share of their pension costs, based on a progressive, graduated formula.

This measure also:

- prohibits pension “spiking,” which is the practice of increasing a City employee’s compensation in the final one or two years of service to artificially inflate the employee’s pension benefits.
- limits the total annual pension benefit for employees hired after January 1, 2012, to the lower of either \$140,000 annually (adjusted for inflation) or 75% of pensionable compensation, recognizing that higher paid employees have the means to supplement their retirement through self-directed investment, with a limited match by the City.
- recognizes that the retirement benefits of public safety employees, such as police officers and firefighters, are more costly than those received by other City employees. This is because police officers and firefighters are eligible to retire at an earlier age than other City employees and may receive an annual pension of up to 90% of their salary upon retirement. Currently, the cost of a typical firefighter’s pension is almost three times the amount of a non-safety employee’s pension, while the cost of a typical police officer’s pension is double the amount of a non-safety employee. In 2002, San Francisco voters approved a law requiring police officers and firefighters to enter a cost sharing agreement to

achieve a reduction in pension costs when the City's contribution costs increased.

This measure achieves a greater degree of cost sharing with these employees.

To further reduce City contributions to employee pensions, this measure calls for implementation of a new, reformed pension plan for employees hired on or after January 1, 2012. The new plan provides for a reduced level of benefits, at lower contribution rates, than exist for current employees. This new plan will not change benefit levels for current employees. However, current employees may elect to be covered by the new plan, choosing to pay a lower contribution rate in exchange for reduced benefits.

The pension provisions in this measure do not apply to:

- teachers and academic administrators employed by San Francisco Unified School District and San Francisco Community College District who are participants in the State Teachers' Retirement System.
- participants in the California Public Employees' Retirement System.

This measure will not reduce the benefits of any person who has already retired from City employment or their dependents, including widows and orphans of public safety officers who die in the line of duty.

In the event that the pension system becomes fully funded or the City identifies new sources of revenue to help reduce the cost of pensions, this measure requires the Board of Supervisors to convene a hearing to determine whether any changes should be made to the Charter. However, any changes in pension benefits must be submitted to the voters for approval.

This measure does not restrict or limit the collective bargaining rights presently enjoyed by City employees. Pension benefits have always been set by the voters in the City's Charter.

These amendments are intended to strengthen the finances of the City and the City employees' pension system to ensure their sustained ability to pay promised benefits upon retirement.

SECTION 2. AMENDMENT OF CHARTER

The San Francisco City Charter is hereby amended as follows:

A8.490 CONTRIBUTIONS TO EMPLOYEE PENSION BENEFITS (ALL ELECTED OFFICIALS, OFFICERS AND EMPLOYEES)

The following provisions shall apply to active and future members of the San Francisco City and County Employees' Retirement System (SFERS or "Retirement System") effective January 1, 2012 and to employers participating in SFERS.

- (a) All elected officials, officers, and miscellaneous employees employed as of December 31, 2011, in addition to contributing a fixed rate of 7.5% of each payment of compensation towards their pensions, shall contribute the additional variable sums toward their pensions set forth in Table A. The employer's contribution rate shall be reduced commensurately.
- (b) All uniformed members of the police and fire departments employed as of December 31, 2011, in addition to contributing a fixed rate of 10% of each payment of compensation toward their pensions, shall contribute the additional variable sums towards their pensions set forth in Table A. The employer's contribution rate shall be reduced commensurately.

TABLE A: ADDITIONAL CONTRIBUTION RATES TO BE PAID BY ELECTED OFFICIALS, OFFICERS, MISCELLANEOUS EMPLOYEES, POLICE OFFICERS AND FIREFIGHTERS.

Annual Base Wage	If the Employer Contribution Rate Is 10% or More, Employee pays an additional	If the Employer Contribution Rate Is 12.5% or More, Employee pays an additional	If the Employer Contribution Rate Is 15% or More, Employee pays an additional	If the Employer Contribution Rate Is 17.5% or More, Employee pays an additional	If the Employer Contribution Rate Is 20 % or More, Employee pays an additional	If the Employer Contribution Rate Is 22.5% or More, Employee pays an additional	If the Employer Contribution Rate Is 25% or More, Employee pays an additional	If the Employer Contribution Rate is 27.5% Or More, Employee pays an additional	If the Employer Contribution Rate is 30% Or More, Employee pays an additional
\$0-\$49,999	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
\$50,000-\$59,999	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0
\$60,000-\$69,999	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5
\$70,000-\$79,999	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0
\$80,000-\$89,999	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5
\$90,000-\$99,999	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0

\$100,000- \$149,999	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5
\$150,000- \$199,999	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0
\$200,000 and above	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5

- (c) The “employer contribution rate” referenced in Table A is the “net employer contribution rate,” as defined by the Retirement System’s actuary, which is comprised of the employer’s normal cost rate, plus the amortization of the total unfunded actuarial liability, plus the expense load.
- (d) The annual base wage rate for employees shall be determined by the employer on a biweekly basis by multiplying the hourly base wage rate for such employee by the number of hours annually that individuals in the employee’s classification are regularly scheduled to work.
- (e) All elected officials, officers, and miscellaneous employees who commenced employment on or after January 1, 2012, will receive the reduced pension benefits provided in section A8.490-1 and shall contribute 6% of each payment of compensation toward their pensions, plus the amounts set forth in Table A. Commencing on July 1, 2012, all elected officials, officers, and miscellaneous employees who were employed as of December 31, 2011, may elect to pay the lower contribution rate for years not yet worked, plus the amounts set forth in Table A, in exchange for receiving prospectively the reduced pension benefits provided in section A8.490-1.
- (f) All uniformed members of the police and fire departments who commenced employment on or after January 1, 2012, will receive the reduced pension benefits provided in section A8.490-1 and shall contribute 8% of each payment of compensation toward their pensions, plus the amounts set forth in Table A. Commencing on July 1, 2012, all uniformed members of the police and fire

departments, who were employed as of December 31, 2011, may elect to pay the lower contribution rate for years not yet worked, plus the amounts set forth in Table A, in exchange for receiving prospectively the reduced pension benefits provided in section A8.490-1.

- (g) The SFERS actuary shall study both the fixed contribution rates for employees who commenced employment on or after January 1, 2012, and the contribution rate paid by employees who were employed as of December 31, 2011, who chose the option of the reduced benefit package specified in subsections (e) and (f) of this section. The actuary shall determine the rate of member contribution that would result in the equivalent of a 2% salary savings for the employer as compared to employees who remain in the pre-2012 plan. If the actuary determines that a lower contribution rate than the rate established in subsections (e) and (f) of this section for the reduced benefit contribution will achieve the equivalent of at least a 2% salary savings, as certified by SFERS and the San Francisco Controller, the Retirement Board may reduce the contribution rate paid by these employees up to that amount.
- (h) The rate of contribution charged to all elected officials, officers, police and fire employees, and miscellaneous employees for compensation earned shall be calculated annually. SFERS will inform affected employees no later than 90 days before any change in the employee contribution rate.
- (i) Effective July 1, 2014, the annual base wage rates stated in Table A shall be adjusted annually based on changes in the Consumer Price Index (CPI-U) for the San Francisco Bay Area relative to the prior calendar year.

A8.490-1 PENSION BENEFITS FOR OFFICERS AND EMPLOYEES HIRED ON OR AFTER JANUARY 1, 2012; PROHIBITION AGAINST PENSION SPIKING; HIGHER MINIMUM AGE FOR REGULAR RETIREMENT; LIMITATION OF RETIREMENT BENEFIT TO THE LESSER OF 75% OF FINAL COMPENSATION OR \$140,000

The following provisions shall apply to members of the Retirement System hired by the City or other employers participating in the Retirement System on or after January 1, 2012.

- (a) The minimum age for service retirement for elected officials, officers and miscellaneous employees who began employment on or after January 1, 2012 shall be:
 - (i) Age 55 for members who complete at least 20 years of total service in the aggregate credited in the Retirement System. A member who retires at the age of 55 shall receive a service retirement allowance at the rate of 1.3 % of average final compensation per year of service. For each quarter-year of service after age 55, the percent per year of credited service shall increase by 0.025%, to a maximum of 2.3% at age 65.
 - (ii) Age 65 for members who complete at least 10 years of service in the aggregate credited in the Retirement System. A member who retires after reaching the age of 65 shall receive a service retirement allowance at the rate of 2.3 % of average final compensation per year of service.
- (b) The minimum age for service retirement for uniformed members of the police department and fire department who became employed on or after January 1, 2012, shall be age 50, with a minimum of 10 years of service. A member who retires at the age of 50 shall receive a service retirement allowance at the rate of 2.0% of average final compensation per year of service. For each quarter-year of service after age 50, the percent per year of credited service shall increase by 0.025%, to a maximum of 2.7% at age 57. A member who retires after reaching the age of 57 shall receive a service retirement allowance at the rate of 2.7 % of average final compensation per year of service.

- (c) The voters find and declare that “pension spiking,” by which employees’ compensation is increased in their final years of service to artificially inflate their pension benefits, threatens the sustainability of the pension system. To prevent pension spiking, the voters adopt the following provisions:
- (i) “Compensation” for the purposes of section A8.490-1 shall mean base wage as defined by classification or rank and applicable step, and shall not include overtime, premiums, differentials, special pays, educational incentives, retention pays, longevity pays, performance pays, bonuses, “pick-ups” of the employee share of retirement or health contributions, or any other supplemental compensation or remuneration.
 - (ii) “Average final compensation” for all sworn members employed by the San Francisco police and fire departments, elected officials, officers and miscellaneous employees participating in the SFERS shall mean the average monthly compensation earned by a member during the higher of (a) any five consecutive fiscal years of earnings, or (b) the sixty months of earnings immediately prior to retirement.
- (d) For employees who qualify for and elect to receive vesting retirement pursuant to sections A8.600-6, A8.601-15, or A8.602-15, the minimum age necessary to receive a retirement allowance and the percent per year of credited service shall be as set forth above in section A8.490-1(a) or (b) as applicable.
- (e) The percentage per year of credited service for uniformed members of the police and fire departments retiring for incapacity shall be as set forth above in section A8.490-1(b), subject to the limitations of section A8.490-1(c) defining compensation and average final compensation and the limitations of section A8.490-1(f), below, limiting the maximum amount of retirement allowance. Section A8.600-3 shall continue to govern retirement for incapacity of elected officials, officers and miscellaneous employees, subject to the limitations of

section A8.490-1(c) defining compensation and average final compensation and the limitations of section A8.490-1(f), below, limiting the maximum amount of retirement allowance.

- (f) In no event shall the retirement allowance of any member of SFERS hired on or after January 1, 2012, exceed seventy-five percent of his or her average final compensation or an annual pension of \$140,000, whichever is less, regardless of the type of retirement. Commencing July 1, 2014, the \$140,000 maximum referenced in this subsection shall be adjusted annually by any increase in the CPI-U for the San Francisco Bay Area relative to the prior calendar year.
- (g) The City and/or other employers participating in SFERS and affected employee organizations may negotiate a supplemental defined contribution plan, provided that the City and County of San Francisco's Mayor and Board of Supervisors shall have no authority to agree to a City contribution in excess of 3% of base wage as defined as A8.490 (d), and provided further that the employee contribution to such defined contribution plan shall equal or exceed the City contribution.

A8.490-2 SUPPLEMENTAL COST OF LIVING ADJUSTMENTS AFTER JANUARY 1, 2012

Notwithstanding Charter sections A8.526-1 and A8.526-3, no supplemental cost of living benefits shall be paid after January 1, 2012, unless the SFERS Retirement Fund is 100% funded on an actuarial value of assets basis. No cost of living increase granted to a retiree on or before January 1, 2012, shall be reduced as a result of this section.

A8.490-3 INTERPRETATION AND EFFECT ON OTHER CHARTER PROVISIONS

- (a) Any section or part of any section in this Charter, insofar as it conflicts with the provisions of sections A8.490, A8.490-1 or A8.490-2, shall be superseded by the contents of said sections, including but not limited to other provisions of the Charter enacted prior to the effective date of this measure, regardless of content.

- (b) Nothing in this measure limits City employees' right to collective bargaining. However, the voters find and declare that no representative of the City and County, including but not limited to the Mayor or Board of Supervisors, shall have the authority to enter into a binding MOU inconsistent with the terms of Charter sections A8.490, A8.490-1, or A8.490-2 without approval of the voters. To the extent that any provision of these sections is contrary to the terms of an MOU executed on or before November 8, 2011, any changes to pension benefits or contributions shall become effective for employees covered by such MOU only upon expiration of such MOU, based on the expiration date specified in the MOU as of November 8, 2011.
- (c) The Mayor and/or Board of Supervisors of the City and County of San Francisco shall have no authority to reimburse, assume, pick up or otherwise provide for the City to pay any portion of the employees' required pension contribution provided in this section and/or other sections of this Charter without the approval of the voters.
- (d) No agreement reached or arbitration award decided pursuant to Charter sections A8.409 et seq. or A8.590-1 et seq. may supersede the provisions of sections A8.490, A8.490-1, or A8.490-2. In any arbitration involving employees of the City and County of San Francisco under Charter section A8.409-4 or A8.590-5, the arbitrator shall make specific findings regarding the estimated annual costs to the City of pension benefits attributable to employees covered by the arbitration award for each year of the prior agreement and projected costs for each year of the successor agreement, based on known and projected employer contribution rates. In determining wages and other forms of compensation pursuant to this section, the arbitrator shall consider as increased compensation any increase in the cost of pension contributions paid or projected to be paid by the City. Compliance with this provision shall be mandatory.

- (e) Nothing in this section shall reduce the pensions of employees who retired prior to the effective date of this measure or the rights of dependents or survivors of such employees.
- (f) Nothing in this Charter amendment shall reduce the survivor benefits of public safety officers who die in the line of duty.
- (g) In the event that the SFERS actuary determines that the SFERS pension fund has become fully funded or the City identifies sources of new revenue to reduce the cost of pension costs, the Board of Supervisors shall convene a hearing to determine whether any amendments should be made to sections A8.490 through A8.490-2; provided, however, that any such amendment(s) shall be submitted to the voters for approval.
- (h) Nothing in Charter sections A8.490 through A8.490-2 shall alter the authority of the Board of Supervisors, pursuant to Charter section A8.500 to make changes to these provisions to the extent necessary to maintain the tax qualified status of the retirement system.
- (i) By state statute, certain public employees employed by the City and associated governmental entities are not included within SFERS. These include teachers and academic administrators employed by San Francisco Unified School District and San Francisco Community College District who are participants in the State Teachers Retirement System, as well as participants in the Public Employees Retirement System. The provisions in sections A8.490 through A8.490-2 herein do not apply to such employees.

A8.490-4 ACCRUED BENEFITS AND FUTURE ACCRUALS

Nothing in sections A8.490 through A8.490-2 shall reduce any accrued current pension benefits earned as of the effective date of this measure. Pension benefits for service not yet performed can be modified prospectively by the voters.

SECTION 3. SEVERABILITY

This Charter Amendment shall be interpreted so as to be consistent with the United States and California Constitutions, and all federal and state laws, rules, and regulations. If any section, subsection, sentence, or clause (“portion”) of this Amendment is held to be invalid or unconstitutional by a final judgment of a court, such decision shall not affect the validity of the remaining portions of this Amendment. The voters hereby declare that this Amendment, and each portion of the Amendment, would have been adopted irrespective of whether any one or more portions of the Amendment are found invalid. If any portion of this Amendment is held invalid as applied to any person, circumstance, employee or category of employee, such invalidity shall not affect any application of this Amendment which can be given effect. If any portion of the Amendment is held invalid as to existing employees, it shall not affect its application to employees hired after the effective date of this measure. This Amendment shall be broadly construed to achieve its stated purposes. It is the intent of the voters that the provisions of this Amendment be interpreted or implemented in a manner that facilitates the purposes set forth herein.

SECTION 4. EFFECTIVE DATE

Except as specifically set forth in the text, this Charter Amendment shall be effective January 1, 2012.

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