

SUBJECT: CONSIDERATION OF 2013 CHARTER REVIEW COMMITTEE'S
PROPOSED REVISIONS TO THE CITY OF PORTERVILLE CHARTER

SOURCE: 2013 Charter Review Committee/City Manager/City Attorney's Office

COMMENT: This is provided in order to assist the City Council's review of the amendments proposed by the City's 2013 Charter Review Committee.

Below is a brief description of each proposed amendment as already discussed by the Committee. If the amendment bears a relationship to or affects another Charter amendment, it is noted for the purposes of consideration by the Committee.

Section 4.1: Makes explicit the ability of the City to enter into agreements with special districts and Indian Tribes concerning the performance of any of its functions.

Section 5: Changes general municipal election to coincide with general election for federal offices. This amendment is tied with specific amendments to Section 9.

Section 8: The changes made are purely housekeeping, changing "Councilmen" to "Council Members."

Section 9: A variety of changes were made to this section, and this section covers several distinct issues.

(A) Second paragraph - Proposed amendments have been made making the general municipal election consistent with the federal general election. This section is directly tied to the amendment to Section 5 concerning the same issue.

(B) Fifth paragraph – Housekeeping issue. The proposed amendment clarifies the reference the reorganization of the Council shall occur after the time that the new council members are able to be installed (rather than purporting to require that this occur at the meeting immediately following the election).

(C) Fifth paragraph -- Substantive issue. This paragraph also contains proposed amendments concerning the reorganization of the Council and removal of the Mayor at any time other than the meeting following installment of the new members. The amendment would require a 4/5

vote of the Council to remove the Mayor at any other time. The Committee/Council may want to consider recommending/proposing this as a separate amendment on the ballot, if approved by the Council.

(D) Sixth paragraph – Housekeeping issue. These amendments clarify that new members will be installed within a certain period of time if the City is completing its own canvass of votes, but that in the event (as is the usual custom) of a consolidated election, the installation will occur at the next regularly scheduled meeting (or a special meeting called for that purpose) following the presentation of the canvass of the returns. The current section does not properly account for the amount of time this generally takes.

Section 10: The proposed amendment to this section (in paragraph two) would allow for the City Council to hold its meetings at other City-owned facilities other than City Hall.

Section 12: Housekeeping items. The proposed amendment in the second paragraph would clarify that the ayes and noes of all Council actions shall be recorded. The proposed amendment to the seventh paragraph clarifies that a summary in lieu of the full text of an ordinance may be published. The proposed amendment in the ninth paragraph would clarify that the establishment (rather than imposition) of a penalty must be by ordinance.

Section 14: Housekeeping item. Eliminates reference to “City Treasurer” (changing it to “City Manager or his/her designee”) since the Charter section establishing a City Treasurer was repealed in 1971.

Section 16: The proposed amendment in the second paragraph adds that a Council Member’s (legislative officer’s) office becomes vacant if he/she fails to attend three (3) consecutive regular city council meetings unless prevented from attending by sickness (but in no case for a period longer than 90 days).

Section 18: The proposed amendment to the third paragraph provides that the City Manager may be permitted to receive severance pay in an amount not to exceed the equivalent of 12 months’ salary, subject however to the restrictions set forth by State law (which currently only permits appointed officials to receive a maximum of 18 months’ salary or an amount equal to their monthly salary multiplied by the number of months remaining on their contract, whichever is less).

Section 21: Housekeeping item. While there are still some jurisdictions that argue that a residency requirement can be legally enforced, the general consensus among cities is that this requirement is unenforceable. The proposed amendment would eliminate the residency requirement.

Section 24: Proposed amendment to third paragraph changes financial statement provision to the Council requirement to at least quarterly, instead of monthly. This section is tied to Section 49 below.

Section 40: Housekeeping item. Maintains section to the extent allowed by law.

Section 45: Housekeeping item. Clarifies that the section is cumulative to any rights and remedies the City may have under the general laws relating to the enforcement and collection of taxes and assessments.

Section 48: The proposed amendments would provide that the Council generally may authorize expenditures by the City by resolution and majority vote (rather than by ordinance by 4/5 vote), and an expenditure limit (wherein anything under the limit would not need council approval) may be established after each general municipal election in the same manner. A resolution and 4/5 vote would be required concerning decisions to incur indebtedness, or the approval of any indebtedness limit.

Section 49: Would reflect the proposed change made to Section 24 that quarterly financial reports shall be required.

Section 59: Housekeeping item. Clarifies that the Council shall contract with (rather than employ) a certified public accountant regarding the annual audit.

Section 61: There are proposed housekeeping/legal recommendations as well as a proposal to raise the bid limit from \$5,000 to \$50,000. It is recommended that raising of the bid limit be proposed to the voters in a separate ballot measure. The other proposed changes would clarify that the City has the right to perform any public project or make any repair or undertake any improvement using its own forces, regardless of cost, and that it will only be required to bid out work when it determines that it will contract out the work, and the estimate for the work exceeds \$5,000 (or in the alternate measure, \$50,000).

Section 62: Housekeeping item. Clarifies the projects the City may undertake and levy assessments for.

Section 67: The proposed amendment completely revises the current language, and more explicitly states what types of administrative interference are prohibited between the Council Members and staff. The proposed amendment also adds explicit penalties which include forfeiture of office if criminally convicted of a violation of the Section.

Section 67.1: Housekeeping item. The remainder of current section 67 related to political activities of City officers and employees has been moved to this new section.

Section 68: Proposed amendment provides that the City leases have a clause that shall allow the City Council to terminate it with written advance notice equivalent to either 30 days or a maximum of five percent (5%) of the total lease term (excluding any stated option periods). A notice period would not be required in month-to-month leases. The current section requires a notice period of three months, regardless of the term.

Section 74: This is a proposed new section, establishing a penalty for violations of the Charter, where no other penalty is otherwise specified. The section provides for penalties as generally provided for in the City's Municipal Code.

Additionally, the Council has expressed interest in discussing options for revisions to the Charter related to the City's pension provisions. The City Council voted at the October 15, 2013, City Council meeting to exclude the matter from the scope of the Charter Review Committee's review, at the Committee's request. For the Council's review and information, I have included a memorandum dated September 20, 2013, provided to the Committee, concerning the recent ballot measures passed in San Jose and San Diego. I have also included the proposed statewide initiative filed with the Attorney General on October 15, 2013 (for the November 2014 ballot). The Council may wish to consider making changes to the City's current Charter Section 58, including changes that would allow modifications to the City pension system without an election in the event the initiative passes and the State Constitution was to expressly allow for that.

Finally, the City Council may wish to discuss and consider making other revisions to the Charter. Per the County's Election Calendar, the City Council must submit its proposed ballot measures to the County for any Charter revisions by February 3, 2014.

RECOMMENDATION: That the City Council review and consider the 2013 Charter Review Committee's proposed revisions to the City of Porterville Charter, as well as any other changes.

Attachments:

1. 2013 City Charter Review Committee Revised Charter (redline version)
2. Pension Information

**2013 CITY CHARTER REVIEW
ADVISORY COMMITTEE
PROPOSED REVISED CITY CHARTER**

The 2013 City Charter Review Advisory Committee hereby submits the following City Charter to the City of Porterville Council showing all revisions, amendments, and additions recommended by the Committee:

CITY CHARTER

Sec. 1. Name of city; perpetual succession.

The municipal corporation now existing and known as the "City of Porterville" shall remain and continue a body politic and corporate, as at present, in fact and in law, by the name of the "City of Porterville," and by such name shall have perpetual succession.

Sec. 1.1 City Motto

"In God We Trust" shall be designated as the official motto of the city of Porterville.

Sec. 2. Boundaries.

The boundaries of the City of Porterville shall continue as now established until changed in some manner authorized by law.

Sec. 3. Rights and liabilities of cities; prior contracts, liabilities, etc., continued in effect.

The City of Porterville shall remain vested with and continue to have, hold, and enjoy, all property, rights of property, and rights of action of every nature and description, now pertaining to said municipality, and is hereby declared to be the successor of the same. No right, liability, pending suit or prosecution on behalf of, or against, the city shall be affected by the adoption of this Charter. All contracts entered into by the city prior to the taking effect of this Charter shall continue in full force and effect.

Sec. 4. General powers of city; official seal.

The City of Porterville, by and through its Council and other officials, shall have and may exercise all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution, and which it would be competent for this Charter to set forth particularly or specifically; and the specifications herein of any particular powers shall not be held to be exclusive or any limitation upon this general grant of power. General Powers of the city include, but are not limited to, the powers necessary or appropriate to promote the health, welfare and education of its inhabitants. The city shall have and use a common seal and the official seal hereinbefore adopted and now in use by said city shall continue to be the official seal of said city.

Sec. 4.1. Intergovernmental Powers.

The City may exercise and perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by agreement or otherwise, with any one or more states or any agency or *special district* of California,; or any governmental jurisdiction, *including Indian Tribes*, or nonprofit corporation thereof, or the United States or any of its agencies or instrumentalities.

Sec. 4.2. Liberal interpretation.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way any of the powers granted by this Charter.

Sec. 5. When elections to be held; special elections; procedure for elections for local improvements or levies of assessment or bonded indebtedness.

General municipal elections shall be held in said city at the same time as the ~~Primary~~ *general* election for ~~State~~ *Federal* Offices ~~for~~ *in* the State of California under and pursuant to the general laws of the State of California governing elections in charter cities, so far as the same may be applicable, and except as herein otherwise provided. All other municipal elections that may be held by authority of this Charter or of general law shall be known as special municipal elections, and shall be held, substantially as in this Charter provided for general municipal elections; providing, however, that special elections to authorize any municipal or local public improvement, or the levy of assessment therefor, or to create a municipal bonded indebtedness, shall be held in conformity with any general law of the state relative thereto under which any such proceeding is instituted by the council, in case such general law provides for the procedure and manner of holding elections thereunder.

Sec. 6. Initiative, referendum and recall.

Ordinances may be initiated, or the referendum exercised on ordinances passed by the council, under and in accordance with the Constitution and general laws of the state. Any elective officer may be recalled from office under and pursuant to the provisions of the Constitution and general laws, provided that a special election shall be held at the same time as the recall election, in accordance with the Constitution and general laws of the state, for the purpose of electing officers to fill the place or places of the officers sought to be recalled.

Sec. 7. Elective officers to be residents.

In order to be eligible to hold any elective office in the City of Porterville, a person must be a resident and elector therein, and shall have resided in said city for at least thirty days next preceding the filing of their nominating papers, or equivalent declaration or candidacy, and be an elector at the time of said filing.

Sec. 8. Elective officers.

The elective officers of the City of Porterville shall be five councilmen ~~members~~, who shall be elected from the city at large at a general municipal election therein.

Sec. 9. Legislative body; composition; election; term; compensation; ineligibility for other city office; president of council; vice-president; installation of newly elected officers; powers to be exercised by council.

The legislative body of the city shall consist of five persons elected at large, which body shall be known as the council.

The members of the council shall be elected by the qualified voters of the city at a general municipal election to be held in the said city at the same time as the ~~primary general~~ election for state *Federal* offices for the State of California. They shall hold office for the period of four (4) years from and after the Monday next succeeding the day of their election ~~date upon which they are installed in office in accordance with this section and/or until their successors are elected, and qualified; installed in office. provided the respective terms of any council member presently serving or elected at the time of the adoption of this amendment shall be extended one additional year to the even-numbered year following the expiration of their respective terms.~~

The members of the council shall each receive the sum of twenty dollars (\$20.00) for each council meeting actually attended; the mayor shall receive the sum of twenty-five dollars (\$25.00) for each meeting of the council actually attended, provided, however, that the members of the council shall not receive compensation for more than seven meetings in any one calendar month. In addition, the council shall be reimbursed for necessary expenses incurred for authorized city business.

The members of the council shall not be eligible to any other office or employment with the city.

The council shall reorganize at its ~~next~~ *the* meeting following each municipal election ~~wherein the newly-elected members are installed~~ and shall choose one of ~~their~~ *its* number to serve as president of the council to be known as mayor. At this time, the council shall also choose one of ~~their~~ *its* number to serve as vice-president, and he/she shall act as mayor pro tempore in case of the absence, sickness or other disability of the mayor. The mayor and mayor pro tempore shall serve a two year term, but either may be removed at any time by a ~~majority~~ *four fifths (4/5)* vote of the council. If the council removes the mayor prior to the expiration of his/her term pursuant to this provision, the council shall choose one of ~~their~~ *its* number to serve as mayor until the next organizational meeting.

~~The council shall meet at its usual meeting place on the first Monday after any municipal election, duly canvass the returns and declare the result thereof, and install the newly elected officers, if any. Where the canvass of the vote is to be completed by the city elections official, the canvass shall be completed no later than the fourth Friday after the election. Upon completion of the canvass, the elections official shall certify the results to the city council, which shall meet at its usual place of meeting no later than the fourth Friday after the election to declare the results and to install the newly elected officers. For a consolidated election, the city elections official, upon receipt of the results of the election from the elections official conducting the election, shall certify the results to the city council,~~

which shall meet at its usual place of meeting no later than the next regularly scheduled city council meeting following the presentation of the canvass of the returns, or at a special meeting called for this purpose, to declare the results and to install the newly elected officers.

All powers granted to and vested in the city of Porterville by law or by the provisions of this charter, shall, except as herein otherwise provided, be exercised by the council to be designated the "Council of the City of Porterville." The council shall be the governing body of the city and subject to the express limitations of this charter shall be vested with all powers necessary or convenient for a complete and adequate system of municipal government, consistent with the constitution of the state.

Sec. 9.1 Public Participation.

The council shall continue to encourage the organization of and communication with representative neighborhood groups throughout the city to encourage citizen participation, to seek advice and input and to provide information to the public relative to city matters and affairs.

Sec. 10. Time and place of council meetings; meetings to be open to public; council to adopt rules for conduct of its own proceedings.

The council shall provide by ordinance for the time and place of holding its meetings. Special meetings shall be called in accordance with the provisions of general law. There shall be at least one (1) regular meeting in each month. Any regular meeting may be adjourned to a date and hour certain, and such adjourned meeting shall be a regular meeting for all purposes.

Except for special meetings with the legislative bodies of other political subdivisions, or informational meetings held within ~~the~~ a community *in accordance with the Brown Act* where no action is to be taken, all meetings of the council shall be held ~~in the city hall~~ *at or on city-owned facilities*, unless by reason of fire, flood, or other disaster, or lack of seating capacity, the city hall ~~facilities~~ cannot be used for that purpose, and all meetings shall be open to the public. The council shall adopt rules for conducting its proceedings and may punish its members or other persons present at any meeting for disorderly conduct.

Sec. 11. Quorum; compelling attendance at meetings.

A majority of the council shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and postpone the consideration of or action upon, pending business in like manner. Attendance at meetings of absent members of the council may be compelled in such manner and under such penalties as may be prescribed by ordinance.

Sec. 12. How council acts on legislative matters; resolutions; records of votes; requirement that all members vote; how ordinances headed; ordaining clause; ordaining clause of ordinances passed by initiative; when ordinances to be passed; publication; effective date of ordinances; certain matters required to be passed by ordinance; repeal of ordinances; revision of ordinances; ordinances to be signed by mayor and attested by clerk.

The council shall act in legislative matters by ordinance or resolution only. Other action of the council, unless herein otherwise provided, may be taken by resolution, motion, or order.

The ayes and noes shall be taken *and recorded* upon the passage of all ordinances, and resolutions, *or other actions* and entered upon the record of the proceedings of the council. ~~Upon the request of any member of the council, the ayes and noes shall be taken and recorded upon any vote.~~ All members present at any meeting must vote; provided that no such member of the council shall cast a vote when to do so would be contrary to the applicable provisions of state law, including the laws pertaining to conflict of interest.

No ordinance or resolution shall be passed without receiving the affirmative votes of at least three members of the council.

Each ordinance shall be headed by a brief title which shall indicate the purport thereof.

The ordaining clause of all ordinances adopted by the council shall be, "The Council of the City of Porterville do ordain as follows:"

The ordaining clause of all ordinances passed by the vote of the electors of the city, through the exercise of the initiative shall be, "The People of the City of Porterville do ordain as follows:"

No ordinance shall be passed by the council at any time other than at a regular meeting, ~~or~~ *and* until its publication (*or a summary thereof with notification that the full text is available on the City's website and at the City Clerk's office*) at least once in the official newspaper of the city at least three days before its final passage.

Except an ordinance calling or otherwise relating to an election, no ordinance passed by the council of the City of Porterville, except when otherwise specially required by the laws of the state, and except an ordinance for the immediate preservation of the public peace, health or safety, which contains a declaration of, and the facts constituting its urgency and is passed by a four-fifths (4/5) vote of the council, and no ordinance granting a franchise, shall go into effect before thirty (30) days from its final passage.

Except as otherwise provided by general law, or this Charter, no action providing for the granting of any franchise, or for the establishing or changing fire zones, or for the ~~imposing~~ *establishing* of any penalty, shall be taken except by ordinance.

No ordinance, or portion thereof, shall be repealed except by ordinance. No ordinance shall be revised, reenacted or amended by reference to its title only; but the ordinance to be revised or reenacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto shall be set forth and adopted according to the method provided in this section for the enactment of ordinances, and such revision, re-enactment, amendment, or addition, shall be made by ordinance only.

All ordinances shall be signed by the mayor and attested by the city clerk.

Sec. 13. Legislative officers; administrative officers; other officers and commissions; consolidation of offices.

The legislative officers of the City of Porterville shall consist of five (5) members of the council, one of whom shall act as mayor. In addition, there shall be the following administrative officers who shall be appointed by the council: a city manager, a city attorney and a city clerk.

The council may, by ordinance provide for such other officers as deemed necessary and the council may further establish by ordinance commissions deemed by it to be necessary or proper to aid in the orderly administration of the City of Porterville.

All members of commissions and legislative committees shall be appointed by the council. The council may appoint members to other boards or committees. Administrative officers may appoint members to temporary administrative committees.

The council may, at any time, when in its judgment, the interest of the city so demands, by a four-fifths (4/5) vote thereof, consolidate by ordinance two or more city administrative offices and place the same in charge of one such officer.

Sec. 14. Official bonds; where filed.

When in this Charter not otherwise prescribed, the council shall determine which officers shall give bonds for the faithful performance of their official duties, and shall fix the amount of said bonds. Such officers before entering upon their official duties, shall execute a bond to the city in the penal sum required, which bond shall include any other office of which they may be ex-officio incumbent. Said bonds shall be approved by the council, filed with the city clerk, and paid for by the city; provided, however, that the bond of the city clerk when approved as aforesaid shall be filed with the ~~city treasurer~~ *City Manager or his/her designee*. Nothing in this section shall prevent the authorization or furnishing of a blanket bond to assure the honesty or faithful performance of any of its officers or employees.

Sec. 15. Oath of office.

Every officer and employee of the city, before entering upon the duties of his/her office shall take and subscribe the oath of offices as provided for in the Constitution of the state, and shall file the same forthwith with the city clerk.

Sec. 16. Vacancies in office; when offices declared vacant.

A vacancy in any legislative office, from whatever cause arising excluding any vacancy created due to a successful recall election, shall be filled by appointment by the council, such appointee to hold office until the next general municipal election, when a successor shall be chosen by the electors for the unexpired term; provided, that if the council fails to agree or for any other reason does not fill such vacancy within thirty days after the same occurs, then such vacancy shall be filled by the mayor; provided, however, that if for any reason the seats of a majority of the council shall become vacant, then the city clerk shall call a special election at once to fill the vacancies for the unexpired terms, and the same shall be conducted substantially in the manner provided for general municipal elections.

If any legislative officer of the city shall remove from the city or absent himself/herself therefrom for more than thirty (30) days consecutively without permission of the council, or for said period shall wilfully fail or refuse to perform the duties of his office, though able so to do, *or shall fail to attend three (3) consecutive regular city council meetings unless prevented from attending by sickness (but in no case for a period exceeding ninety (90) days)*, or shall fail to qualify, or shall resign, or be convicted of a felony or a crime of moral turpitude, or be adjudged mentally incompetent, his/her office shall thereupon become vacant.

Sec. 17. Appointment and removal of officers and employees; grounds of removal; hearing prior to removal.

Except as may be otherwise in this Charter provided, the affirmative vote of three (3) members of the council shall be required for the appointment of or the removal of any administrative officer for cause. "For cause" includes, but is not limited to, refusal to perform the duties of his/her office, being adjudged mentally incompetent, or being convicted of a felony or crime of moral turpitude. The administrative officer is entitled to a hearing before the council on the validity of the grounds providing the basis for removal for cause.

The council may remove any of its administrative officers at its pleasure, without cause stated or at hearing had, by the affirmative vote of four members cast in favor of such removal, and the determination of the council in such matters shall be final and conclusive.

Sec. 17-A. Retirement age for city employees. Repealed March 8, 1983.

Sec. 17A. Retirement age for city employees effective April 2, 1975. Repealed March 8, 1983.

Sec. 18. Compensation of appointive officers and employees; limitation as to least amount of compensation; fees abolished.

The council shall fix the compensation of all appointees and employees except officials and members of boards, commissions and committees serving gratuitously. Said compensation shall be fixed, increased or changed by resolution, adopted by a three-fifths (3/5) vote of the council.

The duties or the minimum compensation of any appointive official shall not be so established by the council as to in effect abolish the office.

The salary of any appointive official or employee of the city shall cease forthwith with his/her removal or resignation from office or employment, ~~and he/she shall only be entitled to compensation for that expired proportion of the month or term of service during which he/she shall have performed his/her duties. (3-4-03);~~ *provided, however, that the City Manager may be entitled, if authorized by the City Council, to severance pay in an amount not to exceed the equivalent of 12 months' salary, subject to any other restrictions set forth by State law.*

No officer or employee shall be allowed any fee, perquisite, emolument, or stipend, in addition to, or save as embraced in the salary or compensation fixed for such office by the council, if

a council appointee, or the manager if a manager appointee, and all fees received by such officers or employees in connection with his/her official duties shall be paid by him/her into the city treasury, and a written report made of same, provided, however, that rewards which have been publicly offered for the apprehension of criminals may be received by the officer or officers making the apprehension, after deducting therefrom any expense that the city may have sustained in the matter.

Sec. 19. Duties of the mayor generally.

The mayor shall be the executive head of the city. In case of riot, insurrection, extraordinary emergency, or other disaster, he/she shall be responsible for making a public declaration of a state of emergency and shall assume all other responsibilities required of him/her pursuant to the city's disaster plan.

In the name and on behalf of the city, he/she shall sign all contracts, deeds, bonds and other legal instruments in which the city is a party.

He/she shall represent the city at all ceremonial functions of a social or patriotic character when it is desirable or appropriate to have the city represented officially thereat.

In the absence of the mayor, for whatever reason, the vice president of the council shall assume the duties as mayor pro tempore.

Sec. 20. City attorney; qualification; duties; assistant attorney.

The city attorney shall be an attorney-at-law, admitted to practice as such before the supreme court of the state, and who has been in actual practice therein for at least three years next preceding his/her appointment. All other things being equal, an attorney who has had special training or experience in municipal corporation law shall be appointed to this office if practicable. The city attorney shall be legal advisor of the council, and all other city officials. He/she shall prosecute all violations of city ordinances and shall draft all contracts and other legal documents and instruments, required by the council or the city manager. He/she shall perform such other legal services as the council may direct and shall attend all meetings of the council unless excused therefrom by three members thereof or by the mayor.

When from any cause the city attorney is unable to perform the duties of his/her office, he/she may, with the consent of the council, appoint some other qualified attorney to temporarily act in his/her place and whenever in the judgment of the council, the interests of the city require it, it may employ assistant counsel.

The city attorney shall deliver all books, records, papers, documents and personal property of every description, owned by the city, to his/her successor in office, and the city shall provide a means of safe-guarding the same.

He/she shall possess such other powers, and perform such additional duties, not in conflict with this Charter as may be prescribed by ordinance.

Sec. 21. City manager; to become resident; powers and duties; bond.

The city manager shall be the administrative head of the city government. ~~The City Manager shall establish residency in the City of Porterville within a reasonable period of time within the discretion of the Council.~~ His/her powers and duties shall be as follows:

- (a) To see that all ordinances are enforced.
- (b) To appoint except as otherwise provided in this Charter, all heads of departments, subordinate officials and employees, and remove the same, except as otherwise herein provided, and have general supervision and control over the same.
- (c) Repealed. 4-6-71.
- (d) To see that all the provisions of all franchises, permits, and privileges granted by the city are fully observed, and report to the council any violation thereof.
- (e) To act, as purchasing agent for the city, should he/she be so appointed by the council.
- (f) To attend all meetings of the council unless excused therefrom by the council or mayor.
- (g) To examine or cause to be examined, without notice, the conduct of any officer or employee of the city.
- (h) To keep the council advised as to the needs of the city.
- (i) To devote his/her entire time to the interests of the city.
- (j), (k) Repealed. 4-6-71.
- (l) Repealed. 3-4-03.
- (m) To possess such other powers and perform such additional duties as are prescribed by this Charter, or may be prescribed by ordinance.
- (n) Repealed. 4-6-71.

Sec. 22. City manager pro tem.

In case of an illness, scheduled vacation or scheduled absence from the city of the city manager, for a period of up to thirty (30) days, the individual designated as the deputy city manager shall serve as city manager pro tem. In the event that a deputy city manager has not been designated or the deputy city manager is otherwise unable to serve, the city manager shall appoint one of the existing directors of the city departments to serve as city manager pro tem.

In the case of any other absence, excluding a vacancy of the city manager position, from the city of the city manager, or his/her temporary disability to act as such, the council shall appoint a city

manager pro tem, who shall possess the powers and discharge the duties of the city manager during such absence or disability only; provided, however, that a city manager pro tem shall have no authority to appoint or remove any city department director except with the unanimous formal approval of all of the members of the council. In the event that the city manager position is vacant, the council shall appoint a city manager or acting/interim city manager in accordance with Sections 13 and 17 of this Charter.

Sec. 23. City clerk; to be clerk of the council when so appointed; duties; to keep corporate seal.

The city clerk shall be clerk of the council when so appointed by the council.

It shall be the duty of the city clerk to attend all sessions of the council and keep a full and correct record of the proceedings of each of said bodies. The proceedings of the council shall be kept in a book marked "Minutes of the Council." He/she shall keep a book marked "Ordinances" into which he/she shall copy all city ordinances certifying that each such copy is a full and correct copy of the original ordinance, and stating that the same has been published as required by law. Said record copy, so certified, shall be prima facie evidence of the contents of the ordinance, and of its passage and publication and shall be admissible as such evidence in any court or proceedings. Such record shall not be filed but shall be returned to the custody of the city clerk. He/she shall also keep a book marked "Resolutions," into which he/she shall copy all resolutions passed by the council. Both the books containing ordinances and resolutions shall be adequately and comprehensively indexed. He/she shall conduct promptly, and keep a systematic record of all correspondence between the council and third parties relating to city business.

He/she shall be the keeper of the corporate seal of the city, and shall affix the same to instruments or writings requiring authentication. He/she shall safely keep all records, documents, ordinances, resolutions, books and such other papers and matters, as may be regularly delivered into his/her custody or required by law or ordinance to be filed with him/her.

Sec. 24. Director of finance; payment of demands; to check annual tax roll.

The city manager shall appoint the director of finance of the city, who shall serve as the general accountant of the city. He/she shall receive and preserve in his office all accounts, books, vouchers, documents and papers relating to the accounts of the city, its debts, revenues and other financial affairs. He/she shall keep an account of all moneys paid into and out of the treasury; and keep informed as to the exact condition of the treasury at all times.

Every demand upon the treasury, before its approval by the council, must be presented to the director of finance, who shall satisfy himself/herself whether the money is legally due, and its payment authorized by law. If satisfactory, he/she shall draw a warrant upon the treasury for the payment thereof. Every demand approved by the director of finance shall specify on its face the several items composing it, with the amounts and dates thereof. The approval of the council shall not be necessary to draw warrants for the payment of regular salaries of officials and employees of the city, or for payment of any obligation previously authorized by law, or by resolution or order of the council.

He/she shall render ~~each month~~ *on at least a quarterly basis*, a statement to the council showing the financial condition of the city, and annually a like statement covering all of the financial transactions of the city during the year previous.

After the annual tax roll has been completed, and before it is deposited with the collector, the director of finance shall make a check of the roll correcting any errors that may be found and endorse same with his/her approval.

- Sec. 25. City treasurer; appointment; duties; bond. Repealed April 6, 1971.**
- Sec. 26. Repealed April 2, 1963.**
- Sec. 27. Chief of police; duties; appointment and removal of subordinates; to make rules and regulations. Repealed April 6, 1971.**
- Sec. 28. Fire chief; appointment; duties and powers. Repealed April 6, 1971.**
- Sec. 29. Collector; duties. Repealed April 6, 1971.**
- Sec. 30. City engineer; powers and duties. Repealed April 6, 1971.**
- Sec. 31. Office of purchasing agent authorized; duties of heads of offices to submit estimates to agent; duties generally; competitive bidding; preference to local merchants. Repealed April 6, 1971.**
- Sec. 32. Street superintendent. Repealed April 6, 1971.**
- Sec. 33. Qualifications of health officer; duties. Repealed April 6, 1971.**
- Sec. 34. Vacations. Repealed April 6, 1971.**
- Sec. 35. Additional duties of officers.**
Besides the duties herein specified, all officers and boards shall perform such other appropriate duties as may be prescribed by ordinance or the general laws.
- Sec. 36. Officers and employees to continue in office until successor elected or qualified.**
Until the election or appointment and induction into office of the officers and employees in this Charter provided for, the present officers and employees shall without interruption, continue to perform the duties of their respective offices and employments for the compensation provided by existing ordinance or laws.

Sec. 37. Resignations from office; candidates for office not required to resign from other office prior to appointment or qualification; when resignation effective. Repealed April 6, 1971.

Sec. 38. Officers and boards having power to administer oaths and issue subpoenas; contempt proceedings. Repealed March 8, 1983.

Sec. 39. Fiscal year.

The fiscal year of the city shall commence on the first day of July of each year, or at such other time as may be fixed by ordinance.

Sec. 40. Taxation to conform to general laws of the state.

Except as otherwise herein provided the council shall, by ordinance, provide a system for the assessment, equalization, levy, and collection of taxes, which, as nearly as may be, shall conform to the system provided by the general laws of the state; ~~provided, that all sales for delinquent taxes shall be made to the City of Porterville.~~ Should the council fail to fix the tax rate within the time prescribed, then the tax rate of the previous year shall constitute the rate for the current year.

Sec. 41. Board of equalization. Repealed March 4, 2003.

Sec. 42. Annual tax levy to be affixed.

The council, not later than its second regular meeting in August, shall fix a rate of taxation sufficient to raise the amounts established by council action pursuant to Section 44. The council shall notify the County Assessor who shall thereupon compute and carry out the amount of tax so levied on each parcel of property contained in the assessment roll for the City.

Sec. 43. Limitation on tax levy. Repealed March 4, 2003.

Sec. 44. Limitation on special tax levies; enumeration of purposes for which special taxes may be levied.

The council shall have the power to levy and collect taxes, in addition to the taxes herein or by general law authorized to be levied and collected, sufficient to pay and maintain the sinking fund of the bonded indebtedness of the city; and for the following purposes:

(a) For the support and maintenance of the fire department, for fire protection purposes, at the rate of not more than three mills on each dollar of the assessed valuation of the real and personal property within the city;

(b) For the acquisition, construction and maintenance, as the case may be, of permanent public improvements, of real property, of public buildings and structures, and of public offices, including equipping and furnishing the same, at the rate of not more than two mills on each dollar thereof;

(c) For the maintenance and support of free public libraries and reading rooms in said city, at the rate of not more than two mills on each dollar thereof.

(d) For the maintenance and support of free public parks and playgrounds in said city, at the rate of not more than two mills on each dollar thereof;

(e) For music, entertainment, and promotion, at the rate of not more than one mill on each dollar thereof.

Sec. 45. Taxes and assessments to constitute a lien; foreclosure.

All taxes and assessments levied, together with any percentages imposed for delinquency and cost of collection, shall constitute liens on the property assessed; every tax upon the personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as of the first Monday in March each year and may be enforced by actions to foreclose such liens in any court of competent jurisdiction, or by a sale of the property affected and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance; provided that when real estate is offered for sale for city taxes due thereon the same shall be sold to the city in like case and manner, and with like effect and right of redemption as it may be struck off and sold to the state when offered for sale for county taxes; and the council shall have power to provide by ordinance for the procedure to be followed in such sales to the city and redemption thereafter. *This section is cumulative to any rights and remedies the City may have under the general laws relating to the enforcement and collection of taxes and assessments.*

Sec. 46. Disposition of city money.

All moneys collected for the city by any officer or department thereof shall be paid into the treasury daily if possible, and at least once each week.

Sec. 47. Application of surplus bond money.

All moneys derived from the sale of bonds, including premiums and accrued interest, shall be applied to the purposes for which the bonds were voted. After such purposes have been fully completed and paid for, any remaining surplus shall be transferred to the bond and interest redemption fund.

Sec. 48. Payment of city money; expenditures and indebtedness; presentation of demands; warrants on treasury.

No money shall be expended ~~and no indebtedness shall be incurred~~ on behalf of the city, for any purpose, unless and until the same shall have been authorized by ordinance ~~by four-fifths (4/5) a majority vote of the Council; provided that effective January 1, 2004, and following every Council election thereafter,~~ the City Council may, by a four-fifths majority vote, adjust the amount of money that may be expended, ~~or the indebtedness that may be incurred,~~ on behalf of the City, without prior specific Council authorization.

The City Council, by ordinance ~~approved by 4/5th resolution~~ by a majority vote of the Council, shall establish the maximum amount of money to be expended ~~and/or indebtedness incurred~~

on behalf of the City without first requiring specific Council authorization, except as otherwise provided for in this Charter; provided further that said maximum amount once established by ordinance resolution shall not be adjusted until after each general Council election, commencing with the first such election occurring after January 1, 2004, and then only by a 4/5th majority vote.

No indebtedness shall be incurred on behalf of the city, for any purpose, unless and until the same shall have been authorized by resolution by a four-fifths (4/5) vote of the Council; provided that following every Council election, the City Council may, by a four-fifths majority vote, adjust the amount of indebtedness that may be incurred, on behalf of the City, without prior specific Council authorization.

The City Council, by resolution approved by a four-fifths vote of the Council, shall establish the maximum amount of indebtedness to be incurred on behalf of the City without first requiring specific Council authorization, except as otherwise provided for in this Charter; provided further that said maximum amount once established shall not be adjusted until after each general Council election, and then only by resolution by a four-fifths majority vote.

Indebtedness evidenced by general obligation bonds shall be incurred by the City only if approved by the City Council and authorized by the voters as required by the Constitution and general laws of the State.

All demands against the city shall, before being paid, be presented to and approved by the proper board, commission or officer, as herein provided. Demands for which no appropriation has been made shall be presented to the city manager, provided, that any person dissatisfied with the refusal of the city manager to approve any demand, in whole or in part, may present the same to the council, and the approval of such demand by the council shall have the same effect as its approval by the city manager; and provided further, that if the council shall provide for other boards or commissions, it may make provision for the presentation to and approval by any such board or commission of demands for liabilities incurred by them.

The council may provide for a revolving cash fund as authorized by ordinance by four-fifths majority vote of the Council; provided that effective January 1, 2004, and following every Council election thereafter, the City Council may, by a four-fifths majority vote, adjust the revolving cash fund. The amount shall be paid to the city manager, and used by him/her for the payment in cash, of expenditures provided for in the budgets that cannot conveniently be paid otherwise. He or she shall account to the council for all payments by him or her out of said fund when making demand for the replenishment of the same, and at such other times as the council may require, and they shall thereupon be charged against the proper appropriations.

All demands approved by the proper board, commission or officer shall be presented to the director of finance, who shall examine the same, and if the amount thereof is legally due and there remains on his books an unexhausted balance or an appropriation against which the same may be charged, he/she shall approve such demand and draw and sign his warrant on the treasurer therefor, payable out of the proper fund. Objections of the director of finance to any demand may be overruled by the council, and the director of finance shall thereupon draw his warrant as directed by the

council. Such warrants, when presented to the treasurer, shall be paid by him/her out of the fund therein designated, if there be sufficient money in such fund for that purpose. A warrant not paid for lack of funds shall be registered, and all registered warrants shall be paid in the order of registration when funds are available therefor; all such registered warrants shall bear interest at the rate of six percent (6%) per annum. The director of finance shall draw his/her warrants for payment of municipal or other bonds payable out of the funds in the treasury upon presentation and surrender of the proper bonds or coupons without approval of anybody or officer. The council may make further regulations by ordinance regarding the presentation, approval and payment of demands against the city.

Sec. 49. Monthly Quarterly financial reports required.

All officers required by this Charter or by ordinance to submit ~~monthly~~ *quarterly* financial reports to the council, shall submit the same in duplicate, and upon their approval by the council, one of each of such duplicate reports shall be posted forthwith in the office of the city clerk in such manner as to be readily accessible to the public, and shall remain so posted until the approval by the council of the next succeeding financial report when the same procedure shall be followed in relation thereto. The council, in addition to such posting, may, in its discretion, cause any of such reports to be published at any time.

Sec. 50. Approving illegal claims to forfeit office.

Every officer who shall wilfully approve, allow or pay, any demand on the treasury not authorized by law, shall be liable to the city individually and on his/her official bond for the amount of the demand so approved, allowed, or paid, and shall forfeit his/her office and be forever disbarred from holding any position in the service of the city.

Sec. 51. Annual budget contents; publication.

Not later than thirty days before the end of the city's fiscal year, the city manager shall submit to the council an estimate of the expenditures and revenues of the city departments for the ensuing year. This estimate shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the manager.

Sufficient copies of such estimate shall be prepared and submitted that there may be copies on file in the office of the council for inspection by the public, unless the council shall publish the same in a newspaper.

After duly considering the estimate and making such corrections or modifications thereto as shall seem advisable to it, the council shall by resolution adopt a general budget and such resolution shall operate as an appropriation of funds to the amounts and for the purposes set forth in the budget so adopted. At any meeting after the adoption of the budget, the council, by a vote of three (3) members, may amend or supplement so as to authorize the transfer of unused balances for one purpose to another purpose or to appropriate available revenues not included in the budget.

Sec. 51A. General reserve fund; purposes. Repealed April 6, 1971.

Sec. 52. Uniform accounts and reports. Repealed April 6, 1971.

Sec. 53. Written Investment Policy.

The city manager shall recommend and the city council by resolution shall adopt a policy to govern the investment of all city monies, which policy shall be consistent with applicable state law and shall, at a minimum, provide for the investment of all monies in such a manner as to assure the preservation and safety of principal and the integrity of record keeping; identify the types of allowable investments; and provide for the safekeeping of securities.

Sec. 54. Applicability of general laws.

All general laws of the state applicable to municipal corporations now or hereafter enacted, and which are not in conflict with the provisions of this Charter or the ordinance of the city hereafter enacted shall be applicable to the city. The council may adopt and enforce ordinances which in relation to municipal affairs, shall control as against general laws of the state.

Sec. 55. Repealed April 2, 1963.

Sec. 56. Public library.

The free public library of the City of Porterville shall be established, conducted, carried on, managed and operated in accordance with rules, regulations and ordinances passed and adopted by the council of the City of Porterville.

Sec. 57. Park commission; composition; term; powers and duties; authority to accept donations, legacies or bequests. Repealed April 6, 1971.

Sec. 58. Pensions.

The council shall have and is hereby granted full power and authority to establish, regulate, maintain, revise and amend, a retirement, disability, death benefit and pension system, or either or any of them, for its elective and appointive officers and employees of the City of Porterville and their dependents. Authority and power is hereby vested in the City of Porterville, its council, its officers, agents and employees to do and perform any act or exercise any authority granted, permitted or required whereby the City of Porterville may fully participate in a retirement, disability, death benefit and pension system for its employees.

A system for retirement, disability death benefit and pension rights for employees and their dependents authorized by this section when established by the council, shall not be terminated without securing the approval of a majority of the electors of the City of Porterville at an election held therefor.

The city shall levy and collect taxes sufficient to pay all costs and expenses required to be paid by the City of Porterville to enable the City of Porterville to participate in any such retirement, disability, death benefit or pension system established, set up or maintained by, for or on behalf of the City of Porterville and the limitations of section forty-three of the Charter of the City of Porterville, with respect to levying and collecting of municipal taxes, shall not apply to any tax authorized by this article.

Sec. 59. ~~Employment~~ Hiring of certified public accountant to audit city books.

The city council shall ~~employ contract with~~ a certified public accountant annually to investigate the accounts and transactions of all city officers and employees having the collection, custody or distribution of public money or property, or the power to approve, allow or audit demands on the city treasury.

Sec. 60. Financial interests prohibited.

City officers and employees are prohibited from having a financial interest in any contract, sales or purchases in accordance with applicable State law.

Sec. 61. Competitive bidding for contract work for erection, improvement and repair of public buildings, etc., where the amount is in excess of two thousand five hundred dollars.

~~When a required expenditure exceeds five thousand dollars~~ *When the City determines to contract for work for a public project, and the cost estimate for said work exceeds five thousand dollars,* it shall be contracted for and let to the lowest responsible bidder after notice.

As used in this section public project means a project for the erection, improvement and repair of public buildings and works; work in or about streams, embankments, or other work for protection against overflow; street sewer work except maintenance or repair; furnishing supplies or materials for any such project, including maintenance or repair of streets, sewers or water lines.

The council may reject any or all bids presented and may, at its discretion, readvertise for other bids, or, the council may, after rejecting bids, determine and declare by a four-fifths (4/5) vote of all of its members that the work in question may be more economically or satisfactorily performed by day labor, or the labor or materials purchased at a lower price in the open market and after the adoption of a resolution to this effect it may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section.

The notice inviting sealed bids shall set a date for the opening of bids; the first publication shall be at least ten (10) days before the date of the opening of the bids; shall be published at least twice not less than five (5) days apart in the official newspaper selected by the council.

In case of a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, *or in the case of circumstances resulting in an serious imminent threat to public health and/or safety,* the council may, by resolution passed by a vote of four-fifths (4/5) of its members, determine and declare that the public interest or necessity demands the immediate expenditure of public money to safeguard life, health, or property, and thereupon they may proceed without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of any money required in such emergency, on hand in the city treasury and available for such purpose. (4-10-61)

The City reserves the right to perform any public project or make or repair any public property or improvement using its own forces, regardless of cost.

[SEPARATE STAND ALONE MEASURE TO BE SUBMITTED TO VOTERS:]

Sec. 61. *Competitive bidding for contract work for erection, improvement and repair of public buildings, etc., where the estimated contract cost is in excess of fifty thousand dollars.*

When the City determines to contract for work for a public project, and the cost estimate for said work exceeds fifty thousand dollars, it shall be contracted for and let to the lowest responsible bidder after notice.

As used in this section public project means a project for the erection, improvement and repair of public buildings and works; work in or about streams, embankments, or other work for protection against overflow; street sewer work except maintenance or repair; furnishing supplies or materials for any such project, including maintenance or repair of streets, sewers or water lines.

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The City reserves the right to perform any public project or make or repair any public property or improvement using its own forces, regardless of cost.

Sec. 62. **Public improvements.**

The improvement widening and opening of streets, the planting, care, and maintenance of trees, and the making of any other public improvement or undertaking of any public project may be done and assessments therefor may be levied in conformity with and under the authority conferred by

general laws; provided, however, that the council may by ordinance adopt a procedure for the *construction and/or* improvement and repair of streets, alleys or other public places *or facilities*; the laying of pipes, or conduits or for the planting, care or maintenance of trees, or for the removal of dirt, rubbish, weeds and other rank growth and materials which may injure or endanger neighboring property or the health or the welfare of inhabitants of the vicinity, from buildings, lots and grounds and the sidewalks opposite thereto and for making and enforcing assessments against property benefitted or affected thereby, or from which such removal is made, for the cost of such improvements or removal and may make such assessments a lien on such property superior to all other claims or liens thereon, except state, county and municipal taxes, but no such ordinance shall prevent the council from proceeding under general laws for said purposes.

Sec. 63. Franchises; limitation on renewals.

Every franchise or privilege to construct, maintain, or operate, any means or method of transportation in or over any street, lane, alley or other public place within the city or to lay pipes or conduits, or erect poles or wires or other structures in or across any such public way or place, for the transmission of gas, electricity, or other commodity, or for the use of public property or places now or hereafter owned by the city, shall be granted under and in pursuance of the general franchises; provided, no new franchise or the renewal of any existing franchises shall be granted except upon the condition that at least two percent of the gross annual receipts derived from the use of such franchise shall be paid to the city. In all cases the applicant for a franchise shall advance the cost of advertising the same.

Every such franchise shall require the grantee thereof to agree to a joint use of its property with others, wherever practicable, and nothing herein shall be construed as prohibiting the council from requiring other conditions in granting the same not inconsistent with the constitution and general laws. No franchise or privilege so granted shall be sold, leased, assigned or otherwise alienated, without the express consent of the council given by ordinance and subject to referendum.

Sec. 64. When franchise required.

No person, firm, or corporation shall exercise any franchise or privilege, except to the extent he or it may be entitled to do so by the constitution of the state, or of the United States, in, upon, under, over, or along any street, public way, or public place in the city without having first obtained a grant therefor as provided in this Charter and by general law.

Sec. 65. Newspaper advertising and printing.

The council shall advertise annually for the submission of sealed proposals or bids from newspapers of general circulation in the city, for the publication of all ordinances and other legal notices required to be published. The newspaper to whom such contract is awarded shall be known and designated as the official newspaper. The rates for publishing public notices shall not exceed the customary rates charged for publishing legal notices of a private character.

Contracts for legal advertising shall be awarded to the lowest responsible bidder, provided no contract for legal advertising shall be awarded to any newspaper except a daily newspaper of general circulation, as defined by the Government code.

Sec. 66. Public Records. Delivery and safekeeping of documents.

The public shall have access to public records kept and maintained by the city in accordance with the law.

Sec. 67. Interference with performance of duties of city manager; interference by city manager in elections.

~~No member of the council shall in any manner attempt to influence or coerce the city manager in the making of any appointment or the purchase of supplies in accordance with applicable state and federal law.~~

~~The council shall deal with the administrative functions of the city through the city manager. The Council shall only have direct contact with the directors of the city's departments for the purpose of asking questions.~~

Neither the City Council nor any of its members shall order or request the appointment of any person to an office or employment or his/her removal therefrom, by the City Manager, or by any of the department heads or any other employees in the administrative service of the City. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service and powers under the City Manager solely through the City Manager, and neither the City Council nor any member shall give orders to any subordinates of the City Manager, either publicly or privately.

Any City Council member violating the provisions of this section, or voting for a resolution or ordinance in violation of this section shall be guilty of a misdemeanor and, upon conviction, shall cease to be a Council Member. Additionally, any City Council member violating this section may be subject to civil remedies as specified in Section 74.

[Note – the remainder of section 67 was moved to proposed new section 67.1]

Section 67.1 Political Activities by Legislative and Administrative Officers, Employees

Political activities of and campaign contributions by the city's legislative officers, administrative officers, and employees shall be governed in accordance with applicable state and federal law. All legislative and administrative officers and all city employees are prohibited from engaging in political activities during working hours. City officers and employees are prohibited from engaging in political activities at their work place.

Furthermore, city officers and employees are prohibited from engaging in political activities on city properties, provided this prohibition does not pertain to property that is otherwise open to the public for the purpose of engaging in political activities.

Sec. 68. Leases of city property.

In every lease of city property the basic amount of rental shall be fixed by the council.

All indentures of lease shall provide that the council may terminate the same at its pleasure and repossess the premises therein described, upon ~~three months' notice thereof~~ *written advance*

notice equivalent to either 30 days or a maximum of five percent (5%) of the total lease term period as specified in the lease, but not including option periods, and upon paying to the lessee the market value of any improvements made or put upon said premises by the lessee. The market value of such improvements shall be determined by a board of appraisers consisting of one appraiser appointed by the council, and a lessee appraiser appointed by the lessee.

In the event of their failure to agree upon the market value of the improvements within thirty days from and after their appointment, said two appraisers may appoint a third appraiser as a member of said board, and the determination of the majority of said board of appraisers, as to the market value of the improvements, shall be final and conclusive and binding on all concerned. Should the two appraisers by the council and the lessee respectively, fail for forty days from and after their appointment to agree upon the market value of the improvements or to appoint a third appraiser, then upon the petition in writing of either party to any such lease, a judge of the superior court of Tulare County is hereby empowered to appoint the third appraiser upon such board; provided, however that the council shall not terminate any such lease or repossess any such premises except for a public use and purpose; provided, further, that no lease of city property shall be made for a maximum term of more than fifty years.

For any month-to-month lease of city property, the above notice requirements shall not be required, and responsibility for improvements and any associated reimbursement may be negotiated and set forth in the terms of the lease.

Sec. 69. Inventory of city property.

At the time for preparing and submitting the budget, as prescribed by this Charter, a complete inventory of all personal property belonging to the city shall be prepared and filed with the city clerk, and such inventory shall be submitted to the council by the city manager at the time of the submission of the annual budget. Such inventory shall be prepared under the direction of the city manager, and all chief officials and department heads of the city shall be responsible for making and transmitting to the city manager a full and correct inventory of all city personal property in their possession or under their control.

Sec. 70. Equipment. Repealed April 6, 1971.

Sec. 71. Zoning authorized.

The council of the City of Porterville shall have the power to establish such zoning systems within the city as may in its judgment be most beneficial, and in such zoning systems may prohibit the erection or maintenance of any class or classes of buildings within certain areas, and may classify, and reclassify the zones established. The council may also prescribe the character of materials and methods of construction of buildings erected within any zone area, and may establish setback lines as it may consider necessary and proper.

Sec. 72. Suspension of employees from office and fines. Repealed March 8, 1983.

Sec. 73. Natural or other disasters.

The city shall have in place a disaster plan, consistent with County, State and Federal policies, to be implemented in the event of an emergency or disaster.

Sec. 74 Violations.

This section shall apply only if a penalty/violation is not otherwise explicitly provided for in the Charter. A violation of any provision of this Charter shall be a misdemeanor with maximum fines and imprisonment as allowed by law, except that such violation may be prosecuted as an infraction, at the discretion of the City Council.

Any violation of this Charter may be prosecuted in the name of the People of the State of California or may be redressed by the City through any legal or equitable remedies; including but not limited to civil action and/or injunction, or administrative citation in accordance with adopted City ordinances. To the fullest extent allowed by law, civil remedies may be utilized in addition to or as an alternative to criminal enforcement.

The City shall be authorized to recover its full costs, including reasonable attorneys' fees, for the enforcement of any violation of this Charter or Municipal Code. The City Council is authorized to adopt any necessary or appropriate ordinances to implement this section of the Charter.

Respectfully Submitted on December 17, 2013:



**Allan M. Bailey, Chair
2013 City Charter Review Committee**

MEMORANDUM

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January 2, 2014

TO: Members of the Porterville Charter Review Committee

FROM: Julia Lew, Porterville City Attorney

SUBJECT: Porterville Charter Pension Provisions

This memorandum is provided to assist the Committee with its consideration of the City's current Charter provisions related to its Pension system. Per the direction of the Committee, it wishes to address this item first given its complexity.

The City's current charter provisions related to city employee pensions is located at Section 58 and reads as follows:

"The Council shall have and is hereby granted full power and authority to establish, regulate, maintain, revise and amend, a retirement, disability, death benefit and pension system, or either or any of them, for its elective and appointive officers and employees of the City of Porterville and their dependents. Authority and power is hereby vested in the City of Porterville, its Council, its officers, agents and employees to do and perform any act or exercise any authority granted, permitted or required whereby the City of Porterville may fully participate in a retirement, disability, death benefit and pension system for its employees.

A system for retirement, disability, death benefit and pension rights for employees and their dependents authorized by this section when established by the Council, shall not be terminated without securing the approval of a majority of the electors of the City of Porterville at an election held therefor.

The City shall levy and collect taxes sufficient to pay all costs and expenses required to be paid by the City of Porterville to enable the City of Porterville to participate in any such retirement, disability, death benefit or pension system established, set up or maintained by, for on behalf of the City of Porterville and the limitations of section forty-three of the charter of the City of Porterville, with respect to levying and collecting of municipal taxes, shall not apply to any tax authorized by this article."

ATTACHMENT 02

The City participates in the PERS system as its retirement system, but recently negotiated with its labor organizations to utilize a separate program for new employees. City staff can address the City's current system/PERS participation and obligations under its collective bargaining agreements at the Committee's meeting. City staff is also looking into having PERS staff address the Committee concerning the City's current system.

The cost of participating in PERS has increased greatly over the past decade, with the reasons for the increases vigorously debated and a contentious issue. There is growing concern that without continuing substantial increases in costs to the agencies, a substantial portion of money needed to fund promised pensions for PERS participants throughout the State may be unfunded.

Consequently, cities are increasingly looking at alternative systems to PERS, for new and current employees, as well as making extensive reforms to their own (non-PERS) systems. The Porterville City Council has noted this and directed that the Charter Review Committee consider possible alternatives.

Citizens of San Diego and San Jose both submitted ballot measures via their initiative processes providing for extensive amendments to their Charters addressing their pension systems. As noted at the prior Committee Meeting, the legal validity of both of these initiatives/amendments is in question and has not yet been resolved. Both amendments are attached to this memorandum in full and have been summarized below, along with the current legal status:

SAN DIEGO

San Diego's "Proposition B" was passed in June 2012 with 65.81% voting for it. San Diego already had a separate pension system (from PERS) prior to the adoption of the Proposition. The initiative was introduced by a group of individuals, including the Mayor. The Proposition did the following:

1. Gave new City workers a 401(k) with a City match instead of a guaranteed pension (change from defined-benefit to defined-contribution). The City's contribution levels will be capped at 9.2% of final salary for general employees and 11% for public safety employees.
2. Provided that the guaranteed pension for newly-hired public safety workers will max out at 80% of the individual's salary (the current cap had been at 90%).
3. Capped San Diego's overall payroll for 5 years at its 2011 level of less than \$600 million annually. The specific requirement is that the City will commence negotiating this with the unions, but that the bargaining position may be overturned with a 2/3 vote of the Council.

4. Employees' base compensation, upon which their pension benefits are calculated, would be limited to exclude supplemental and specialty pay.
5. Eliminated a provision from the Charter that required a majority vote of all City employees to approve any changes to retirement benefits.
6. City officers and employees convicted of a felony related to their positions will lose their pension benefits.
7. The City will be required to annually publish the amounts of pension benefits paid to retirees, with the names redacted to protect privacy.

Voters had already approved a measure in 2006 that required voter approval of future City employee pension benefits increases.

In February 2012, the State PERB Board ruled that the fact that there were two elected City officials on record in favor of the initiative meant that the initiative, though sponsored by public citizens, had run afoul of the City's "meet and confer" requirements, and PERB attempted to keep the initiative off the June ballot. The Judge declined to issue a temporary restraining order requested by PERB, but In February 2013 a PERB administrative law judge ruled that the City should have negotiated with the labor unions prior to taking it to the ballot. A separate lawsuit was filed claiming that the proposed amendments amounted to charter "revisions" that were only permitted to be introduced by the City Council or a charter review commission, but the Court ruled against this claim as well. Other lawsuits have been filed, and on July 31, 2012, a Judge ruled against a union request for an injunction to postpone the City's implementation of the amendment. However, the lawsuits have not yet been resolved and likely will not be for years.

SAN JOSE

San Jose's "Measure B" was passed in June 2012 by about 69% of the voters. San Jose also has a separate (non-PERS) retirement system. This initiative was also spear-headed by the City's Mayor. The Measure did the following:

1. Current employees will have to pay a larger portion of their salaries to maintain their existing benefits. This will mean paying up to 16% of their salaries, not to exceed 1/2 the cost of their normal benefits, which does not include unfunded liabilities. (The City had paid almost 3/4 of the normal cost of employee's pensions.) This provision included a clause that directs an equivalent amount of savings to be obtained through salary reductions, should a court find this provision unenforceable.
2. Employees who do not opt to pay the higher contribution rates will be placed in a new, less generous plan.

3. New employees will be placed in more limited pension plans, and the City has the option to enroll employees in Social Security or establish a 401(k) style defined contribution plan.
4. Employees must pay for at least half the normal cost and unfunded liabilities of retiree health care plans.
5. The City will no longer issue extra pension payments when the pension investment funds experience "excess" returns.
6. The automatic annual COLAS paid to retirees is reduced from 3% to 1.5% for new employees and current employees that opt into the newer, less generous plan, and COLAS may be suspended for up to 5 years if the City declares a fiscal emergency.
7. Disability retirements were limited to cases where the employee is incapable of engaging in gainful employment with the City but not yet eligible to retire.
8. All future increases in pension benefits or other post employment benefits must be ratified by the voters.

The approved measure was challenged in court as unconstitutional, and final arguments in the superior court case were made this month. Whatever the decision may be, it will almost certainly be appealed.

October 7, 2013

Ms. Ashley Johansson
Initiative Coordinator
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

RECEIVED

OCT 15 2013

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICERe: Request for Title and Summary for Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, this letter respectfully requests that the Attorney General prepare a circulating title and summary of the enclosed proposed statewide initiative: "**The Pension Reform Act of 2014.**" Also enclosed are the required signed statements pursuant to California Elections Code sections 9001 and 9608, and a check in the amount of \$200.

Please direct all inquiries and correspondence regarding this proposed initiative to:


James R. Sutton, Esq.
Sutton Law Firm
150 Post Street, Suite 405
San Francisco, CA 94108
415/732-7700
jsutton@campaignlawyers.com.

Thank you for your time and attention to this matter.

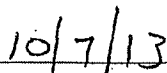
Sincerely,



Signature of Proponent

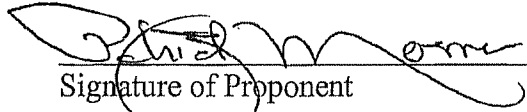


Printed name



Date

Ms. Ashley Johansson
Request for Title and Summary for Proposed Initiative
"The Pension Reform Act of 2014"



Signature of Proponent

Patrick J. Morris

Printed name

10/8/13

Date

Ms. Ashley Johansson
Request for Title and Summary for Proposed Initiative
"The Pension Reform Act of 2014"

William R Kampe
Signature of Proponent

William R Kampe
Printed name

Oct 6, 2013
Date

Ms. Ashley Johansson
Request for Title and Summary for Proposed Initiative
"The Pension Reform Act of 2014"

Tom Tait

Signature of Proponent

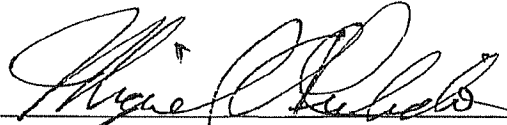
Tom Tait

Printed name

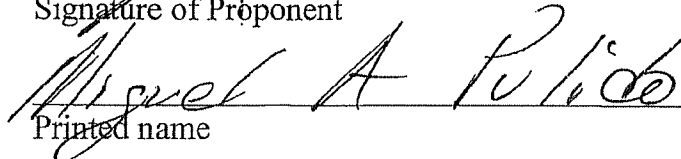
10/8/13

Date

Ms. Ashley Johansson
Request for Title and Summary for Proposed Initiative
"The Pension Reform Act of 2014"



Signature of Proponent



Printed name



Date

THE PENSION REFORM ACT OF 2014

SECTION 1. TITLE.

This measure shall be known and may be cited as “The Pension Reform Act of 2014.”

SECTION 2. FINDINGS.

(a) Government has a responsibility to provide essential services that protect the safety, health, welfare, and quality of life enjoyed by all Californians. Government also has an obligation to be fair to its employees and ensure that its retirement benefit plans are sustainable, fiscally sound, and able to meet the commitments made to its employees and retirees.

(b) The cost of California’s current government employee retirement benefits is threatening the government’s ability to achieve these goals. California’s government reform agency, the Little Hoover Commission, issued a report in February 2011 entitled “Public Pensions for Retirement Security.” The report stated, “*California’s pension plans are dangerously underfunded, the result of overly generous benefit promises, wishful thinking and an unwillingness to plan prudently.*” The Commission concluded that pension costs are impairing the government’s ability to provide essential services, and without aggressive reforms, cities and counties will be forced to slash services, reduce other forms of compensation, and lay off more government employees. In fact, government employee retirement benefits are a primary factor behind the bankruptcies of the cities of Stockton and San Bernardino, and threaten dozens more jurisdictions with service-level insolvency. And if these problems continue to grow and become more widespread, government employees will be in peril of not receiving the retirement benefits they have earned.

(c) The current situation was not foreseen when the State Legislature passed Senate Bill 400, which granted retroactive pension increases to state employees in 1999. Back then, the California Public Employees Retirement System (“CalPERS”), the state’s largest pension plan, estimated that state pension costs would not increase for a decade. Instead, according to CalPERS, the cumulative increase in state pension costs topped \$16 billion during that decade. In addition, the Stanford Institute for Economic Policy Research has estimated that unfunded state and local pension liabilities now exceed \$500 billion. These dramatic cost increases and unfunded liabilities are not simply due to the recession or drops in the housing and stock market several years ago, but are also attributable to inherent and systemic flaws in the government employee retirement benefits system. In a report issued in April 2013, CalPERS projected that retirement

contributions will rise by up to an additional 50 percent during the next seven years, creating a burden that will prove unbearable for many cities, counties and other local government agencies. The situation at the California State Teachers' Retirement System ("CalSTRS") is much worse. In September 2013, CalSTRS reported that, under currently accepted Governmental Accounting Standards Board standards, its pension plan was only 44.7 percent funded.

(d) This voter-sponsored measure is necessary because attempts to reform the system through legislation and other initiatives have been inadequate. Even though the Little Hoover Commission has confirmed that California cannot solve its pension problems without making prospective changes going forward for current employees, the pension reforms passed by the Legislature in 2012 did not include such necessary changes. In addition, more substantial pension reforms adopted by local governments are at-risk of being overturned by the courts due to a lack of clarity in the law. While private sector pension plans are governed by federal laws that allow the plan sponsors to prospectively change employee benefits and provide for specific remedies when the plans become financially distressed, some argue that the language in some California judicial decisions hold that the same standard does not apply to public pensions. Finally, the citizens of California strongly support pension reform and believe the 2012 state legislation did not fix the problem.

(e) This measure is fair and reasonable, serves an important public purpose, restores the integrity and stability of government pension systems, and is necessary to preserve and protect the safety, health and welfare of the people of California, for the following reasons:

(1) This measure allows government employers and voters to modify pension and retiree healthcare benefits and to increase employee contributions in future collective bargaining agreements for future years of service, while protecting benefits previously earned.

(2) Under federal law for private sector pension funds, pension plans are allowed to modify benefits for future years of service and are required to develop a plan for corrective action when they are underfunded. This measure would apply similar standards to government employee pension and retiree healthcare plans, allowing financially distressed government employers to make necessary modifications and requiring agencies administering the plans to implement such modifications.

(3) This measure provides long-term stability to retirement benefit programs by providing comprehensive standards that permit government employers to make and implement necessary modifications to pension and retiree

healthcare plans that will provide fiscal sustainability for the government employer, require implementation of such modifications by agencies administering such plans, and give the courts clear direction on how to adjudicate such important public policy goals.

(f) Therefore, to enable the people of California to meet the goals outlined above, to prevent them from being encumbered with additional unsustainable burdens, and to protect government employees and retirees, this measure amends the Constitution of the State of California.

SECTION 3. PURPOSE AND INTENT.

The People hereby enact this measure:

(a) To amend the Constitution of the State of California to enable the people of California to take those actions necessary to attain fiscal sustainability and provide fiscally responsible and adequately funded pension and retiree healthcare benefits for all government employees and retirees.

(b) To create an explicit constitutional amendment to Article 1, Section 9 of the California Constitution.

(c) To prevail and control over any conflicting provisions in the California Constitution, California Government Code or other provision of California law.

(d) To supersede the portions of the California Supreme Court decisions in *Kern v. City of Long Beach* (1947) 29 Cal.2d 848, *Miller v. California* (1977) 18 Cal.3d 808, and their progeny which have been construed as limiting the ability to prospectively modify pension and retiree healthcare benefits for work not yet performed by government employees.

(e) To authorize state and local governments to exercise their authority, including the exercise of their inherent police powers, to provide and protect essential government services, consistent with the United States Constitution.

(f) To provide clear and reasonable guidelines to all California courts, government employers and retirement plan administrators to address these serious pension and retiree healthcare benefit cost and underfunding problems in a manner consistent with the United States Constitution's contract, takings, equal protection and due process provisions.

(g) To protect pension and retiree healthcare benefits based on work already performed, while allowing reasonable modifications to such benefits for future services.

SECTION 4. AMENDMENTS TO CALIFORNIA CONSTITUTION

Section 9 of Article I of the California Constitution is amended to read:

A bill of attainder, ex post facto law, or law impairing the obligation of contracts may not be passed. *Section 12 of Article VII of the Constitution is deemed not to impair the obligation of contracts.*

Section 12 is added to Article VII of the California Constitution, to read:

Public Employee Retirement Benefits and Obligations

SEC. 12(a)(1) From the effective date of this Section, to the extent any government employer confers its current employees with vested contractual rights to pension or retiree healthcare benefits of any kind, such rights shall be earned and vested incrementally, only as the recipient employee actually performs work, and only in proportion to the work performed, subject to the vesting periods established by the applicable plan.

(2) Nothing in this subsection shall affect pension or retiree healthcare benefits earned and accrued for work already performed by employees or retirees.

(b) For any government employee hired after the effective date of this Section, to the extent any government employer confers these employees with vested contractual rights to pension or retiree healthcare benefits of any kind, such rights shall be earned and vested incrementally, only as the employee actually performs work, and only in proportion to the work performed, subject to the vesting periods established by the applicable plan.

(c) Any action by a government employer, labor agreement or voter initiative prior to the effective date of this Section shall not be found to have created a vested contractual right to future pension or retiree healthcare benefits before such work is performed by employees, unless the specific language of the underlying action, agreement or initiative expressly states that such benefits are vested or are otherwise irrevocable.

(d) Nothing in this Section shall be construed as conferring or vesting any rights or benefits on government employees not expressly granted by the government employer.

(e) The terms of a pension or retiree healthcare benefit plan for work not yet performed may be amended through a labor agreement, an action by a legislative body, or an initiative, referendum or other ballot measure initiated by the voters or by a legislative body. Any such amendments to pension or retiree healthcare benefits made by a legislative body, whether by legislation or by placing a measure on the ballot, shall comply with applicable collective bargaining laws.

(f) Courts shall have exclusive jurisdiction to consider and adjudicate all disputes regarding laws relating to pension or retiree healthcare benefits enacted or proposed through an initiative, referendum or other ballot measure.

(g)(1) Nothing in this Section shall alter any provisions of a labor agreement in effect as of the effective date of this Act, but this Section shall apply to any successor labor agreement, renewal or extension entered into after the effective date of this Act.

(2) Any provision of a labor agreement executed within 12 months before the effective date of this Act which is inconsistent with any provision of this Act shall be invalid if a court determines by a preponderance of evidence that such provision of the labor agreement was entered into for the purpose of avoiding this Act.

(3) For the purposes of this subsection, there shall be a rebuttable presumption that any labor agreement renewed or extended more than 6 months before its expiration date during the 12-month period before the effective date of this Act was entered into for the purpose of avoiding this Act.

(h) The amount employees are required to pay for pension or retiree healthcare benefits is a component of an employee's compensation package, and may be amended through a labor agreement, an action by a legislative body, or an initiative, referendum or other ballot measure initiated by the voters or by a legislative body.

(i)(1) If a government employer finds its pension or retiree healthcare plan is substantially underfunded and is at risk of not having sufficient funds to pay benefits to retirees or future retirees, or declares a fiscal emergency because the financial condition of the government employer impairs its ability to provide essential government services or to protect the vital interests of the community, the government employer, in addition to its current powers and the powers set out in this Section, shall have the authority to implement one or more of the following actions for all employees, within the limits of the United States Constitution:

(i) Reduce the rate of accrual for pension or retiree healthcare benefits to be earned in the future.

(ii) Reduce the rate of cost of living adjustments for pension or retiree healthcare benefits to be made in the future.

(iii) Increase the retirement age for payment of pension or retiree healthcare benefits to be earned in the future.

(iv) Require employees to pay a larger share of the cost of pension or retiree healthcare benefits.

(v) Other reductions or modifications of pension or retiree healthcare benefits agreed upon during collective bargaining.

(2) If a government employer takes any of the actions described in this subsection, such actions shall apply only to work performed by employees after the date on which the government employer takes such actions.

(3) If such actions are within the mandatory scope of collective bargaining, they shall be submitted to collective bargaining. If the government employer and represented employees do not reach an agreement within 180 days, the government employer shall have the authority to implement such actions. Retirement plan administrators shall be required to implement changes as directed by the government employer unless ordered otherwise by a court.

(4) The government employer shall make factual findings establishing that such actions are reasonable and necessary to serve an important public purpose and are consistent with the United States Constitution and the California Constitution, as modified by this Act.

(5) Any such actions may be subsequently amended to take into account changes in circumstances, subject to the process established in this Section.

(j)(1) For any pension or retiree healthcare plan with assets equaling less than 80 percent of the plan's liabilities, as calculated by the plan's actuary using generally accepted accounting principles, the government employer shall prepare a pension or retiree healthcare stabilization plan.

(2) The pension or retiree healthcare stabilization plan shall specify actions designed to achieve 100 percent funding of the plan within 15 years while preserving basic government services. Such plan shall identify (i) the benefits to be modified, if any, (ii) the additional costs to be incurred by employees, if any,

(iii) the additional costs would be incurred by the government employer, if any, (iv) the specific funding sources that to be used to pay for such additional costs, (v) the investment return rates needed to be achieved to obtain such funding level, as well as information regarding the historical rates of return earned by the applicable plan, and (vi) the impact of any existing pension obligation bonds issued by the government employer, and any additional actions that may be needed to pay off such bonds.

(3) The pension or retiree healthcare stabilization plan shall be published for public review within 180 days of receiving an actuarial valuation from the retirement plan administrator on the funding status of the pension or retiree healthcare plan.

(4) The government employer shall hold a public hearing to receive public input and formally accept the pension stabilization plan within 270 days of receiving an actuarial valuation from the retirement plan administrator on the funding status of the plan.

(5) Each year thereafter the government employer shall follow the process established in this Section until the pension or retiree healthcare plan's actuary reports that the pension or retiree healthcare plan is at least 100 percent funded.

(k) When a government employer modifies, freezes or terminates a pension or retiree healthcare plan, the government employer's obligation to ensure payment for all employee benefits accrued prior to the date of such action shall continue. For such modified, frozen or terminated plans, the retirement plan administrator shall use the same discount rate applied to the plan administrator's unmodified plans when establishing contribution rates and shall not impose a penalty or premium on such plans. The government employer and employees shall maintain responsibility for all unfunded liabilities in such plans in accordance with the terms of the labor agreement between the government employer and employees, and shall make amortization payments using the same methodologies that govern the retirement plan administrator's other plans. This provision shall not apply to the obligations of government employers which are dissolving.

(l) The power to amend the terms of a pension or retiree healthcare benefit plan as allowed under this Section may not be prohibited or limited by labor agreement, statute, resolution, ordinance, or any other act by an executive, legislative body, pension board, or any other governmental entity.

(m) Every government employer and pension board shall promptly implement and enforce all provisions of this Act.

(n) Should it be determined that any provision of this Act is in conflict with any other provision of the California Constitution, the California Government Code or any other provision of California law, the provisions of this Act shall prevail and control.

(o) As used in this Section, the following definitions shall apply:

(1) "Act" shall mean the Pension Reform Act of 2014.

(2) "Government employee" and "employee" shall mean an employee, officer or elected official of a government employer who is entitled to receive pension or retiree healthcare benefits.

(3) "Government employer" and "employer" shall mean the state or a political subdivision of the state, including but not limited to counties, cities, charter counties, charter cities, charter city and counties, school districts, special districts, boards, commissions, the Regents of the University of California, California State University, and agencies thereof. For the purposes of this section, the Legislature shall serve as the government employer for the members of the California State Teachers Retirement System.

(4) "Labor agreement" shall mean a memorandum of understanding, collective bargaining agreement, contract or similar agreement entered into between a government employer and a recognized employee organization representing government employees.

(5) "Pension" or "pension benefits" shall mean a plan or trust providing a defined benefit determined by a formula based on factors such as age, years of service and compensation, or a defined contribution plan. It shall not include disability benefits for government employees or death benefits for families of government employees, even if those benefits are provided as part of a pension or deferred compensation plan.

(6) "Pension board" shall mean a retirement board as defined in section 17(h) of Article XVI.

(7) "Plan" and "retirement plan" shall mean any pension or retirement plan offered by a government employer for the purpose of providing retirement benefits to government employees.

(8) "Retiree healthcare" or "retiree healthcare benefits" shall mean a plan or trust providing healthcare benefits to retired government employees, such as healthcare services (including acute and chronic care), payment of capitation fees

(including those for the United States Medicare Program), other medical services, and dental and vision services. It shall not include disability benefits for government employees or death benefits for families of government employees even if those benefits are provided as part of a healthcare plan.

SECTION 5. Effective Date.

Except as otherwise provided herein, this Act shall become effective the day after its approval by the voters, pursuant to section 10(a) of Article II of the California Constitution.

SECTION 6. Conflicting Measures.

This Act is intended to be comprehensive. It is the intent of the People that in the event this Act and one or more measures relating to the same subject shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

SECTION 7. Liberal Construction.

This Act is an exercise of the public power of the people of the State of California for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate its purposes.

SECTION 8. Severability.

If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. The voters hereby declare that this Act, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.

SECTION 9. Defending the Pension Reform Act of 2014.

(a) The people of the State of California declare that the proponents of this Act have a direct and personal stake in defending this Act and grant formal authority to the proponents to defend this Act in any legal proceeding, either by intervening in such legal proceeding, or by defending the Act on behalf of the people and the

State in the event that the State declines to defend the Act or declines to appeal an adverse judgment against the Act.

(b) In the event that the proponents are defending this Act in a legal proceeding because the State has declined to defend it or to appeal an adverse judgment against it, the proponents shall:

(1) act as agents of the people and the State;

(2) be subject to all ethical, legal, and fiduciary duties applicable to such parties in such legal proceeding;

(3) take and be subject to the Oath of Office prescribed by Article XX, section 3 of the California Constitution for the limited purpose of acting on behalf of the people and the State in such legal proceeding; and

(4) be entitled to recover reasonable legal fees and related costs from the State.