

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CALLING AND GIVING NOTICE OF, ON ITS OWN MOTION, THE SUBMISSION TO THE ELECTORS OF THE CITY OF SAN JOSE, AT A SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 4, 2014, A BALLOT MEASURE PROPOSAL TO MODIFY THE CITY EMPLOYEE RETIREMENT BOARDS GOVERNANCE STRUCTURE

WHEREAS, Charter Section 1600 authorizes the City Council to set the date for a Special Municipal Election; and

WHEREAS, the City Council desires to submit to the electors of the City of San José at a Special Municipal Election a ballot measure proposal to add Sections 810 and 810.1, and amend Sections 1001.1 and 1101 of the San José City Charter to modify the City Employee Retirement Boards governance structure;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. A Special Municipal Election is hereby called and ordered to be held in the City of San José on November 4, 2014, for the purpose of voting on a ballot measure to modify the City Employee Retirement Boards governance structure. The actual language of the proposed charter amendment is attached to this Resolution as Exhibit A.

SECTION 2. The ballot measure will be placed on the ballot for the November 4, 2014 election in the following form:

Retirement Board Governance

Shall the Charter be amended to 1) allow the Council to establish one or more Retirement Boards with specified authority, including, hiring an at-will chief executive, (2) specify the hiring authority of the Retirement Services chief executive; 3) exclude certain future Retirement Services employees from the classified civil service and the City's defined benefit retirement plans; and (4) establish the process for setting stipends paid to non-employee Retirement Board members?

YES	
NO	

SECTION 3. The City Council hereby requests the Board of Supervisors of the County of Santa Clara, California to permit the Registrar of Voters of Santa Clara County to render to the City of San José such services as the City Clerk of the City of San José may request relating to the conduct of the above-described Special Municipal Election with respect to the following matters:

Coordination of election precincts, polling places, voting booths, voting systems and election officers; Printing and mailing of voter pamphlets; Preparation of tabulation of result of votes cast.

SECTION 4. The City Council hereby requests that the Registrar of Voters of the County of Santa Clara consolidate the Special Municipal Election called and ordered to be held on November 4, 2014 with any other election that may be held on that date.

SECTION 5. The City Council hereby authorizes the Board of Supervisors of Santa Clara County, California to canvass the returns of the Special Municipal Election.

SECTION 6. The City Council hereby directs the City Clerk to reimburse the County of Santa Clara in full for any of the above-mentioned services which may be performed by the Registrar of Voters, upon presentation of a bill to the City, with funds already appropriated to the City Clerk for election purposes.

SECTION 7. The City Council hereby directs the City Clerk to take all actions necessary in order to facilitate the Special Municipal Election in the time frame specified herein and comply with provisions of the Elections Code of the State of California, City Charter, Ordinances, Resolutions and Policies with regard to the conduct of the Special Municipal Election.

ALTERNATE 1 (FULL TEXT PUBLICATION)

SECTION 8. Pursuant to Section 12111 of the California Elections Code, the City Council hereby directs the City Clerk to (a) cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San José Mercury News, a newspaper of general circulation within the City of San José; (b) consolidate the Notice of Measure to be Voted with the Notice of Election into a single notice; (c) cause copies of the full text of the proposed measure to be printed in the Voter Information Portion of the Sample Ballot; (d) cause copies of the Sample Ballot to be mailed to each of the qualified electors of the City of San José; and (e) do all other things required by law to submit the specified measure above to the electors of the City of San José at the Special Municipal Election.

ALTERNATE 2 (FULL TEXT NOT PUBLISHED)

SECTION 8. Pursuant to Section 12111 of the California Elections Code, the City Council hereby directs the City Clerk to (a) cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San José Mercury News, a newspaper of general circulation within the City of San José; (b)

consolidate the Notice of Measure to be Voted with the Notice of Election into a single notice; (c) cause the following statement to be printed in the impartial analysis to be prepared by the City Attorney: %~~6~~ you would like to read the full text of the measure, see www.sanjoseca.gov/clerk/elections/Election.asp or call 408-535-1260 and a copy will be sent at no cost to you.%; and (d) do all other things required by law to submit the specified measure above to the electors of the City of San José at the Special Municipal Election, including causing the full text of the proposed measure to be made available in the Office of the City Clerk at no cost and posted on the City Clerk's website.

SECTION 9. Pursuant to Sections 9282 and 9285 of the California Elections Code, the City Council hereby approves the submittal of direct arguments for and against the ballot measure, if any [and authorizes the City Council or any member or members of the Council to author and submit a ballot measure argument in favor of the ballot measure] [but determines that rebuttal arguments will not be allowed] **OR** [and approves the submittal of rebuttal arguments in response to arguments for and against the ballot measure and authorizes the City Council or any member or members of Council to author and submit a rebuttal, if any].

SECTION 10. The City Council hereby directs the City Clerk to transmit a copy of the measure qualifying for placement on the ballot to the City Attorney for preparation of an impartial analysis.

ADOPTED this _____ day of _____, 2014, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

EXHIBIT A TO RESOLUTION NO. _____
OF THE CITY OF SAN JOSE

That Article VIII of the City Charter be amended to add the following section, to be numbered, entitled and to read as follows:

SECTION 810 Retirement Board or Boards

- (a) The City Council by ordinance shall establish one or more retirement boards to administer the retirement plans established pursuant to Article XV of this Charter.
- (b) The term of membership, qualifications of the members and the size of each retirement board shall be prescribed by ordinance. The members of any retirement board shall be appointed and removed in a manner prescribed by ordinance with a majority of the members appointed by the City Council. The City Council shall appoint and remove the members of any retirement board in a manner prescribed by ordinance. The members of each retirement board shall be paid a monthly stipend determined pursuant to the provisions of Section 1001.1 of this Charter.
- (c) Each retirement board shall administer the retirement plan or plans that the retirement board has been designated to administer in accordance with the fiduciary duties and obligations established by law, the City Charter, and as further prescribed by ordinance.
- (d) Each retirement board shall annually adopt a budget approved by the City Council covering the entire aggregate expense of administration of the retirement plan or plans that the retirement board has been designated to administer for the ensuing fiscal year, using the same fiscal year as the City pursuant to Section 1200 of this Charter.
- (e) Each retirement board may retain or employ, by contract, attorneys to assist the retirement board on matters reasonably necessary to carry out their fiduciary duties in the administration of the retirement plan or plans that the retirement board has been designated to administer.
- (f) Each retirement board shall comply with all open and public meeting requirements established by state law and applicable Council action.

That Article VIII of the City Charter be amended to add the following section, to be numbered, entitled and to read as follows:

SECTION 810.1 Retirement Board; Power of Appointment

- (a) The retirement board or boards may appoint and prescribe the duties of the chief executive officer and the chief investment officer or such equivalent positions of the Office of Retirement Services to assist in the administration of the plan or plans. Such appointed officers shall serve in unclassified positions at the pleasure of the appointing retirement board; if more than one board then the boards shall jointly appoint the chief executive officer and the chief investment officer.
- (b) The chief executive officer or the officer holding an equivalent position of the Office of Retirement Services may appoint and prescribe the duties of the professional and technical employees and clerical employees employed in the Office of Retirement Services.
- (c) In addition, when the chief executive officer or the officer holding an equivalent position deems it necessary for the good of the service he or she may suspend without pay, demote, discharge, remove or discipline any such employee in the Office of Retirement Services subject to any applicable Civil Service provisions of the Charter and any Civil Service Rules adopted thereto.
- (d) Neither the Council nor any of its members nor the Mayor shall in any manner dictate the appointment or removal of any such officer or employee whom the retirement board or boards is empowered to appoint or the chief executive officer is empowered to appoint, but the Council may express its views and fully and freely discuss with the retirement board or boards anything pertaining to the appointment and removal of such officers and employees.
- (e) Compensation set for chief executive officer, chief investment officer, or their equivalent and the investment professional staff shall be set in accordance with Charter Section 902 and the board or boards shall consider compensation of equivalent positions in comparable United States Public Pension Plans in recommending the total compensation for the positions of chief executive officer, chief investment officer or their equivalent and the investment professional staff.

That Section 1001.1 of the City Charter be amended to read as follows:

SECTION 1001.1 ~~Council~~ Salary Setting Commission

There shall be, and there is hereby established, a ~~Council~~ Salary Setting Commission. The following provisions shall be applicable thereto:

- (a) MEMBERSHIP. The ~~Council~~ Salary Setting Commission shall consist of five (5) members appointed by the Civil Service Commission. Members must be qualified electors of the City at all times during their term of office.
- (b) TERMS OF OFFICE. Except as provided hereinbelow, the regular term of office of each member of the ~~Council~~-Salary Setting Commission shall be four (4) years. The initial members of the ~~Council~~ Salary Setting Commission shall be appointed by the Civil Service Commission during the month of January, 1981. Two (2) of the members so appointed shall be appointed for a term expiring on December 31, 1982; and three (3) of the members so appointed shall be appointed for a term expiring on December 31, 1984. Commencing in December of 1982, the Civil Service Commission shall, during the month of December of each even-numbered year, make appointments to fill the offices of the members whose terms are expiring at the end of such even-numbered year. Such appointments shall be for regular terms of four (4) years commencing on the first day of January of the following odd-numbered year and expiring on the 31st day of December of the second even-numbered year thereafter.
- (c) VACANCIES. The office of a member shall become vacant upon the happening before the expiration of his or her term of any of the events set forth in subsections (a), (b), (c), (d), (e), (h), (i), (j), (k), and (l) of Section 409 of this Charter. Also, the Civil Service Commission may remove a member from office at any time for misconduct, inefficiency or willful neglect in the performance of the duties of his or her office providing it first states in writing the reasons for such removal and gives such member an opportunity to be heard before the Civil Service Commission in his or her own defense. If a vacancy occurs before the expiration of a member's term, the Civil Service Commission shall appoint a qualified person to fill such vacancy for the remainder of the unexpired term of such member.
- (d) POWERS AND DUTIES.

~~(4)~~ The ~~Council~~ Salary Setting Commission shall biennially make recommendations:

- (1) respecting salaries for members of the Council, including the Mayor, as provided in Section 407 of this Charter;
- (2) regarding the monthly stipend for any non-City employee member of the retirement board or boards which administer the retirement plan or plans established pursuant to Article XV of this Charter and designated by the Council to receive a stipend. The stipend set by the Council will be in accordance with the process established through ordinance.

That Section 1101 of the City Charter be amended to read as follows:

SECTION 1101 Civil Service System; Classified and Unclassified Service

The Civil Service of the City shall be divided into the Classified Service and the Unclassified Service, as follows:

- (a) The Unclassified Service shall comprise and include all of the following officers and employees:
 - (1) The Mayor and the members of the Council and their assistants;
 - (2) All members of boards and commissions, and if so desired by the Civil Service Commission, the Secretary of the Civil Service Commission;
 - (3) The City Manager and all his or her assistants, deputies, and secretaries, the head of each department, assistant directors of departments, deputy directors of departments, (excluding the police department) and the City Clerk and one assistant;-
 - (4) Temporary Employment
 - a. Persons temporarily employed to make or conduct a special inquiry, investigation, examination or installation, or to render professional, scientific or technical services of an occasional or exceptional character; provided that no person employed in the Unclassified Service pursuant to this subsection for any purpose shall continue in such employment pursuant to this subsection for a period in excess of six (6) months for each special inquiry, investigation, examination, installation or particular service unless an extension is approved by the Civil Service Commission;
 - b. Persons temporarily employed to fill positions for a period of time not to exceed two (2) years, where there exists a need to perform

duties of a temporary nature or where duties may be required on an intermittent basis.

- (5) Persons employed in the event of an emergency to perform services required because of and during such emergency for a period of time not to exceed six (6) months unless an extension is approved by the Civil Service Commission;
 - (6) Persons employed to temporarily fill positions in the classified service when no eligible lists of applicants for such positions exist, until such time as eligible lists are created and persons can be hired there from to fill such positions;
 - (7) Volunteer members of the police, fire or civil defense departments or of any police, fire or civil defense force or organization;
 - (8) The Public Information Officer, and all persons employed in the Public Information Office, exclusive of clerical employees;
 - (9) The City Auditor and the professional and technical employees in the Office of the City Auditor;
 - (10) The City Attorney and all attorneys and supervisors in the Office of the City Attorney;
 - (11) The Independent Police Auditor and the professional and technical employees in the Office of the Independent Police Auditor;
 - (12) The chief executive officer, chief investment officer, or their equivalent and the investment professional staff, as set forth by ordinance, in the Office of Retirement Services and who shall not be member of the City's defined benefit pension or retiree healthcare retirement plans. This section shall not apply to any incumbent filling those positions on the date that the conversion was approved by election.
- (b) The Classified Service shall consist of all persons employed in positions in the City Civil Service which are not in the Unclassified Service;
- (c) Nothing herein shall be construed as precluding the appointing authority from filling any position in the manner in which positions in the Classified Service are filled.

- (d) Whenever previously classified positions are placed in the unclassified service in this Charter, the unclassified status shall not apply to those incumbents filling those classified positions on the date that the conversion was approved by election.