

MEASURE F

CITY CLERK'S IMPARTIAL ANALYSIS OF MEASURE F

Measure F would amend the San Jose City Charter to change employee retirement contributions and benefits, and retiree healthcare benefits.

Background. The City administers "defined benefit" retirement plans for its employees. The City and employees each contribute to the plans. Employees who reach retirement age and complete sufficient years of service become eligible for monthly retirement benefit payments using a formula based on years of service and a percentage of salary, as well as certain healthcare benefits.

Measure B (2012). At the June 2012 election, San Jose voters adopted Measure B. Among other things, Measure B required employees to make additional retirement contributions. Measure B also required the City Council to adopt a retirement program under which employees who "opted in" to a lower retirement formula would not be required to make the additional retirement contributions, and would retain some existing benefits and have others reduced. It required the City to adopt a retirement plan for new employees that could include social security, a defined benefit plan and/or a defined contribution plan, and included caps on the retirement benefits of new employees. It also limited disability retirements.

Measure B Litigation: A number of City unions and a retiree association challenged Measure B in court on numerous grounds. Some provisions of Measure B were invalidated (including the increased employee contributions and the "opt in"), and some were upheld (including the elimination of the Supplemental Retiree Benefit Reserve, or SRBR). The City and unions agreed the legal challenges would be dismissed if this Charter amendment were approved by voters. The retiree association has not yet reached such an agreement.

Measure F: This measure would make the following changes to City retirement plan and retiree healthcare plans, which would supersede the modifications made by Measure B:

- Retirement benefits for Tier 2 members would be improved to levels similar to other Bay Area agencies as well as providing that the costs of the benefit are shared 50/50 between the City and employees in specified increments.
- The defined benefit retiree healthcare plan that established levels of healthcare benefits would be closed to new members.
- Tier 1 Employees who return after leaving the City would be Tier 1 Employees.
- The pre-Measure B definition of disability would be reinstated.
- An independent medical panel would be created to determine eligibility for disability retirements.
- The elimination of the SRBR would continue and be replaced with a Guaranteed Purchasing Power benefit to protect retirees against inflation.
- Both City and employees would be required to make the full annual required plan contributions calculated by the Retirement Board.
- Voter approval would be required for any future enhancements to defined retirement benefits.
- Retroactive benefit enhancements would be prohibited.

CITY CLERK'S IMPARTIAL ANALYSIS OF MEASURE F-Continued

This measure was placed on the ballot by the City Council.

A "yes" vote is a vote to approve the changes described above.

A "no" vote means that no changes would be made to the Charter's retirement provisions.

/s/ Toni Taber
City Clerk, City of San Jose

COMPLETE TEXT OF MEASURE F

[The Citizens of the City of San Jose do hereby enact the following amendments to the City Charter which may be referred to as:
"Alternative Pension Reform Act."]

Section 1501-A. Intent.

The City of San Jose's financial ability to provide basic services is essential to the health, safety, quality of life and well-being of its residents. This Act is intended to strengthen the City's financial ability to ensure the City can provide reasonable and sustainable post-employment benefits while at the same time delivering essential city services to the residents of San Jose. This Act is further designed to ensure that no future defined retirement benefit increases occur without voter approval.

Section 1502-A. Act Supersedes All Conflicting Provisions.

The Sections of Article XV-A enacted by the voters pursuant to the ballot measure known as Measure B in 2012 are hereby replaced in their entirety by the following provisions. The provisions of this Act shall prevail over all other conflicting or inconsistent wage, pension, or postemployment benefit provisions in the Charter, ordinances, resolutions, or other enactments.

Notwithstanding any other provisions of this Article, the City Council may, by ordinance, and subject to the provisions of California Government Code Section 3500 et seq., provide for the conformance of any retirement plan or plans established and maintained by the City of San Jose to Section 415 of the United States Internal Revenue Code or other applicable provisions of the laws of the United States or the State of California.

Section 1503-A. Reservation of Voter Authority.

- (a) There shall be no enhancements to defined retirement benefits in effect as of January 1, 2017, without voter approval. A defined retirement benefit is any defined post-employment benefit program, including defined benefit pension plans and defined benefit retiree healthcare benefits. An enhancement is any change to defined retirement benefits, including any change to pension or retiree healthcare benefits or retirement formula that increases the total aggregate cost of the benefit in terms of normal cost and unfunded liability as determined by the Retirement Board's actuary. This does not include other changes which do not directly modify specific defined retirement benefits, including but not limited to any medical plan design changes, subsequent compensation increases which may increase an employee's final compensation, or any assumption changes as determined by the Retirement Board.
- (b) If the State Legislature or the voters of the State of California enact a requirement of voter approval for the continuation of defined pension benefits, the voters of the City of San Jose hereby approve the continuation of the pension benefits in existence at the time of passage of the State measure including those established by this measure.

Section 1504-A. Retirement Benefits—Tier 2.

The Tier 2 retirement plan shall include the following benefits listed below. This retirement program shall be referred to as "Tier 2" and shall be effective for employees hired on or after the following dates except as otherwise provided in this section: (1) Sworn Police Officers: August 4, 2013; (2) Sworn Firefighters: January 2, 2015 and (3) Federated:

COMPLETE TEXT OF MEASURE F-Continued

September 30, 2012. Employees initially hired before the effective date of Tier 2 shall be Tier 1 employees, even if subsequently rehired. Employees who qualify as "classic" lateral employees under the Public Employees' Pension Reform Act and are initially hired by the City of San Jose on or after January 1, 2013, are considered Tier 1 employees.

- (a) **Cost Sharing.** The City's cost for the Tier 2 defined benefit plan shall not exceed 50% of the total cost of the Tier 2 defined benefit plan (both normal cost and unfunded liabilities), except as provided herein. Normal cost shall always be split 50/50. In the event an unfunded liability is determined to exist, employees will contribute toward the unfunded liability in increasing increments of 0.33% per year, with the City paying the balance of the unfunded liability, until such time that the unfunded liability is shared 50/50 between the employer and employee.
- (b) **Age.** The age of eligibility for service retirement shall be 57 for employees in the Police and Fire Retirement Plans and 62 for employees in the Federated Retirement System. Earlier Retirement may be permitted with a reduction in pension benefit by a factor of 7% per year for employees in the Police and Fire Retirement Plan and a reduction in pension benefit by a factor of 5% per year for employees in the Federated Retirement System. An employee is not eligible for a service retirement earlier than the age of 50 for employees in the Police and Fire Retirement Plan or age 55 for employees in the Federated Retirement System. Tier 2 employees shall be eligible for a service retirement after earning five years of retirement service credit.
- (c) **COLA.** Cost of living adjustments, or COLA, shall be equal to the increase in the Consumer Price Index (CPI), defined as San Jose–San Francisco–Oakland U.S. Bureau of Labor Statistics index, CPI-Urban Consumers, December to December, with the following limitations:
1. For Police and Fire Retirement Plan members, cost of living adjustments applicable to the retirement allowance shall be the lesser of the Consumer Price Index (CPI), or 2.0%.
 2. For Federated Retirement System members, cost of living adjustments applicable to the retirement allowance shall be the lesser of CPI or:
 - a. 1-10 total years of City service and hired after the effective date of the implementing ordinances of the revised Tier 2: 1.25%
 - b. 1-10 years total years of City service and hired before the effective date of the implementing ordinances of the revised Tier 2: 1.5%
 - c. 11-20 total years of City service: 1.5%
 - d. 21-25 total years of City service: 1.75%
 - e. 26 or more total years of City service: 2.0%
 3. The first COLA adjustment will be prorated based on the number of months retired in the first calendar year of retirement.
- (d) **Final Compensation.** "Final compensation" shall mean the average annual earned pay of the highest three consecutive years of service. Final compensation shall be base pay only, excluding premium pays or other additional compensation, except members of the Police and Fire Plan whose pay shall include the same premium pays as Tier 1 members.

COMPLETE TEXT OF MEASURE F-Continued

- (e) **Maximum Allowance and Accrual Rate.** For Police and Fire Plan members, service retirement benefits shall be capped at a maximum of 80% of final compensation for an employee who has 30 or more years of service at the accrual rate contained in the Alternative Pension Reform Settlement Framework approved by City Council on August 25, 2015. For Federated Retirement System members, service retirement benefits shall be capped at a maximum of 70% of final compensation for an employee who has 35 or more years of service at the accrual rate contained in the Alternative Pension Reform Settlement Framework approved by City Council on December 15, 2015, and January 12, 2016.
- (f) **Year of Service.** An employee will be eligible for a full year of service credit upon reaching 2080 hours of regular time worked (including paid leave, but not including overtime).

Section 1505-A. Disability Retirements.

- (a) The definition of "disability" shall be that as contained in the San Jose Municipal Code in Sections 3.36.900 and 3.28.1210 as of the date of this measure.
- (b) Each plan member seeking a disability retirement shall have their disability determined by a panel of medical experts appointed by the Retirement Boards.
- (c) The independent panel of medical experts will make their determination based upon majority vote, which may be appealed to an administrative law judge.

Section 1506-A. Supplemental Payments to Retirees.

The Supplemental Retiree Benefit Reserve ("SRBR") has been discontinued, and the assets returned to the appropriate retirement trust fund. In the event assets are required to be retained in the SRBR, no supplemental payments shall be permitted from that fund without voter approval.

The SRBR will be replaced with a Guaranteed Purchasing Power (GPP) benefit for all Tier 1 retirees. The GPP is intended to maintain the monthly allowance for Tier 1 retirees at 75% of purchasing power of their original pension benefit effective with the date of the retiree's retirement. The GPP will apply in limited circumstances (for example, when inflation exceeds the COLA for Tier 1 retirees for an extended period of time). Any calculated benefit will be paid annually in February.

Section 1507-A. Retiree Healthcare.

The defined benefit retiree healthcare plan will be closed to new employees as defined by the San Jose Municipal Code in Chapter 3.36, Part 1 and Chapter 3.28, Part 1.

Section 1508-A. Actuarial Soundness (for both pension and retiree healthcare plans).

- (a) In recognition of the interests of the taxpayers and the responsibilities to the plan beneficiaries, all pension and retiree healthcare plans shall be operated in conformance with Article XVI, Section 17 of the California Constitution. This includes but is not limited to:
1. All plans and their trustees shall assure prompt delivery of benefits and related services to participants and their beneficiaries;

COMPLETE TEXT OF MEASURE F-Continued

2. All plans shall be subject to an annual actuarial analysis that is publicly disclosed in order to assure the plan has sufficient assets;
3. All plan trustees shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system;
4. All plan trustees shall diversify the investments of the system so as to minimize the risk of loss and maximize the rate of return, unless under the circumstances it is not prudent to do so;
5. Determine contribution rates on a stated contribution policy, developed by the retirement system boards and;
6. When investing the assets of the plans, the objective of all plan trustees shall be to maximize the rate of return without undue risk of loss while having proper regard to the funding objectives of the plans and the volatility of the plans' contributions as a percentage of payroll.

Section 1509-A. Retirement Contributions.

There shall be no offset to normal cost contribution rates in the event plan funding exceeds 100%. Both the City and employees shall always make the full annual required plan contributions as calculated by the Retirement Board actuaries which will be in compliance with applicable laws and will ensure the qualified status under the Internal Revenue Code.

Section 1510-A. No Retroactive Defined Retirement Benefit Enhancements.

- (a) Any enhancement to a member's defined retirement benefit adopted on or after January 1, 2017, shall apply only to service performed on or after the operative date of the enhancement and shall not be applied to any service performed prior to the operative date of the enhancement.
- (b) If a change to a member's retirement membership classification or a change in employment results in an enhancement in the retirement formula or defined retirement benefits applicable to that member, except as otherwise provided under the plans as of [effective date of ordinance], that enhancement shall apply only to service performed on or after the effective date of the change and shall not be applied to any service performed prior to the effective date of the change.
- (c) "Operative date" would be the date that any resolution or ordinance implementing the enhancement to a member's defined retirement formula or defined retirement benefit adopted by the City Council becomes effective.

Section 1511-A. Severability.

This Act shall be interpreted so as to be consistent with all federal and state laws, rules and regulations. The provisions of this Act are severable. If any section, sub-section, sentence or clause ("portion") of this Act is held to be invalid or unconstitutional by a final judgment of a court, such decision shall not affect the validity of the remaining portions of this amendment. The voters hereby declare that this Act, and each portion, would have been adopted irrespective of whether any one or more portions of the Act are found invalid. If any portion of this Act is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Act which can be given effect.

ARGUMENT IN FAVOR OF MEASURE F

Measure F saves taxpayer money and makes San Jose safer by enabling our police department to retain and recruit enough officers to bolster neighborhood patrols, improve 911 response times and increase investigations of violent crime and burglaries in a fiscally responsible and sustainable manner.

Measure F also safeguards disability protections for police officers and firefighters injured in the line of duty. It reflects a consensus agreement supported by a diverse coalition of community leaders focused on making San Jose safer and more financially sustainable.

Since 2008, our Police Department has lost over 500 officers. According to San Jose Police Chief Eddie Garcia, "To competitively recruit and hire officers, we need Measure F to strengthen disability protections for police injured on the job. Otherwise, we will continue to lose more officers than we can hire. Measure F will rebuild our department."

Expert analysis shows Measure F will protect taxpayers and retirees by:

- Ensuring the City's retirements plans are fiscally-responsible and sustainable;
- Preventing the City from making retirement promises it cannot keep; and,
- Requiring voter approval for any future benefit increases.

The City's Budget Director and an outside actuary have concluded that Measure F and the related agreement will secure \$40 million in taxpayer savings in its first year, with savings projected to grow each following year.

Join Mayor Sam Liccardo, San Jose firefighters and police officers, former Mayor Chuck Reed, County Board President Dave Cortese, 10 of 11 members of the San Jose City Council, and local business and neighborhood leaders in supporting Measure F.

You can learn more at: www.SaferSanJose.org

Vote "Yes" on Measure F for a safer San Jose we can afford.

/s/ Sam Liccardo
Mayor, City of San Jose

/s/ James Gonzales
Vice President, San Jose Police Officers' Association

/s/ Leia Fazio
Secretary, San Jose Fire Fighters

/s/ Ivy Vuong
Small Business Owner

/s/ Jim Cunneen
Former CEO San Jose Silicon Valley Chamber of Commerce;
Former State Assemblyman

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE F

San Jose City leaders want you to believe that Measure F is about public safety—but it is not.

- Nearly 90% of the city employees receiving RETROACTIVE PENSION INCREASES under this measure are not police officers or firefighters.

City leaders want you to believe that we have fewer police officers today because of pension reform—but we do not.

- Since 2008, the mayor and city council has had to eliminate 285 sworn police positions to balance the budget—because SKYROCKETING PENSION costs have been taking hundreds of millions of dollars away from services.

City leaders want you to believe that that Measure F makes the pension system more sustainable—but it does not.

- Measure F will allow employees back into the old retirement system that we know was UNSUSTAINABLE.

City leaders want you to believe that Measure F will prevent the city from making promises it cannot keep—but it does not.

- Instead it continues to make promises that the taxpayers cannot afford to keep.

City leaders want you to believe that the pensions under Measure F will provide large savings—but they do not.

- The city's pension contribution rates will INCREASE by 36% for many employees.
- San Jose is already saving the \$40 Million claimed by Measure F's proponents.

70% of San Jose voters approved Measure B in 2012 to provide fair, sustainable pensions. This measure undoes that. Higher pension costs mean one thing: MORE CUTS TO CITY SERVICES!

Don't go backward. Vote no on Measure F: www.ProtectPensionReform.com

/s/ Pete Constant
Retired SJ Police Officer/Formal SJ City Councilmember

/s/ Mark W.A. Hinkle
President, Silicon Valley Taxpayers Association

/s/ Steven Haug
Treasurer, Silicon Valley Taxpayers Association

/s/ Alberta Brierly
Retired Library Worker

/s/ Jan Soule
Retired Businesswoman

ARGUMENT AGAINST MEASURE F

Let's call this Measure F what it is: FISCAL FAILURE

Full REPEAL of Pension Reform and a Massive INCREASE in Public Pensions

This measure had no public input in its drafting. Public union bosses and city leaders negotiated in secret, not revealing the ballot language until mere hours before the council vote.

Why the secrecy? Maybe this is why:

For many employees:

- Pension benefits are increased by a whopping 23%
- Cost of living increase maximums for retirees will rise by 33%
- The city's pension contribution rates will skyrocket by 36%

San Jose reports it will contribute over \$369,000,000 more just to pay for these pension increases. With these extra pension costs, how are we going to pay from much needed services, like libraries, parks, potholes and public safety?

Is this why they had to raise the sales tax and are now trying to raise the business tax?

Over 1000 employees will even receive RETROACTIVE pension increases. We don't even know how many millions that will come to, because city leaders didn't calculate the cost—even though state law requires it.

Employees under this new benefit can receive much higher pensions than CalPERS employees in other cities, because this measure doesn't have the compensation limits that the California Public Employees' Pension Reform Act put in place. This will lead to much higher six-figure pensions in San Jose than many other cities-for the exact same jobs.

70% of San Jose voters approved Measure B in 2012 because the old pension system was unsustainable. Now this measure will put more people back into that system where pension contributions continue to rise, some now exceeding 92% of payroll. While Measure B pensions are stable: contributions are less than 22% of payroll.

Measure B provided fair, sustainable pensions. This measure undoes that.

Don't go backward. Vote NO on Measure F: www.ProtectPensionReform.com

/s/ Mark W.A. Hinkle
President, Silicon Valley Taxpayers Association

/s/ Pierluigi Oliverio
San Jose City Councilmember

/s/ Alberta L. Brierly
Retired Library Worker

/s/ Steven B. Haug
Treasurer Silicon Valley Taxpayers Association

REBUTTAL TO ARGUMENT AGAINST MEASURE F

Measure F enables ***the San Jose Police Department to attract more officers to patrol our neighborhoods, investigate violent crimes, and respond to 911 calls.*** "Police staffing is at a crisis level. We need Measure F to replace the 500 officers San Jose has lost since 2008", says Police Chief Eddie Garcia.

Measure F safeguards disability protections for police officers and firefighters injured in the line of duty. It reflects a consensus agreement supported by a diverse coalition of community leaders and city employees focused on making ***San Jose safer and more financially sustainable.***

Now it is time to put politics aside and unite behind a fair resolution that saves taxpayer dollars while ensuring our city can attract and retain police officers and firefighters to make our neighborhoods safer.

Five past and current mayors, spanning from Norm Mineta to Chuck Reed to Sam Liccardo, have joined ***fire fighters and police officers*** in support of Measure F because it makes San Jose safer while protecting taxpayers.

The City's Budget Director and an outside actuary have concluded that Measure F and the related agreement with police officers, fire fighters and other city employees will secure \$40 million in taxpayer savings in its first year alone, with savings projected to grow each following year.

A remarkable coalition of fire fighters, police officers, local businesses and neighborhood leaders support Measure F because it will restore safety to San Jose.

Yes on F-for a Safer San Jose.

/s/ Sam Liccardo
Mayor, City of San Jose

/s/ Paul Kelly
President of SJPOA

/s/ Sean Kaldor
President, San Jose Fire Fighters

/s/ Jim Cunneen
Former CEO, San Jose Silicon Valley Chamber of Commerce;
Former State Assemblymember

/s/ Daisy Chu
Retired Small Business Owner