

FULL TEXT OF MEASURE ____

The people of the City of Albany modify the City Charter to read as follows:

~~SECTION 1.04. GENDER.~~

~~Whenever used in this Charter, the masculine gender includes the feminine and neuter. (Added, ratified, April 13, 1976)~~

~~SECTION 1.05~~1.04. MUNICIPAL AFFAIRS.

Without limiting in any manner the foregoing powers expressed in Section 1.03, and any authority which is enjoyed by a Charter city in the State of California, each of the powers, rights, and responsibilities described in this Charter is hereby declared to be a municipal affair, the performance of which is unique to the benefit and welfare of the citizens of the City of Albany. The electorate of the City of Albany is sincerely committed to the belief that local government has the closest affinity to the people governed, and firm in the conviction that the economic and physical independence of our local government will promote the health, safety, and welfare of all the citizens of this City of Albany. (Added, ratified, November 8, 1994)

~~SECTION 1.06~~1.05. PUBLIC FINANCING.

The City of Albany shall have the power to establish standards, procedures, rules, or regulations related to any public financing, including but not limited to the formation of assessment districts, benefit districts, maintenance and sewer agreements. (Added, ratified, November 8, 1994)

SECTION ~~1.07~~1.06. ENTERPRISES.

The City of Albany shall have the power to engage in any enterprise deemed necessary to produce revenues for the general fund or any other fund established by the City Council to promote a public purpose. (Added, ratified, November 8, 1994)

SECTION ~~1.08~~1.07.REVENUE REDUCTIONS PROHIBITED.

Any revenues raised and collected by the City of Albany shall not be subject to subtraction, retention, attachment, withdrawal or any other form of involuntary reduction by any other level of government. (Added, ratified, November 8, 1994)

SECTION ~~1.09~~1.08.MANDATES LIMITED.

No person, whether elected or appointed, acting on behalf of the City of Albany, shall be required to perform any function which is mandated by any other level of government, unless and until funds sufficient for the performance of such function are provided by said mandating authority and such functions are approved by the appropriate administrative or legislative authorization with the City of Albany. (Added, ratified, November 8, 1994)

SECTION ~~1.10~~1.09. CONSTRUCTION AND INTERPRETATION.

The language contained in this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of Albany of its powers to govern with respect to any matter which is a municipal affair. (Added, ratified, November 8, 1994)

SECTION 2.07. MAYOR.

The Mayor shall be the executive head of the City. In case of riot, insurrection or extraordinary emergency, ~~he~~ the Mayor shall assume general control of the City government and all of its branches, and be responsible for the suppression of disorders and the restoration of normal conditions. In the name and on behalf of the City, ~~he~~ the Mayor shall sign all contracts, deeds, bonds and other legal instruments in which the City is a party. ~~He~~ The Mayor shall represent the City in all ceremonial functions of a social or patriotic character where it is desirable or appropriate to have the City represented officially thereat.

SECTION 3.04. OATH OF OFFICE.

Every officer shall take the constitutional oath of office and subscribe thereto before entering upon the performance of ~~his~~ their official duties.

SECTION 3.05. ~~ADMINISTRATIVE OFFICER~~ CITY MANAGER.

The ~~Administrative Officer~~ City Manager shall be the administrative head of the government of the City. As such, the ~~Administrative Officer~~ City Manager shall be responsible to the Council for the efficient implementation of its policy and effective administration of all the affairs of the City government which the office controls. Any action, determination or omission of the ~~Administrative Officer~~ City Manager or staff shall be subject to review by the Council, but no individual Councilmember or the Mayor shall overrule, change or modify any such action, determination or omission except by affirmative vote of at least three (3) members of said Council at a duly constituted session.

The ~~Administrative Officer~~ City Manager shall advise and make recommendations to the Council concerning any conditions or governmental situations which need Council direction or policy determination.

The ~~Administrative Officer~~ City Manager will insure that the Council as a whole or as individuals are permitted timely and complete freedom of access to requested information.

The ~~Administrative Officer~~ City Manager shall be chosen on the basis of executive and administrative qualifications, as defined by ordinance. (Added, ratified, April 21, 1981)

SECTION 3.08. CITY TREASURER.

There shall be a City Treasurer. It shall be ~~his~~ the City Treasurer's duty to receive and safely keep all monies and securities belonging to the City coming into ~~his~~ their hands. ~~He~~ The City Treasurer shall pay out the same only in the manner prescribed by ordinance of the Council. (Amended, ratified August 7, 1952)

SECTION 3.10. CITY ATTORNEY.

There shall be a City Attorney. The qualifications for the City Attorney shall be established by the City Council, which qualifications shall be established within ninety (90) days from ratification. The City Attorney shall be the legal advisor of the Council, and all other City officials on matters appertaining to their official duties. ~~He~~ The City Attorney shall draft all ordinances, resolutions, contracts or other legal documents or proceedings required by the Council, or other officials, except as may be otherwise provided, and shall perform such other legal services from time to time as the Council may require. ~~He~~ The City Attorney shall attend all meetings of

the Council unless excused therefrom by the Council or the Mayor. (Amended, ratified, April 21, 1981)

SECTION 3.13. CHIEF OF POLICE.

There shall be a Chief of Police. The qualifications for the Chief of Police shall be established, by ordinance, by the City Council, which qualifications shall be established within ninety (90) days from ratification. ~~He~~ The Chief of Police shall be the head of the Police Department of the City, and shall have all the powers that are now or may hereafter be conferred upon sheriffs and other peace officers by the laws of the State. It shall be ~~his~~ the duty of the Police Chief ~~duty~~ to preserve the public peace, and to suppress riots, tumults and disturbances. ~~His~~ The Police Chief's orders shall be promptly executed by ~~the~~ police officials, ~~or watchmen of the City,~~ and every citizen shall lend ~~him~~ the Chief of Police aid when requested for the arrest of offenders, the maintenance of public order, or the protection of life and property.

~~He~~ The Chief of Police shall execute and return all process issued ~~to him~~ by legal authority. ~~He~~ The Chief of Police shall perform the duties of a regular ~~patrolman~~ police officer and have authority, and it is hereby made ~~his~~ the Police Chief's duty, to arrest persons violating any law of the State or ordinance of this City. Those arrested for violating City ordinances may, before or after trial, be confined in the County Jail of Alameda County or in the City Prison of the City of Albany. ~~He~~ The Chief of Police shall have such other powers and duties appertaining to ~~his~~ the office as may be prescribed by the Council or rules of the Police Department. (Amended, ratified, January 26, 1935; July 21, 1972)

SECTION 3.14. CHIEF OF THE FIRE DEPARTMENT.

There shall be a Fire Chief appointed by the Council. ~~He~~ The Fire Chief shall be head of the Fire Department of the City, and shall have charge of and supervision over all matters relating to the prevention and extinction of fires, and of all measures necessary to guard and protect all property impaired thereby. (Amended, ratified, January 26, 1935)

SECTION 3.19. OFFICIAL RECORDS.

All books and records of every office and department shall be open to the inspection of any citizen during business hours, subject to the proper rules and regulations for the efficient conduct of the business of such department or office, provided, the records of the police department shall not be subject to such inspection except by permission of the proper police authorities.

Copies or extracts, duly certified from said books and records open for inspection, shall be given by the officer having the same in custody to any person demanding the same and paying or tendering ~~ten cents (\$.10) per page, except in instances where the Council prescribes a lower charge, for such copies or extracts, and the additional sum of twenty five cents (\$.25) for certifying~~ fees for copies or certifications as established by Resolution of the City Council, in amounts consistent with the requirements of State law.

All officers and Boards shall deliver to their successors all papers, books, documents, records, archives and other properties pertaining to their respective offices or departments, in this possession or under their control. (Amended, April 19, 1977)

SECTION 5.02. VACANCIES.

A vacancy in any elective office, other than that of an elective member of the Board of Education, from whatever cause arising, shall be filled by appointment by the Council; such appointee to hold office until the next feasible 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 (30)~~ sixty (60) 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 officer of the City shall remove from the City or absent ~~himself~~ themselves therefrom for more than sixty days consecutively without the permission of the Council, or shall fail to qualify, or shall resign, ~~his~~ their office shall thereupon become vacant.

The Council shall by ordinance establish procedures for filling a vacancy by appointment.

SECTION 6.01. BOARD OF EDUCATION.

(f) Any vacancy of the Board shall be filled by the vote of a majority of the Board until the next general city election for Municipal Officers, when a member shall be elected to fill the unexpired term.

In the event that three (3) or more such vacancies exist at one time, sufficient vacancies shall be filled by the appointment by the County Superintendent of Schools to make a majority of such

Board to act and fill the remaining vacancies. Each such appointed member shall hold office until the next general City Election for Municipal Officers, when a member shall be elected to fill the unexpired term.

If any member of the Board of Education shall remove from the City or absent ~~himself~~ themselves therefrom for more than sixty (60) days consecutively without permission of the Board of Education, or shall fail to qualify, ~~his~~ their office shall thereupon become vacant.

(Amended, ratified, August 7, 1952; February 18, 1969; July 2, 1970; April 13, 1976)

SECTION 9.01. PENSIONS FOR MEMBERS OF POLICE AND FIRE DEPARTMENTS.

(a) TRUSTEES WHO SHALL CONSTITUTE BOARD OF TRUSTEES OF POLICE AND FIRE RELIEF OR PENSION FUND. The Mayor of the City of Albany, the City Treasurer, the City Clerk, and one (1) Pension Plan member, ~~active or retired~~, each from the Police and Fire Departments, appointed by the Mayor upon the recommendation of the Pension Plan members from their respective service, hereby constitute the Board of Trustees of the Police and Fire Relief or Pension Fund of the Police and Fire Departments of the City of Albany, County of Alameda, State of California, which Board shall be known as the "Board of Police and Fire Pension Fund Commissioners."

In the event that the regular members of the Board are unable to attend a meeting, alternates shall be permitted to attend and to vote on matters as if they were regular members. The City Council shall appoint another member of the Council to serve as an alternate for the Mayor. The City Council shall appoint alternates for the City Clerk or the City Treasurer, after recommendations from the City Clerk and the City Treasurer are submitted to the Council. Department heads or

deputies from departments other than the Police or Fire Department may be appointed. All alternates may serve for a period of up to one (1) year, unless again appointed.

In the event that Pension Plan Members are unable to sit on the Board for either Police or Fire, the Pension Plan Members shall recommend active Members of the Classified Service of the respective Department to serve as replacements upon appointment by the City Council. Classified Service representatives may have three active employee alternates to enable attendance at the meetings. ~~Alternates for the Police and Fire Departments regular members are to be appointed by the Mayor upon recommendation of the Pension Plan members.~~

~~If no Pension Plan members are able to sit on the Board as a regular member or alternate, a member from the active Civil Service Employees of the Police and Fire Departments shall be appointed by the Mayor upon the recommendation of the Pension Plan members to sit on the Board as that respective department's representative. (Ratified, January 7, 1955; Amended, ratified, April 10, 1984; Amended, ratified, April 14, 1992; Amended, ratified, June 2, 1998)~~

(c) PENSIONS, TO WHOM AND AMOUNTS. Whenever any person at the taking effect of this act, or thereafter, shall have been duly elected, appointed or selected, and sworn, and have served for thirty (30) years, or more, in the aggregate as a member, in any capacity or any rank, whatever, of the regularly constituted Fire or Police Department of the said City of Albany, County of Alameda, State of California, said Board shall, upon the application of such person, order and direct that such person be retired from further service in such Police or Fire Department, shall cease, and such person so retired shall thereafter, during ~~his~~ their lifetime, be paid from such fund a yearly pension equal to two-thirds (2/3) of the amount of the average yearly salary attached to the rank which ~~he~~ they may have held in said Police or Fire Department for the period of three (3) years preceding the date of such retirement; provided, however, that any person, after becoming

fifty (50) years of age, who comes within the purview of this Section, and who has served for the consecutive number of years set forth below, shall upon ~~his~~ their application be retired from further service upon a yearly pension equal to the percentage of the amount of said average yearly salary, which said percentage is set forth opposite the years served, as follows:

Years of Service	Percentage of Amount of Said Average Yearly Salary
25	50.00
26	53.33
27	56.67
28	60.00
29	63.33

Notwithstanding any provision of this Chapter, the retirement allowance payable to any person who becomes a member on or after January 1, 1990, shall in no event exceed the limitation imposed by Section 415(b) of the Internal Revenue Code of 1986 as applied (other than paragraph (2)(G) without regard to paragraph (2)(F) and as adjusted by Section 45-15(d)(1)(A) and (B). Section 415(b), 415(D)(1)(A) and (B) are hereby incorporated by reference. It is the intent of this paragraph to further provide that any member who joined this plan prior to January 1, 1990, be exempted from any limitations which have been enacted in the Internal Revenue Code as part of the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. (Amended, ratified, February 4, 1971; April 10, 1990)

(d) PHYSICAL DISABILITY: RESTORATION. Whenever any person while serving as a member of the Fire or Police Department of the City of Albany shall become physically disabled by reason of any bodily injury received in the immediate or direct performance or discharge of ~~his~~ their duty as such member of the Police or Fire Department, said Board may, if it deems it to be for the good of said Police or Fire Department, retire such person from said department, and order and direct that ~~he~~ they shall be paid from said fund, during ~~his~~ their lifetime, a yearly pension equal to one-half (1/2) of the amount of salary attached to the rank which ~~he~~ they may have held on such Police or Fire Department at the date of such retirement; provided, that when such disability shall cease, such pension shall cease, and such person shall be restored to active service at the same rank at which ~~he was~~ they retired. Upon the death of such person then on disability pension, the ~~widow~~ surviving spouse and/or children of the deceased member of the Police or Fire Department shall receive the same benefits from the Fire or Police Relief or Pension Fund as provided in paragraph (q) of Section 9.01 of the Charter of the City of Albany. (Ratified, March 7, 1961)

(dd) NON-SERVICE DISABILITY. Whenever any person, at the taking effect of this section, while serving as a member of the Fire or Police Department of the City of Albany, prior to eligibility for service retirement, shall become disabled by reasons not connected with the immediate or direct performance or discharge of ~~his~~ their duty as such member of the Fire or Police Department, if said disability renders ~~him~~ them incapable of performing ~~his~~ their duties in ~~his~~ their respective Department, said Board may, if it deems it to be for the good of said Fire or Police Department, retire such person from said Department and order and direct that ~~he~~ they shall be paid from said Fund, during ~~his~~ their lifetime, a yearly allowance equal to one and one-half percent (1.5%) of said member's final compensation multiplied by ~~his~~ their years of service, but in no event shall said allowance exceed one-third (1/3) of ~~his~~ their final compensation; provided, further, if

the member has completed at least ten (10) years of service at the time of said disability, possible future service up to age sixty (60) may be used, but in no event shall said allowance exceed one-third (1/3) of final compensation; provided that when such disability shall cease, such allowance shall cease, and such person shall be restored to active service at the same rank at which ~~he was~~ they retired. Upon the death of such person then receiving non-service disability allowance, the ~~widow~~ surviving spouse and/or children of the deceased member of the Fire or Police Department shall receive the same benefits from the Fire and Police Relief or Pension Fund as provided in paragraph (q) of Section 9.01 of the Charter of the City of Albany.

Final compensation as used in this subsection is defined as 'the highest average annual compensation, excluding overtime, earnable by said member during any period of three (3) consecutive years during ~~his~~ their membership in the system'. (Ratified, February 4, 1971)

(f) PENSION TO FAMILY. Whenever any member of the Fire or Police Departments of such City of Albany, at the taking effect of this act, or thereafter, shall lose ~~his~~ their life while in the performance of ~~his~~ their duty, leaving a ~~widow~~ surviving spouse, or child or children under the age of eighteen (18) years, then upon satisfactory proof of such facts made to it, such Board shall order and direct that yearly pension, equal to one-half (1/2) of the salary attached to the rank which such member held in said Fire or Police Department at the time of ~~his~~ their death, shall be paid to such ~~widow~~ surviving spouse during ~~her~~ their life, or if no ~~widow~~ surviving spouse, then to child or children, until they shall be eighteen (18) years of age; provided, if such ~~widow~~ surviving spouse or child or children shall marry, then such person so marrying shall thereafter receive no further pension from such fund. (Amended, ratified, February 4, 1971)

(g) STIPULATED SUM TO FAMILY. Whenever any person while serving as a member of the Police or Fire Departments of the City of Albany shall die from natural causes, unrelated to ~~his~~

their service as a member of said Police or Fire Departments, then ~~his widow~~ their surviving spouse or children, or if there be no ~~widow~~ surviving spouse or children, then ~~his~~ their parents or parent, or if there be no ~~widow~~ surviving spouse or children, or parents or parent, then the brothers and sisters of said member, or the survivor of them, shall receive a sum equal to the total amount of the payments made by said person into said fund together with interest on said sums at the rate of three and one-half percent (3 1/2%) per annum computed from the date said sums were paid into said fund by said member, within ninety (90) days from the date of the death of said member. (Amended, ratified, January 7, 1955; February 4, 1971)

(i) FORFEITURE OF PENSION. Refund of contributions. When any person who shall have received any benefit from said fund shall fail to report for examination for duty as required by said Board under this act, in respect to said examination or duty, then such Board shall order that such pension allowance as may have been granted to such person shall immediately cease, and such person shall receive no further pension, allowance or benefit under this act. Excepting, nevertheless, that any member of the Police or Fire Department, who, for any reason whatever ceases to be a member of the Police or Fire Department, and who at the time of said cessation is not otherwise entitled to financial benefits under this law, shall be entitled to, and shall be paid within ninety (90) days after such cessation of being a member, all sums of money retained from and out of his or her salary, as provided by subsection (1) of this law, together with three and one-half percent (3¹/₂ %) per annum interest on such sums, computed from the first day of July of each year. Provided further, that any member of the Police or Fire Department who shall have ceased to be a member and shall have been paid any sum or sums of money as in this section provided, shall be reinstated and again become a member of the Police or Fire Department, said such sum or

sums of money as shall have been so paid, together with interest at the rate of three and one-half percent (3¹/₂ %) per annum from the date of said payment as aforesaid shall be first deducted from any and all benefits thereafter ~~by him~~ received by them under this law. (Amended, ratified, March 7, 1961; April 13, 1976)

(j) MEETINGS AND DUTIES OF BOARD. The Board herein provided for shall hold ~~monthly~~ quarterly meetings ~~on one of the last five business days of each month for which pension payments have accrued~~ as set by Resolution of the Board; and upon the call of its Chairperson, the specific day of the week to be set by Board resolution at its annual reorganization meeting. Additional meetings may be called by its Chairperson. ~~It shall issue warrants signed by two voting members present at the meeting when the warrants were approved to persons entitled thereto of the amount of money ordered paid to such person from such fund by said Board, which warrant shall state for what purpose said payment is to be made;~~ On the months Board meetings are held, said warrants shall be signed by two voting members present at the meetings when the warrants are approved. On months where the Board does not meet, warrants shall be signed by two members who would normally be voting members at the meeting the warrants were to be paid. Said Board shall approve and ratify said pension payments at its quarterly meeting; it shall keep a record of all its proceedings, which records shall be public records; ~~The Chairperson # shall, at each monthly meeting,~~ send to the Auditor of the City of Albany a list of all persons entitled to payments of the funds herein provided for, stating the amount of such payments and for what granted, which list shall be ~~certified~~ certified to and signed by the ~~President~~ Chairperson and Secretary of such Board, and attested under oath. The Auditor shall thereupon enter a copy of said list upon a book to be kept for that purpose, which shall be known as "The Police and Fire Relief Pension Fund

Book." Payment of the amount named therein shall then be made out of the Police and Fire Relief and Pension Fund, and need not be approved by the Council prior to payment. However, the said list shall be entered by the Auditor and transmitted to the City Council for approval and ratification ~~at the next meeting after the delivery of the pension checks~~ at the next City Council meeting following the Board's quarterly meeting. A majority of all of the members of said Board herein provided for shall constitute a quorum and have power to transact any and all business. (Amended, ratified, January 7, 1955; May 29, 1968; April 10, 1990)

(l) MONEYS TO BE PAID INTO POLICE AND FIRE RELIEF AND PENSION FUND.

The City Council of the City of Albany shall, for the purpose of said Police and Fire Relief and Pension Fund hereinbefore mentioned, direct ~~the payment into said fund as follows:~~

~~"A sum equal to nine percent (9%) out of and from the total amount of the monthly payroll of all of the members of both of said Departments for the current month, shall be retained by the City Treasurer, and shall be paid into said Police and Fire Relief and Pension Fund by the City; in addition thereto, the City shall contribute an equal amount to said fund monthly. The City may make such other~~ contributions to the said fund when actuarial studies reveal the necessity thereof.

Said monies shall may, in the discretion of the said Police and Fire Pension Trustees, be invested at not less than three and one-half percent (3¹/₂%) per annum, if such rate of interest is obtainable. (Amended, ratified, January 13, 1949; June 15, 1966; August 16, 1967; February 4, 1971)

(q) SERVICE RETIREMENT PENSIONER'S BENEFITS TO ~~WIDOW~~ SURVIVING SPOUSE AND CHILDREN. Whenever any member of the Police or Fire Department of the City of Albany, shall, after receiving the service retirement pension that has been ordered and directed

by the Board of Police and Fire Pension Fund Commissioners, die from any cause whatsoever, leaving a ~~widow or widower~~ surviving spouse who was married to the pensioner at least five (5) years before ~~his~~ their retirement, or unmarried children under eighteen (18) years of age, then said survivor shall be entitled to and upon satisfactory proof, the Board shall order and direct that a pension equal to one-half (1/2) of the amount paid to the pensioner each month before ~~his~~ their death shall be paid to the ~~widow or widower~~ surviving spouse each month during ~~his or her~~ their life, or if there should be no ~~widow or widower~~ surviving spouse, then to ~~his or her~~ their unmarried children until they are eighteen (18) years of age, provided, that if such ~~widow or widower~~ surviving spouse or child or children shall marry, then such persons so marrying shall thereafter receive no further pension from such funds.

Upon the death of a service retired pensioner, the ~~widow or widower~~ surviving spouse, if any, shall be entitled to no part of ~~his or her~~ their service retired pension unless ~~he or she was~~ they were married to the pensioner before ~~his~~ the pensioner's service retirement.

Upon the death of any service retired pensioner, the ~~widow or widower~~ surviving spouse, if any, who was married less than five (5) years prior to the pensioner's retirement shall then be entitled to and upon satisfactory proof, the Board shall order and direct that a pension equal to one-sixth (1/6) of the amount paid each month to the pensioner before ~~his or her~~ their death, shall be paid to the ~~widow or widower~~ surviving spouse each month during ~~his or her~~ their life; provided that if such ~~widow or widower~~ surviving spouse shall marry, then such person so marrying shall receive no further pension from such fund.

The term "~~widow or widower~~ surviving spouse" as used in this Section shall not mean or include the ~~wife or husband~~ spouse of any member who is without cause living separate or apart from said pensioner at the time of the death of said pensioner, or who is divorced from said pensioner.

In the event of refusal by a ~~widow or widower~~ surviving spouse receiving a pension hereunder to reasonably provide for a dependent child or children of a deceased or retired member of the Fire or Police Department, the Pension Board, upon satisfactory proof thereof, shall have power to divide the pension as it may deem proper. (Ratified, January 10, 1957)