

OFFICIAL TITLE
AN INITIATIVE MEASURE

CITY CLERK DEPT. *mf*
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ADOPTING THE PHOENIX PENSION REFORM ACT OF 2014, WHICH AMENDS THE PHOENIX CITY CHARTER, CHAPTER XXIV, RELATING TO EMPLOYEE RETIREMENT SYSTEM PLANS, BY ADDING PART V; PREVENTING PENSION SPIKING; PROVIDING A RETIREMENT PLAN FOR FUTURE HIRES; PROTECTING RIGHTS OF CURRENT EMPLOYEES IN THE CITY OF PHOENIX EMPLOYEES' RETIREMENT SYSTEM; PROVIDING FOR THE PAYMENT OF UNFUNDED LIABILITIES.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the City of Phoenix:

Section 1. Findings and Intent.

The People of the City of Phoenix find and declare the following:

(1) The Act is necessary to protect City employees' pensions by securing past promises to them while modernizing the retirement system for the next generation of workers.

(2) The following services are essential to the health, safety, quality of life and well-being of the residents of the City of Phoenix: police and fire protection, street maintenance, libraries and community centers (hereinafter "Essential Services").

(3) The City's ability to provide its citizens with Essential Services is threatened by underfunded municipal pensions. The City's cost for its retirement plans is expected to continue to increase for the foreseeable future. In addition, the City's costs for other post-employment benefits—primarily health benefits—are increasing.

(4) Without the City Charter changes provided in this Act, the City's ability to provide Essential Services and fully fund employee salaries and benefits are threatened.

(5) The people of the City of Phoenix desire to provide benefits for former employees that are fair and reasonable but do not threaten to consume so much of the budget that the City will not be able to provide Essential Services. The Act reforms post-employment benefits in a way that accommodates both of these goals.

(6) The people of the City of Phoenix desire to address the problem of retirement benefits costs now, before they are insurmountable, and with the least possible disruption to city employees.

(7) Except for the provisions to prevent pension spiking and other forms of grossly disproportionate compensation, this Act is not intended to affect persons who are current employees and part of the City of Phoenix Employees' Retirement System or any other system administered by the City of Phoenix as of the effective date of this Act unless those employees elect, in their sole discretion, to participate in the new retirement system to be established for new employees under this Act.

(8) This Act is not intended to affect individuals who have already retired.

(9) This Act is not intended to affect individuals who are members of, or are eligible to join, any other public retirement system in the State of Arizona such as the Public Safety Employees' Retirement System.

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Section 2. Conflicting Provisions.

The provisions of this Act shall prevail over all any conflicting or inconsistent provisions in the Charter, ordinances, resolutions or other enactments of the City Council. The City Council shall adopt ordinances necessary to implement and give effect to the provisions of this Act.

Section 3. Construction.

This Act shall be liberally construed to accomplish its intent; interpreted in a manner consistent with all federal and state laws, rules and regulations; and construed to avoid an interpretation that would render all or any part of the Act invalid.

Section 4. Severability.

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 5. Chapter XXIV, Phoenix City Charter, is amended by adding Part V, to read:

PART V. PHOENIX PENSION REFORM ACT OF 2014

1 Definitions.

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1.1 “ACT” MEANS THE PHOENIX PENSION REFORM ACT OF 2014.

1.2 “CURRENT EMPLOYEES” MEANS (a) EMPLOYEES OF THE CITY OF PHOENIX, AS DEFINED IN SECTION 2.5, PART II, CHAPTER XXIV OF THE PHOENIX CITY CHARTER, WHO ARE MEMBERS OF THE PHOENIX EMPLOYEES’ RETIREMENT PLAN OR ANY OTHER RETIREMENT PLAN ADMINISTERED BY THE CITY OF PHOENIX AS OF THE EFFECTIVE DATE OF THIS ACT AND (b) ANY FUTURE HIRE WITH A RIGHT TO RE-ENTER THE PHOENIX EMPLOYEES’ RETIREMENT PLAN OR ANY OTHER RETIREMENT PLAN ADMINISTERED BY THE CITY OF PHOENIX.

1.3 “FUTURE HIRE” MEANS AN INDIVIDUAL HIRED BY THE CITY OF PHOENIX ON OR AFTER THE EFFECTIVE DATE OF THIS ACT WITH NO RIGHT TO RE-ENTER THE PHOENIX EMPLOYEES’ RETIREMENT PLAN OR ANY OTHER RETIREMENT PLAN ADMINISTERED BY THE CITY OF PHOENIX.

1.4 “PLAN” MEANS THE RETIREMENT PLAN FOR FUTURE HIRES ADOPTED BY THE CITY COUNCIL TO IMPLEMENT THE PROVISIONS OF THIS ACT.

2 The Rights of Current Employees.

2.1 EXCEPT AS PROVIDED IN SECTION 2.2, CURRENT EMPLOYEES MAY REMAIN IN THE PHOENIX EMPLOYEES’ RETIREMENT PLAN, OR OTHER RETIREMENT PLAN ADMINISTERED BY THE CITY OF PHOENIX, WITH THE SAME BENEFITS AND UNDER THE SAME RULES TO WHICH THEY ARE ENTITLED AS OF THE EFFECTIVE DATE OF THIS ACT.

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2.2 TO PREVENT PENSION SPIKING OR EQUIVALENT FORMS OF GROSSLY DISPROPORTIONATE COMPENSATION, WHICH WOULD VIOLATE ARTICLE IX, SECTION 7, CONSTITUTION OF ARIZONA AND NOTWITHSTANDING ANY OTHER PROVISION IN THE CHARTER:

(A) THE FINAL AVERAGE COMPENSATION FOR CURRENT EMPLOYEES SHALL BE BASED ON THE AVERAGE OF THE HIGHEST ANNUAL COMPENSATIONS PAID TO A MEMBER FOR A PERIOD OF 5 CONSECUTIVE, BUT NOT NECESSARILY CONTINUOUS, YEARS OF CREDITED SERVICE CONTAINED WITHIN THE LAST 10 YEARS OF CREDITED SERVICE IMMEDIATELY PRECEDING THE DATE CITY EMPLOYMENT LAST TERMINATES. IF A CURRENT EMPLOYEE IS ELIGIBLE FOR A DEFINED BENEFIT PENSION BUT HAS LESS THAN FIVE YEARS OF CREDITED SERVICE, FINAL AVERAGE COMPENSATION SHALL BE THE AVERAGE OF THE MEMBER'S COMPENSATIONS OVER THE TOTAL PERIOD OF SERVICE.

(B) IN CALCULATING THE AMOUNT OF A CURRENT EMPLOYEE'S STRAIGHT LIFE PENSION PAYABLE UPON RETIREMENT, THE FOLLOWING SHALL NOT BE INCLUDED IN DETERMINING A MEMBER'S FINAL AVERAGE COMPENSATION:

(I) ANY UNUSED SICK TIME, VACATION OR OTHER COMPENSATION NOT PAID IN MONEY TO A MEMBER.

(II) ANY COMPENSATION PAID IN MONEY TO A CURRENT EMPLOYEE THAT IS NOT PART OF A CURRENT EMPLOYEE'S BASE SALARY OR WAGES OR THAT IS PAID TO COMPENSATE A CURRENT EMPLOYEE FOR A WORK RELATED EXPENSE THAT IS PAID BY THE CURRENT EMPLOYEE.

(C) CURRENT EMPLOYEES THAT DO NOT ENROLL IN THE PLAN ESTABLISHED IN SECTION 3 OF THIS ACT SHALL NOT RECEIVE CITY CONTRIBUTIONS TO ANY RETIREMENT PLAN OTHER THAN CONTRIBUTIONS TO THE PHOENIX EMPLOYEES' RETIREMENT PLAN.

(D) FOR VESTING PURPOSES, SECTIONS 2.2(B) AND 2.2(C) DO NOT APPLY TO ANY COMPENSATION, WHETHER PAID IN MONEY OR ACCRUED BY THE CURRENT EMPLOYEE:

(I) WHICH IS EARNED BY A CURRENT EMPLOYEE PRIOR TO THE EFFECTIVE DATE OF THIS ACT AND THAT THE CURRENT EMPLOYEE HAS A RIGHT TO INCLUDE IN CALCULATING THE CURRENT EMPLOYEE'S FINAL AVERAGE COMPENSATION, OR

(II) THAT A CURRENT EMPLOYEE HAS A CONTRACTUAL RIGHT TO PURSUANT TO A WRITTEN AGREEMENT ENTERED INTO PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

2.3 THE CITY COUNCIL SHALL ADOPT A VOLUNTARY PARTICIPATION PROGRAM FOR ALL CURRENT EMPLOYEES UNDER WHICH CURRENT EMPLOYEES MAY OPT TO DISCONTINUE THEIR MEMBERSHIP IN THE PHOENIX EMPLOYEES' RETIREMENT PLAN AND TO ENROLL IN THE PLAN ADOPTED BY THE CITY FOR FUTURE HIRES. IMPLEMENTATION OF THE VOLUNTARY PARTICIPATION PROGRAM IS CONTINGENT UPON RECEIPT OF ANY NECESSARY FEDERAL APPROVAL.

2.4 UPON ENROLLMENT IN THE PLAN, ANY CHANGE IN THE CURRENT EMPLOYEES' BENEFIT ACCRUAL WILL APPLY ONLY TO THE EMPLOYEE'S CITY SERVICE AFTER THE DATE OF ENROLLMENT.

2.5 CURRENT EMPLOYEES OPTING INTO THE PLAN SHALL SIGN AN IRREVOCABLE ELECTION WAIVER ACKNOWLEDGING THAT THE EMPLOYEE IRREVOCABLY RELINQUISHES HIS OR HER EXISTING LEVEL OF RETIREMENT BENEFITS AND HAS VOLUNTARILY CHOSEN BENEFITS UNDER THE NEW PLAN AND THAT THOSE BENEFITS MAY BE LOWER. THE IRREVOCABLE ELECTION WAIVER SHALL ALSO BE SIGNED BY THE EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER, FORMER SPOUSE OR FORMER DOMESTIC PARTNER, IF LEGALLY REQUIRED.

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2.6 THE CITY MAY LIMIT THE PERIOD OF TIME IN WHICH A CURRENT EMPLOYEE MAY OPT TO ENROLL IN THE PLAN, BUT THIS PERIOD OF TIME MAY NOT BE LESS THAN THREE MONTHS.

3 Retirement Benefits for Future Hires and Current Employees Electing Participation in the Plan.

3.1 NO LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS ACT, THE CITY COUNCIL SHALL ADOPT PROVISIONS IMPLEMENTING THIS ACT, INCLUDING THE ADOPTION OF A RETIREMENT PLAN FOR FUTURE HIRES AND CURRENT EMPLOYEES ELECTING PARTICIPATION IN THE PLAN. THE ADOPTED PLAN SHALL BE THE ONLY RETIREMENT PLAN OFFERED TO FUTURE HIRES.

3.2 THE ADOPTED PLAN SHALL INCLUDE THE FOLLOWING:

(A) THE PLAN IS A DEFINED CONTRIBUTION PLAN UNDER THE INTERNAL REVENUE CODE AND REGULATIONS OF THE U.S. DEPARTMENT OF THE TREASURY.

(B) EACH EMPLOYEE SHALL MAKE CONTRIBUTIONS TO AN INDIVIDUAL PLAN ACCOUNT, THROUGH PAYROLL DEDUCTIONS EACH PAY PERIOD, IN AN AMOUNT ELECTED BY THE EMPLOYEE AND TO THE EXTENT ALLOWED UNDER THE INTERNAL REVENUE CODE AND REGULATIONS OF THE U.S. DEPARTMENT OF THE TREASURY.

(C) THE CITY IS REQUIRED TO MAKE A CONTRIBUTION TO EACH EMPLOYEE'S INDIVIDUAL PLAN ACCOUNT. THE AMOUNT OF THIS MATCHING CONTRIBUTION SHALL BE DETERMINED BY THE CITY COUNCIL IN AN AMOUNT NOT TO EXCEED 8% OF THE EMPLOYEE'S BASE SALARY AND WAGES AND SHALL BE PAID IN FULL INTO EACH EMPLOYEE'S ACCOUNT EACH PAY PERIOD.

(D) THE CITY'S MATCHING CONTRIBUTIONS SHALL VEST IN THE EMPLOYEE IMMEDIATELY UPON DEPOSIT INTO THE EMPLOYEE'S INDIVIDUAL PLAN ACCOUNT.

(E) EMPLOYEES HAVE FULL OWNERSHIP OF THEIR PLAN ACCOUNTS AND THE ABILITY TO SELECT FROM AMONG THE INVESTMENTS OFFERED BY THE PLAN PROVIDER.

(F) THE CITY COUNCIL SHALL SELECT A QUALIFIED PLAN PROVIDER TO MANAGE AND ADMINISTER THE PLAN AND ITS ASSETS. THE SELECTION SHALL TAKE PLACE UNDER THE CITY OF PHOENIX PROCUREMENT CODE AND IN A MANNER AS OPEN AND PUBLIC AS POSSIBLE.

(G) THE CITY HAS NO RIGHTS OR CLAIM OF OWNERSHIP IN ANY PLAN FUNDS AND SHALL NOT APPROPRIATE, BORROW OR IN ANY WAY USE PLAN FUNDS.

4 Payment of Liabilities and Amortization of the City of Phoenix Employees' Retirement Plan.

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AFTER THE EFFECTIVE DATE OF THIS ACT, FOR PURPOSES OF PAYING THE LIABILITIES OF THE CITY OF PHOENIX EMPLOYEES' RETIREMENT PLAN, THE CITY MAY:

- (A) CONTINUE TO USE ITS CURRENT AMORTIZATION SCHEDULE, OR
- (B) AMORTIZE PENSION DEBT OVER TOTAL PAYROLL, INCLUDING THE PAYROLL ASSOCIATED WITH THE ADOPTED PLAN FOR FUTURE HIRES AND CURRENT EMPLOYEES ELECTING PARTICIPATION IN THE PLAN.