DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS
1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

September 14, 2011

County Clerk/Registrar of Voters (CC/ROV) Memorandum #11072

TO: All County Clerks/Registrars of Voters and Proponents

FROM: Rhonda Pascual
Ballot Pamphlet Program Manager

RE: Initiative: 1504, Related to Public Pensions

Pursuant to Elections Code section 9004 (c), we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

REDUCES PENSION BENEFITS FOR PUBLIC EMPLOYEES. CREATES A NEW STATE RETIREMENT SYSTEM FOR PRIVATE SECTOR EMPLOYEES. INITIATIVE STATUTE.

The proponents of the above-named measure are:

Edward J. "Ted" Costa
Robert J. Matteoli
3407 Arden Way
Sacramento, CA 95825

(916) 482-6175

#1504

REDUCES PENSION BENEFITS FOR PUBLIC EMPLOYEES. CREATES A NEW STATE RETIREMENT SYSTEM FOR PRIVATE SECTOR EMPLOYEES. INITIATIVE STATUTE.

CIRCULATING AND FILING SCHEDULE

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1. Minimum number of signatures required: 504,760
   California Constitution, Article II, Section 8(b)

2. Official Summary Date: .... Tuesday, 09/13/11

3. Petitions Sections:

   a. First day Proponent can circulate Sections for signatures (Elections Code § 336) .... Tuesday, 09/13/11

   b. Last day Proponent can circulate and file with the county. All sections are to be filed at the same time within each county. (Elections Codes §§ 9014, 9030(a)). .... Friday, 02/10/12

   c. Last day for county to determine total number of signatures affixed to petitions and to transmit total to the Secretary of State (Elections Code § 9030(b))................Friday, 02/24/12

      (If the Proponent files the petition with the county on a date prior to 02/10/12, the county has eight working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State) (Elections Code § 9030(b).)

   d. Secretary of State determines whether the total number of signatures filed with all county clerks/registrars of voters meets the minimum number of required signatures and notifies the counties...Sunday, 03/04/12*

   e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State (Elections Code §§ 9030(d)(e))..Friday, 04/13/12

* Date varies based on the date of county receipt.

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 03/04/12, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elections Code §§ 9030(d)(e).)

f. If the signature count is more than 555,236 or less than 479,522 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 479,522 and 555,236 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (EC §9030(f)(g); 9031(a)) ....Monday, 04/23/12*

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elections Code §§ 9031(b)(c)). ....Tuesday, 06/05/12

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 04/23/12, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elections Code §§ 9031(b)(c).)

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elections Code §§ 9031(d), 9033)...Saturday, 06/09/12*

*Date varies based on the date of county receipt.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code § 18650; *Bilofsky* v. *Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).

- Please refer to Elections Code §§ 100, 101, 104, 9008, 9009, 9013, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.

- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.

- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.

- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.

- When filing the petition with the county elections official, please provide a blank petition for elections official use.

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE

1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
Public: (916) 445-9555
Telephone: (916) 324-5464
Facsimile: (916) 324-8835
E-Mail: Dawn.McFarland@doj.ca.gov

September 13, 2011

The Honorable Debra Bowen
Secretary of State
Office of the Secretary of State
1500 11th Street, 5th Floor
Sacramento, CA 95814

FILED
In the office of the Secretary of State
of the State of California
SEP 13 2011
Debra Bowen, Secretary of State
By [signature]
Deputy Secretary of State

Rec'd via email after 5:00pm

Attention: Ms. Katherine Montgomery
Elections Analyst

Dear Secretary Bowen:

Pursuant to Elections Code section 9004, you are hereby notified that on this day we sent our title and summary for the following proposed initiative to the proponent:

- 11-0026, "The Costa-Matteoli Pension Solvency Act"

A copy of that title and summary and text of the proposed initiative is enclosed. Please contact me if you have questions.

Sincerely,

Dawn McFarland

DAWN L. MCFARLAND
Acting Initiative Coordinator

For KAMALA D. HARRIS
Attorney General

DLM:

SA2011101931
Document in ProLaw

September 13, 2011
Initiative 11-0026

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

REDUCES PENSION BENEFITS FOR PUBLIC EMPLOYEES. CREATES A NEW STATE RETIREMENT SYSTEM FOR PRIVATE SECTOR EMPLOYEES. INITIATIVE STATUTE. Reduces pension benefits for current and future public employees, including teachers, nurses, and peace officers. For two years, and beyond if system pension obligations are underfunded, changes the minimum retirement age and further reduces annual pension amount received. Restricts the availability of defined contribution plans including 401(k) plans for public employees. Creates a new state retirement system for private sector employees. Requires audits of pension systems. Caps base pay for new employees and employees in underfunded systems. Fiscal Impact: **It is the opinion of the Legislative Analyst and Director of Finance that the measure could result in a substantial net change in state or local finances if adopted, given the magnitude of the changes proposed in this measure.** (11-0026)

PEOPLE'S ADVOCATE, INC.
Paul Gann, Founder
Your Voice In Government

RECEIVED
JUL 25 2011
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

11 0026

July 20, 2011

Office of the Attorney General
1300 I Street
Sacramento CA 95814

Attn. Dawn McFarland, Initiative Coordinator

I hereby request that the Attorney General prepare a title and summary of the attached proposed statewide ballot measure, "The Costa-Matteoli Pension Solvency Act". Enclosed you will find a check for $200.

Thank you,

Edward J (Ted) Costa,
Peoples Advocate Inc.

Robert J Matteoli

3407 Arden Way Sacramento, CA 95825 (916) 482-6175 FAX: (916) 482-2045

PENSION SOLVENCY ACT

Section 1. THIS INITATIVE MAY BE KNOWN AND CITED AS THE COSTA-MATTEOLI PENSION SOLVENCY ACT AND/OR THE PENSION SOLVENCY ACT

[FINDINGS AND DECLARATIONS]

Section 2. The People Of The State Of California Do Find And Declare:

WHEREAS, California public retirement systems are severely underfunded and otherwise insolvent and unsustainable to provide members their pensions; and

WHEREAS, the California Governor and State Legislature are refusing to be diligent and are refusing to enact and implement any effective and efficacious policy and/or legislation that will make public retirement system(s) trust fund(s) solvent and sustainable; and

WHEREAS, approximately eighty percent (80%) of all current California public pension payments are paid out to twenty percent (20%) of recipients, and over 80% of current California public pensions are less than $50,000; and

WHEREAS, final annual compensations of over $100,000 are becoming commonplace; and

WHEREAS, a few public employees have manipulated and other public employees are manipulating their pensions to receive a final annual compensation above $200,000; and

WHEREAS, the few people receiving exorbitant pensions should bare their fair share of returning the public retirement systems back to solvency and to sustainability; and

WHEREAS, medical costs are increasing faster than the average cost of living increases; and

WHEREAS, the people of California concur with the 2011 El Dorado County Grand Jury findings pertaining to public pensions paid to firemen; and

WHEREAS, the California Governor and the California State Legislature have not been diligent, for the past nine (9) years, in stopping corruption in the management and operations of Cal PERS and of some municipalities, Districts, and Boards thus causing public retirement trust funds to become insolvent and un-sustainable; and

WHEREAS, some public agency elected officials and administrators may have, over the past nine (9) years, fraudulently enacted and implemented policies and procedures that allow themselves, family, friends, and fellow coworkers, past, present, and/or future, to receive exorbitant pensions thus causing trust funds to become insolvent and un-sustainable; and

WHEREAS, California taxpayers who do not have pensions themselves are being forced to pay for these exorbitant pensions to keep the public retirement pension trust funds solvent and sustainable; and

PENSION SOLVENCY ACT

WHEREAS, California taxpayers are prohibited and otherwise discriminated against having equal opportunity to partake in and enjoy the benefits of a properly managed, solvent, and sustainable California governmental Defined Benefit Program that is currently only provided to a limited group of California citizens; and

WHEREAS, the California State Constitution allows the people of the State of California to use the initiative process; and

WHEREAS, the California Declaration of Rights states, "All political power is inherent in the people", and that, "They have the right to alter or reform it whenever the public may require it"; and

WHEREAS, the traditional American philosophy of constitutional limited government - limited for liberty - is being placed in serious jeopardy by a dysfunctional Executive Branch and a dysfunctional Legislative Branch of government who are using uncontrollable taxing authorities to build powerful bureaucracies that are not accountable to the people.

[PURPOSE OF INITIATIVE]

Section 3. The People Enact This Initiative For The Following Purposes.

A. To insure that California public retirement systems remain solvent and sustainable for current recipients and future generations.

B. To require public agencies to provide solvent and sustainable public retirement systems within taxpayer's means.

C. To provide a mechanism to reduce some health care costs; yet, also mitigate restrictions on receiving retirement health care benefits brought about by the Pension Solvency Act.

D. To require public agencies to pay their obligations to public retirement trust funds at all times in order to ensure trust funds remain solvent and sustainable.

E. To not generate and provide exorbitant public pensions that will, in part, cause city or county governments or special Districts (such as Fire Districts) to become bankrupt.

F. To provide California taxpayers the opportunity to receive a non-discriminatory retirement program in that: while California taxpayers pay for public employee defined benefit program pensions, and in so doing keep public trust funds solvent and sustainable, the California taxpayer, both employer and employee, shall also have equal opportunity to participate in and enjoy the benefits of a solvent and sustainable California governmental defined benefit pension program.

G. To stop public agencies from fraudulently and illegally, in the past, present, and future, providing exorbitant pensions that result in public retirement trust funds to become insolvent and unsustainable.

H. To eliminate fraudulent and other illegal practices, procedures, and programs which cause public trust funds to become insolvent and unsustainable.

I. To aid public retirement trust funds regain solvency and sustainability by recovering funds lost to fraud and other crimes.

J. To insure that the reserve powers of the people will remain dominate over the out of control authority of the California Governor and California State Legislature.

K. To insure a free and open society where governmental entities and agencies get their authority from the consent of the governed.

[TEXT]

Section 4. The California Pension Solvency Act

A. Non-Modification.
The Pension Solvency Act, total or in part, shall not be altered, rewritten, or modified any way whatsoever by contract, memorandum of understand, or any other agreement.

B. Mandatory Inclusion.
1. The Pension Solvency Act shall become effective upon its approval by the voters.
2. Upon voter approval of the Pension Solvency Act, all California public agency pension plans shall be administered in accordance with the provisions of the Pension Solvency Act.
3. The public agency's public retirement trust fund(s) shall remain in the Pension Solvency Act for a minimum of two (2) years.

C. Definitions
1. "Base pay" means an employee's amount of compensation, excluding extra lump sum compensation. An employee's base pay is expressed as an annual salary.
2. "Annual Final Compensation" means the annual pension salary.
3. "Member" means any active employee, inactive employee, or an employee retired from any public agency and includes any beneficiary (example: deceased member's wife who receives a final compensation) or legal representative of said member.
4. "Public agency" means the state or a county, city, city and county, district, school district, authority, university, or any public or municipal corporation, political subdivision, or other public agency of the state, or any department, division, bureau, board, commission, agency, or instrumentality of these entities.
5. "Public retirement system" means all state and local public retirement systems, including, but not limited to, the Public Employees' Retirement System (Cal PERS), the State Teachers' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the University of California Retirement System, and county and district retirement systems created pursuant to the County Employees Retirement Law of 1937.

6. "Solvent" means the ability to pay all that a public agency's retirement system owes.
7. "Sustainable" means to continue to be able to pay all that a public agency's retirement trust fund owes.

D. Pension Spiking While Under The Pension Solvency Act.
   1. Only a retired member's 'base pay' shall be used as the 'Annual Final Compensation' and be used to determine his or her 'Adjusted Annual Final Compensation' pursuant to Appendices A, B, and C.
   2. No other compensation such as bonuses, accrued overtime, accrued vacation, accrued sick leave, medical benefits, or uniform allowance shall be added onto a retired member's 'base pay' to establish the 'Annual Final Compensation' used to calculate the 'Adjusted Annual Final Compensation'.
   3. If for any reason a public agency is mandated by a court or regulatory agency to calculate benefits using other than 'base pay' adjusted pursuant to D.2. above, then said mandated public agency shall not fund that benefit until their public retirement system trust fund has become 'solvent' pursuant to 'M' below and the trust fund has opted out of the Pension Solvency Act pursuant to 'O' below. Furthermore, payments to pay said benefit(s) shall not be retroactive.

E. Diet Cost of Living Allowance (Diet-COLA)
   1. For each year a public retirement system is less than ninety-seven percent (97%) funded, a Diet-COLA shall be imposed equal to fifty percent (50%) of any COLA.
   2. The full one hundred percent (100%) COLA shall be used in the calculation that determines if the public retirement system trust fund is one hundred percent (100%) funded.

F. Methods of Computations.
   1. Upon voter approval of the Pension Solvency Act, public retirement systems in California shall calculate benefits earned that year using the base salary earned that year times the plans accrual rate and notify each employee of the estimated projected benefits that he/she have earned at retirement age.
   2. Each year thereafter, each public retirement system shall calculate benefits earned that year by each active member and notify each active member of the estimated projected final compensation that he/she will receive at retirement age.
   3. No retroactive benefits shall be calculated or otherwise accrued.

G. Solvency Funding Adjustment.
   1. Upon voter approval of the Pension Solvency Act, every public retirement system trust fund's Annual Final Compensation shall be subject to the First Year Solvency Funding Adjustment Index, as presented in Appendix A.
   2. The First, Third, and Fifth Year Pension Funding Adjustment Indices' 'Annual Final Compensation' shall be adjusted annually pursuant to a Cal PERS COLA.
   3. The 'Accrued Adjustment' shall be automatically withheld from each retired member's 'Annual Final Compensation' whether the receiver is a resident of California or not.

4. All withheld adjustments shall remain in the public retirement trust fund from which they originated.
5. All Solvency Funding Adjustment Index Tables shall be applied on a fiscal year basis.

H. Pension System Separateness.
   1. Each California public agency that is contracted with a public retirement system shall have their trust fund be considered funded or unfunded separate and distinct from any and/or all other California public retirement system(s) trust fund.
   2. Comingling or pooling of any public retirement system trust fund, in total or in part, is prohibited.
   3. Upon a public agency entering into the Pension Solvency Act, said public agency's public retirement system trust fund shall be extracted in total from any comingled or pooled fund and returned to said separate trust fund.
   4. Upon a public agency entering into the Pension Solvency Act, all separate retirement trust funds within a public agency:
      a. Shall cease being comingled and/or pooled,
      b. Shall be extracted in total from any comingled or pooled fund, and
      c. Shall be returned to each separate fund and be managed independently.
   5. The definition and determination of what constitutes a public retirement system trust fund shall be that definition and determination upon passage of the Pension Solvency Act and shall not be redefined or modified in any way or manner whatsoever.

I. Mortality Rate For Active Members
   1. Accruals for active members shall be indexed in accordance with most recent mortality rate.
   2. The most recent mortality rate shall be calculated and considered current on a fiscal year basis, no more and no less.
   3. The most recent mortality rate shall be calculated on 1 June of each year, and said calculated most recent mortality rate shall be applicable throughout the following fiscal year.

J. Retirement Age For Active Members And Inactive Members
   While the Pension Solvency Act covers a California public agency's public retirement system, the minimum retirement age, from the date of implementation of the Pension Solvency Act through to the end of implementation, shall be fifty-nine and a half (59-1/2) years of age.

K. Medical Coverage Cost Reduction And Mitigation
   1. Cal PERS medical providers may contract medical services to other medical providers throughout the United States and United States Territories to provide medical coverage to Cal PERS active and retired members and their plan dependents when said members are not in California.
   2. Cal PERS medical providers may contract medical services to private foreign medical providers and other US or foreign government medical providers throughout the

world to provide medical coverage to Cal PERS active and retired members and their plan dependents when said members are not in California.

3. Example to K.1. and K.2: A Cal PERS medical provider may contract with the United States Arm Forces to provide medical coverage to Cal PERS active and retired members and their dependents while traveling or living outside California or outside the United States.
4. During the implementation of the Pension Solvency Act, any active member, who ceases employment and does not retire from the public agency's public retirement system, and any inactive member shall be eligible to retire with medical benefits upon retirement, even after the agency's public retirement trust fund has been taken out of the Pension Solvency Act.

L. Fiscal Savings And Limitations From Pension Solvency Act

Savings generated by the Pension Solvency Act shall remain in the public agency's public retirement system trust fund from which it was generated. No pension funds, including savings from the Pension Solvency Act, may be taken from any trust fund for any purpose other than the purpose of said trust fund.

M. Solvency Determination

1. A trust fund shall be considered 'solvent' when said trust fund is fully funded at one hundred percent (100%) and can remain solvent for three (3) years.
2. The trust fund's administrator shall conduct an annual solvency audit on all its public agency public retirement system trust funds when said trust funds are not included in the Pension Solvency Act.
3. The trust fund's administer shall conduct annual solvency audits whenever the trust fund's funding level falls below one hundred percent (100%) and is unsustainable for a three (3) year period.
4. Immediately upon the trust fund's administrator's determination that a trust fund is insolvent (less than one hundred percent (100%) funded and unsustainable for the following three (3) years), then the California State Comptroller shall audit said trust fund to confirm insolvency. Upon insolvency confirmation by the California State Comptroller, the trust fund administrator shall notify all members of the trust fund that their trust fund is insolvent and will be placed under the Pension Solvency Act.
5. If a trust fund administrator refuses to allow the California State Comptroller to audit a trust fund, then the California State Comptroller shall confiscate all subject trust fund records, including emails of trust fund board members, administrators, and investors, conduct its confirmation audit for solvency and sustainability, and refer all discrepancies and perceived crimes to the California Attorney General's office for investigation and prosecution.
6. All trust fund board members, administrators, and investors and their subordinates and legal staff shall not delete or destroy any correspondence whatsoever, including emails; nor shall they direct any rank and file employee to do so.
7. A trust fund shall not receive more than one audit by the trust fund Administrator in any one fiscal year and shall not receive more than one confirmation audit by the State Comptroller's Office in any one fiscal year. The trust fund Administrator's

audit shall not be considered final until after the State Comptroller's confirmation audit is final.

8. The trust fund's administrator shall be paid out of the trust fund for all work pursuant to solvency determination of said public agency's public retirement system trust fund.
9. The trust fund's administrator shall not contract out any and all tasks or services pursuant to the solvency determination of a public agency's public retirement system trust fund.
10. The trust fund's administrator shall pay the State Comptroller fifty percent (50%) of the cost for the State Comptroller's confirmation audit.

N. Mandatory Re-Inclusion

1. Whenever the California State Comptroller confirms or determines independently that a public agency's public retirement system trust fund is not 'solvent', then said trust fund shall be immediately re-included into and be covered by the Pension Solvency Act. This confirmation or determination may occur any time during a fiscal year.
2. The public agency's public retirement system trust fund shall remain re-included in the Pension Solvency Act pursuant to 'O' below.
3. After re-inclusion, members of the public agency's public retirement trust fund may choose, pursuant to 'O' below, to remain under the Pension Solvency Act when their trust fund becomes 'solvent'.

O. Opting Out Of The Pension Solvency Act

1. Once the pension trust fund Administrator determines a trust fund to be 'solvent', the California State Comptroller shall confirm the determination that the pension trust fund is 'solvent'. The pension system may then be taken out of the Pension Solvency Act pursuant to O.2. through O.8. below.
2. Active, inactive, and retired members of said trust fund shall vote to opt out of the Pension Solvency Act.
3. The trust fund administrator shall give active, inactive, and retired members in said trust fund a vote to remain in the Pension Solvency Act or opt out of the Pension Solvency Act.
4. Fifty percent (50%) plus one will determine the vote.
5. Such vote shall be offered on a two-year cycle.
6. Only the trust fund administrator shall administer the vote. The administration of the vote shall not be contracted out.
7. Only members of the trust fund (or member beneficiary (example: wife of a deceased member) or a member's legal guardian) shall have the right to vote with a one member-one vote limitation.
8. The trust fund shall pay the trust fund administrator for the cost of the vote.

P. Re-Indexing

1. Widows, widowers, and orphans shall be exempt from Re-Indexing.
2. During the time when a public agency's public retirement system trust fund is covered by the Pension Solvency Act and said trust fund's liability continues to increase, then the First Year Solvency Funding Adjustment Index shall be re-indexed

to withhold additional funds to bring said fund into solvency pursuant to the Third Fiscal Year Solvency Funding Adjustment Index, as presented in Appendix B.

3. During the time when the public agency's public retirement system trust fund is covered by the Third Fiscal Year Solvency Funding Adjustment Index and said trust fund's liability continues to increase, then the Third Year Solvency Funding Adjustment Index shall be re-indexed to withhold additional funds to bring said fund into solvency pursuant to the Fifth Year Solvency Funding Adjustment Index, as presented in Appendix C.
4. For the Fifth Fiscal Year Solvency Funding Adjustment Index the base salary shall include all current public salary as well as all public pensions, including, but not limited to, Federal pension; Social Security Pension; Military Pension; any State's Pension; any US Territory pension; any California, other State, and/or US Territory local pension. These incomes shall be added to the Annual Retirement Income in the Fifth Fiscal Year Solvency Funding Adjustment Index.
5. Upon a public retirement system trust fund becoming 'solvent', the First Year Solvency Funding Adjustment Index shall be put back into effect and remain in effect until the fund is opted out of the Pension Solvency Act pursuant to 'O' above or is re-indexed.
6. If a public retirement trust fund remains under the First Year Solvency Funding Adjustment Index and the pension fund again becomes insolvent (unsustainable for three (3) years at one hundred percent (100%) funded), then the agency's public retirement system trust fund shall be re-indexed to withhold additional funds pursuant to P.2. and then to P.3. above if necessary.

Q. Public Agency's Mandatory Payment Of Annual Obligations

1. All public agencies shall at all times (except pursuant to Q.2. below) pay the full amount of their required annual obligations into their public pension trust fund(s), even when a trust fund is not in the Pension Solvency Act and even when a trust fund, that is in the Pension Solvency Act, is greater than one hundred percent (100%) solvent and sustainable for three (3) years. Annual obligations shall be based on the 'Annual Final Compensation' when the trust fund is not subject to the Pension Solvency Act, even if the trust fund is in the Pension Solvency Act.
2. If trust fund members choose to have their trust fund remain in the Pension Solvency Act and their trust fund becomes one hundred and five percent (105%) funded, then the public agency at its discretion may readjust downward their annual obligation payment into the trust fund to no less than an amount that will retain the trust fund at one hundred percent (100%) funded and sustainable for three (3) years.

R. Excluding California Supreme Court Judges' Conflict of Interest

Judges of the California State Supreme Court who hear matters pertaining to the Pension Solvency Act, shall have their personal pensions be exempt from the Pension Solvency Act.

S. Investigation of Fraud and Abuse Causing Insolvency And Un-Sustainability

1. Within 30 days of voter passage of the Pension Solvency Act, the California State Attorney General shall request the Federal Prosecutor, in San Francisco's Federal

Prosecutor's office, to investigate all Cal PERS Board of Directors, Cal PERS executives, and Cal PERS top level management & investors (who have held such positions for the past nine (9) years) for, but not limited to, fraud, conspiracy to commit fraud, extortion, fraud under color of official right, extortion under color of official right, bribery, mail fraud, banking fraud, wire fraud, interstate transportation of stolen property, injury to second and third-party victims, Racketeer Influenced and Corrupt Organizations (RJCO) Act violations, conspiracy to violate RJCO, and cover-up of such crimes that may have occurred over the previous nine (9) years prior to passage of the Pension Solvency Act.

2. Within 30 days of voter passage of the Pension Solvency Act, The California State Attorney General shall request the Federal Prosecutor, in San Francisco's Federal Prosecutor's office, to investigate any retired public employee who receives more than two hundred fifty thousand dollars ($250,000) Annual Final Compensation and, if said employee was an employee of a District or Board (example: a Fire District), to investigate the employee, the District's or Board's elected officials, and upper management for, but not limited to, fraud, conspiracy to commit fraud, extortion, extortion under color of official right, fraud under color of official right, bribery, mail fraud, banking fraud, wire fraud, interstate transportation of stolen property, injury to second and third-party victims, Racketeer Influenced and Corrupt Organizations (RJCO) Act violations, conspiracy to violate RJCO, and cover-up of such crimes that may have occurred over the previous nine (9) years prior to passage of the Pension Solvency Act.
3. Upon conviction of any crime in violation of S.1 and S.2 above prosecuted by the Federal Prosecutor, the Cal PERS Director, Cal PERS executive, Cal PERS top level manager or investor, any retiree making over two hundred fifty thousand dollars ($250,000) Annual Final Compensation, and/or District's or Board's elected official and upper level manager (and/or all beneficiaries) shall forfeit all Cal PERS or subject trust fund retirement and/or retirement contributions as the court dictates, pay back all forfeit monies to Cal PERS or subject trust fund, and be liable to Cal PERS or said trust fund's Administrator (essentially taxpayers) for the amount of one million ($1,000,000) dollars in penalties to be paid into the subject trust fund.

T. Current And Future California Public Agency Employees And Appointees

1. Upon voter passage of the Pension Solvency Act, all new and all reinstated public agency employees and any politically appointed individual shall have an annual 'base pay' cap of $100,000 that is applicable to withholding for and to calculation of 'Annual Final Compensation'. For purposes of calculating pensions, a 'base pay' ceiling of no higher than $100,000 shall be used.
2. The $100,000 'base pay' cap shall be subject to annual COLAs.
3. Upon voter approval of the Pension Solvency Act, all new public agency employee contracts shall have no other compensation such as bonuses, accrued overtime, accrued vacation, accrued sick leave, medical benefits, or uniform allowance added onto 'base pay'. Said other compensation shall not be used when calculating 'Annual Final Compensation'.
4. Any public agency employee contract, found by a Superior Court to be in violation of the Pension Solvency Act, shall be considered un-severable and in total null and void;

and, the respective bargaining unit shall reenter collective bargaining to obtain a new contract.

U. Equal Opportunity Requirement Of The Pension Solvency Act
1. The California State Legislature shall create the California Separate Private Employees Retirement System (Cal SPERS) that mirrors the California Public Employees Retirement System (Cal PERS) with the following requirements.
   a. Cal PERS shall be the Administrator of all Cal SPERS trust funds.
   b. Cal SPERS shall be a separate subsidiary of Cal PERS.
   c. Cal SPERS shall be a defined benefit program.
   d. Cal SPERS trust funds shall remain separate from all public pension trust funds and comply with item H. above.
   e. All Cal SPERS trust funds shall accrue pursuant to two percent (2%) at sixty-three (63).
   f. Cal SPERS 'annual final compensation to salaried members' shall mean the highest average annual compensation earned by the salaried member during the consecutive 60-month (5 year) period immediately preceding his or her retirement or last separation from state service if earlier, or during any other period of 60 consecutive months during his or her public retirement system membership that the member designates on the application for retirement.
   g. Cal SPERS 'annual final compensation to non-salaried members' shall be factored on the average of all yearly payments into Cal SPERS.
   h. Base Pay Limitations to Cal SPERS participation.
      1) The Cal SPERS 'employee contribution for salaried members' shall be calculated on the salaried member's annual taxable 'base pay' limited to one hundred thousand dollars ($100,000).
      2) The Cal SPERS 'employee contribution for non-salaried members' and for business owners shall be calculated on the non-salaried member's personal annual taxable income limited to one hundred fifty thousand dollars ($150,000).
      3) Both base pay limits in 1) and 2) directly above shall be adjusted pursuant to the Cal PERS COLAs calculation process; however, said adjustment shall be made once every ten (10) years, no more or no less. Adjustments shall not be retroactive.
   i. A buy-in of up to five (5) years of U. S. Military Credit shall be available to Cal SPERS vested members.
   j. All conditions to be vested in Cal PERS shall apply to becoming vested in Cal SPERS.
   k. Cal SPERS minimum retirement age shall be fifty-nine and a half (59-½) years of age.
   m. Cal SPERS COLAs for 'Annual Final Compensation' shall be the same as Cal PERS COLAs.
   n. Only members (and member beneficiaries) who have paid into Cal SPERS may draw a Cal SPERS benefit.
   o. Cal PERS health care options shall be available, at the Private Agency's/ employer's option, to Cal SPERS members and their dependents.

p. An employee is eligible to join Cal SPERS if he/she works 20 hours or greater per week.
q. An employee and his/her dependents are eligible to join a Cal SPERS medical program if the employee works 20 hours or greater per week.
r. Only United States citizens and individuals legally residing and legally working in the United States may be eligible to be a Cal SPERS member. A California Drivers license or any other state drivers license by itself does not constitute standing to join Cal SPERS.
s. The Pension Solvency Act provides California businesses and non-profit entities the option, at their choice, to provide a defined benefit annuity retirement program to their employees, managers, administrators, and owners under Cal SPERS.
t. No pension funds, including savings from the Pension Solvency Act, may be taken from any Cal SPERS trust fund for any purpose other than the trust fund purposes.
u. Cal SPERS shall not establish nor manage 401(k) and/or 457 benefit programs.
v. Cal SPERS shall not contract out 401(k) and/or 457 benefit programs.
w. Cal SPERS may provide Deferred Compensation programs.
x. Any Cal SPERS Employer may provide 401(k) and 457 benefit programs separate from Cal SPERS to their employees.
y. Cal PERS shall establish Cal SPERS upon voter passage of the Pension Solvency Act, and Cal SPERS shall be fully implemented and fully functional no later than 365 days after voter approval of the Pension Solvency Act.

2. Upon approval of the Pension Solvency Act, all public agency defined benefit pension programs shall remain defined benefit pension programs, including the California Public Employees Retirement System (Cal PERS).
3. The California Pubic Employees Retirement System (Cal PERS) shall cease providing and managing 401(k) and 457 benefit programs for all Cal PERS active, inactive, and retired members.
   a. Implementation shall be a three-year phase-out period where existing Cal PERS members' 401(k) and 457 accounts shall be transferred to private investment programs.
   b. The first year of the three-year phase-out period shall consist of Cal PERS establishing the phase out procedures.
   c. The second two years of the three-year phase-out period shall consist of Cal PERS active, inactive, and retired members choosing a private investment program or more than one private investment program and transferring their 401(k) and 457 accounts.
   d. After the three-year phase out period, Cal PERS shall not reestablish 401(k) or 457 benefit programs.
   e. Cal PERS may continue to provide private investment training programs for active, inactive, and retired members.
   f. The California Public Employees Retirement System (Cal PERS) may continue to provide Deferred Compensation Programs.
   g. This paragraph (paragraph V.3.) shall take effect and be implemented by Cal PERS no later than the 365th day following voter approval of the Pension Solvency Act.

Section 5. Conflicting Interpretations - Penalties

A. In the event that another measure ("competing measure") appears on the same ballot as this Act that seeks to adopt or impose provisions or requirements that differ in any regard to, or supplement, the provisions or requirements contained in this Act, the voters hereby expressly declare their intent that if both the competing measure and this Act receive a majority of votes cast, and if this Act receives a greater number of votes than the competing measure, this Act shall prevail in its entirety over the competing measure without regard to whether specific provisions of each measure directly conflict with each other.

B. In the event that both the competing measure and this Act receive a majority of votes cast, and the competing measure receives a greater number of votes than this Act, this Act shall be deemed complementary to the competing measure. To this end, and to the maximum extent permitted by law, the provisions of this Act shall be fully adopted except to the extent that specific provisions contained in each measure are deemed to be in direct conflict with each other on a "provision-by-provision" basis.

C. This initiative is intended to be comprehensive. It is the intent of the People that in the event that this initiative and another initiative relating to the same subject appear on the same statewide election ballot, the provisions of the other initiative or initiatives are deemed to be in conflict with this initiative. In the event this initiative shall receive the greater number of affirmative votes, the provisions of this initiative shall prevail in their entirety, and all provisions of the other initiative or initiatives shall be null and void.

D. If this initiative is approved by voters but superseded by law or by any other conflicting ballot initiative approved by the voters at the same election, and the conflicting law or ballot initiative is later held invalid, this initiative shall be self-executing and given full force of law.

Section 6. Severability

If any provision of the Pension Solvency Act or the application of any such provision to any person or circumstance shall be held invalid, the remainder of the Pension Solvency Act, to the extent it can be given effect or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of the Pension Solvency Act are severable.

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APPENDIX A: FIRST YEAR SOLVENCY FUNDING ADJUSTMENT INDEX

FIRST YEAR SOLVENCY FUNDING ADJUSTMENT INDEX				
Annual Final Compensation	% Adjustment per Increment	Monetary Adjustment per Increment	Accrued Adjustment	Adjusted Annual Final Compensation
	95% Continuous	$4,750		
$150,000				$107,250
	90%	$4,500	$42,750	
$145,000				$106,750
	85%	$4,250	$38,250	
$140,000				$106,000
	80%	$4,000	$34,000	
$135,000				$105,000
	75%	$3,750	$30,000	
$130,000				$103,750
	70%	$3,500	$26,250	
$125,000				$102,250
	65%	$3,250	$22,750	
$120,000				$100,500
	60%	$3,000	$19,500	
$115,000				$98,500
	55%	$2,750	$16,500	
$110,000				$96,250
	50%	$2,500	$13,750	
$105,000				$93,750
	45%	$2,250	$11,250	
$100,000				$91,000
	40%	$2,000	$ 9,000	
$95,000				$88,000
	35%	$1,750	$ 7,000	
$90,000				$84, 750
	30%	$1,500	$ 5,250	
$85,000				$81,250
	25%	$1,250	$ 3,750	
$80,000				$77,500
	20%	$1,000	$ 2,500	
$75,000				$73,500
	15%	$ 750	$ 1,500	
$70,000				$69,250
	10%	$ 500	$ 750	
$65,000				$64,750
	5%	$ 250	$ 250	
$60,000				

APPENCIX B: THIRD YEAR SOLVENCY FUNDING ADJUSTMENT INDEX

THIRD YEAR SOLVENCY FUNDING ADJUSTMENT INDEX				
Annual Final Compensation	% Adjustment per Increment	Monetary Adjustment per Increment	Accrued Adjustment	Adjusted Annual Final Compensation
	95% Continuous	$4,750		
$145,000				$102,250
	90%	$4,500	$42,750	
$140,000				$101,750
	85%	$4,250	$38,250	
$135,000				$101,000
	80%	$4,000	$34,000	
$130,000				$100,000
	75%	$3,750	$30,000	
$125,000				$98,750
	70%	$3,500	$26,250	
$120,000				$97,250
	65%	$3,250	$22,750	
$115,000				$95,500
	60%	$3,000	$19,500	
$110,000				$93,500
	55%	$2,750	$16,500	
$105,000				$91,250
	50%	$2,500	$13,750	
$100,000				$88,750
	45%	$2,250	$11,250	
$95,000				$86,000
	40%	$2,000	$ 9,000	
$90,000				$83,000
	35%	$1,750	$ 7,000	
$85,000				$79, 750
	30%	$1,500	$ 5,250	
$80,000				$76,250
	25%	$1,250	$ 3,750	
$75,000				$72,500
	20%	$1,000	$ 2,500	
$70,000				$68,500
	15%	$ 750	$ 1,500	
$65,000				$64,250
	10%	$ 500	$ 750	
$60,000				$59,750
	5%	$ 250	$ 250	
$55,000				

PENSION SOLVENCY ACT

APPENDIX C: FIFTH YEAR SOLVENCY FUNDING ADJUSTMENT INDEX

FIFTH YEAR SOLVENCY FUNDING ADJUSTMENT INDEX				
Annual Final Compensation	% Adjustment per Increment	Monetary Adjustment per Increment	Accrued Adjustment	Adjusted Annual Final Compensation
	95% Continuous	$4,750		
$140,000				$97,250
	90%	$4,500	$42,750	
$135,000				$96,750
	85%	$4,250	$38,250	
$130,000				$96,000
	80%	$4,000	$34,000	
$125,000				$95,000
	75%	$3,750	$30,000	
$120,000				$93,750
	70%	$3,500	$26,250	
$115,000				$92,250
	65%	$3,250	$22,750	
$110,000				$90,500
	60%	$3,000	$19,500	
$105,000				$88,500
	55%	$2,750	$16,500	
$100,000				$86,250
	50%	$2,500	$13,750	
$95,000				$83,750
	45%	$2,250	$11,250	
$90,000				$81,000
	40%	$2,000	$ 9,000	
$85,000				$78,000
	35%	$1,750	$ 7,000	
$80,000				$74, 750
	30%	$1,500	$ 5,250	
$75,000				$71,250
	25%	$1,250	$ 3,750	
$70,000				$67,500
	20%	$1,000	$ 2,500	
$65,000				$63,500
	15%	$ 750	$ 1,500	
$60,000				$59,250
	10%	$ 500	$ 750	
$55,000				$54,750
	5%	$ 250	$ 250	
$50,000				