

RESOLUTION NO. 2023-23

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HUNTINGTON BEACH LEVYING A RETIREMENT
PROPERTY TAX FOR FISCAL YEAR 2023/2024 TO PAY FOR PRE-1978
EMPLOYEE RETIREMENT BENEFITS

WHEREAS, since 1948, the City has provided for employee pensions through a contract with the California Public Employees Retirement System (CalPERS). Pursuant to the 1966, 1978 and 2010 City Charters, the voters of the City authorized the City Council to pay for the cost of employee pensions through a separate retirement property tax. Section 607(b)(2) of both the 1978 and 2010 Charters provide that the City may impose a retirement tax “sufficient to meet all obligations of the City for the retirement system in which the City participates;” and

Proposition 13 was added to the California Constitution in 1978. It limits the local property tax to 1% of assessed value, except that the City may levy an override tax in excess of 1% to pay “any indebtedness approved by the voters prior to July 1, 1978” (Cal. Const. Art. 13A, §1(b)); and

In the case entitled *Carman v. Alvord*, 31 Cal.3d 318 (1982), the California Supreme Court determined that under Proposition 13, an override property tax in excess of 1% of assessed value may be levied to pay for the employee pension benefits the voters approved prior to 1978. Consequently, after Proposition 13, the Huntington Beach City Council continued to levy an override tax to pay for employee pensions. Since 1983-84, Revenue and Taxation Code Section 96.31(a)(4) has limited the City to levying a maximum override tax of \$0.04930 per \$100 of assessed value to pay for its retirement system; and

In 2003, the Court of Appeal in *Howard Jarvis Taxpayers Ass'n v. County of Orange* (2003) 110 Cal.App.4th 1375 held that the City may levy a separate property tax to pay for retirement benefits for all retired, current, and future city employees contracted for prior to July 1, 1978, but not enhancements to retirement benefits contracted for after July 1, 1978; and

Prior to July 1, 1978, the City entered into collective bargaining agreements with employee associations representing its safety employees providing that, effective July 1, 1978, they would be entitled to a CalPERS retirement benefit known as “2% @ 50.” Subsequently, on June 30, 1999, pursuant to collective bargaining agreements the City had entered into with its safety employees, the City provided its safety employees with the CalPERS retirement benefit known as 3% @ 50. Consequently, it is necessary to allocate the employer contribution to CalPERS for safety retirement between 2% @ 50 and 3% @ 50, because only the employer contribution for 2% @ 50 may be paid through the override property tax; and

The City has received a report from John Bartel of Bartel Associates, a professional actuary experienced in pension calculations, entitled, “City of Huntington Beach Pension Override Tax Study” dated February 10, 2020. The Report identified the additional cost of 3% @ 50 as what CalPERS refers to as the “normal cost” of the benefit, which represents the present value of future benefits employees earned during the current year. Under this approach, the incremental cost of 3% @ 50 is 4.482% of safety payroll, and the remainder of the employer contribution represents the cost of 2% @ 50; and

In April 2004, then Assemblyman Harman formally asked the Attorney General regarding the correct method of allocating the employer contribution to CalPERS between its pre-1978 and post-1978 components. In his February 7, 2005 Opinion (Opinion No. 04-413), the Attorney General opined that "any reasonable accounting method may be used for purposes of determining which costs are not subject to the 1% property tax limitation of the Constitution;" and

The City Council has determined that the allocation approach presented in the Bartel Report is a reasonable accounting method for determining which costs are not subject to the 1% property tax limitation of the Constitution; and

For 2023/2024, CalPERS is requiring the City to contribute 58.299% of safety employee payroll as the City's employer's contribution. In order to set the tax override, the City may subtract the 4.482% normal cost of 3% @ 50 from the 58.299% to set the override tax at the equivalent of 53.817% of safety employee payroll. The cost to the City of 53.817% of safety employee payroll for 2023/2024 will be \$26,134,579 and pursuant to Proposition 13 and Revenue and Taxation Code Section 96.31(a)(4), the City could have set the override tax for 2023/2024 at \$0.05503 per \$100 of assessed value; and

In August 2012, the City Council added Chapter 3.07 to the Municipal Code which sets the future retirement tax rate to the Fiscal Year 2012/13 rate of \$0.01500 per \$100 of assessed value, which amount is less than the otherwise permitted retirement tax per *Revenue and Taxation Code* Section 96.31(a)(4) of \$0.04930 per \$100 of assessed value. For the Fiscal Year 2021/2022, the most recent year available, the levied retirement tax of \$0.01500 per \$100 assessed value generated \$7,911,896.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntington Beach that a retirement property tax levy of Zero and 0.01500/100th Dollars (\$0.01500) per \$100 of assessed value shall be levied for employee retirement costs for Fiscal Year 2023/2024.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2023.

REVIEWED AND APPROVED:

City Manager

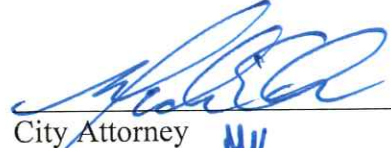
Mayor

INITIATED AND APPROVED:



Chief Financial Officer

APPROVED AS TO FORM:



City Attorney *NU*