

# **Sacramento City Charter Amendment Regarding the Sacramento City Employees Retirement System (SCERS)**

## **Section 1.** Title, Findings, and Purpose.

### **A.** Title.

This charter amendment is titled and may be cited as the “Sacramento City Employees’ Retirement System Termination Act” (hereinafter, the “Act”).

### **B.** Findings.

1. The Sacramento City Employees’ Retirement System (“SCERS”) is a defined benefit pension plan described in article XVII of the City of Sacramento Charter (“City Charter”) and chapter 2.124 of the Sacramento City Code, which was enacted to implement article XVII of the City Charter. SCERS has been closed to new members since 1977.

2. At present, only one person covered by SCERS remains employed by the City of Sacramento.

3. As of July 31, 2025, there were 706 members, surviving spouses, and other beneficiaries receiving benefits from SCERS, with an average age of 81.8 years. There are also up to two vested, terminated members who have not yet begun receiving benefits.

4. Currently, SCERS assets exceed 100% of the actuarially determined liabilities for members, surviving spouses, and other beneficiaries. As the number of members, surviving spouses, and other beneficiaries declines over time, that funding percentage is expected to increase.

5. At some future time, there will be sufficient funds in SCERS to purchase an annuity policy (or policies) to fully secure and replicate all accrued benefits owed to members, surviving spouses, and other beneficiaries in perpetuity. At that point, there will be no ongoing need to maintain SCERS, and the administrative needs and costs associated with managing its remaining funds will decrease. It will then be efficient to commence the termination of SCERS and address any surplus funds.

6. The City Charter currently contains no mechanism to terminate SCERS or to address any surplus funds remaining after all accrued benefits have been fully paid or secured.

7. This Act creates a City Charter mechanism to terminate SCERS when conditions are met; ensures that the City of Sacramento’s obligations to remaining members, surviving spouses, and other beneficiaries are fulfilled; and provides direction regarding the handling of any surplus remaining after termination.

C. Purpose and Effect.

As the member, surviving spouse, and other beneficiary population declines, SCERS assets may continue to grow beyond the amounts necessary to pay all accrued benefits. Under the current City Charter, there is no mechanism to terminate SCERS or to address any surplus funds.

This Act creates a mechanism for SCERS termination in the City Charter. Voter approval of this Act does not, by itself, terminate SCERS; rather, termination may occur only after the city council makes the requisite findings and adopts the resolution of termination required by this Act. Prior to bringing the resolution of termination to the city council, a plan for the wind-down of SCERS operations shall be developed with city staff and, as appropriate, the SCERS board, including as part of the accounting required under section 402(c) of the City Charter. The development and completion of the wind-down plan shall be a condition precedent to the city council's adoption of the resolution of termination described in section 402 of the City Charter.

No transfer of surplus funds out of SCERS will occur until the city council has adopted the resolution of termination described in section 402 and all accrued benefits, reasonable plan wind-down expenses, and administration expenses have been fully paid or secured on an actuarially conservative basis appropriate for plan termination, consistent with fiduciary duties and the exclusive benefit rule described in United States Internal Revenue Code section 401(a)(2).

Upon adoption of the resolution of termination, the current provisions in the City Charter governing SCERS (other than the termination provisions established by this Act) will be repealed, and the City Code provisions related to SCERS will be repealed.

**Section 2.** Section 402 is hereby added to the Sacramento City Charter to read as follows:

**§ 402. Resolution of Findings Supporting Termination of SCERS.**

The city council may adopt a resolution of termination making the following findings:

(a) There are no longer any SCERS members who are employed by the City of Sacramento;

(b) The City of Sacramento, acting through the board in its fiduciary capacity, has purchased an annuity policy (or policies) from an insurance company or companies with an appropriate financial strength rating, following a prudent, competitive process designed to obtain the safest available annuity under the circumstances, unless the board determines that a different approach is in the best interests of SCERS members, surviving spouses, and other beneficiaries. The annuity purchase, together with any reserves retained in SCERS, must fully secure, on an actuarially conservative basis appropriate for plan termination, all accrued benefits of all remaining members, surviving spouses, and other

beneficiaries of SCERS; and

(c) An accounting has been completed of all remaining funds in SCERS, and the accounting is supported by a written report of the SCERS actuary addressing termination-basis liabilities, annuity purchase sufficiency, and wind-down costs; by a written report of the SCERS board documenting its fiduciary analysis; and by an opinion of tax counsel that any proposed transfer of surplus funds complies with applicable federal exclusive benefit requirements for governmental plans. The accounting shall identify the following:

(1) The amount needed to pay administrative costs to wind down SCERS operations;

(2) The amount of any funds needed, as determined on an actuarially conservative basis, to confirm that the annuity policy (or policies) purchased under subsection (b), together with any reserves retained in SCERS, fully secures all accrued benefits of all remaining members, surviving spouses, and other beneficiaries of SCERS;

(3) A reasonable contingency reserve, if any, determined on an actuarially conservative basis, to address unanticipated benefit administration or annuity transition costs, including the continued payment of benefits to any vested and terminated members who have not begun receiving benefits and were not included in the annuity policy (or policies); and

(4) The amount of any funds that are not included in (1) through (3), or that were previously included in (1) through (3) but are no longer needed for the purposes described therein, which shall be deemed surplus funds.

The resolution of termination must be adopted at a public hearing, notice of which shall be published in a newspaper published within the City designated by the council as the official newspaper of the City no fewer than seven days before the date of such hearing and shall include the time and place of the hearing and a statement that testimony from all interested persons for or against the proposed action will be heard. The resolution adopted under this section shall be effective immediately upon adoption.

**Section 3.** Section 403 is hereby added to the Sacramento City Charter to read as follows:

**§ 403 Effects of City Council's Adoption of a Resolution of Facts Supporting Termination of SCERS**

Upon the city council's adoption of the resolution of termination, the following shall occur:

(a) All funds identified under section 402(c)(1), (2), and (3) shall remain in the SCERS fund and shall be used to complete the wind-down of SCERS operations, administer any remaining benefit obligations not covered by the annuity policy (or policies) purchased under section 402(b), and maintain the contingency reserve described in section 402(c)(3). Funds described in this subsection (a) shall be held and administered solely for the purposes described in this subsection (a), consistent with fiduciary duties and the exclusive benefit rule described in United States Internal Revenue Code section 401(a)(2).

(b) All surplus funds identified under section 402(c)(4) shall, within 30 days after adoption of the resolution of termination, be transferred to a new fund under the city's control ("Surplus Fund"). Amounts in the Surplus Fund are no longer assets of SCERS and shall be used only for the following public purpose: to establish or contribute to a housing revolving loan fund and to finance affordable housing and market-rate housing with affordable financing components.

(c) Except for sections 402, 403, and 404, all provisions of article XVII of the City Charter are repealed; provided, however, that the procedures therein at the time of repeal shall be used as necessary to determine accrued benefits of any remaining members, surviving spouses, and other beneficiaries if the insurance company or companies from which the annuity was purchased fails to perform;

(d) Chapter 2.124 of the Sacramento City Code is repealed; provided, however, that the procedures therein at the time of repeal shall be used as necessary to determine accrued benefits of any remaining members, surviving spouses, and other beneficiaries if the insurance company or companies from which the annuity was purchased fails to perform;

(e) All resolutions, policies, and procedures directly related to SCERS or the board are rescinded;

(f) In the unlikely event an insurance company from which the city purchased an annuity fails to timely pay benefits as and when due under the contract (including due to insolvency, rehabilitation, receivership, or liquidation), the city shall remain liable to any remaining members, surviving spouses, and other beneficiaries for the payment of accrued benefits when due. The city's obligation under this subsection is limited to the payment of accrued benefits as determined on a termination basis under section 402 and shall be reduced by any amounts payable from a state guaranty association or other recoveries. The city shall be subrogated to, and may require assignment of, the payee's rights against the insurer, any guaranty association, and any other responsible party. The city may establish reasonable procedures to coordinate such payments and recoveries to avoid duplication and ensure continuity of benefit payments to SCERS members, surviving spouses, and other beneficiaries.

(g) Funds; Audits, Reporting, and Controls.

(1) Subsection (a) Funds. The city treasurer shall have exclusive control of the administration, management, and investment of the funds described in

subsection (a). The city treasurer shall act as a fiduciary for SCERS members, surviving spouses, and other beneficiaries and shall manage those funds in accordance with the prudent investor standard and other applicable law.

(2) Surplus Fund. Monies transferred to the Surplus Fund under subsection (b) are no longer assets of SCERS and are not subject to the fiduciary duties owed to SCERS members, surviving spouses, and other beneficiaries. The Surplus Fund shall be held in a separate accounting fund and shall not be commingled with the city's general fund. The city treasurer shall manage and invest Surplus Fund monies in accordance with California Government Code section 53601 and the city's standard investment policies applicable to city funds.

(3) Audits, Reporting, and Controls. The funds described in subsection (g)(1) are subject to the following requirements:

(A) Independent Audits and Access. The funds described in subsection (a) shall be subject to an annual independent financial and compliance audit performed in accordance with generally accepted government auditing standards. The independent auditor shall be engaged by, and report directly to, the city council or its audit committee, and shall have unrestricted access to all records, service-provider agreements, custodial statements, systems, and personnel necessary to perform the audit.

(B) Scope of Audit Opinion and Compliance Testing. The annual audit described in subsection (A) above shall include: (i) an opinion on the fair presentation of the financial statements for the funds described in subsection (a); (ii) compliance testing and an opinion or report on compliance with this subsection (g), including the prudent investor standard, segregation of assets, and prohibited commingling; and (iii) an evaluation of internal controls over financial reporting and safeguarding of assets, including disbursements, reconciliations, and investment compliance monitoring.

(C) Quarterly Reporting and Certifications. The city treasurer shall deliver to the city council, within 45 days after the close of each fiscal quarter, a written report for the funds described in subsection (a) setting forth holdings, market value, credit quality, duration, performance versus appropriate benchmarks, cash flows, fees and expenses, and a certification of compliance with this subsection (g) and with the applicable investment policies. Any instances of noncompliance shall be disclosed with a remediation plan and timeline.

(D) Investment Policies and Benchmarks. The city treasurer shall adopt and maintain written investment policies for the funds described in subsection (a), including risk limits, permitted investments, diversification, liquidity, benchmark selection, and procedures for

monitoring and reporting compliance. The city council or a council-designated subcommittee shall review such policies at least annually.

(E) Independent Custody and Reconciliations. All securities and cash for the funds described in subsection (a) shall be held by an independent third-party custodian in the name of the city, with annual custodial statements delivered directly to the City's independent auditor. The city treasurer shall perform monthly reconciliations to the custodian and bank records and retain evidence of such reconciliations.

(F) Disbursement Controls. All disbursements from the funds described in subsection (a) shall require authorization in accordance with written procedures approved by city council. Commingling with other city monies is prohibited, except to the extent necessary for pooled cash management where separate accounting and daily unitization are maintained.

(G) Service-Provider Control Reports. The city treasurer shall obtain and annually review Service Organization Control (SOC 1 Type II or equivalent) reports, if available, from the custodian and any investment managers or recordkeepers for the funds described in subsection (a), evaluate user-control considerations, and document the Treasurer's assessment and any remediation steps.

(H) Corrective Action and Status Reporting. Within 60 days of any audit finding or management letter comment, the city treasurer shall submit to the city council or its audit committee a written corrective-action plan with milestones and shall provide quarterly status updates until remediation is complete.

(I) Transparency. The annual independent audit reports, quarterly reports, investment policies, and any corrective-action plans for the funds described in subsection (a) shall be annually reviewed and approved by city council.

(J) Triggers for Special Examinations. In addition to the annual audit, the city council or its audit committee may direct a special examination or agreed-upon procedures review upon the occurrence of any of the following: (i) a material control deficiency or noncompliance disclosed in quarterly reporting or an audit; (ii) a realized loss exceeding a threshold established by council policy; (iii) a change in custodian or investment manager; (iv) any failure of the insurer(s) providing annuities referenced in subsection (f) to perform; or (v) any other circumstance deemed appropriate by the city council.

(K) Bonding and Insurance. The city treasurer and any employee with authority over the funds described in subsection (a) may be covered by fidelity bonds and applicable professional liability insurance in

amounts and on terms as may be approved by the city council or a council-designated subcommittee.

(L) The funds described in subsection (a) shall be used to pay for all costs incurred by the city treasurer under subsection (g), including, without limitation, costs of actuarial services, professional advisors, specialized legal counsel, trust or custodial services, and related administrative expenses. No costs of administering or using the Surplus Fund may be charged to the funds described in subsection (a).

**Section 4.** Section 404 is hereby added to the Sacramento City Charter to read as follows:

**§ 404 Validation**

The City of Sacramento, or any other person, may bring an action to determine the validity of the Sacramento City Employees' Retirement System Termination Act pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the California Code of Civil Procedure.

**Section 5:** Effective Date.

This Act shall take effect as provided in California Government Code sections 34459 and 34460.

**Section 6:** Severability.

The provisions of this Act, including any portion, section, subsection, paragraph, subparagraph, sentence, clause, or word, are severable. If any provision of this Act or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.