**OFFICIAL TITLE**

**AN INITIATIVE MEASURE AMENDING THE TUCSON CITY CHARTER, CHAPTER XXIII, RELATING TO PENSION FUNDS AND ADOPTING THE SUSTAINABLE RETIREMENT BENEFITS ACT; PROTECTING THE RIGHTS OF CURRENT EMPLOYEES IN THE TUCSON SUPPLEMENTAL RETIREMENT SYSTEM; PROVIDING A RETIREMENT PLAN FOR FUTURE HIRES; PROVIDING FOR FUTURE TERMINATION OF TUCSON SUPPLEMENTAL RETIREMENT SYSTEM WHEN IT HAS NO MORE PARTICIPANTS OR LIABILITIES.**

**TEXT OF PROPOSED AMENDMENT**

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

**Section 1.** Title.

This Act shall be known and may be cited as the "Sustainable Retirement Benefits Act."

**Sec. 2.** Findings and Intent.

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

(1) The Act is necessary to protect City employees from irresponsible politicians 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 Tucson: police and fire protection, street maintenance, libraries and community centers (hereinafter "Essential Services").

(3) The City of Tucson's ability to provide its citizens with Essential Services is threatened by budget conflicts caused by the failure of irresponsible politicians to adequately fund costs of employee pension benefits. The City of Tucson's costs 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 reasonable cost containment provided in this Act, the City's ability to provide Essential Services and fully fund employee salaries and benefits are threatened, and, as a result, so is the economic viability of the City.

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

(7) This Act is not intended to affect persons who are currently employed and part of the Tucson Supplemental Retirement System or any other system administered by the City of Tucson as of the effective date of this Act unless those employees elect, in their sole discretion, to participate in the new retirement system 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.

**Sec. 3.** 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.

**Sec. 4.** 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.

**Sec. 5.** 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.

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**Sec. 6.** Chapter XXIII, Tucson City Charter, is amended to read:

**CHAPTER XXIII--PENSION FUND**

**Sec. 1. Established; authority of mayor and council.**

The mayor and council shall, within one (1) year after the creation of the civil service commission, establish a fund or funds for the pensioning of persons in the classified service of the city;. UNDER THE PROVISIONS OF THIS CHAPTER, THE MAYOR AND COUNCIL may retain a reasonable amount from the monthly salary of, and may make necessary regulations for contributions to the pension fund by, such persons; may receive gifts, devises, bequests of money or property for the benefit of such fund or funds, may make contribution of public moneys thereto on such terms and conditions as it may see fit; and shall make rules and regulations for the management, investment and administration of such fund or funds.

**Sec. 2. Definitions.**

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACT" MEANS THE AMENDMENTS TO THIS CHAPTER UNDER THE SUSTAINABLE RETIREMENT BENEFITS ACT.

(2) "CURRENT EMPLOYEES" MEANS (a) EMPLOYEES OF THE CITY OF TUCSON WHO ARE PARTICIPATING IN THE TUCSON SUPPLEMENTAL RETIREMENT SYSTEM OR ANY OTHER RETIREMENT SYSTEM ADMINISTERED BY THE CITY OF TUCSON AS OF THE EFFECTIVE DATE OF THIS ACT AND (b) ANY FUTURE HIRE WITH A RIGHT TO RE-ENTER THE TUCSON SUPPLEMENTAL RETIREMENT SYSTEM OR ANY OTHER RETIREMENT SYSTEM ADMINISTERED BY THE CITY OF TUCSON.

(3) "FUTURE HIRE" MEANS AN INDIVIDUAL HIRED BY THE CITY OF TUCSON ON OR AFTER THE EFFECTIVE DATE OF THIS ACT WITH NO RIGHT TO RE-ENTER THE TUCSON SUPPLEMENTAL RETIREMENT SYSTEM.

(4) "PLAN" MEANS THE RETIREMENT SYSTEM FOR FUTURE HIRES ADOPTED BY THE CITY COUNCIL TO IMPLEMENT THE PROVISIONS OF THIS ACT.

**Sec. 3. Protecting the Rights of Current Employees**

(a) CURRENT EMPLOYEES MAY REMAIN IN THE TUCSON SUPPLEMENTAL RETIREMENT SYSTEM, OR OTHER RETIREMENT SYSTEM ADMINISTERED BY THE CITY OF TUCSON, WITH THE SAME BENEFITS AND UNDER THE SAME RULES TO WHICH THEY ARE ENTITLED AS OF THE EFFECTIVE DATE OF THIS ACT.

(b) THE CITY COUNCIL SHALL ADOPT A VOLUNTARY PARTICIPATION PROGRAM FOR ALL CURRENT EMPLOYEES UNDER WHICH CURRENT EMPLOYEES MAY OPT TO ENROLL IN THE PLAN ADOPTED BY THE CITY FOR EMPLOYEES HIRED AFTER THE EFFECTIVE DATE OF THIS ACT. IMPLEMENTATION OF THE VOLUNTARY PARTICIPATION PROGRAM IS CONTINGENT UPON RECEIPT OF ANY NECESSARY FEDERAL APPROVAL.

(c) 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.

(d) 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.

(e) 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.

**Sec. 4. Retirement Benefits for Future Hires and Current Employees Electing Participation in the Plan**

(a) 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 SYSTEM PLAN FOR FUTURE HIRES AND CURRENT EMPLOYEES ELECTING PARTICIPATION IN THE PLAN. THE ADOPTED PLAN SHALL BE THE ONLY RETIREMENT SYSTEM PLAN OFFERED TO FUTURE HIRES.

(b) THE ADOPTED PLAN SHALL INCLUDE THE FOLLOWING:

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

(2) 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.

(3) 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 AND PAID IN FULL EACH PAY PERIOD.

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

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

(6) THE PLAN SHALL BE ADMINISTERED BY A BOARD OF DIRECTORS. WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS ACT, THE MAYOR AND COUNCILMEMBERS SHALL EACH APPOINT ONE INDIVIDUAL TO SERVE AS A MEMBER OF THE PLAN'S BOARD OF DIRECTORS. EACH APPOINTEE SHALL SERVE A FIXED TERM OF FOUR YEARS, AND MAY ONLY BE REMOVED BY THE COUNCIL UPON A SHOWING OF GOOD CAUSE. ANY VACANCY ON THE BOARD OF DIRECTORS SHALL BE FILLED BY THE APPOINTING OFFICER, OR HIS SUCCESSOR, FOR THE UNEXPIRED PORTION OF THE TERM.

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

(8) 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.

**Sec. 4. Termination of the Tucson Supplemental Retirement System.**

AT SUCH TIME AS THERE ARE NO MORE PARTICIPANTS IN AND LIABILITIES OF THE TUCSON SUPPLEMENTAL RETIREMENT SYSTEM, THE CITY COUNCIL SHALL TERMINATE THE SYSTEM IN A LEGAL MANNER. UNTIL SUCH TIME AS THE TUCSON SUPPLEMENTAL RETIREMENT SYSTEM TERMINATES:

(1) THE CITY MAY AMORTIZE PENSION DEBT OVER TOTAL PAYROLL AND NOT OVER THAT PAYROLL REMAINING IN THE TUCSON SUPPLEMENTAL RETIREMENT SYSTEM.

(2) FOR THOSE EMPLOYEES REMAINING IN THE TUCSON SUPPLEMENTAL RETIREMENT SYSTEM, THE EMPLOYEE CONTRIBUTION RATE SHALL NOT BE INCREASED TO AN AMOUNT ABOVE 17.5% OF WAGES OR SALARY.

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