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5 Attorneys for Petitioners CHARLES R.  
6 "CHUCK" REED; WILLIAM KAMPE;  
TOM TAIT; PATRICK MORRIS; and  
7 STEPHANIE GOMES, in their capacities as  
individual voters and proponents of the  
8 subject statewide ballot measure

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SACRAMENTO**  
12 **UNLIMITED JURISDICTION**

13 CHARLES R. "CHUCK" REED;  
WILLIAM KAMPE; TOM TAIT;  
14 PATRICK MORRIS; and STEPHANIE  
GOMES, in their capacities as individual  
15 voters and proponents of the subject  
statewide ballot measure,

16 Petitioners,

17 v.

18 DEBRA BOWEN, in her capacity as  
Secretary of State of California, and  
19 KAMALA HARRIS, in her capacity as  
Attorney General of California; and DOES  
20 1 through 10,

21 Respondents.  
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**Case No.**

**VERIFIED PETITION FOR WRIT  
OF MANDATE**

**[Election Matter, California Elections  
Code section 13314]**

**Priority Matter pursuant to California  
Elections Code section 13314(a)(3)**

Petitioners CHARLES REED, WILLIAM KAMPE, TOM TAIT, PATRICK MORRIS and STEPHANIE GOMES (collectively, “Petitioners”), by this Verified Petition for Writ of Mandate, hereby allege as follows:

## INTRODUCTION

1. Petitioners bring this action against Respondents DEBRA BOWEN, in her capacity as Secretary of State of California (hereinafter “SECRETARY OF STATE”), KAMALA HARRIS, in her capacity as Attorney General of California (hereinafter “ATTORNEY GENERAL”), and DOES 1 through 10.

2. “The Pension Reform Act of 2014,” a statewide ballot measure (hereinafter “measure”), is a proposed amendment to the California Constitution which would allow state and local governmental entities to enter into bargaining to adjust the pension and retiree healthcare benefits of public employees for future work performed, and which would also allow voters to promote ballot measures to seek adjustments in these benefits. The measure protects the retirement benefits of public employees for work which they have already performed, and requires state and local government entities facing significant shortfalls in their pension and retiree healthcare benefit plans to develop a non-binding plan to fully fund this potential liability. (A true and correct copy of the measure is attached hereto as Exhibit A and incorporated herein by this reference.)

3. Respondent ATTORNEY GENERAL is responsible for preparing the circulating title and summary for all statewide ballot measures (California Elections Code (“EC”) sections 9004 & 9005), which must be placed at the top of all petitions for signatures as part of the qualification process for inclusion on the ballot (EC sections 9008 & 9009). (A true and correct copy of the circulating title and summary for the measure issued by the ATTORNEY GENERAL on January 6, 2014 is attached hereto as Exhibit B and incorporated herein by this reference.)

4. This action is brought pursuant to EC section 13314, which provides that this Court may issue a writ of mandate to correct any errors or omissions in any official matters relating to statewide initiative elections, or to correct or prevent the neglect of

1 duty by any elections official.

2 5. Respondent ATTORNEY GENERAL is required by law to prepare a true  
3 and impartial circulating title and summary of the chief purposes and points of the  
4 proposed measure which is neither argumentative, nor likely to create prejudice for or  
5 against any measure presented to the voters by initiative. (EC sections 9004(a), 9051 &  
6 9092.)

7 6. Respondent ATTORNEY GENERAL has failed to prepare a circulating  
8 title and summary that complies with the provisions of the EC.

9 7. Petitioners contend that the circulating title and summary uses false and  
10 misleading words and phrases which advocate for the measure's defeat, is argumentative,  
11 and creates prejudice against the measure, rather than merely informing voters of its chief  
12 purposes and points, in violation of the EC.

13 8. This Court must correct or amend the circulating title and summary to  
14 ensure that it complies with the EC and to ensure that voters are not misled.

15 **PRIORITY MATTER**

16 9. Pursuant to EC section 13314(a)(3), as an election law writ petition, this  
17 matter "shall have priority over all other civil matters."

18 **JURISDICTION, VENUE & TIMELINESS**

19 10. This Court has jurisdiction over this matter because the subject of the  
20 proceeding is a statewide measure seeking to be placed on the ballot. (EC section  
21 13314(b)(3) [Sacramento County is exclusive venue for such actions].) This action is  
22 timely filed, because the proponents only recently learned of the circulating title and  
23 summary and its legal deficiencies, must print the circulating title and summary on the  
24 initiative petition before gathering signatures to attempt to qualify the measure for the  
25 ballot (EC sections 9008 & 9009), and have only 150 days to do so (EC section 9014).

26 **PARTIES**

27 11. Petitioners CHARLES REED, WILLIAM KAMPE, TOM TAIT,  
28

1 PATRICK MORRIS and STEPHANIE GOMES are, and at all times relevant herein  
2 were, the official proponents of the measure, as well as being residents, taxpayers and  
3 registered voters in the State of California, and are authorized by EC section 13314 to  
4 bring this action. Each of the Petitioners bring this Petition in their individual capacities  
5 as private citizens of the State and proponents of the measure.

6 12. Respondent SECRETARY OF STATE is the Secretary of State of  
7 California and is the state's chief elections officer. EC section 13314(a)(4) requires that  
8 the Secretary of State be named as a Respondent or Real Party in Interest in this action.

9 13. Respondent ATTORNEY GENERAL is the author of the circulating title  
10 and summary and is charged with the statutory duty to prepare a fair and impartial  
11 circulating title and summary for initiative measures that have yet to be qualified for the  
12 ballot.

13 14. Respondents DOES 1 through 10 were, at all times relevant hereto, agents  
14 of the other Respondents and, like Respondent ATTORNEY GENERAL, committed  
15 errors, omissions, and/or neglects of duty in connection with the circulating title and  
16 summary. Petitioners are unaware of the identities of the DOE Respondents and will  
17 include them by name in this litigation when their identities and roles are ascertained.

### 18 RELEVANT FACTS AND LAW

19 15. The circulating title and summary issued by the ATTORNEY GENERAL  
20 on January 6, 2014 reads as follows (see Exh. B):

21 **"PUBLIC EMPLOYEES. PENSION AND RETIREE HEALTHCARE**  
22 **BENEFITS. INITIATIVE CONSTITUTIONAL AMENDMENT.** Eliminates  
23 constitutional protections for vested pension and retiree healthcare benefits for current  
24 public employees, including teachers, nurses, and peace officers, for future work  
25 performed. Permits government employers to reduce employee benefits and increase  
26 employee contributions for future work if retirement plans are substantially underfunded  
27 or government employer declares a fiscal emergency. Requires government employers  
28

1 whose pension or retiree healthcare plans are less than 80 percent funded to prepare a  
2 stabilization report specifying non-binding actions designed to achieve 100 percent  
3 funding within 15 years. Summary of estimate by Legislative Analyst and Director of  
4 Finance of fiscal impact on state and local government: Potential net reduction of  
5 hundreds of millions of dollars per year in state and local government costs. Net savings  
6 – emerging over time – would depend on how much governments reduce retirement  
7 benefits and increase salary and other benefits. Increased annual costs – potentially in the  
8 hundreds of millions to billions of dollars – over the next two decades for those state and  
9 local governments choosing to increase contributions for unfunded liabilities, more than  
10 offset by retirement cost savings in future decades. Increased annual costs to state and  
11 local governments to develop retirement system funding reports and to modify procedures  
12 and information technology. Costs could exceed tens of millions of dollars initially, but  
13 would decline in future years.”

14 16. EC section 9051 requires the title and summary to be a “true and impartial  
15 statement of the purpose of the measure in such language that . . . shall neither be an  
16 argument, nor be likely to create prejudice for or against the proposed measure.”

17 17. Prior to the issuance of the circulating title and summary and at the behest  
18 of the office of the ATTORNEY GENERAL, the proponents submitted a suggested  
19 circulating title and summary. (A true and correct copy of that submission is attached  
20 hereto as Exhibit C and incorporated herein by this reference.) The proponents also  
21 submitted a letter to the office of the ATTORNEY GENERAL explaining that the  
22 measure does not impact vested benefits. (A true and correct copy of that letter is  
23 attached hereto as Exhibit D and incorporated herein by this reference.)

24 18. EC section 13314(a) provides that this Court may issue a writ of mandate to  
25 compel the ATTORNEY GENERAL and the Attorney General’s office to fulfill their  
26 duties under EC sections 9004(a), 9051 and 9092 to prepare a circulating title and  
27 summary that is not false, misleading, partial or argumentative.  
28

19. EC section 13314(a)(2) authorizes this Court to issue a peremptory writ of mandate “upon proof . . . that an error, omission, or neglect” violates the EC or the California Constitution, and “that issuance of the writ will not substantially interfere with the conduct of the election.”

20. Several words and phrases in the circulating title and summary for the measure do not comply with the EC and are false, misleading, partial and/or argumentative, as those terms are used in EC sections 9004(a), 9051 and 9092, including, but not limited to, the following:

(1) The phrase “eliminates constitutional protections for vested pension and retiree healthcare benefits . . .” is false, misleading, partial and/or argumentative because the measure does not eliminate protections for benefits for future work performed. The measure protects retirement benefits for current public employees as work is performed, while allowing changes in benefits through bargaining, or by voters, for future work.

(2) The phrase “. . . public employees, including teachers, nurses, and peace officers” is biased, argumentative, likely to create prejudice, and/or partial because it unnecessarily highlights popular and sympathetic categories of public employees. The Attorney General’s office has no rational basis for including only these three categories of government employees, while excluding other categories, in the summary, and in any event, has no reason to further explain the term “public employees.”

21. Petitioners are beneficially interested in this matter, have no plain, speedy, or adequate remedy at law, and will suffer immediate and irreparable injury unless this Court issues a writ of mandate deleting or amending the false and/or misleading statements as described herein.

### FIRST CAUSE OF ACTION

**(Writ of Mandate Re: Circulating Title and Summary)**

22. Petitioners reallege, and incorporate herein by this reference as if fully set forth herein, the allegations of paragraphs 1 through 21, inclusive.

23. The ATTORNEY GENERAL's circulating title and summary for the measure is not fair and impartial, and is false, misleading, partial and/or argumentative, and therefore violates the EC.

24. The Court should delete the words and phrases “eliminates,” “vested” and “including teachers, nurses, and peace officers” from the first sentence of the summary, and should make other amendments and corrections to this sentence, in order to ensure the neutrality and integrity of the election process and in order to ensure that the voters are properly informed of the measure’s chief purposes and points, as required by law.

25. Issuing a writ in this case will not interfere with the conduct of any election, because the measure has not yet qualified for any ballot.

## PRAYER

WHEREFORE, Petitioners pray that this Court:

1. Issue an alternative writ of mandate compelling Respondent ATTORNEY GENERAL to amend the circulating title and summary for the measure;

2. Award Petitioners attorneys' fees and costs incurred in connection with this matter; and

3. Grant such other and further relief as may be just and proper.

Dated: February 5, 2014

By:

Bradley W. Hertz  
Jonathan S. Mintzer  
The Sutton Law Firm, PC  
Attorneys for Petitioners CHARLES R.  
"CHUCK" REED, WILLIAM KAMPE, TOM  
TAIT, PATRICK MORRIS and STEPHANIE  
GOMES

November 8, 2013

RECEIVED

NOV 12 2013

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Ms. Ashley Johansson  
Initiative Coordinator  
Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814-2919

Re: Request for Title and Summary for Re-submitted Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, this letter respectfully requests that the Attorney General prepare a circulating title and summary of the enclosed proposed statewide initiative: "The Pension Reform Act of 2014." The proposed initiative is substantially the same as the identically-titled initiative which we submitted to your office on October 15, 2013, though the proposed initiative includes several substantive amendments. For your convenience, we have included a clean version of the proposed initiative, as well as a version identifying the changes that we have made to the prior version of the initiative. Also enclosed are the required signed statements pursuant to California Elections Code sections 9001 and 9608, and a check in the amount of \$200.

Please direct all queries and correspondence regarding this proposed initiative to:

James R. Sutton, Esq.  
Sutton Law Firm  
150 Post Street, Suite 405  
San Francisco, CA 94108  
415/732-7700  
[Jsutton@campaignlawyers.com](mailto:Jsutton@campaignlawyers.com)

Thank you for your time and attention to this matter.

Sincerely,

  
Proponent - Chuck Reed

11/7/13  
Date

cc: James R. Sutton, Esq.  
Enclosures

EXHIBIT A



Ms. Ashley Johansson  
Request for Title and Summary for Re-submitted Proposed Initiative  
The Pension Reform Act of 2014  
November 8, 2013

William R Kampe  
Proponent – William R. Kampe

Nov 7, 2013  
Date

EXHIBIT A

Ms. Ashley Johansson  
Request for Title and Summary for Re-submitted Proposed Initiative  
The Pension Reform Act of 2014  
November 8, 2013

  
\_\_\_\_\_  
Proponent – Tom Tait

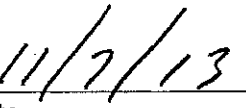

  
\_\_\_\_\_  
Date

EXHIBIT A

Ms. Ashley Johansson  
Request for Title and Summary for Re-submitted Proposed Initiative  
The Pension Reform Act of 2014  
November 8, 2013

  
Proponent – Patrick J. Morris

11/8/13  
Date

EXHIBIT A

Ms. Ashley Johansson  
Request for Title and Summary for Re-submitted Proposed Initiative  
The Pension Reform Act of 2014  
November 8, 2013

  
\_\_\_\_\_  
Proponent – Stephanie Gomes

11/8/13  
Date

EXHIBIT A

## THE PENSION REFORM ACT OF 2014

## SECTION 1. TITLE.

This measure shall be known and may be cited as "The Pension Reform Act of 2014."

## SECTION 2. FINDINGS.

(a) Government has a responsibility to provide essential services that protect the safety, health, welfare, and quality of life enjoyed by all Californians. Government also has an obligation to be fair to its employees and ensure that its retirement benefit plans are sustainable, fiscally sound, and able to meet the commitments made to its employees and retirees.

(b) The cost of California's current government employee retirement benefits is threatening the government's ability to achieve these goals. California's government reform agency, the Little Hoover Commission, issued a report in February 2011 entitled "Public Pensions for Retirement Security." The report stated, "*California's pension plans are dangerously underfunded, the result of overly generous benefit promises, wishful thinking and an unwillingness to plan prudently.*" The Commission concluded that pension costs are impairing the government's ability to provide essential services, and without aggressive reforms, cities and counties will be forced to slash services, reduce other forms of compensation, and lay off more government employees. In fact, government employee retirement benefits have been a primary factor behind the recent bankruptcies of the cities of Vallejo, Stockton, and San Bernardino, and threaten dozens of other jurisdictions with service-level insolvency. And if these problems continue to grow and become more widespread, government employees will be in peril of not receiving the retirement benefits they have earned.

(c) The current situation was not foreseen when the State Legislature passed Senate Bill 400, which granted retroactive pension increases to state employees in 1999. Back then, the California Public Employees Retirement System ("CalPERS"), the state's largest pension plan, estimated that state pension costs would not increase for a decade. Instead, according to CalPERS, the cumulative increase in state pension costs topped \$16 billion during that decade. In addition, the Stanford Institute for Economic Policy Research has estimated that unfunded state and local pension liabilities now exceed \$500 billion. These dramatic cost increases and unfunded liabilities are not simply due to the recession or drops in the housing and stock market several years ago, but are also attributable to inherent and systemic flaws in the government employee retirement benefits system. In a report issued in April 2013, CalPERS projected that retirement

contributions will rise by up to an additional 50 percent during the next seven years, creating a burden that will prove unbearable for many cities, counties, and other local government agencies. The situation at the California State Teachers' Retirement System ("CalSTRS") is much worse. In September 2013, CalSTRS reported that, under currently accepted Governmental Accounting Standards Board standards, its pension plan was only 44.7 percent funded.

(d) This voter-sponsored measure is necessary because attempts to reform the system through legislation and other initiatives have been inadequate. Even though the Little Hoover Commission has confirmed that California cannot solve its pension problems without making prospective changes going forward for current employees, the pension reforms passed by the Legislature in 2012 did not include such necessary changes. In addition, more substantial pension reforms adopted by local governments are at-risk of being overturned by the courts due to a lack of clarity in the law. While private sector pension plans are governed by federal laws that allow the plan sponsors to prospectively change employee benefits and provide for specific remedies when the plans become financially distressed, some argue that the language in some California judicial decisions hold that the same standard does not apply to public pensions. Finally, the citizens of California strongly support pension reform and believe the 2012 state legislation did not fix the problem.

(e) This measure is fair and reasonable, serves an important public purpose, restores the integrity and stability of government pension systems, and is necessary to preserve and protect the safety, health, and welfare of the people of California, for the following reasons:

(1) This measure allows government employers and voters to modify pension and retiree healthcare benefits and to increase employee contributions in future collective bargaining agreements for future years of service, while protecting benefits previously earned.

(2) Under federal law for private sector pension funds, pension plans are allowed to modify benefits for future years of service and are required to develop a plan for corrective action when they are underfunded. This measure would apply similar standards to government employee pension and retiree healthcare plans, allowing financially distressed government employers to make necessary modifications and requiring agencies administering the plans to implement such modifications.

(3) This measure provides long-term stability to retirement benefit programs by providing comprehensive standards that permit government employers to make and implement necessary modifications to pension and retiree

healthcare plans that will provide fiscal sustainability for the government employer, require implementation of such modifications by agencies administering such plans, and give the courts clear direction on how to adjudicate such important public policy goals.

(f) Therefore, to enable the people of California to meet the goals outlined above, to prevent them from being encumbered with additional unsustainable burdens, and to protect government employees and retirees, this measure amends the Constitution of the State of California.

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### SECTION 3. PURPOSE AND INTENT.

The People hereby enact this measure:

(a) To amend the Constitution of the State of California to enable the people of California to take those actions necessary to attain fiscal sustainability and provide fiscally responsible and adequately funded pension and retiree healthcare benefits for all government employees and retirees.

(b) To create an explicit constitutional amendment to Article 1, Section 9 of the California Constitution.

(c) To prevail and control over any conflicting provisions in the California Constitution, California Government Code or other provision of California law.

(d) To supersede the portions of the California Supreme Court decisions in *Kern v. City of Long Beach* (1947) 29 Cal.2d 848, *Miller v. California* (1977) 18 Cal.3d 808, and their progeny which have been construed as limiting the ability to prospectively modify pension and retiree healthcare benefits for work not yet performed by government employees.

(e) To authorize state and local governments to exercise their authority, including the exercise of their inherent police powers, to provide and protect essential government services, consistent with the United States Constitution.

(f) To provide clear and reasonable guidelines to all California courts, government employers, and retirement plan administrators to address these serious pension and retiree healthcare benefit cost and underfunding problems in a manner consistent with the United States Constitution's contract, takings, equal protection, and due process provisions.

(g) To protect pension and retiree healthcare benefits based on work already performed, while allowing reasonable modifications to such benefits for future services.

#### SECTION 4. AMENDMENTS TO CALIFORNIA CONSTITUTION

Section 9 of Article I of the California Constitution is amended to read:

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A bill of attainder, ex post facto law, or law impairing the obligation of contracts may not be passed. *Section 12 of Article VII of the Constitution is deemed not to impair the obligation of contracts.*

Section 12 is added to Article VII of the California Constitution, to read:

##### *Public Employee Retirement Benefits and Obligations*

*SEC. 12(a)(1) From the effective date of this Section, to the extent any government employer confers its current employees with vested contractual rights to pension or retiree healthcare benefits of any kind, such rights shall be earned and vested incrementally, only as the recipient employee actually performs work, and only in proportion to the work performed, subject to the vesting periods established by the applicable plan.*

*(2) Nothing in this subsection shall affect pension or retiree healthcare benefits earned and accrued for work already performed by employees or retirees.*

*(b) For any government employee hired after the effective date of this Section, to the extent any government employer confers these employees with vested contractual rights to pension or retiree healthcare benefits of any kind, such rights shall be earned and vested incrementally, only as the employee actually performs work, and only in proportion to the work performed, subject to the vesting periods established by the applicable plan.*

*(c) Any action by a government employer, labor agreement or voter initiative prior to the effective date of this Section shall not be found to have created a vested contractual right to future pension or retiree healthcare benefits before such work is performed by employees, unless the specific language of the underlying action, agreement or initiative expressly states that such benefits are vested or are otherwise irrevocable.*

*(d) Nothing in this Section shall be construed as conferring or vesting any rights or benefits on government employees not expressly granted by the government employer.*



*(e) The terms of a pension or retiree healthcare benefit plan for work not yet performed may be amended through a labor agreement, an action by a legislative body, or an initiative, referendum or other ballot measure initiated by the voters or by a legislative body. Any such amendments to pension or retiree healthcare benefits made by a legislative body, whether by legislation or by placing a measure on the ballot, shall comply with applicable collective bargaining laws.*

*(f) Courts shall have exclusive jurisdiction to consider and adjudicate all disputes regarding laws relating to pension or retiree healthcare benefits enacted or proposed through an initiative, referendum or other ballot measure.*

*(g)(1) Nothing in this Section shall alter any provisions of a labor agreement in effect as of the effective date of this Act, but this Section shall apply to any successor labor agreement, renewal or extension entered into after the effective date of this Act.*

*(2) Any provision of a labor agreement executed within 12 months before the effective date of this Act which is inconsistent with any provision of this Act shall be invalid if a court determines by a preponderance of evidence that such provision of the labor agreement was entered into for the purpose of avoiding this Act.*

*(3) For the purposes of this subsection, there shall be a rebuttable presumption that any labor agreement renewed or extended more than 6 months before its expiration date during the 12-month period before the effective date of this Act was entered into for the purpose of avoiding this Act.*

*(h) The amount employees are required to pay for pension or retiree healthcare benefits is a component of an employee's compensation package, and may be amended through a labor agreement, an action by a legislative body, or an initiative, referendum or other ballot measure initiated by the voters or by a legislative body.*

*(i)(1) If a government employer finds its pension or retiree healthcare plan is substantially underfunded and is at risk of not having sufficient funds to pay benefits to retirees or future retirees, or declares a fiscal emergency because the financial condition of the government employer impairs its ability to provide essential government services or to protect the vital interests of the community, the government employer, in addition to its current powers and the powers set out in this Section, shall have the authority to implement one or more of the following actions for all employees, within the limits of the United States Constitution:*

*(i) Reduce the rate of accrual for pension or retiree healthcare benefits to be earned in the future.*

*(ii) Reduce the rate of cost of living adjustments for pension or retiree healthcare benefits to be made in the future.*

*(iii) Increase the retirement age for payment of pension or retiree healthcare benefits to be earned in the future.*

*(iv) Require employees to pay a larger share of the cost of pension or retiree healthcare benefits.*

*(v) Other reductions or modifications of pension or retiree healthcare benefits agreed upon during collective bargaining.*

*(2) The government employer shall make factual findings establishing that such actions are reasonable and necessary to serve an important public purpose and are consistent with the United States Constitution and the California Constitution, as modified by this Act.*

*(3) If a government employer takes any of the actions described in this subsection, such actions shall apply only to work performed by employees after the date on which the government employer takes such actions.*

*(4) If such actions are within the mandatory scope of collective bargaining, they shall be submitted to collective bargaining.*

*(5) Any such actions may be subsequently amended to take into account changes in circumstances, subject to the process established in this Section.*

*(j)(1) For any pension or retiree healthcare plan with assets equaling less than 80 percent of the plan's liabilities, as calculated by the plan's actuary using generally accepted accounting principles, the government employer shall prepare a stabilization report.*

*(2) The stabilization report shall specify actions designed to achieve 100 percent funding of the plan within 15 years while preserving basic government services. The stabilization report shall identify (i) the benefits to be modified, if any, (ii) the additional costs to be incurred by employees, if any, (iii) the additional costs to be incurred by the government employer, if any, (iv) the specific funding sources to be used to pay for such additional costs, (v) the investment return rates needed to be achieved to obtain such funding level, as well as information regarding the historical rates of return earned by the applicable plan, and (vi) the impact of any*

*existing pension obligation bonds issued by the government employer, and any additional actions that may be needed to pay off such bonds.*

*(3) The stabilization report shall be published for public review within 180 days of receiving an actuarial valuation from the retirement plan administrator on the funding status of the pension or retiree healthcare plan.*

*(4) The government employer shall hold a public hearing to receive public input and formally accept the stabilization report within 270 days of receiving an actuarial valuation from the retirement plan administrator on the funding status of the plan. Nothing in this subsection shall require the government employer to adopt or implement any actions specified in the stabilization report.*

*(5) Each year thereafter the government employer shall follow the process established in this Section until the pension or retiree healthcare plan's actuary reports that the pension or retiree healthcare plan is at least 100 percent funded.*

*(k) When a government employer modifies, freezes or terminates a pension or retiree healthcare plan, the government employer's obligation to ensure payment for all employee benefits accrued prior to the date of such action shall continue. For such modified, frozen or terminated plans, the retirement plan administrator shall use the same discount rate applied to the plan administrator's unmodified plans when establishing contribution rates and shall not impose a penalty or premium on such plans. The government employer and employees shall maintain responsibility for all unfunded liabilities in such plans in accordance with the terms of the labor agreement between the government employer and employees, and shall make amortization payments using the same methodologies that govern the retirement plan administrator's other plans. This provision shall not apply to the obligations of government employers which are dissolving.*

*(l) The power to amend the terms of a pension or retiree healthcare benefit plan as allowed under this Section may not be prohibited or limited by labor agreement, statute, resolution, ordinance, or any other act by an executive, legislative body, pension board, or any other governmental entity.*

*(m) Every government employer and pension board shall promptly implement and enforce all provisions of this Act unless ordered otherwise by a court.*

*(n) Should it be determined that any provision of this Act is in conflict with any other provision of the California Constitution, the California Government Code or any other provision of California law, the provisions of this Act shall prevail and control.*

*(o) As used in this Section, the following definitions shall apply:*

*(1) "Act" shall mean the Pension Reform Act of 2014.*

*(2) "Government employee" and "employee" shall mean an employee, officer or elected official of a government employer who is entitled to receive pension or retiree healthcare benefits.*

*(3) "Government employer" and "employer" shall mean the state or a political subdivision of the state, including but not limited to counties, cities, charter counties, charter cities, charter city and counties, school districts, special districts, boards, commissions, the Regents of the University of California, California State University, and agencies thereof. For the purposes of this section, the Legislature shall serve as the government employer with respect to the pension benefits of the members of the California State Teachers Retirement System, but not with respect to their retiree healthcare benefits.*

*(4) "Labor agreement" shall mean a memorandum of understanding, collective bargaining agreement, contract or similar agreement entered into between a government employer and a recognized employee organization representing government employees.*

*(5) "Pension" or "pension benefits" shall mean a plan or trust providing a defined benefit determined by a formula based on factors such as age, years of service and compensation, or a defined contribution plan. It shall not include disability benefits for government employees or death benefits for families of government employees, even if those benefits are provided as part of a pension or deferred compensation plan.*

*(6) "Pension board" shall mean a retirement board as defined in section 17(h) of Article XVI.*

*(7) "Plan" and "retirement plan" shall mean any pension or retirement plan offered by a government employer for the purpose of providing retirement benefits to government employees.*

*(8) "Retiree healthcare" or "retiree healthcare benefits" shall mean a plan or trust providing healthcare benefits to retired government employees, such as healthcare services (including acute and chronic care), payment of capitation fees (including those for the United States Medicare Program), other medical services, and dental and vision services. It shall not include disability benefits for government employees or death benefits for families of government employees even if those benefits are provided as part of a healthcare plan.*

#### SECTION 5. Effective Date.

Except as otherwise provided herein, this Act shall become effective the day after its approval by the voters, pursuant to section 10(a) of Article II of the California Constitution.

#### SECTION 6. Conflicting Measures.

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This Act is intended to be comprehensive. It is the intent of the People that in the event this Act and one or more measures relating to the same subject shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

#### SECTION 7. Liberal Construction.

This Act is an exercise of the public power of the people of the State of California for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate its purposes.

#### SECTION 8. Severability.

If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. The voters hereby declare that this Act, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.

#### SECTION 9. Defending the Pension Reform Act of 2014.

(a) The people of the State of California declare that the proponents of this Act have a direct and personal stake in defending this Act and grant formal authority to the proponents to defend this Act in any legal proceeding, either by intervening in such legal proceeding, or by defending the Act on behalf of the people and the State in the event that the State declines to defend the Act or declines to appeal an adverse judgment against the Act.

(b) In the event that the proponents are defending this Act in a legal proceeding because the State has declined to defend it or to appeal an adverse judgment against it, the proponents shall:

(1) act as agents of the people and the State;

(2) be subject to all ethical, legal, and fiduciary duties applicable to such parties in such legal proceeding; and

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(3) take and be subject to the Oath of Office prescribed by Article XX, section 3 of the California Constitution for the limited purpose of acting on behalf of the people and the State in such legal proceeding.

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

**PUBLIC EMPLOYEES. PENSION AND RETIREE HEALTHCARE BENEFITS.**

**INITIATIVE CONSTITUTIONAL AMENDMENT.** Eliminates constitutional protections for vested pension and retiree healthcare benefits for current public employees, including teachers, nurses, and peace officers, for future work performed. Permits government employers to reduce employee benefits and increase employee contributions for future work if retirement plans are substantially underfunded or government employer declares fiscal emergency. Requires government employers whose pension or retiree healthcare plans are less than 80 percent funded to prepare a stabilization report specifying non-binding actions designed to achieve 100 percent funding within 15 years. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **Potential net reduction of hundreds of millions to billions of dollars per year in state and local government costs. Net savings—emerging over time—would depend on how much governments reduce retirement benefits and increase salary and other benefits. Increased annual costs—potentially in the hundreds of millions to billions of dollars—over the next two decades for those state and local governments choosing to increase contributions for unfunded liabilities, more than offset by retirement cost savings in future decades. Increased annual costs to state and local governments to develop retirement system funding reports and to modify procedures and information technology. Costs could exceed tens of millions of dollars initially, but would decline in future years. (13-0043.)**

## THE PENSION REFORM ACT OF 2014

Suggested Title and Summary (100 words)

### **PUBLIC EMPLOYEES RETIREMENT BENEFITS SYSTEM REFORM. INITIATIVE CONSTITUTIONAL AMENDMENT.**

- Amends California Constitution to allow state and local governments to prospectively amend public employee retirement benefits for employees' future years of service.
- Gives voters power to prospectively amend public employee retirement benefits through initiative process.
- Requires changes be made pursuant to applicable collective bargaining laws.
- Prohibits reduction in public employee retirement benefits accrued for work already performed.
- Requires public employee retirement plans that are less than 80% funded to prepare public report detailing level of underfunding and potential actions that would achieve full-funding within 15 years.
- Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Unknown fiscal impact. Potentially major decrease in state and local spending depending on future actions of the Legislature, local governing boards, and voters.

Prepared 10/25/13

**EXHIBIT** C



## Reform Pensions 2014

The Honorable Kamala D. Harris  
Office of the Attorney General  
P.O. Box 944255  
Sacramento, CA 94244-2550

October 9, 2013

Attorney General Harris:

We are writing in support of the Pension Reform Act of 2014 that has been submitted to your office for preparation of title and summary. We respectfully request that you give it prompt attention and consideration.

As Mayors of California cities, we have seen firsthand how the rising cost of public employee retirement benefits has forced cities, counties and other government agencies to cut public services, layoff hard-working employees and defer badly-needed improvements to critical infrastructure. These costs have helped drive some cities into bankruptcy and have pushed even more towards service level insolvency. We are also deeply concerned that huge unfunded liabilities in our state's pension funds will jeopardize cities' ability to pay out the benefits that our employees and retirees will be counting on in retirement. Yet, as elected leaders, we do not have the tools we need to address this massive problem.

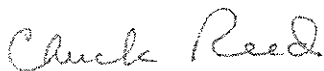
This measure will provide cities, counties and other government agencies with the tools to protect important government services, increase the retirement security of our dedicated public servants, and avoid service level insolvency (or even worse, bankruptcy).

Specifically, the measure will allow government agencies to prospectively modify retirement benefit earnings for future years of service, while protecting the retirement benefits employees have earned to-date. Nothing in this measure will retroactively change any benefits that employees have accrued for work that has been performed.

It is also important to note that this measure does not prescribe a one-size-fits-all solution for all government agencies in the state, nor does it mandate that a government agency modify its retirement benefits. Instead, it provides each government agency with the flexibility to craft a solution that is appropriate for its particular circumstances.

We welcome you to contact us at any time should you have any questions or need additional information about the critical needs for this proposed ballot measure.

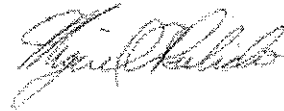
Sincerely,



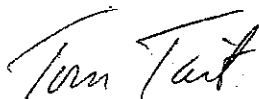
Chuck Reed  
Mayor of San Jose



Pat Morris  
Mayor of San Bernardino



Miguel Pulido  
Mayor of Santa Ana



Tom Tait  
Mayor of Anaheim



Bill Kampe  
Mayor of Pacific Grove

**EXHIBIT** D

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VERIFICATION

I, CHARLES REED, declare that I am one of the individual Petitioners in this matter.

I am a registered voter in the State of California and an official proponent of the proposed statewide ballot measure called "The Pension Reform Act of 2014."

I have read the foregoing **Verified Petition for Writ of Mandate** regarding the circulating title and summary of the proposed statewide ballot measure known as "The Pension Reform Act of 2014" prepared by the Attorney General's office, and know the contents thereof. The same is true of my own knowledge, except as to those matters that are herein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 4, 2014 in San Jose, California.

By: Charles R Reed  
Charles Reed CHUCK REED  
Petitioner