

**RESOLUTION NO. 1144**

**A RESOLUTION RESCINDING THE CITY OF TROUTDALE  
PICKUP OF PERS MEMBER CONTRIBUTIONS AND ADJUSTING  
THE SALARY PLAN**

**The City Council of the City of Troutdale finds as follows:**

1. Ballot Measure 8 was adopted by the voters at the November 8, 1994 general election.
2. The Measure requires City of Troutdale employees to pay an amount equal to six percent of the salaries or gross wages to the Public Employees' Retirement System (PERS) since that is the retirement system offered by the City.
3. The Measure allows local governments to contract or otherwise agree to pay this mandated contribution or increase salaries to offset the employee PERS contribution if the local government acts before January 1, 1995.
4. The City of Troutdale agreed to "pickup" the contribution to PERS for its employees beginning in 1980 (Resolution No. 313) and continuing in compensation decisions since that time. The pickup was obtained in place of an additional salary increase. Many city employees have made decisions in reliance on this commitment to pickup the PERS contribution.
5. Certain city employees, members of the Troutdale Police Officers' Association, are less affected by Measure 8 in that their bargaining agreement arguably requires continued payment of the PERS contribution by the City during the life of the agreement. Thus, Measure 8 may have a disproportionate impact on City employees. Current City policy requires the compensation of exempt employees to be based upon the compensation paid to comparable employees by other employers, as well as the compensation paid to non-exempt employees.
6. Other City employees are members of a newly formed AFSCME bargaining unit. The bargaining agent for this group of employees has consented to unilateral action by the City affecting the compensation of this bargaining unit.
7. Without action by the Council, Measure 8 would affect employee groups at different times in the next several years and create salary inequities. This might cause problems in filling vacancies. Other jurisdictions in the metropolitan area have increased employee compensation to mitigate the effects of Measure 8.
8. If Measure 8 is challenged legally, the City might be required to segregate to salary savings in a separate account and could not spend that money until the legal challenge has been resolved. Amending current compensation arrangements to require employee payment of the PERS obligation and increasing salaries by the same amount allows City business to proceed with certainty.

**BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE:**

**Section 1.** Repeal of PERS Contribution. The provisions of City of Troutdale Resolution No. 313 and any other City Council policy or enactment requiring City payment of contributions to the Public Employes' Retirement System on behalf of its employees and allowed by ORS 237.075, are repealed. This does not modify or repeal any obligation of the City to pay the PERS contribution contained in a written contract with one or more employees. Except when City payment is required by contract, the PERS contribution required by ORS 273.071 shall be paid by each City employee.

**Section 2.** Salary Adjustments. The compensation of employees who are not subject to a collective bargaining agreement or not members of a certified bargaining unit is adjusted as follows. These adjustments affect the compensation of members of a certified bargaining unit of the City employees provided a waiver of any claim of unfair labor practice because of the effect of this resolution is filed with the City Recorder prior to January 1, 1995. The employees not subject to a collective bargaining agreement and who are members of a certified bargaining unit for whom an unlawful labor practice waiver is filed are hereafter referred to as "affected employees."

a. The Classification Plan and Compensation Plan adopted by the Council on April 26, 1988 and any amendments to those Plans adopted thereafter are modified by increasing each pay range and steps in each pay range by 6%. The salaries of future affected employees shall be set initially at an amount which is 6% greater than would have been the case if these Plans were not so modified;

b. Resolution No. 1108-94-R, adopting the 1995 Fiscal Year Annual Budget and making appropriations, is modified by increasing the salaries of affected employee positions listed in the budget document by 6% and decreasing the benefits by the amounts paid by employees to PERS under section 1 of this resolution;

c. The compensation for each current affected employee previously treated as salary and PERS contribution is combined into a single salary expense and is the "salary" for that employee;

d. The affected employee's PERS contribution, together with other required withholdings, shall be withheld from salary;

e. The affected employee's PERS contribution withheld from salary shall be paid by the City to PERS in lieu of payment to PERS by the employee. The affected employee shall have no option to receive the contributed amount directly;

f. For the limited purposes of Internal Revenue Code § 414(h)(2) and any related federal or state tax policies, the affected employee's PERS contribution shall be considered "picked up" by the City as the term "picks up" is used in the Internal Revenue Code. For other purposes, the contribution shall be considered to have been made by the employee.

The City Administrator is directed to notify the Internal Revenue Service and PERS of this election;

g. The salary portion of the W-2 forms for affected employees shall exclude the PERS contribution made by the City;

h. Any affected employee on the date this resolution is adopted who is not then a member of PERS shall not immediately receive the pay increase established under this section. Instead, the employee's pay shall be increased by the amount allowed under this section when the employee qualifies to become a member of PERS.

**Section 3.** Compensation of Members of the Troutdale Police Officers' Association. The Mayor and City Administrator are authorized to amend the Agreement between the City and the Troutdale Police Officers' Association, dated May 13, 1994, by requiring employee PERS contribution in exchange for an increase in salary in the amount of the City PERS contribution presently required. The Mayor and City Administrator are authorized also to amend any individual employment agreement to the same effect.

**Section 4.** Effectiveness of Resolution. Because of the need to take action prior to January 1, 1995 under Measure 8, it is necessary that this resolution take immediate effect. This resolution shall take effect immediately upon its passage by the City Council. The adjustments in PERS contributions and salaries shall take effect for the salary period beginning December 19, 1994.


**Section 5.** Repeal of Resolution. This resolution shall no longer be effective if the recount of votes on Measure 8 results in the measure not being adopted or if a final judgment of a court of competent jurisdiction is entered declaring Measure 8 to be completely invalid.

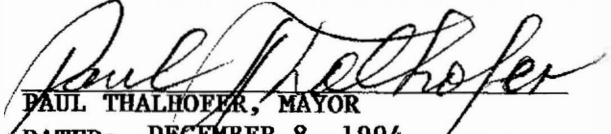
**Section 6.** Severability. If any provision of this resolution is held invalid for any reason by a court or administrative body having competent jurisdiction, the remaining provisions shall remain valid and in full force and effect.

**ADOPTED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 6TH DAY OF DECEMBER, 1994.**

YEAS:	<u>5</u>
NAYS:	<u>1</u>
ABSTAINED:	<u>0</u>

ATTEST:

  
George Martinez  
City Recorder

  
PAUL THALHOFFER, MAYOR  
DATED: DECEMBER 8, 1994

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