

CFRS NEWS

City of Fresno Retirement Systems



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Message from the Administrator:

Robert Theller, Retirement Administrator

Your Fire & Police Retirement System remains more than fully funded and is positioned to strongly secure your current and future retirement. Our goal is to keep it that way by maintaining a pension system which provides benefits which are economical for our sponsor (the City of Fresno) while remaining a life-long, lucrative and sustainable benefit for retired Sworn Safety employees.

Limiting risk is vital for an institutional investor like CFRS. As a long-term investor, we prepare for multiple economic ups and downs across future decades. Part of that work is making sure we are taking the appropriate amount of risk to meet our investment goals while still maintaining broad market exposure. The team at CFRS continues to work with our Investment Consultant to build a resilient and innovative investment program that includes frequent reviews of new investment ideas and [existing investment strategy](#).

We provide award winning annual financial reporting that give our members, retirees and the City of Fresno management team the information they need to plan contribution payments and prepare for the budget well in advance. Our Finance team works with our Boards, Auditors and the City Finance team to ensure proper accountability is provided and prudent fiduciary care was taken while spending and investing your assets. They also prepare a [Popular Annual Financial Report \(PAFR\)](#) which is an easy-to-read summary of the [Annual Comprehensive Financial Report \(ACFR\)](#), we encourage you to read them.

We remain committed to our primary mission of delivering your benefits when you choose to retire. To do that our Benefits team maintains a focus on great customer service while helping you process your retirement or disability application.

We will help you through the required paperwork, while also trying to decrease the time it takes to process the applications. CFRS Benefits team is committed to helping you start your retirement. You can start by looking over your account and member information in [MemberDirect](#).

We encourage you to:

- **Attend our meetings** on the second Wednesday (and fourth Tuesday if another meeting is needed) of each month at 1:00 p.m. **in person, or via Zoom**. You can submit general or specific questions or concerns about the Systems that you would like the Boards to address. Please feel free to attend either way if you are curious and just want to see what we do. You can see our [schedules & agendas on our website](#).
- If you see a problem or have an idea for doing something better? **Please submit your positive suggestions for improvements** by email to Retire@Fresno.gov Change to improve is always possible and will help make CFRS a stronger, more resilient organization.

For specific questions or concerns relating to your pension, disability or DROP account, we encourage you to reach out **confidentially** to our Staff at **559-621-7080** to discuss or schedule an appointment.

We hope you get more out of your retirement account than you put in, and you do so for a long, long time.

Sincerely,

Robert T Theller
Retirement Administrator

CFRS RESPONSES TO CITY OF FRESNO REFUSAL TO FULLY PAY RETIREMENT CONTRIBUTIONS


This is to inform you as members that the Retirement Systems, through counsel (see CFRS response below) has ordered the City of Fresno to immediately make payment of the full and not partial Employer and Employee Contributions due to the City of Fresno Police & Fire Retirement System and City of Fresno Employees Retirement Systems.

City Manager Georgeanne White informed CFRS the City is not and will not be implementing either the employer or employee Pension contribution rate changes that each Board (by law) requires be paid to properly fund F&PRS and ERS and will only make partial payments.

The City states that it intends to pay contributions based on the rates that the Boards adopted for the prior fiscal year, which would result in a material underpayment of required employer and employee contributions to CFRS.

The law clearly establishes that there is no basis under California law for the City's refusal to timely pay these amounts. CFRS will pursue all available legal remedies, including without limitation suing the City and its City Council for immediate payments of all amounts due should the City continue to refuse to make required Pension contributions to F&PRS and ERS.

As outlined in the counsel's letter: California law requires that the City pay the actuarially determined contribution rates that the Boards determine are due. Further, there is no question that CFRS' active, deferred, and retired members and their qualified beneficiaries have a vested right to have the City pay its own required contributions to CFRS.



BY EMAIL AND FEDERAL EXPRESS
(ANDREW.JANZ@FRESNO.GOV)

July 15, 2024

Andrew Janz, Esq.
City Attorney
Office of the City Attorney for the City of Fresno
2600 Fresno Street
Fresno, CA 93721

Re: **Demand for Immediate Payment of Employer and Employee Contributions Due to the City of Fresno Police & Fire Retirement System and City of Fresno Employees Retirement System**

Dear City Attorney Janz:

We write in our capacity as outside fiduciary and litigation counsel to the City of Fresno Fire & Police Retirement System ("F&PRS") and City of Fresno Employees Retirement System ("ERS") (collectively "CFRS"), and each of their Retirement Boards ("Board" or, collectively, "Boards") on a topic of grave importance to CFRS and the Boards.

That is, the City of Fresno ("City"), through City Manager Georgeanne White ("City Manager"), has informed CFRS in unequivocal terms that the City is not and will not be implementing either the employer or employee contribution rate changes that each Board requires be paid to properly fund F&PRS and ERS, respectively, as detailed in the Board-adopted Actuarial Valuation Reports for each retirement system. Rather, the City states that it intends to pay contributions based on the rates that the Boards adopted for the prior fiscal year, which would result in a material underpayment of retired employer and employee contributions to CFRS.

As you should know, and as the law outlined below establishes, there is no basis under California law for the City's refusal to timely pay these amounts. And, CFRS will pursue all available legal remedies, including without limitation suing the City and its City Council for immediate payments of all amounts due, plus interest at 10% per annum, and CFRS' attorneys' fees, should the City continue to refuse to make said required contributions to F&PRS and ERS.

Contrary to assertions in the June 12, 2024 letter from the City Manager to CFRS Retirement Administrator Robert Theller, California law requires that the City pay the actuarially determined contribution rates that the Boards determine are due. Further, there is no question that CFRS' active, deferred, and retired members and their qualified beneficiaries have a vested right to have the City pay its own required contributions to CFRS. In addition, CFRS' active members have a vested right to have the City deduct employee contributions they owe to the retirement systems and transmit those payments to CFRS, such that those members and their beneficiaries may receive the full benefit of the retirement benefits they have and will continue to earn for their

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City Attorney of the City of Fresno
July 15, 2024
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pensionable services rendered to the City. These established rules of law are grounded in the California Constitution, and they have been recited in California case law for over fifty years. Moreover, certain of these rules were expressly affirmed in two published court of appeal decisions published just this year, as well as a recent Supreme Court precedent, as follows.

In *Los Angeles County Employees Retirement Association (LACERA) v. County of Los Angeles (County)* (June 24, 2024) (Case No. B326977) ("LACERA"), the Second District Court of Appeal ordered that LACERA's petition for a writ against the County of Los Angeles be granted, stating therein that under Article XVI, Section 17 of the California Constitution, public retirement boards have the "plenary" and "sole and exclusive" authority to administer retirement systems, which includes, but is not limited to, the setting of actuarially-determined contribution rates that employers are required to pay. *Id.* at p. 33 ("Courts have interpreted 'plenary authority' and 'plenary power' to confer 'complete, absolute, and unqualified power. [Citation omitted.]") Further, the court concluded as to the fiduciary topic decided therein, that the County was required to comply with its "ministerial" obligation to implement fiduciary decisions made by the LACERA Boards. *Id.* at p. 78. That ministerial obligation is the same ministerial duty that requires the City to pay CFRS the actuarial-determined contributions the Boards have determined is due for this fiscal year to each retirement system. Moreover, the actuarial authority of the Boards to demand those payments under subdivision (e) of Article XVI, Section 17 of the California Constitution was expressed even in the Third District Court of Appeal decision, *Wasty v. Board of Administration* (2003) 105 Cal.App.4th 1095, which LACERA determined over- restricted the authority of public retirement boards to administer retirement systems in accordance with the fiduciary determinations of those boards. There is no question that California law requires the City to implement its "ministerial" obligation of implementing the Boards' actuarial-determined contributions rates for the current fiscal year, as explained in both decisions.

In *Alameda Health System v. Alameda County Employees' Retirement Association* (2024) 100 Cal.App.5th 1159 ("AHS"), the First District Court of Appeal affirmed the trial court's conclusion that participating employer Alameda Health System ("AHS") must pay employer contributions based on the actuarial methodology set by the Board of Retirement of Alameda County Employees' Retirement Association ("ACERA"), and that ACERA was not required to have its actuary (Segal Company) conduct additional actuarial studies that the employer demanded it conduct. Notably, the Court also admonished AHS for arguing an erroneous interpretation of *O'Neal v. Stanislaus County Employees' Retirement Association* similar to the one that the City Manager set forth in the June 12, 2024 letter to CFRS. *Id.*, see also *Mjares v. Orange County Employees Retirement System* (2019) 32 Cal.App.5th 316 ("Mjares"). (Office of Education of Orange County was required to pay the employer contributions that the Board of Retirement of the Orange County Employees Retirement System (OCERS) determined was due to OCERS). AHS and Mjares also establish definitively that the City has no authority to refuse to implement the current contribution rates the Board determined, in consultation with their retained actuary (Segal Company), are due to each of the retirement systems they govern.

With respect to vested rights, the California Supreme Court reaffirmed in *Alameda County Deputy Sheriff's v. Alameda County Employees' Retirement Association, et al.* (2020) 9 Cal.5th 1032, that the contract clause of the California Constitution (commonly referred to as "the California Rule" in the public pension context) entitles members of public retirement systems the

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Understanding Contributions to the City of Fresno Fire & Police Retirement System

The benefits that the Fire & Police Retirement System provides rely on three sources of funding:

- F&P Member contributions
- City of Fresno Employer contributions ; and
- Investment Earnings of the System

Employee Member Contributions

All participating members are required to contribute to the System. Each payroll period, all members contribute a percentage of their earnings to the Fire & Police Retirement System. The amount you are required to contribute to the System is set per the Fresno Municipal Code. Contributions are a percentage of your city pensionable pay. Vacation, overtime and certain other forms of compensation are not included as part of your city pensionable pay for purposes of determining your contributions. Since January 1986, your contributions have been made on a pre-tax basis. This means that your contributions are not taxed until they are distributed from the System.

City of Fresno Employer Contributions

The amount of the city contribution is determined each year based on an Actuarial Valuation Study of the System. During the valuation, the actuary examines the System's liabilities and applicable assets to compute the System's funding status. The actuary then estimates the amount as a percentage of compensation that must be contributed to the System each year to pay the promised benefits over the long term. The Boards' Actuary, The Segal Company, completed a System valuation as of June 30, 2023, and since the F&P Tier 2 Member rate is set at 9.0% the Employer's required contribution was determined to be 23.09% to fund the next year of service and ensure the System's long-term viability. The adjustments recommended by the Actuary were approved by the Board in November 2023. The new contribution rates should have taken effect on July 1, 2024.

It's important to understand that employee member and employer contribution rates are fluid but stable. They have and can remain stable for several years or change slightly on an annual basis, depending on several factors. Our actuaries may recommend rate changes based on system valuations, shifts in the demographics of the system participants, and/or interest rate changes set by the Retirement Board.

Investment Earnings

The fiscal year 2023 return of 9.77 percent exceeded the System's assumed rate of return of 6.75 percent effective June 30, 2023. As illustrated by the System's 10, 15 and 25-year long-term gross of fees returns of 8.15 percent, 7.20 percent, and 6.96 percent, respectively, as of June 30, 2023, the System can achieve its long-term objectives over extended periods. These investment returns over time help defray the required contributions of employees and employer and ensure the maintenance of a well-funded system.

The Board's Fiduciary Duty

The Board is committed to upholding their fiduciary duty and will continue to provide System members and the Employer with flexible, cost-effective, participant-oriented benefits through prudent investment management and superior member services. It is the Board's Fiduciary duty to regularly monitor the ratio of the funding sources to ensure the long-term health and viability of the System. When adjustments to that ratio are required, the Board is required to implement them. These adjustments serve to strengthen the System.

CONTINUED FROM PAGE 2

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City Attorney of the City of Fresno
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right to earn the vested benefits due to them by statute, and the City's current underfunding of those benefits by refusing to pay both the employer and employee contributions required by CFRS risks compromising those constitutionally-protected rights. See also *Board of Administration v. Wilson* (1997) 52 Cal.App.4th 1109 (delayed actuarial funding by the State of California to the California Public Employees' Retirement System violated members' vested rights).

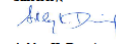
Finally, in addition to the constitutional authority that requires immediate payment of contributions to CFRS as set forth above, the City's own Charter, Sections 3-305 and 3-505, and the City Municipal Code, also provide that the management and control of F&PRS and ERS reside in each of their Boards and that the actuarial funding of CFRS shall be determined by those Boards.

The City has expressed its intent to violate the foregoing legal principals, and the Boards will take all necessary steps to prevent that from occurring.

In the interest of providing the City Attorney's office with an opportunity to consider the foregoing authorities and to discuss them with the City Council, we will provide the City until August 9, 2024 to configure its payroll system to implement the 2024-2025 employer and employee contribution rates, and to make up the shortfall resulting from the delayed implementation of those rates.

Absent a timely and full correction of those underpayments of contributions, however, the CFRS Boards have authorized this firm to file a Petition for Writ of Mandate and Complaint for Declaratory Relief against the City and its City Council before the end of next month.

Sincerely,


Ashley K. Dunning
of Nossaman LLP

cc: Russ Richeda, Esq., Saltzman & Johnson, CFRS General Counsel



Meet your Retirement Board Trustee:

Lynn Bennink, Outside Board Member
City of Fresno Fire and Police Retirement Board
Appointed June 27, 2017

In October 2017, Lynn Bennink was appointed as Outside Member to the City of Fresno Fire and Police Retirement Board. In accordance with Fresno Municipal Code Section 3-305(a)(4) Lynn is a qualified elector of the County of Fresno, not connected with the government of the City of Fresno and elected by the previously designated four members. Lynn's term is continuous.

Lynn (Seyller) Bennink was born and raised in Fresno, California. She graduated from UCSF Fresno in 1977 with a Bachelor of Science Degree in Nursing. Most of her nursing career was spent in emergency and trauma nursing. In the emergency department she held various positions such as staff nurse, assistant ED director, prehospital liaison nurse, flight nurse, clinical educator, and emergency department director. She also worked for four years for the Fresno, Kings, Madera EMS agency as a Senior EMS Specialist. During that time, she participated in a statewide committee that developed pediatric trauma regulations for the state of California.

The last 14 years of Lynn's career was in the role of Trauma Program Director at the Level 1 Trauma Center in Fresno. She participated in the successful movement of patients from UMC to Community Regional Medical Center (CRMC) when the two facilities merged in 2007. During her time as the Trauma Program Director, Lynn participated in various local, state, and national trauma organizations. She was one of the founding members and president of the California Trauma Managers of California. She was an international instructor for the Advanced trauma Care for Nursing course that is taught all over the world.

In 2011, Lynn had a dream fulfilled with the opening of Terry's House, a home away from home for families with loved ones in critical care and Neonatal ICU at CRMC. She had the opportunity to participate in the design and build of Terry's House from the beginning to the end. Lynn oversaw Terry's House until she retired.

In 2014, Lynn retired from Community Hospitals and spent five years working with the state of Washington as a consultant to evaluate care provided at their trauma centers.

Lynn is married and has two children and four grandchildren. She and her husband enjoy traveling, boating, NASCAR, and spending time with their grandkids.

INVESTMENT UPDATE

The Joint Boards responsibility, as a long-term investor, is to manage in and through the global financial market environments as they evolve. Our Boards understand the System's portfolio requires a sound and stable strategy for meeting investment goals over the long-term with appropriate risk levels and controls.

The City of Fresno Retirement Systems portfolio is a globally diversified fund that invests in equities (public and private), fixed income, real estate, and infrastructure and currently is valued at \$3.9 billion while achieving a new highwater mark for total market value. The portfolio continues to be fully funded.

In the current fiscal year, commitments totaling \$75 million to renewable assets, digital broadband infrastructure, and venture capital strategies have been approved. The real estate portfolio is in the process of being restructured in order to accommodate larger allocations to non-US strategies for diversification benefits and increased returns. As of March 31, 2024, performance across short- and long-term periods have been positive and exceeded the Joint Board approved assumed rate of return.

The Joint Boards and staff continue to explore new and innovative strategies that might be complementary to the portfolio and manage risk in a prudent manner. To learn more about the portfolio please click on the links below.

[CFRS Asset Allocation](#)
[Current Investment Managers](#)

Election Results

In April, a Notice of Election was posted for the Police Member on the Fire and Police Retirement Board for the term ending June 30, 2028. Chris Cooper was *re-elected* and certified by the Secretary as the only one-candidate qualified for placement on the ballot for the election of a **POLICE MEMBER** to the Fire and Police Retirement Board. Certification was filed with the Board in June and Member Cooper was sworn in at the Board meeting in July 2024.

Also, at the July board meeting, the annual elections for Chair and Vice Chair were held. Jonathan Lusk was re-elected as Chair and Donald Gross was re-elected as Vice Chair of the Fire & Police Retirement Board.

CONTACT INFORMATION

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Fax 559-621-7081
www.cfrs-ca.org
Retire@fresno.gov
cfrsbenefits@fresno.gov

**City of Fresno
Employee Benefits**
Benefits@fresno.gov
HealthComp
559-499-2450
www.healthcomp.com
Fidelity Investments
800-343-0860
www.NetBenefits.com



WHAT'S UP? Benefits Edition

Planning For Retirement

Many people think that retiring from the City of Fresno is as simple as checking a box on a form and declaring, "I'm retired!" However, there are important things you will need to think about before signing your Retirement Application:

1. All automatic payments and court ordered deductions you currently have taken from your City payroll check will stop upon retirement. Please contact the payee to make other arrangements.
2. If you wish to defer all or some of your leave cash-outs, you must contact main City payroll immediately to begin the process. E-mail: COF.payroll@fresno.gov
3. You must contact Fidelity Investments personally if you wish to begin withdrawing from your Deferred Compensation Account. Please confirm your listed beneficiary at this time!
4. Questions regarding the Health Reimbursement Arrangement (HRA) should be directed to Benefits@fresno.gov.
5. Please be aware of the Social Security Windfall Elimination Provision (WEP) which may reduce your Social Security retirement or disability benefits. Refer to the resources below for more information:

- SSA Publication No. 05-10045
- www.socialsecurity.gov/WEP-CHART
- (800)722-1213



* Note: The information listed above is intended as general information and may not apply to your own situation.

Important Dates July—December 2024

July '24	August '24	September '24
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30
October '24	November '24	December '24
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
Retirement Benefit Pay Dates	Retirement Board Meeting Dates	

DROP Modifications Under Consideration To Achieve DROP Neutrality

To achieve DROP cost neutrality, FMC amendments are under consideration to provide the Retirement System with additional tools to implement if the actuary has determined the DROP is not cost neutral. These additional tools or "levers" would be applied in order and stacked based upon the actuary's recommendation.

- Lever 1 – Set the annual DROP interest rate to a percentage below the average net rate of return but not below zero.
- Lever 2 – Reduce the percentage of the member's pension contributions deposited into the DROP account below 100% with the difference credited to pay the cost of operating DROP.
- Lever 3 – Reduce the percentage of cost-of-living adjustments applied to the monthly amount below 100%.
- Lever 4 – Reduce the percentage of the amount credited to the DROP account below 100%.

These are proposed modifications under consideration as of June 2024 and may be adopted, modified or abandoned as the parties see fit. The Retirement Office will make every effort to keep their members informed as to the status of these modifications.

Retirees

Jan 1, 2024 to June 30, 2024

Rudy Anaya	Maggie Manfredi
Gary Beer	Richard McClung
Robert Boccasile	Richard Mora
Peter Boyer	Tammy Neesley
Terri Cooper	Ronnie Pack
John Deluca	Jacky Parks
Peter Flores	Rudy Ruiz
Mark Gacayan	Tim Saito
Anthony Gates	Veronica Salinas-Cardinale
Xao Herr	Walter Sickler
Haywood Irving	Geoff Tushnet
Nick Keeley	Christine Wilson
Michael Maciel	Christopher Wilson