

**BOB MIRATA**  
CHAIRMAN  
B.O.S. APPOINTEE

**SHARI SCHAPMIRE**  
VICE-CHAIRMAN  
TREASURER TAX COLLECTOR

**TIM KNUDSEN**  
SECRETARY  
ELECTED RETIRED MEMBER

**SUPERVISOR KENDALL SMITH**  
B.O.S. APPOINTEE

**JOHN SAKOWICZ**  
B.O.S. APPOINTEE

**TED STEPHENS**  
B.O.S. APPOINTEE

**LLOYD WEER**  
ELECTED  
GENERAL MEMBER

**RANDY GOODMAN**  
ELECTED GENERAL  
MEMBER

**CRAIG WALKER**  
ELECTED SAFETY  
MEMBER

**RICHARD SHOEMAKER**  
ELECTED RETIRED  
ALTERNATE MEMBER



**RICH WHITE**  
RETIREMENT  
ADMINISTRATOR

**JEFF BERK**  
LEGAL COUNSEL

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# **MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION BOARD MEETING AGENDA**

**OCTOBER 17, 2012 - 9:00 A.M.**

**MEETING LOCATION:  
UKIAH VALLEY CONFERENCE CENTER  
CHENIN BLANC ROOM**

**200 SOUTH SCHOOL STREET, UKIAH CA 95482**

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**ROLL CALL (9:00 A.M.)**

**PUBLIC COMMENT (Estimated Time 5 min.)**

Members of the public are welcome to address the board on subjects within the jurisdiction of the Board of Retirement regarding items both on and off the agenda. The board is prohibited by law from taking action on matters not on the agenda, but may ask questions to clarify the speaker's comment and/or briefly answer questions. The board limits testimony on matters not on the agenda to 5 minutes per person and not more than 10 minutes for a particular subject at the discretion of the Chair of the Board. To best facilitate public expression please complete the speaker form available at the entrance to the boardroom and present to the Clerk to the Board. If you wish to submit written comments please provide 13 copies to the Clerk to the Board prior to the start of the meeting. Public speakers are reminded to announce their names before they address the board.

**1) APPROVAL OF THE MINUTES OF THE BOARD MEETING HELD SEPTEMBER 19, 2012  
(Estimated Time 5 min.)**

**2) RETIREMENT ADMINISTRATOR'S REPORT (Estimated Time 15 min.)**

- Accountant Position
- Contribution Rate Correction Project

**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
625-B KINGS COURT, UKIAH, CA 95482**

**PHONE 707-463-4328 FAX 707-467-6472 ♦ WWW.CO.MENDOCINO.CA.US/RETIREMENT**

**◆RETIREMENT BOARD MEETING AGENDA◆**  
**◆OCTOBER 17, 2012 - 8:30 A.M.◆**

**3) DISCUSSION REGARDING THE CALIFORNIA PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013 (PEPRA) (Estimated Time 45 min.)**

**BREAK (Approximate Time 10 min.)**

**4) DISCUSSION REGARDING THE 2012 FALL SACRS BUSINESS MEETING (Estimated Time 30 min.)**

**5) CLOSED SESSION (Approximate Time 10:50 A.M.) (Estimated Time 35 min.)**

- **Pending disability applications update**
- **Jennie Angell, NSCD**
- **Paul Mounts, SCD**
- **Rebecca Wilson, SCD**

(Pursuant to Government Code Section 31532, individual medical records of disability applicants will be discussed during closed session and are not public information.)

**REPORT OUT FROM CLOSED SESSION (Estimated Time 5 min.)**

**6) COMMUNICATIONS (Estimated Time 5 min.)**

**7) GENERAL BOARD MEMBER DISCUSSION (Estimated Time 5 min.)**

**ADJORNMENT (Approximate Time 11:40 A.M.)**

(Pursuant to Government Code Section 54954, this agenda was posted 72 hours prior to the meeting.)

**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**  
**625-B KINGS COURT, UKIAH, CA 95482**  
**PHONE 707-463-4328 FAX 707-467-6472◆ WWW.CO.MENDOCINO.CA.US/RETIREMENT**

◆ MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION ◆  
BOARD OF RETIREMENT MEETING MINUTES  
◆ SEPTEMBER 19, 2012 AT 8:30 A.M. ◆

**CALL TO ORDER**

Shari Schapmire, Board Vice-Chair, called the meeting to order at 8:31 A.M.

**ROLL CALL**

Roll call was conducted with the following members present: Shari Schapmire, Lloyd Weer, Craig Walker, Ted Stephens, Tim Knudsen, and Richard Shoemaker. Members absent: John Sakowicz. Members absent by prior arrangement: Randy Goodman, Supervisor Kendall Smith and Bob Mirata. Also present: Rich White, Retirement Administrator, and Judy Zeller, Clerk to the Board.

**PUBLIC COMMENT:** None

**1) APPROVAL OF THE MINUTES OF BOARD MEETING HELD AUGUST 15, 2012**

Upon motion by Board member Stephens, seconded by Board member Knudsen ; IT IS ORDERED that the minutes of the August 15, 2012 Board meeting are approved as amended by the following vote: Ayes 5 Noes 0 Abstain 0 Absent 4.

Board member Sakowicz entered the meeting at 8:33 A.M.

**2) DISCUSSION AND POSSIBLE ACTION REGARDING LETTER OF ENGAGEMENT WITH HANSON BRIDGETT FOR TAX COUNSEL SERVICES, INCLUDING ERROR CORRECTON PROJECT**

**Presenter/s:** Rich White referenced information previously distributed to the Board.

**Board Direction:** Staff will monitor the contract and will notify the Board if it will exceed the dollar amount or the contract termination date.

**Board Action:** Motion was made by Board member Stephens to stay within the \$25,000.00 budgeted and to amend the engagement letter with Hanson Bridgett for miscellaneous tax counsel services to a maximum amount of \$25,000.00. Board member Sakowicz seconded the motion and it was approved by the following vote: Ayes 2 Noes 4 Abstain 0 Absent 3. (Motion failed)

Motion was made by Board member Knudsen to approve the engagement letter with Hanson Bridgett for miscellaneous tax counsel services with a maximum amount of \$40,000.00. Board member Weer seconded the motion and it was approved by the following vote: Ayes 5 Noes 1 Abstain 0 Absent 3. (Motion approved)

◆ MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION ◆  
BOARD OF RETIREMENT MEETING MINUTES  
◆ SEPTEMBER 19, 2012 AT 8:30 A.M. ◆

**3) DISCUSSION AND POSSIBLE ACTION REGARDING THE IT ROADMAP**

**Presenter/s:** Rich White referenced information previously distributed to the Board.

**Board Direction:** The Retirement Administrator is authorized to discuss the IT Roadmap with Linea Solutions including a renewal of priorities and initiatives, and to engage Magenic Technologies and Retirement Benefit Software LLC in an assessment of the pension management system for MCERA.

**4) MONTHLY FINANCIAL REPORTS**

- **Current Financial Statements and Statement Construction**
- **Update on MCERA Accounting Services**

**Presenter/s:** Rich White referenced information previously distributed to the Board.

**Board Direction:** Staff will review the issue of reporting assets to R.V. Kuhns & Associates Public Funds Universe Analysis net of fees vs. gross.

**5) MONTHLY INVESTMENT REPORT**

- **U.S. Investment Management Fund Profile - Public Pensions 2012**
- **R.V. Kuhns & Associates Public Fund Universe Analysis**
- **Investment Manager Fee Billing Procedure**

**Presenter/s:** Rich White referenced information previously distributed to the Board.

**6) BENEFITS AND OPERATIONS**

- **Member retirements and withdrawals of contributions by inactive members**
- **Staff Report on Entry Age Verification**

**Presenter/s:** Rich White referenced information previously distributed to the Board.

**Board Direction:** Staff will continue with the current process of entry age verification.

**7) DISCUSSION AND POSSIBLE ACTION REGARDING ACCOUNTING SERVICES CONTRACT**

**Presenter/s:** Rich White referenced information previously distributed to the Board.

Board member Sakowicz left the meeting at 10:25 A.M. and did not participate in voting on agenda item 7).

◆ MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION ◆  
BOARD OF RETIREMENT MEETING MINUTES  
◆ SEPTEMBER 19, 2012 AT 8:30 A.M. ◆

**Board Direction:** Staff will ask Mr. Goodman if he could be available to assist in training the new accountant.

**Board Action:** Motion was made by Board member Stephens to look locally for accounting services to fill this position. Board member Knudsen seconded the motion, but after some discussion, he withdrew his second motion. The motion failed due to lack of a second motion.

Motion was made by Board member Knudsen to authorize the Retirement Administrator to engage in contract negotiations and enter into an agreement on behalf of MCERA with Fechter & Company, Certified Public Accountants, for professional accounting services not to exceed an amount of \$75,000 for Fiscal Year 2012-13. The contract should include a 30 day separation clause and staff will immediately continue to look locally for accounting services. Board member Weer seconded the motion and it was approved by the following vote: Ayes 4 Noes 1 Abstain 0 Absent 4. (Motion approved)

#### 8) DISCUSSION AND POSSIBLE ACTION REGARDING SACRS VOTING POLICY

**Presenter/s:** Rich White referenced information previously distributed to the Board.

**Board Direction:** Staff will amend the policy by changing the alternate delegate determination to seniority order.

**Board Action:** Motion was made by Board member Stephens to adopt the SACRS Voting Authority Policy as amended. Board member Knudsen seconded the motion and it was approved by the following vote: Ayes 5 Noes 0 Abstain 0 Absent 4. (Motion approved)

#### 9) DISCUSSION AND POSSIBLE ACTION REGARDING RETIREMENT ADMINISTRATOR EVALUATION POLICY

**Presenter/s:** Rich White referenced information previously distributed to the Board.

**Board Action:** Motion was made by Board member Stephens to adopt the Retirement Administrator Evaluation Policy. Board member Knudsen seconded the motion and it was approved by the following vote: Ayes 5 Noes 0 Abstain 0 Absent 4. (Motion approved)

#### 10) RETIREMENT ADMINISTRATOR'S REPORT

- Cost of Living increases in the Optional Benefit Calculations
- Code Section/County Resolution Project
- Contribution Rate Correction Project

◆ MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION ◆  
BOARD OF RETIREMENT MEETING MINUTES  
◆ SEPTEMBER 19, 2012 AT 8:30 A.M. ◆

- Disability Policy Procedure
- Strategic Workshop
- External Audit
- Undistributed Earnings Issue
- Public Records Act Requests
- Legislative Update

**Presenter/s:** Rich White referenced information previously distributed to the Board.

**Cost of Living increases in the Optional Benefit Calculations**

Staff is continuing to monitor this issue and will continue to update the Board.

**Disability Policy Procedure**

The first phase of review of our current disability procedures, including gathering of information about the disability application and handling procedures used by other systems, has begun. The drafting of some process and procedural revisions has taken place.

**Strategic Workshop**

Staff is continuing to develop the agenda and details for the Board Strategic Workshop which will take place Wednesday October 17, 2012 and Thursday October 18, 2012 at the Ukiah Valley Conference Center, 200 South School Street, Ukiah. The Board will hold its regularly scheduled monthly meeting at 8:30 a.m. October 17 followed by Part One of the Strategic Workshop at 1:00 p.m.. Part Two of the Workshop will begin at 8:30 a.m. October 18. The public meetings will not be recorded or televised.

**Legislative Update**

Governor Brown and Democratic lawmakers announced the long-anticipated comprehensive public employee pension reform plan on August 20, 2012. The plan will be known as the California Public Employees' Pension Reform Act of 2013 (PEPRA). The Governor signed the bill on September 12, 2012. The PEPRA will become effective January 1, 2013 and it will apply to 1937 Act Counties. Jeff Berk, MCERA Legal Counsel, and Rich White, Retirement Administrator, will be attending a SACRS workshop on this legislation September 24, 2012. Also, SACRS will cover the pension reform legislation and the impact on the pension plans at the fall 2012 conference. Most PEPRA provisions apply only to new members who are not eligible for reciprocity and who join MCERA after January 1, 2013. The complete task of MCERA implementing the PEPRA legislation is not fully known at this point but will be reviewed as soon as possible. Please visit <http://www.co.mendocino.ca.us/retirement/meetings.htm> to view the full Administrator's Report which includes the summary of the Conference Committee Report on Public Employee Pensions.

Richard Shoemaker recused himself from closed session and left the boardroom at 11:45 A.M.

◆ MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION ◆  
BOARD OF RETIREMENT MEETING MINUTES  
◆ SEPTEMBER 19, 2012 AT 8:30 A.M. ◆

11) CLOSED SESSION (11:45 A.M.)

- Pending disability applications update
- Possible Initiation of litigation pursuant to Government Code Section 54956.9(c) - 1 case - Richard Shoemaker overpayment

REPORT OUT FROM CLOSED SESSION (12:15 P.M.)

**Board Action:** Motion was made by Board member Walker to approve the overpayment agreement with Mr. Richard Shoemaker and direct staff to file an Ex Parte Agreement to approve the settlement agreement with the Superior Courts. Board member Stephens seconded the motion and it was approved by the following vote: Ayes 5 Noes 0 Abstain 0 Absent 4. (Motion approved) There was no action taken on other closed session items.

Richard Shoemaker returned to the boardroom at 12:15 P.M.

12) COMMUNICATIONS

**Presenter/s:** Rich White referenced information previously distributed to the Board.

Please visit <http://www.co.mendocino.ca.us/retirement/meetings.htm> to view communication information distributed to the Board.

13) GENERAL BOARD MEMBER DISCUSSION

There being no further business Shari Schapmire, Vice-Chair, adjourned the meeting at 12:25 P.M.

Richard A. White, Jr.  
Retirement Administrator



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**MENDOCINO COUNTY**  
**EMPLOYEES' RETIREMENT ASSOCIATION**  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: October 17, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator  
Subject: Retirement Administrator Report

I have listed some noteworthy activities which I have participated in since your last Board of Retirement meeting.

- Jeff Berk and I attended the SACRS Special Session Workshop about the California Public Employee Pension Reform Act (PEPRA) on September 24, 2012 in Sacramento.
- I attended the annual Administrator Institute presented by the California Association of Public Retirement Systems (CALAPRS) on September 26-28, 2012 in Long Beach.
- I met with Supervisor Dan Hamburg in his office on October 2, 2012.
- I attended the County Department Head meeting on October 3, 2012.
- I met with Supervisor Carre Brown on October 11, 2012.

The following is a summary status report on items of interest for the Board of Retirement and on which material actions have taken place since the last meeting:

- Accounting Position

Our contract service provider for Accounting Services, Scott German, CPA Fechtner & Company started on October 10, 2012.

- Contribution Rate Correction Project

Previous reports to the Board of Retirement regarding The County of Mendocino (Auditor/Controller) completed the issuance of checks to County employees (active, deferred and retired) who overpaid contributions into MCERA. The process of contacting those members who under contributed is underway.

The Superior Court has completed their issuance of checks to their employees who over-paid contributions and has begun the process of completing the collection of under-payments.

Staff will be providing the Cemetery District with the information on the contributions project and the impact on their employees in the near future.

Staff is continuing to assist our plan sponsors with their efforts as all parties move towards the completion of this matter.

PEPRA OVERVIEW

MCERA BOARD OF RETIREMENT



October 17, 2012

Mendocino County Employees' Retirement Association

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PEPRA

- California Public Employees' Pension Reform Act of 2013.
- Applies to all 1937 Act systems and their participating employers
- Applies to all state and local public retirement systems, except
  - University of California
  - Judges
  - Charter Counties and Cities

October 17, 2012

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2

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MCERA IMPLEMENTATION

- Retirement Administrator
- Legal Counsel
- Tax Counsel
- Actuary
- MCERA Staff
- County of Mendocino Working Group

October 17, 2012

Mendocino County Employees' Retirement Association

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## PEPRA APPLICATION

- Most provisions are **ONLY** applicable to **NEW MEMBERS**
  - First time member of any public retirement system on or after January 1, 2013; or
  - Never been a member of a retirement system
  - A member of another system and **NOT** subject to reciprocity
  - Previously an active member in a system who returned to active membership with another employer in the same system after a break in service of more than 6 months.

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## NEW TIER OF BENEFIT LEVELS

- **NEW** employees
- **FIVE YEAR** vesting requirement
- **RAISED AGE** requirement
- **LOWER** formula multiplier
- **STANDARD** formulas for all systems



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## NON-SAFETY FORMULA

- Retirement after **FIVE** years of service and upon reaching 52 years of age.
- **No** service retirement prior to age 52.
- Graduated formula based on retirement age:
  - Minimum 1% @ 52.
  - Maximum 2.5% @ 67.
- Previously granted COLA isn't changed.

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## SAFETY FORMULA

- Retirement after FIVE years of service and upon reaching 50 years of age.
- No service retirement prior to age 50.
- The employer may use 1 of three formulas that is closest to and provides a lower benefit @ age 55 than current formula.
  - 2% @ 57 years of age
  - 2.5% @ at 57 years of age
  - 2.7% @ at 57 years of age
- The employer may use the current formula if it provides for a lower benefit than the PEPRA.
- Previously granted COLA isn't changed.

October 17, 2012

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## MAXIMUM NEW EMPLOYEE COMPENSATION

- "Pensionable compensation" and defined benefit are capped
  - 120% of the Social Security contribution and benefit base if the member's service is not included in Social Security (\$132,120)
  - 100% if it is. (\$110,100)
- "Pensionable compensation" cap is indexed to inflation based on CPI for all Urban Consumers.
  - Annual adjustment after annual valuation

October 17, 2012

Mendocino County Employees' Retirement Association

8

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## COST SHARING

- "The Standard is equal sharing of normal cost between members and employers."



October 17, 2012

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9

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## MCERA NORMAL COST

- Normal Cost is the percentage of payroll paid each year to fund the benefit for the current year of service.
- Mendocino CERA Aggregate Rate
  - ER = 12.08%    EE = 9.84%
- Current Average Normal Cost Split:
  - Employer paying 55%
  - Employee paying 45%

October 17, 2012

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10

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## EE CONTRIBUTION RATES CURRENT MEMBERS

- With agreement which could require employees to pay 50% normal cost
  
- Without an agreement the employer could unilaterally impose a 50/50 split in 2018 (with some limits)

October 17, 2012

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11

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## EE CONTRIBUTION RATES NEW MEMBERS

- Mandates that new employee contributions be at least 50% of normal cost.
- Any renewal, amendment or other extension of the contract shall be subject to the requirements of the 50/50 normal cost split section.
- Prohibits employer from paying new employee contribution.
- If terms of an existing MOU will be impaired, the new requirement does not apply until the end of that contract.

October 17, 2012

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12

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## COMPENSATION EARNABLE CURRENT MEMBERS

- Defines acceptable compensation as that which is paid to persons in the same grade or class of positions during the period and at the same rate of pay.
- Any compensation determined by the retirement board to have been paid to enhance a member's retirement benefit cannot be included.
  - Compensation previously paid 'in kind' and which was converted to cash.
  - One-time or ad hoc payment NOT made to all similarly situated members.
  - Termination pay received while the member is employed, except what is earned and payable in each 12-month.
  - Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off in an amount that exceeds that which may be earned and payable in each 12-month period during FAS measuring period.
  - Payments for additional services rendered outside of normal working hours.

October 17, 2012

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13

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## PENSIONABLE COMPENSATION NEW MEMBERS

- Pensionable compensation means the normal monthly rate of pay OR base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours.

October 17, 2012

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Association

14

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## PENSIONABLE COMPENSATION NEW MEMBERS

- Any compensation determined by the retirement board to have been paid to enhance a member's retirement benefit cannot be included.
- Same exclusions as previous slide, plus:
  - Payments for unused vacation, sick leave or comp time regardless of when or how paid.
  - Employer-provided allowances, reimbursement or payment. E.g.; Housing, vehicle, uniforms.
  - Any overtime except regularly scheduled OT (FLSA)
  - Employer contributions to deferred compensation plans.
  - Any bonus paid in addition to compensation.

October 17, 2012

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15

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## ASSESSING APPROPRIATE COMPENSATION

- Requires the Board of Retirement to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit.

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## POST-RETIREMENT EMPLOYMENT

- A retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement, except as permitted by this section:
  - During an emergency to prevent stoppage of public business; or
  - Because the retired employee has skills needed to perform "work of limited duration"
- Limited to 960 hours in a fiscal year
- Mandates a waiting period of 180 days following retirement.
  - Exceptions:
    - Governing body approves in public meeting, or
    - Retiree is public safety or firefighter.
- 12-month waiting period if retired person received unemployment insurance compensation.

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## SAFETY MEMBER SERVICE CONNECTED DISABILITY

- Requires that a safety member retired for a service connected disability retirement receive a certain benefit formula as defined in the legislation.

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## PROSPECTIVE CHANGES TO PENSION BENEFITS

- Any pension benefit after 1/1/2013 SHALL NOT be applied to service performed prior to the operative date of the change.
- Excludes cost-of-living adjustment.

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## OTHER PROVISIONS

- Felony Conviction – expands provisions for forfeiture of pension rights
- Health Benefit - limits vesting schedule
- Non-qualified Service Credit – no “air time”
- Pension Holidays – restricts not making normal cost contributions
- Replacement Benefit Plans
- Service credit for elected officials – new calculation rules
- Service on State Board or Commissions
- Three-year final compensation for new employees

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## IMPLEMENTATION OVERVIEW

- BOARD OF RETIREMENT
  - Policy and by-law review, as needed
  - Approval of actuarial new tier(s) rates
  - Approval of new evaluation (audit) procedure
- MCERA
  - Coordination with Plan Sponsors
    - Payroll system and pay code revisions
    - New employee hiring
    - Communication with current employees
    - Retirees returning to work procedures
  - Coordination with Service Providers
    - Actuarial
    - Legal
    - Auditor
    - Accounting
  - Calculation changes
    - Compensation earnable
    - Safety disability



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## POST SCRIPTS

- Legal issues?
- Implementation schedule tight!
- Potential legislative changes?
- Still many unanswered questions?



October 17, 2012

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## QUESTIONS?



October 17, 2012

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23

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Richard A. White, Jr.  
Retirement Administrator



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**MENDOCINO COUNTY**  
**EMPLOYEES' RETIREMENT ASSOCIATION**  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: October 17, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator  
Subject: SACRS Business Meeting Agenda

MCERA belongs to the State Association of County Retirement Systems (SACRS) which is an association of 20 California county retirement systems, enacted under the County Employees Retirement Law of 1937. The mission of SACRS is to disseminate knowledge and information about public pension systems, provide education and analyze legislation for the member systems.

SACRS meets as an organization twice a year and membership in the organization entitles member systems with the right to vote on the election of officers/directors of SACRS, amendments to the Articles of Incorporation and By-Laws, legislative proposals for SACRS' sponsorship and positions on non-SACRS' sponsored legislation, resolutions and other items of SACRS' business.

The Board of Retirement can take a formal position of these agenda items and the SACRS voting delegate will be instructed to vote on them in accordance with the policy adopted by the Board of Retirement.

The action items on the SACRS Business Meeting Agenda on November 16, 2012 are:

**Item 2. Secretary's May 2012 Business Meeting Minutes.** This item is a receive and file item on the report which will be available at the SACRS Conference (it was not available at the time of this agenda item).

The Board can authorize the voting delegate to vote on the item on the floor as long as the vote is consistent with Board policies or instruct the voting delegate to abstain from voting.

**Item 3. Treasurer's 2011-2012 Report.** This item is a receive and file item on the report which will be available at the SACRS Conference (it was not available at the time of this agenda item).

The Board can authorize the voting delegate to vote on the item on the floor as long as the vote is consistent with Board policies or instruct the voting delegate to abstain from voting.

**Item 5. Audit Committee Report.** This item is a receive and file item on the report which will be available at the SACRS Conference (it was not available at the time of this agenda item).

The Board can authorize the voting delegate to vote on the item on the floor as long as the vote is consistent with Board policies or instruct the voting delegate to abstain from voting.

**Item 7. Legislative Proposals 2012.** This item is an action item.

SACRS may decide to sponsor legislation on matters of importance to all twenty county retirement systems. The process of developing this legislation begins with an individual system proposal which is sent to the SACRS Legislative Committee for analysis and recommendation. The proposal is then placed on the business meeting agenda for a formal vote by the twenty member systems. Legislative proposals that are adopted by the systems are then returned to the Legislative Committee which is responsible for guiding the proposal through the legislative process as a SACRS sponsored bill. If a proposal is not adopted by the member systems, the bill can still be placed before the legislature by the individual member system but it would not be a SACRS sponsored bill.

The Board of Retirement can take a formal position on each legislative proposal and the voting delegate will be required to cast that vote at the business meeting. The Board can also decide to give instructions to the voting delegate and authorize the delegate to vote on the item on the floor in any manner as long as the vote is consistent with Board policies. The Board can also instruct the voting delegate to abstain from voting.

There are three legislative proposals before the SACRS membership at the Fall 2012 SACRS business meeting:

1. **Legislative Proposal: LACERA #1** Amend existing Government Code Section 31527 of the County Employees Retirement Law (CERL) to allow county retirement systems to adopt, at their election, regulations allowing for the secure processing of member requests by telephone with the same force and effect as a manual signature.

This proposal was recommended by the SACRS Legislative Committee for SACRS Sponsorship. The proposal would be helpful to MCERA and enhance our member services.

**Recommended Action:** Approve LACERA #1

2. **Legislative Proposal: LACERA #2** : Amend Government Code Section 6254.26 to include non-publicly traded real estate investments. In addition, a minor technical change to Section 6254.26(a)(4) is proposed to provide consistency within the statute.

This proposal was recommended by the SACRS Legislative Committee for SACRS Sponsorship. The proposal would not impact MCERA at this time due to the real estate investment vehicles in which MCERA currently invests do not include non-publicly traded real estate investments.

**Recommended Action:** Approve LACERA #2

**3. Legislative Proposal: SAN JOAQUIN #1**

Issue 1: Add a reference to CPRA section 6254.26 to the list of code sections specified in Section 54957.5(a) of the Brown Act to correct this oversight and ensure that information regarding a board of retirement's alternative investments that is exempt from disclosure under the CPRA would also be exempt from disclosure under the Brown Act.

Issue 2: Amend Section 54956.81 of the Brown Act to authorize a local agency to hold a closed session to consider information regarding alternative investments that is exempt from disclosure as specified in CPRA Section 6254.26 (a).

This proposal was recommended by the SACRS Legislative Committee for SACRS Sponsorship. The proposal would not impact MCERA at this time due to the nature of investment vehicles in which MCERA currently invests which do not include these types of investments.

**Recommended Action:** Approve SAN JOAQUIN #1

**SACRS LEGISLATIVE PROPOSAL**

LACERA # 1

Title of Issue: Telephone Transactions

Association: Los Angeles County Employees Retirement Association

Contact Person: Robert S. Van Der Volgen, Jr.

Phone No.: 626-564-2340

Fax No.: 626-564-2336

1. **Description of problem:** Effective January 1, 2013, a county retirement system may adopt, at their election, regulations allowing for the use and acceptance of a member's digital signature with the same force and effect as a manual signature, provided it is submitted using electronic technology that the board determines sufficient to ensure its integrity, security and authenticity.

While many members are computer literate, there are many who currently do not have access to or choose not to perform transactions over the web. Additionally, some members need assistance navigating through difficult transactions and are seeking help by telephone.

Allowing members to perform transactions over the telephone with the same force and effect as a manual signature not only results in greater service delivery to system members, but also increases efficiency and reduces costs to the systems' administration. Procedures adequate to protect the systems and members, including method(s) to validate and authenticate the member's identity and the permanent retention of the recorded communication, would be approved by each respective board.

2. **Recommended solution:** Amend existing Government Code Section 31527 of the County Employees Retirement Law (CERL) to allow county retirement systems to adopt, at their election, regulations allowing for the secure processing of member requests by telephone with the same force and effect as a manual signature.
3. **Why should the proposed legislation be sponsored by SACRS rather than by your individual retirement association?** If enacted, the proposed legislation would be applicable to all '37 Act systems.
4. **Do you anticipate that the proposed legislation would create any major problems, such as conflicting with Proposition 162 or creating a problem with any of the other 19 SACRS retirement associations?** No.
5. **Who will support or oppose this proposed change in law?** Unknown.

- 6. Who will be available from your association to testify before the legislature?** Robert S. Van Der Volgen, Jr., Chief Counsel, LACERA.

Existing Government Code Section 31527 is amended to read:

31527. In its regulations, the board may include the following provisions:

(a) From what warrants deductions of members' contributions shall be made.

(b) For a period of time longer than one year during which a member may redeposit in the retirement fund an amount equal to all of the accumulated normal contributions that he or she has withdrawn, plus regular interest thereon from the date of return to service.

(c) For a period of time longer than one year during which a member brought within the field of membership may pay into the retirement fund the amount equal to the contributions he or she would have made plus interest, if he or she had been a member from the date of its organization, or from the date of his or her entrance into service, whichever is later.

(d) For a withdrawal charge against a member who withdraws his or her accumulated contributions. The withdrawal charge shall not exceed the interest credited to the member subsequent to the effective date of the regulation.

(e) For the exemption or exclusion from membership as a peace officer member or as a safety member or from membership altogether, in the discretion of the board, of persons whose tenure is temporary, seasonal, intermittent, or for part time only, or persons whose compensation is fixed at a rate by the day or hour.

(f) For the periodic physical examination, at county expense, of safety members.

(g) The amount of additional deductions from the salaries or wages of members pursuant to Article 15.5 (commencing with Section 31841) or Article 16 (commencing with Section 31861). Such a provision may be adopted in anticipation of, and prior to Article 15.5 (commencing with Section 31841) or Article 16 (commencing with Section 31861) becoming operative in the particular county.

(h) The day upon which each person becomes a member of the association if it is to be other than the first day of the calendar month after his or her entrance into service. However, that day shall be no later than 12 weeks after his or her entrance into service, or the day upon which the member terminates service credited by the association, and that the day shall be no earlier than 12 weeks prior to the member's termination from employment.

(i) Notwithstanding any other law, for the use and acceptance of a document requiring a signature that is submitted by a member using an electronic signature, if the document and electronic signature are submitted using technology the board deems sufficient to ensure its integrity, security, and authenticity. A document submitted pursuant to the regulation shall be given the same force as a signed, valid original document.

(j) Notwithstanding any other law, for member authorization of transactions affecting the member's account via recorded telephone communications, provided procedures adequate to protect the system and members, including method(s) to validate and

authenticate the member's identity and the permanent retention of the recorded communication, are approved by the board.

Title of Issue: Disclosure of Real Estate Investments  
Association: Los Angeles County Employees Retirement Association  
Contact Person: Robert S. Van Der Volgen, Jr.  
Phone No.: 626-564-2340  
Fax No.: 626-564-2336

1. **Description of problem:** The California Public Records Act (CPRA) provides for inspection and/or disclosure of governmental records to the public upon request, unless exempted by law.

In balancing the public's right to access public records with the recognized individual right of privacy and the need for public agencies to be able to competently perform their duties, the Legislature has established certain categories of records which may be exempt from public disclosure under Government Code Sections 6254 and 6275 et seq.

In addition, the CPRA allows an agency with the discretion to claim an exemption from public disclosure for records, which do not qualify for a specific exemption, if "the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record."

Existing Government Code Section 6254.26 provides that "alternative investments" in which public investment funds invest are exempt from disclosure, unless the information has already been publicly released by the keeper of the information. As defined under this section, "alternative investment" includes investments in a private equity fund, venture fund, hedge fund, or absolute return fund. However, this definition does not include real estate investments.

LACERA's Investment staff believes that real estate investments should be added to the list of alternative investments exempt from public disclosure. Many real estate investments share the same elements of market sensitivity as private equity transactions. Indeed, disclosure of certain material terms of these investments could put the investment at a competitive disadvantage and hinder or reduce return on investment. By including real estate in the present alternative investment exemption, the public would be given access to information necessary to monitor fund performance with reduced risk of impeding return.

2. **Recommended solution:** Amend Government Code Section 6254.26 to include non-publicly traded real estate investments.

In addition, a minor technical change to Section 6254.26(a)(4) is proposed to provide consistency within the statute.

3. **Why should the proposed legislation be sponsored by SACRS rather than by your individual retirement association?** If enacted, the proposed legislation would be applicable to all California pension systems, including all '37 Act systems.
4. **Do you anticipate that the proposed legislation would create any major problems, such as conflicting with Proposition 162 or creating a problem with any of the other 19 SACRS retirement associations?** No.
5. **Who will support or oppose this proposed change in law?** Public agencies with investments in real estate are likely to support this. We may also expect support from real estate investment interests and opposition from public access groups such as the Newspaper Publishers.
6. **Who will be available from your association to testify before the legislature?** Robert S. Van Der Volgen, Jr., Chief Counsel, LACERA.

**Proposal for Amending California Public Records Act  
to Include Real Estate Investments as Exemption**

Existing Government Code Section 6254.26 is amended to read:

6254.26. (a) Notwithstanding any provision of this chapter or other law, the following records regarding alternative investments in which public investment funds invest shall not be subject to disclosure pursuant to this chapter, unless the information has already been publicly released by the keeper of the information:

(1) Due diligence materials that are proprietary to the public investment fund or the alternative investment vehicle.

(2) Quarterly and annual financial statements of alternative investment vehicles.

(3) Meeting materials of alternative investment vehicles.

(4) Records containing information regarding the portfolio positions in which alternative investment ~~funds~~vehicles invest.

(5) Capital call and distribution notices.

(6) Alternative investment agreements and all related documents.

(b) Notwithstanding subdivision (a), the following information contained in records described in subdivision (a) regarding alternative investments in which public investment funds invest shall be subject to disclosure pursuant to this chapter and shall not be considered a trade secret exempt from disclosure:

(1) The name, address, and vintage year of each alternative investment vehicle.

(2) The dollar amount of the commitment made to each alternative investment vehicle by the public investment fund since inception.

(3) The dollar amount of cash contributions made by the public investment fund to each alternative investment vehicle since inception.

(4) The dollar amount, on a fiscal yearend basis, of cash distributions received by the public investment fund from each alternative investment vehicle.

(5) The dollar amount, on a fiscal yearend basis, of cash distributions received by the public investment fund plus remaining value of partnership assets attributable to the public investment fund's investment in each alternative investment vehicle.

(6) The net internal rate of return of each alternative investment vehicle since inception.

(7) The investment multiple of each alternative investment vehicle since inception.

(8) The dollar amount of the total management fees and costs paid on an annual fiscal yearend basis, by the public investment fund to each alternative investment vehicle.

(9) The dollar amount of cash profit received by public investment funds from each alternative investment vehicle on a fiscal year-end basis.

(c) For purposes of this section, the following definitions shall apply:

(1) "Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, ~~or~~ absolute return fund, or non-publicly traded direct or indirect real estate investments.

(2) "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure through which the public investment fund invests in portfolio companies or non-publicly traded real estate.

(3) "Portfolio positions" means individual portfolio investments made by the alternative investment vehicles.

(4) "Public investment fund" means any public pension or retirement system, and any public endowment or foundation.

## YEAR 2013 SACRS LEGISLATIVE PLATFORM WORKSHEET

PLEASE COMPLETE AND RETURN BY SEPTEMBER 7, 2012

Title of Issue: SJCERA #1 - Alternative Investments and Public Disclosure

Association: San Joaquin County Employees' Retirement Association

**STAFF DRAFT – SET FOR SJCERA BOARD OF RETIREMENT ACTION 9/28/12**

Contact Person: Annette St. Urbain, CEO

Phone #: (209) 468-2163

Fax #: (209) 468-0480

**1. Description of issues.**

The Ralph M. Brown Act (California Government Code sections 54950-54963) requires that deliberations and actions of public local agencies be conducted in an open forum. The Brown Act also specifies exemptions allowing certain matters to be discussed and acted upon by a local agency in closed session.

The California Public Records Act, or CPRA, (Government Code sections 6250-6276.48) governs the public's access to information concerning the conduct of the people's business, and specifies types of records or information exempt from disclosure under the CPRA.

Issue 1:

Subdivision (a) of Section 54957.5 of the Brown Act states the general rule that, despite any protections offered under the CPRA, agendas of public meetings and any other writings distributed to a majority of the members of a legislative body of a local agency in connection with open session become subject to mandatory disclosure under CPRA. This subdivision then provides that this section of the Brown Act shall not include any writing exempt from public disclosure under specified sections of the CPRA. The list of exceptions does not include 6254.26 of the CPRA, which exempts specified records regarding alternative investments in which public investment funds invest from disclosure.

SJCERA proposes that failure to include in Section 54957.5 (a) of the Brown Act a reference to Section 6254.26 of the CPRA is likely to have been an oversight, rather than a deliberate policy choice by the Legislature.

The effect of the inconsistency in current law is that while certain information regarding a board of retirement's alternative investments is exempt from disclosure under the CPRA, if the information is provided to a majority of board members in connection with periodic reporting or due diligence reviews as part of an open session, that same information is subject to disclosure under the Brown Act.

Issue 2:

Section 54956.81 of the Brown Act allows a local agency that invests pension funds to hold a closed session to consider the **purchase or sale** of particular, specific pension fund investments. With regard to alternative investments, it is common for boards of retirement, as limited partner investors, to consider and act on amendments to limited partnership agreements quite some time after the board's initial decision to "purchase" or invest in the alternative investment vehicle was made in closed session. Subdivision (a) of Section 6254.26 of the CPRA specifies the alternative investments records that are not subject to disclosure, including alternative investment agreements and all related documents.

Boards of retirement should have the authority to hold a closed session to consider information on its alternative investments that is exempt from public disclosure under the CPRA.

**2. Recommended solution.**

Issue 1:

Add a reference to CPRA section 6254.26 to the list of code sections specified in Section 54957.5(a) of the Brown Act to correct this oversight and ensure that information regarding a board of retirement's alternative investments that is exempt from disclosure under the CPRA would also be exempt from disclosure under the Brown Act.

Issue 2:

Amend Section 54956.81 of the Brown Act to authorize a local agency to hold a closed session to consider information regarding alternative investments that is exempt from disclosure as specified in CPRA Section 6254.26 (a).

**3. Specific statutory language that you would like changed or added.**

Please see attached.

**4. Why should the proposed legislation be sponsored by SACRS rather than by your individual retirement association?**

The Brown Act and CPRA apply to all SACRS member systems.

**5. Do you anticipate that the proposed legislation would create any major problems, such as conflicting with Proposition 162 or create a problem with any of the other 19 SACRS retirement associations?**

No.

**6. Who will support or oppose this proposed change in the law?**

All public agencies subject to these provisions that have alternative investments would likely support the proposed changes.

Issue 1:

In the event failure to include a reference to CPRA Section 6254.26 was, or is perceived as, a deliberate policy choice rather than an oversight, there could be opposition to this proposed change, most likely from the newspaper publishers.

Issue 2:

Allowing public local agencies to hold a closed session to consider information regarding alternative investments that is exempt from disclosure under the CPRA would correct an inconsistency in current law. To the extent this is perceived as an infringement on the public's access to the conduct of the people's business in an open forum, there could be opposition to this proposed change, most likely from the newspaper publishers.

**7. Who will be available from your association to testify before the Legislature?**

Annette St. Urbain, CEO

**Amend Government Code Section 54957.5 (a) to read:**

54957.5. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, ~~or 6254.22,~~ **or 6254.26.**

**Amend Government Code Section 54956.81 to read:**

54956.81. Notwithstanding any other provision of this chapter, a legislative body of a local agency that invests pension funds may hold a closed session to consider the purchase or sale of particular, specific pension fund investments **or the information specified in subdivision (a) of Section 6254.26.** All investment transaction decisions made during the closed session shall be made by rollcall vote entered into the minutes of the closed session as provided in subdivision (a) of Section 54957.2.

## CPRA Section 6254.26 - Current Statute (Included for Reference Only)

6254.26. (a) Notwithstanding any provision of this chapter or other law, the following records regarding alternative investments in which public investment funds invest shall not be subject to disclosure pursuant to this chapter, unless the information has already been publicly released by the keeper of the information:

(1) Due diligence materials that are proprietary to the public investment fund or the alternative investment vehicle.

(2) Quarterly and annual financial statements of alternative investment vehicles.

(3) Meeting materials of alternative investment vehicles.

(4) Records containing information regarding the portfolio positions in which alternative investment funds invest.

(5) Capital call and distribution notices.

(6) Alternative investment agreements and all related documents.

(b) Notwithstanding subdivision (a), the following information contained in records described in subdivision (a) regarding alternative investments in which public investment funds invest shall be subject to disclosure pursuant to this chapter and shall not be considered a trade secret exempt from disclosure:

(1) The name, address, and vintage year of each alternative investment vehicle.

(2) The dollar amount of the commitment made to each alternative investment vehicle by the public investment fund since inception.

(3) The dollar amount of cash contributions made by the public investment fund to each alternative investment vehicle since inception.

(4) The dollar amount, on a fiscal yearend basis, of cash distributions received by the public investment fund from each alternative investment vehicle.

(5) The dollar amount, on a fiscal yearend basis, of cash distributions received by the public investment fund plus remaining value of partnership assets attributable to the public investment fund's investment in each alternative investment vehicle.

- (6) The net internal rate of return of each alternative investment vehicle since inception.
- (7) The investment multiple of each alternative investment vehicle since inception.
- (8) The dollar amount of the total management fees and costs paid on an annual fiscal yearend basis, by the public investment fund to each alternative investment vehicle.
- (9) The dollar amount of cash profit received by public investment funds from each alternative investment vehicle on a fiscal year-end basis.
  - (c) For purposes of this section, the following definitions shall apply:
    - (1) "Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, or absolute return fund.
    - (2) "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure through which the public investment fund invests in portfolio companies.
    - (3) "Portfolio positions" means individual portfolio investments made by the alternative investment vehicles.
    - (4) "Public investment fund" means any public pension or retirement system, and any public endowment or foundation.

# MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

## SACRS VOTING AUTHORITY POLICY

### BACKGROUND

1. The State Association of County Retirement Systems (SACRS) is an association of 20 California county retirement systems, enacted under the County Employees Retirement Law of 1937. SACRS meets as an organization twice a year with all 20 counties participating through attendance by Trustees, Administrators, and staff.
2. Regular member County Retirement Systems shall have the right to vote on the election of the officers/directors of SACRS, amendments to the Articles of Incorporation and By-laws, legislative proposals for SACRS' sponsorship and positions on non-SACRS' sponsored legislation, resolutions and other items of SACRS' business. Regular member County Retirement Systems shall be entitled to one (1) voting delegate, designated in writing by the County Retirement Board.
3. A voting delegate shall be designated in writing by the member County Retirement Board and shall be a Trustee or Administrator who is employed directly by the County Retirement System. Alternate delegates may be designated in writing by the member County Retirement Board.

### POLICY GUIDELINES

4. In order to ensure that MCERA is represented by a voting delegate at each business meeting of SACRS, MCERA will designate the current Board Chair as voting delegate, and each member of the Board and the Retirement Administrator as alternate delegates.
5. Credentials for the delegates who are voting participants shall be filed with the SACRS Credentials Committee in writing prior to any meeting of SACRS at which voting will take place, unless there are no changes from the credentials already on file. Credentials shall include the name of the member County Retirement System, and indicate that the Board Chair is the voting delegate and all other Board members and the Administrator are alternate voting delegates.

**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**

**SACRS VOTING AUTHORITY POLICY**

6. Voting at meetings of SACRS shall be the exclusive privilege of the delegate or alternate delegate. If the Board Chair is unable to attend a SACRS business meeting at which a vote is taking place, the Vice Chair shall be designated as alternate voting delegate. If the Board Chair and Vice Chair are both unable to attend, the alternate delegate will be determined, among the Board members in attendance, by seniority. Each voting delegate or designated alternate delegate if the voting delegate is absent, may cast one (1) vote on each matter submitted to a vote of the membership.
  
7. Where the MCERA Board has taken an official Board position on an item to be voted on at a SACRS business meeting, the voting delegate or designated alternate voting delegate must cast a vote consistent with the Board position. If the Board has not taken a position on an item to be voted on, the voting delegate or designated alternate voting delegate must comply with the Board policy or policies that address (es) the subject matter of the item. When the item to be voted on is not addressed in any MCERA Board policy and the Board has not taken a position, the voting delegate or designated alternate voting delegate shall abstain from voting.

**POLICY REVIEW**

8. The Board will review this policy at least every three years to ensure that it remains relevant and appropriate.

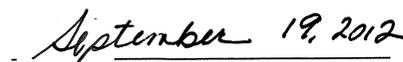
**POLICY HISTORY**

9. This policy was adopted on September 19, 2012.

**CERTIFICATE**

10. I, the undersigned, the Retirement Administrator of the Mendocino County Employees' Retirement Association, hereby certify the adoption of this Policy.

  
Richard White, Retirement Administrator

  
Date