

James R. Wilbanks, Ph.D.
Retirement Administrator



Telephone: (707) 463-4328
(707) 467-6473
Fax: (707) 467-6472

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

Date: April 20, 2016
To: Board of Retirement
From: James Wilbanks, Retirement Administrator
Subject: SACRS Legislation

AB 1853:

As background, I would strongly encourage every Board member to read the explanation of this bill on pages 21-25 (of 73) of the attached document from SACRS. As the explanation indicates, this bill gives flexibility in the choice of operating authority to the Board of Retirement, as opposed to the current process which requires changes to the CERL for changes in operating authority of a Board of Retirement.

Recent experience shows that when a Board of Retirement seeks a legislative change to move to a new operating authority, it is the result of conflict with the County. Additionally, in these recent cases the County has actively engaged in the legislative process to pursue its own agenda. This process has served to limit the Board of Retirement's ability to operate effectively and independently.

The bill does not require any system to change its operating authority, it merely allows Boards of Retirement to choose from a menu of operating authority levels which are successfully operating across the 1937 Act retirement systems. This bill does not impose any required changes on the MCERA Board of Retirement.

If enacted, the proposed language would grant the MCERA Board the ability to move in the direction of being less dependent on the County at the discretion of the Board of Retirement. While the current working relationship between MCERA and the County is extremely healthy and productive, there are myriad issues that could change that in the future.

The MCERA Board of Retirement discussed this proposal in advance of the November 2015 SACRS meeting and voted to not support the proposal at that time. During the subsequent SACRS meeting, the proposal was not voted upon because numerous SACRS members had not given direction to their voting delegates on the matter.

The attached draft bill has not yet been supported by SACRS, although the SACRS Legislative Committee and Legislative Consultant have been involved in drafting the bill. If the membership of SACRS does not support the drafted bill it will be withdrawn.

AB 1853 provides additional tools to the Board of Retirement, without requiring any change in current operating authority. Any future change in operating authority would require definitive Board action. For these reasons, I recommend the Board give direction to the SACRS voting delegate to support the proposal.

AB 2376:

This bill contains the proposed change to the 1937 Act that would authorize systems to receive electronic submissions from employers instead of sworn statements from members in addition to some additional

items. The MCERA Board of Retirement previously supported this proposal during the November 2015 Board meeting.

The additional items included in the bill are:

- A request from another entity that would allow the alternate retired member of a Board of Retirement to vote in situations where the retiree representative is present, but two of the other elected members (2 general members, 1 public safety member) of a Board of Retirement are absent from a Board meeting;
- A technical correction brought forward by Ventura County Retirement System to ensure that PEPRSA Safety member receive credit for appropriate prior service; and
- A technical correction brought forward by Los Angeles County Employees Retirement Association that applies only to LACERA.

I recommend the Board give direction to the SACRS voting delegate to support the proposal.

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Date: April 20, 2016
To: Board of Retirement
From: James Wilbanks, Retirement Administrator
Subject: SACRS Bylaws and 2016-2017 Board of Director's Elections

Bylaws:

The explanation of the proposed Bylaws change can be found on pages 69-70 (of 73) of the attached materials from SACRS. The proposed changes relate to the designation of alternate voting delegates designated by a County Retirement Board. The changes are straightforward and I recommend the Board give direction to the SACRS voting delegate to support the proposed changes.

2016-2017 Board of Director's Elections:

The memo from the SACRS Nominating Committee with the recommended final ballot can be found on pages 71-72 (of 73) of the attached materials from SACRS. I recommend the Board give direction to the SACRS voting delegate to vote in favor of the SACRS Nominating Committee recommended 2016-2017 final ballot.

SACRS Business Meeting Agenda
Friday, May 13, 2015
10:00 AM- Upon Adjournment
Westin South Coast Plaza Hotel
Costa Mesa, CA

SACRS Parliamentarian – Lance Kjelgaard
Sergeant at Arms – Derwin Brown, Los Angeles CERA

1. SACRS System Roll Call
Art Goulet, SACRS Secretary
2. Secretary's Report – Receive and File
Art Goulet, SACRS Secretary
 - A. November 2015 SACRS Business Meeting Minutes
3. Treasurer's Report – Receive and File
Dan McAllister, SACRS Treasurer
 - A. July 2015 – February 2016
4. SACRS President Report – No Action
Yves Chery, SACRS President
5. SACRS Audit Report – No Action
Steve Delaney, SACRS Audit Committee Chair
 - A. Update on 2014-2015 Audit
6. SACRS Legislative Committee Update – Vote
Richard Stensrud, SACRS Legislative Committee Chair
 - A. AB 1853 (Cooper) – 1937 Act Operating Authority
 - B. AB 2376 (Assembly PERS Committee) – SDCERA Proposal
 - C. 2016 SACRS Legislation Update
 - D. Jim Lites, SACRS Consultant Update
CERL & UC Berkeley (No Action)
7. SACRS Bylaws Committee Report – Vote
Vivian Gray, SACRS Bylaws Committee Chair
 - A. Amendment to Article IV - Delegates

8. SACRS Nomination Committee – 2016-2017 SACRS BOD Elections - Vote
 Ray McCray, Nomination Committee Chair

A. SACRS BOD 2016 – 2017 Ballot

9. SACRS Committee & Breakout Reports:

Committee	Chair	Breakout Reports	Representative
Affiliate	Michael Bowman	Administrators	Linda Webb
Audit	Steve Delaney	Attorneys	David Lantzer
Bylaws	Vivian Gray	Disability	Cristal Rodriguez
Education	Christie Porter	Internal Auditors	Harsh Jadhav
Legislative	Richard Stensrud	Investment Officers	Steve Marsh
Nomination	Ray McCray	Ops & Benefits	Jeannine Smart
Program	Gabe Rodrigues	Safety Trustees	Tracy Towner
		General Trustees	Vivian Gray

**Next scheduled SACRS Association Business Meeting will be held Friday,
 November 11, 2016, at the Renaissance Esmeralda Resort & Spa, Indian Wells, CA.**



1. SACRS System Roll Call
Art Goulet, SACRS Secretary

No printed materials for this item

2. Secretary's Report – Receive and File
Art Goulet, SACRS Secretary

A. November 2015 SACRS Business Meeting Minutes

SACRS Business Meeting Minutes
Friday, November 20, 2015
10:00 a.m.
San Diego Marriott Marquis, San Diego, CA

SACRS Parliamentarian – Lance Kjeldgaard
Sergeant at Arms – Derwin Brown, Los Angeles CERA

Meeting called to order at 10:14 am

Board members present:

Yves Chery, Gabe Rodrigues, Art Goulet, Dan McAllister, and Michael Bowman
(Affiliate Advisor to the Board)

Absent: Ray McCray

1. County Roll Call

Art Goulet, SACRS Secretary

10:14 am - 18 Systems present, Contra Costa and Santa Barbara absent

10:30 am – 17 Systems present – Marin delegate left mtg

10:45 am – 16 Systems present – San Diego delegate left mtg

Question: Chris Prevatt, OCERS, asked if the parliamentarian could suspend the rules of the voting proxy at conference. Parliamentarian clarified that the rules could not be suspended due to SACRS Bylaws.

At this time a request to take up item 6 out of order from the floor. President Yves Chery recognized Maya Gladstern, Marin CERA to ask a question of the body.

Motion: A motion to move to Item 6 Legislative Update was submitted by Marin CERA.

2nd: San Diego

Yes: 18

No: 0

Absent: Contra Costa, Santa Barbara

Motion Passes: 18-0-2

6. SACRS Legislative Proposals 2016 – Action Item

Richard Stensrud, Legislative Committee Chair

Legislation supported by SACRS Legislative Committee

1. SACRS BOD District Status Proposal
2. San Diego Electronic Signature Proposal

Legislation not supported by SACRS Legislative Committee

3. Merced Proposal

Richard Stensrud, Legislative Committee Chair noted that since some Systems did not have an opportunity to review the legislative proposals prior to conference, he would like additional time for voting. He asked that the Systems support a “delay of vote” on the proposals until the Spring meeting. By Spring conference additional language will be available giving the Systems more information to make their decisions to support or not support. Richard also asked that the Systems let the Legislative Committee know by December if they feel the concept of legislation is worthy to move forward.

Motion: Sacramento made a motion to delay voting on proposed legislation until the Spring meeting.

2nd: Los Angeles CERA

Questions:

San Diego CERA - would like to know if the authors of the legislation would be pursued?

Response, yes, the lobbyist will begin looking for authors.

Orange CERS – What is the time line for letting Legislative Committee know if Boards are supporting/opposing the proposals? Response, December, however language will not be available until January.

Tulare CERA – If timing is the issue, do Bylaws permit an absentee ballot – to send in prior to May conference? Response, Parliamentarian clarified that an “absentee / send in ballot later” is not allowed due to the Bylaws.

Richard clarified that the operating authority proposal is the item that is of concern due to timing for the legislature. He offered to attend Retirement Board meetings in December to educate the Boards on the language.

Orange CERS, is there time to call a special meeting? Is it needed? Response, based on the feedback Richard receives by December - if a majority is in favor of the concept of the language- the bill can be introduced. If by May Conference the language is no longer approved, SACRS can pull the bill.

All three bills will be included in the motion to table voting until May Conference.

At this time the delegate from Marin CERA left the meeting. The quorum is at 17 Systems present.

Yes: Alameda, Imperial, Kern, Los Angeles, Mendocino, Merced, Orange, Sacramento, San Bernardino, San Diego, San Joaquin, San Mateo, Sonoma, Stanislaus, Tulare, Ventura

No: Fresno

Absent: Contra Costa, Marin, Santa Barbara

Motion Passes: 16-1

At this time the membership returned to the agenda.

2. Secretary's Report – Receive and File

Art Goulet, SACRS Secretary (*Art Goulet was not the Secretary at the May 2015 Conference, Zandra Cholmondeley was. Additionally, Art Goulet was not in attendance at the Business meeting; therefore, minutes were submitted by staff.*)

- May 2015 SACRS Business Meeting Minutes

Motion: A motion to approve the May 2015 SACRS Business meeting minutes was submitted by Los Angeles CERA. The motion included corrections to a typo found on page 74 of the packet. Clarification of vote on Bylaws be corrected to reflect 20 Systems not 22.

2nd: Ventura

Yes: Alameda, Fresno, Imperial, Kern, Los Angeles, Mendocino, Merced, Orange, Sacramento, San Bernardino, San Diego, San Joaquin, San Mateo, Sonoma, Stanislaus, Tulare, Ventura

No: 0

Absent: Contra Costa, Marin, Santa Barbara

Motion Passes: 17-0

3. Treasurer's Report – Receive and File

Dan McAllister, SACRS Treasurer

- SACRS financials fiscal 2014-2015 and July – August 2015

Motion: A motion to approve the Treasurers report was submitted by San Diego CERA.

2nd: Stanislaus

Yes: Alameda, Fresno, Imperial, Kern, Los Angeles, Mendocino, Merced, Orange, Sacramento, San Bernardino, San Diego, San Joaquin, San Mateo, Sonoma, Stanislaus, Tulare, Ventura

No: 0

Absent: Contra Costa, Santa Barbara, Marin

Motion Passes: 17-0

4. Board of Director's Report – No Action

Yves Chery, SACRS President

- Board of Directors Update
- Projects for 2015-2016

Yves Chery discussed the current projects SACRS BOD is working on, to include the following:

- Strategic Planning Meeting
- Communication and Outreach to Members
- Rebranding Process for SACRS
- Legislation to Create Options for Systems
- Survey SACRS Members

Questions: Chris Prevatt, OCERS, asked about the number of Affiliates that responded to the SACRS Survey. Suggested that the survey results be reviewed so that the questions that do not apply to them get updated.

No action was taken.

5. SACRS Strategic Consultant Report – No Action

Jim Lites, Strategic Consultant

- Projects for 2015-2016

Jim Lites gave a verbal update on the current projects underway at SACRS.

- CERL – develop an index for the CERL. Working with Dave Muir
- UC Berkeley Ad Hoc Committee – update on committee activity, review of the program, review of the value added, marketing, structure of program, sponsorship opportunities, and the budget.

No action was taken.

7. SACRS Nomination Committee – No Action

Ray McCray, Nomination Committee Chair (absent – presented by staff)

- Schedule for the Spring 2016 Board of Directors Election

DEADLINE	DESCRIPTION
February 1, 2016	Nominating Committee receives nominations from SACRS membership
March 1, 2016	Nominating Committee submits its recommended ballot to each 1937 Act Board
March 23, 2016	Nominating Committee receives nominations from any 1937 Act Board
April 1, 2016	Nominating Committee submits final ballot to each 1937 Act Board – ballot consists of recommended ballot plus anybody else who is nominated but not recommended by the NC
May 13, 2016	Conduct elections during the SACRS Business Meeting (at end of the May 2016 conference)
May 13, 2016	Board of Directors take office for 1 year

8. SACRS Committee & Breakout Reports:

Committee		Breakout Reports	
Affiliate	Michael Bowman reported that the committee has 3 open seats and will be holding their elections in the Spring.	Administrators	Donald Kendig, Fresno CERA, reported a great meeting, and Linda Webb, VCERA, will be the Spring rep.
Audit	Steve Delaney reported that the Audit is underway, and that the committee has met with the auditors.	Counsels	Michael Herrera, LACERA, reported that the attorneys had a good meeting, David Lantzer, OCERS, will be the Spring rep.
Bylaws	Deanna McCormick, reported that the committee is working on Bylaw updates to the voting delegate section and will report to the Board in January.	Disability	Kathy Foster, ACERA, reported that they need a Spring rep.
Education	Christie Porter reported that the conference feedback has been very positive, the conference has received high remarks. A complete report will be presented to the Board in January. Online and paper options are available to complete evaluations.	Internal Auditors	No report
Legislative	Report accepted under item on agenda.	Investment Officers	Don Pierce, SBCERA, would like to know if they can have longer time for their meeting. Steve Marsh, SCERA will be the Spring rep.
Nomination	Report is in the packet, see deadlines for elections.	Operations & Benefits	Jeanine Smart, LACERA, will be the Spring rep.

Program	Gabe Rodrigues thanked all committee members that helped develop the agenda. Great program and thanks to staff.	Safety Trustees	No report
		General Trustees	Sulema Peterson offered information as to why the Safety and General trustees meet at two different times/group. Response, because the Safety members like to have their own meeting. The meeting used to take place on Tuesdays, but the group asked to be moved to Wednesday so that Safety members could attend other sessions on Tuesday.

9. Adjournment

Motion: A motion to adjourn the meeting at 11:22 am was submitted by Dan McAllister, SACRS Treasurer.

2nd: Sonoma CERA

Yes: Alameda, Fresno, Imperial, Kern, Los Angeles, Mendocino, Merced, Orange, Sacramento, San Bernardino, San Joaquin, San Mateo, Sonoma, Stanislaus, Tulare, Ventura

No: 0

Absent: Contra Costa, Santa Barbara, Marin, San Diego

Motion Passes: 16-0

Next scheduled SACRS Association Business Meeting will be held Friday, May 13, 2016 at the Westin South Coast Plaza, Costa Mesa, CA.

3. Treasurer's Report – Receive and File
Dan McAllister, SACRS Treasurer

A. July 2015 – February 2016

State Association of County Retirement Systems
Balance Sheet
As of February 29, 2016

	Total
ASSETS	
Current Assets	
Banner Bank - Checking	211,163.63
Banner Bank - CD FLEX #0642	57,149.90
Bank of Sacramento - MMA #0719	-
Bank of America Interest Checking #4389	93,279.88
Total Bank Accounts	\$ 361,593.41
Other Current Assets	
CalTrust - Medium Term	\$ 1,112,458.52
CalTrust - MMA	755,347.23
Total Other Current Assets	\$ 1,867,805.75
TOTAL ASSETS	\$ 2,229,399.16
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	\$ -
Total Current Liabilities	-
Total Liabilities	\$ -
Equity	
Retained Earnings	\$ 2,225,071.64
Net Income	4,327.52
Total Equity	\$ 2,229,399.16
TOTAL LIABILITIES AND EQUITY	\$ 2,229,399.16

State Association of County Retirement Systems
Budget vs. Actuals
July 2015 - February 2016

	July 2015 - February 2016		July 2015 - February 2016		Percentage of Annual Budget Recognized	Annual Budget
	Actual	Budget	Over/Under Budget	Recognized		
Insurance	5,004.00	5,000.00	4.00	66.72%	7,500.00	
Legal & Professional Fees	12,240.00	16,664.00	(4,424.00)	48.96%	25,000.00	
Lobby	35,714.84	35,184.00	530.84	67.66%	52,787.00	
Magazine	4,589.15	16,664.00	(12,074.85)	18.36%	25,000.00	
Meals and Entertainment	45,904.92	56,664.00	(10,759.08)	54.01%	85,000.00	
Office Expenses	-	664.00	(664.00)	0.00%	1,000.00	
Postage	3,494.34	1,328.00	2,166.34	174.72%	2,000.00	
Program Material	34,294.93	23,328.00	10,966.93	97.99%	35,000.00	
Speakers	27,530.83	40,000.00	(12,469.17)	45.88%	60,000.00	
Stationery & Printing	1,373.65	800.00	573.65	114.47%	1,200.00	
Strategic Facilitator	26,100.00	50,000.00	(23,900.00)	34.80%	75,000.00	
Supplies	55.50	1,000.00	(944.50)	3.70%	1,500.00	
Taxes & Licenses	10.00	64.00	(54.00)	10.00%	100.00	
Travel	16,757.92	16,664.00	93.92	67.03%	25,000.00	
Total Expenses	\$ 988,331.77	\$ 937,800.00	\$ 50,531.77	70.25%	\$ 1,406,785.00	
Net Operating Income	\$ (3,347.77)	\$ 47,512.00	\$ (50,859.77)	-4.70%	\$ 71,215.00	
Other Income						
Interest Earned	7,675.29	1,176.00	6,499.29		1,765.00	
Total Other Income	\$ 7,675.29	\$ 1,176.00	\$ 6,499.29	0.00%	\$ 1,765.00	
Net Income	\$ 4,327.52	\$ 48,688.00	\$ (44,360.48)	-4.70%	\$ 72,980.00	

State Association of County Retirement Systems
Profit & Loss
February 2016

	Total
Income	
Conference Registration	20,680.00
Membership Dues - Affiliates	-
Membership Dues - Non-Profit	-
Membership Dues-Systems	-
Sales of Product Income	-
UC Berkeley Registration	-
UC Berkeley Sponsorships	-
Total Income	\$ 20,680.00
Gross Profit	\$ 20,680.00
Expenses	
Administrative Fee	13,913.08
Administrative Services	2,720.00
Audio/Visual equipment	-
Bank Charges/Credit Card Fees	905.88
Berkeley & Symposium	-
BofA Credit Card Holding Account	-
CERL	-
Commissions & Fees	1,465.50
Consulting	2,500.00
Dues & Subscriptions	-
Hotels	-
Insurance	-
Legal & Professional Fees	1,125.00
Lobby	10,064.84
Magazine	-
Meals and Entertainment	136.20
Office Expense	-
Postage	14.58
Program Material	722.43
Speakers	1,768.47

State Association of County Retirement Systems
Profit & Loss
February 2016

	Total
Stationery & Printing	-
Strategic Facilitator	1,600.00
Supplies	-
Taxes & Licenses	10.00
Travel	365.10
Total Expenses	\$ 37,311.08
Net Operating Income	\$ (16,631.08)
Other Income	
Interest Earned	1,065.86
Total Other Income	\$ 1,065.86
Net Other Income	\$ 1,065.86
Net Income	\$ (15,565.22)

4. SACRS President Report – No Action
Yves Chery, SACRS President

No printed materials for this item

5. SACRS Audit Report – No Action
Steve Delaney, SACRS Audit Committee Chair

A. Update on 2014-2015 Audit

No printed materials for this item

6. SACRS Legislative Committee Update – Vote
Richard Stensrud, SACRS Legislative Committee Chair

- A. AB 1853 (Cooper) – 1937 Act Operating Authority
- B. AB 2376 (Assembly PERS Committee) – SDCERA Proposal
- C. 2016 SACRS Legislation Update
- D. Jim Lites, SACRS Consultant Update
CERL & UC Berkeley (No Action)

A. AB 1853 (Cooper) – 1937 Act Operating Authority

AB 1853 – MODERNIZATION OF COUNTY RETIREMENT SYSTEM OPERATING AUTHORITY

AB 1853 would authorize the retirement boards that govern the twenty county public employee retirement systems operating under the County Employees' Retirement Law of 1937 (1937 Act or CERL) to modernize the operating authority structure for their system so that they can continue to fulfill their mission and meet the fiduciary responsibilities they owe to their stakeholders. County retirement systems are much larger and more complex than when they were established in the years following passage of the 1937 Act. The environment in which county retirement systems operate is also considerably more complex than when the retirement systems were first established. As a result, in many cases the operating authority structure established in 1937 is no longer effectively aligned with the duties of the retirement system. AB 1853 would address this disconnect between authority and responsibilities by allowing the retirement board to shift to one of three alternative operating authority structures within the 1937 Act. Changing from the retirement system's current operating authority structure would be permitted, but not mandated. The decision of which operating authority structure to use would be made by the retirement board based on the retirement board's fiduciary judgment of what is in the best interests of the participants of the retirement system.

What Does Operating Authority Mean?

The term 'operating authority' encompasses the wide array of decisions that must be made in administering 1937 Act retirement systems. The key decisions that present problems under the current operating authority structure are: (1) Establishing the appropriate staffing levels and staffing structure for the retirement system; (2) Establishing the appropriate job descriptions and duties for the necessary staff; and (3) Establishing the terms and conditions of employment of necessary staff, including appropriate levels and forms of compensation.

The 'default' operating authority structure for 1937 Act retirement systems is established via various provisions in the 1937 Act, many of which literally date from 1937. In the beginning, the retirement systems were small, simple operations within the County Treasurer and Tax Collector's office. At that time, and for a number of years after, the retirement systems had fewer members and lower levels of assets under management; the benefit plans and operating rules were simpler; and the financial markets were not as complex, sophisticated and global in nature. In that operating environment it made sense to have decisions such as those noted above be made through the same processes as those used for the rest of county government. This meant the county was deemed to be the employer of retirement system personnel and that final decisions regarding staffing levels, staff structure, job descriptions and duties, and compensation rested with the Board of Supervisors, implemented through salary resolutions and/or job classifications established under the county Civil Service structure.

Today, a 1937 Act retirement system is a very different entity. County retirement systems have evolved and grown into autonomous organizations, serving thousands of members, managing billions of dollars in assets, and operating a highly specialized business that is unique relative to the rest of county government. The retirement systems are staffed by knowledgeable pension professionals and governed by retirement boards that focus their expertise and experience on fulfilling the mission of the organization.

In recognition of this and the importance of having uncompromised decisions with respect to the long term obligations of the retirement system, in 1992 the voters approved an amendment to the California Constitution (Article XVI, Section 17), which placed both the fiduciary responsibility and the plenary authority for the administration of the retirement system on the governing retirement board. Consistent with this delegation of authority and grant of responsibility, the budget for the retirement system is established by the retirement board and the funding for that budget is drawn fully from the assets of the pension trust.

Unfortunately, however, the legacy operating authority structure under the 1937 Act has largely failed to keep up with these developments. Over time, certain key personnel at the retirement system were designated as employees of the system, with the retirement board setting the terms and conditions of employment, but the implementation of those decisions continues to require action by the Board of Supervisors. Similarly, broader decisions regarding staffing levels, staff structure, job descriptions and duties, and compensation made in the first instance by the retirement board continue to require implementation by the Board of Supervisors. In some cases, this has resulted in the fiduciary decisions of the retirement board not being implemented, complicating the ability of the retirement system to carry out its duties.

Given this situation, beginning in 2003, 1937 Act systems began efforts to gain a more modernized operating authority structure. The primary mechanism for achieving this was to make the retirement system a separate employer participating in the retirement system from the county, thereby making the retirement board the final decision maker and implementer of certain personnel matters.

How Has Operating Authority Evolved Under the 1937 Act?

The first system to establish a different operating authority structure within the 1937 Act was the Orange County Employees' Retirement System (OCERS).^{*} Under the OCERS operating authority model, the management personnel of OCERS are deemed to be employees of OCERS, and the OCERS Board establishes the positions and terms of employment for those positions.

In 2004, the San Bernardino County Employees' Retirement Association (SBCERA) obtained legislative approval to operate under the same operating authority model. Then, in 2006, SBCERA gained legislative approval of a new operating authority model, which expanded the category of SBCERA employees to those positions deemed to require

specialized retirement system knowledge or expertise, the practical effect of which was to allow virtually all SBCERA personnel to be SBCERA employees.

Between 2006 and 2012 efforts were initiated by other 1937 Act systems to follow a similar track as OCERS and SBCERA, but for various political reasons, those efforts were not successful.

Then, in 2012, the Contra Costa County Employees' Retirement Association (CCCERA) entered into litigation with Contra Costa County regarding the scope of CCCERA's operating authority. As part of the settlement of that litigation, legislation was approved that designated CCCERA as the employer of all personnel at CCCERA.

This was followed in 2015 by legislation giving the Ventura County Employees' Retirement Association (VCERA) operating authority over a set of identified executive management positions.

In sum, under the 1937 Act, there are now four models that re-allocate operating authority relative to the legacy 1937 Act structure, with the scope of that re-allocation increasing as follows: (1) The VCERA model; (2) The OCERS model; (3) The SBCERA model; and (4) The CCCERA model.

*The Los Angeles County Employees' Retirement Association (LACERA) has had an operating authority agreement with Los Angeles County for many years, under which the county recognizes the authority of the LACERA Board over the administration of the retirement system and further agrees to take any ministerial action necessary to implement the decisions made by the LACERA Board. As a result of this agreement, LACERA has not needed to pursue a change in operating authority under the 1937 Act.

What Would AB 1853 Do?

As reflected by the discussion above, the efforts to-date to obtain modernized operating authority have been made on a system-by-system basis. Those efforts were largely driven by the recognition by those systems that they had reached a 'tipping point,' where their size and the scope of their responsibilities required that operational decisions needed to be addressed in a different manner.

This perspective gained more wide spread acceptance with the passage of PEPRA. The drafters of PEPRA recognized that the new duties imposed on 1937 Act systems by PEPRA increased the potential conflicts of interest between the retirement systems and the dominant participating employer, the county. The drafters further recognized that the legacy operating authority model could be used to compromise the ability of a 1937 Act system to carry out its responsibilities. For that reason, early drafts of PEPRA authorized 1937 Act system retirement boards to shift to a different operating authority model. This change did not ultimately make it into the final version of PEPRA, but it continues to be viewed as a sensible measure to protect the ability of the 1937 Act retirement systems to carry out their duties.

AB 1853 addresses the growing realization that change in operating authority is necessary, widely desired across the 1937 Act systems, and will produce beneficial results for all the stakeholders of these systems. AB 1853 would remove the need for pursuing ongoing piece meal modernization of operating authority by putting in place a standing mechanism for 1937 Act retirement boards to take such steps if and when they believe it is in the best interests of the participants in the system.

Under AB 1853 the individual system retirement boards can decide if they want to shift from their current operating authority model to one of the three main operating authority options in the 1937 Act – i.e., the OCERS, SBCERA or CCCERA operating authority structures. This decision would be at the discretion of each retirement board, with no approval or concurrence required by the county. At the same time, the retirement board is also free to coordinate/collaborate with the county in any such decision as it sees fit, and the retirement board is not required to change its operating authority model if it does not deem it advisable.

Flexibility rather than imposing a ‘one size fits all’ solution is a key component of AB 1853, with the right fit determined by each system. If systems are happy where they are, they can stay there. If systems want to change, there are options for how far they go, again contingent on what works best for their circumstances.

Another key component of AB 1853 is that the question of appropriate operating authority is not a ‘one and done’ decision. For example, a system can choose to start at the smaller end of the operating authority spectrum and then expand that authority if and when they believe it makes sense. This approach essentially allows a system to ‘test and verify’ that a change in operating authority works, and to be able to illustrate that as support for any subsequent increase in operating authority.

AB 1853 also contains various provisions that protect the rights of the retirement system personnel that would shift from being county employees to retirement system employees, including the right to be represented and the right to participate in any employee benefit plans and programs available to county employees.

What will Not Change Under AB 1853?

When the 1937 Act systems began to move out of the Treasurer/Tax Collectors’ office and become more autonomous, some people predicted that it would be disastrous. That did not happen then and, as evidenced by the experience in those systems that have already changed their operating authority model, will not happen now.

- The governance of the retirement systems will remain the same, with all the stakeholders having the same degree of representation and oversight as they have now. If a retirement board acts irresponsibly, the stakeholders can change its members.

- Transparency and accountability will not change. The 1937 Act contains a cap on administrative expenses, which will continue to be in effect. Meetings and records will still be public. Budgets will be public. Salaries will be public.
- Retirement board members will continue to be liable as fiduciaries for the decisions they make.

How will the Stakeholders of the Retirement System Benefit from AB 1853?

AB 1853 will allow the 1937 Act retirement systems to establish the staff structure and staffing levels necessary to successfully carry out their responsibilities. It will also enable the retirement system to attract and retain the skilled professionals necessary to successfully execute those responsibilities.

The ability to operate a more sophisticated investment program will benefit participating employers (and the taxpayers) through better investment returns and lower risk, resulting in lower employer cost. A stronger investment program will also benefit active members and retirees, by helping to maintain the funded status of the plan, thereby protecting their retirement security.

Appropriate staffing levels will benefit both employers and system participants through better customer service.

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1853

Introduced by Assembly Member Cooper

February 10, 2016

An act to amend Sections 31459.1, 31468, 31522.5, 31522.7, 31522.9, 31528, 31529.9, 31535, 31557.3, and 31580.2 of, and to add Section 31522.75 to, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1853, as amended, Cooper. County employees' retirement: districts: retirement system governance.

The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to their employees. CERL defines a district for these purposes, includes specified county retirement systems within that definition, and permits a district to participate in CERL retirement systems. CERL generally provides that the personnel of a county retirement system are county employees, subject to county civil service provisions and salary ordinances, but also authorizes the boards of retirement in specified counties to adopt provisions providing for the appointment of personnel who are to be employees of the retirement system, as well as other administrative provisions that reflect the independence of the retirement system from the county.

The California Public Employees' Pension Reform Act of 2013 (PEPRA) requires a public retirement system, as defined, to modify its plan or plans to comply with the act and establishes new retirement formulas that a public employer offering a defined benefit pension plan

for employees first hired on or after January 1, 2013, may not exceed. PEPRAs authorizes individuals who were employed by any public employer before January 1, 2013, and who became employed by a subsequent public employer for the first time on or after January 1, 2013, to be subject to the retirement plan that would have been available to employees of the subsequent employer who were first employed by the subsequent employer on or before December 31, 2012, if the individual was subject to reciprocity, as specified.

This bill would authorize the retirement board of any retirement system operating under CERL to elect, by resolution, to be a district under the law. The bill would authorize a board to adopt, by resolution, specified administrative provisions that would classify various personnel of the retirement system as employees of the retirement system and not employees of the county. In regard to county employees who would become retirement system employees, the bill would prescribe requirements in connection with their compensation and employment benefits and status. These provisions would include maintaining their county retirement benefits that would otherwise be reduced under PEPRAs, keeping their employment classifications, and affording employees the opportunity to continue participation in group health and dental plans, among other plans and programs. The bill would also prescribe requirements regarding labor negotiations and the continuity of labor agreements. The bill would grant a retirement system electing these provisions the authority to adopt the regulations and enter into the agreements necessary to implement them. The bill would authorize retirement systems currently operating under alternative administrative structures also to adopt these provisions. *The bill would also extend this authorization and the associated provisions to a board of investment, as specified.* The bill would make various technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 31459.1 of the Government Code is*
- 2 *amended to read:*
- 3 31459.1. (a) In a county in which a board of investments has
- 4 been established pursuant to Section 31520.2:

1 (1) As used in Sections 31453, 31453.5, 31454, 31454.1,
2 31454.5, 31472, 31588.1, 31589.1, 31591, 31592.3, 31594,
3 31595.1, 31595.9, 31596, 31596.1, 31601.1, 31607, 31610, 31611,
4 31612, 31613, 31616, 31618, 31621.11, 31625, 31639.26, 31784,
5 and 31872, “board” means board of investments.

6 (2) As used in the first paragraph of Section 31592.2 and the
7 first paragraph and subdivision (c) of the second paragraph of
8 Section 31595, “board” means a board of investments.

9 (3) Sections 31521, 31522, 31522.1, 31522.2, 31523, 31524,
10 31525, 31528, 31529, 31529.5, 31535.1, 31580.2, 31614, 31680,
11 and 31680.1, apply to both the board of retirement and board of
12 investments, and “board” means either or both the board of
13 retirement and board of investments.

14 (4) Subdivision (a) of Section 31526 and subdivisions (a) and
15 (b) of the second paragraph of Section 31595 apply to both the
16 board of retirement and board of investments, and “board” means
17 either or both the board of retirement and board of investments.

18 (5) *Paragraph (5) of subdivision (1) of Section 31468 and*
19 *Sections 31522.5, 31522.7, 31522.75, and 31522.9 apply to both*
20 *the board of retirement and board of investments. For these*
21 *purposes, “board” means both the board of retirement and board*
22 *of investments. “Board of retirement” also means both the board*
23 *of retirement and board of investments.*

24 (b) In Article 17 (commencing with Section 31880) of this
25 chapter, “board” means the Board of Administration of the Public
26 Employees’ Retirement System.

27 (c) In all other cases, “board” means the board of retirement.

28 (d) This section shall apply only in a county of the first class,
29 as defined in Section 28020, as amended by Chapter 1204 of the
30 Statutes of 1971, and Section 28022, as amended by Chapter 43
31 of the Statutes of 1961.

32 ~~SECTION 1.~~

33 *SEC. 2.* Section 31468 of the Government Code is amended
34 to read:

35 31468. (a) “District” means a district, formed under the laws
36 of the state, located wholly or partially within the county other
37 than a school district.

38 (b) “District” also includes any institution operated by two or
39 more counties, in one of which there has been adopted an ordinance
40 placing this chapter in operation.

1 (c) "District" also includes any organization or association
2 authorized by Chapter 26 of the Statutes of 1935, as amended by
3 Chapter 30 of the Statutes of 1941, or by Section 50024, which
4 organization or association is maintained and supported entirely
5 from funds derived from counties, and the board of any retirement
6 system is authorized to receive the officers and employees of that
7 organization or association into the retirement system managed
8 by the board.

9 (d) "District" also includes, but is not limited to, any sanitary
10 district formed under Part 1 (commencing with Section 6400) of
11 Division 6 of the Health and Safety Code.

12 (e) "District" also includes any city, public authority, public
13 agency, and any other political subdivision or public corporation
14 formed or created under the constitution or laws of this state and
15 located or having jurisdiction wholly or partially within the county.

16 (f) "District" also includes any nonprofit corporation or
17 association conducting an agricultural fair for the county pursuant
18 to a contract between the corporation or association and the board
19 of supervisors under the authority of Section 25905.

20 (g) "District" also includes the Regents of the University of
21 California, but with respect only to employees who were employees
22 of a county in a county hospital, who became university employees
23 pursuant to an agreement for transfer to the regents of a county
24 hospital or of the obligation to provide professional medical
25 services at a county hospital, and who under that agreement had
26 the right and did elect to continue membership in the county's
27 retirement system established under this chapter.

28 (h) "District" also includes the South Coast Air Quality
29 Management District, a new public agency created on February
30 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400)
31 of Part 3 of Division 26 of the Health and Safety Code.

32 (1) Employees of the South Coast Air Quality Management
33 District shall be deemed to be employees of a new public agency
34 occupying new positions on February 1, 1977. On that date, those
35 new positions are deemed not to have been covered by any
36 retirement system.

37 (2) No retirement system coverage may be effected for an
38 employee of the South Coast Air Quality Management District
39 who commenced employment with the district during the period
40 commencing on February 1, 1977, and ending on December 31,

1 1978, unless and until the employee shall have elected whether to
2 become a member of the retirement association established in
3 accordance with this chapter for employees of Los Angeles County
4 or the retirement association established in accordance with this
5 chapter for employees of San Bernardino County. The election
6 shall occur before January 1, 1980. Any employee who fails to
7 make the election provided for herein shall be deemed to have
8 elected to become a member of the retirement association
9 established in accordance with this chapter for the County of Los
10 Angeles.

11 (3) The South Coast Air Quality Management District shall
12 make application to the retirement associations established in
13 accordance with this chapter for employees of Los Angeles County
14 and San Bernardino County for coverage of employees of the South
15 Coast Air Quality Management District.

16 (4) An employee of the South Coast Air Quality Management
17 District who commenced employment with the district during the
18 period commencing on February 1, 1977, and ending on December
19 31, 1978, and who has not terminated employment before January
20 1, 1980, shall be covered by the retirement association elected by
21 the employee pursuant to paragraph (2). That coverage shall be
22 effected no later than the first day of the first month following the
23 date of the election provided for in paragraph (2).

24 (5) Each electing employee shall receive credit for all service
25 with the South Coast Air Quality Management District. However,
26 the elected retirement association may require, as a prerequisite
27 to granting that credit, the payment of an appropriate sum of money
28 or the transfer of funds from another retirement association in an
29 amount determined by an enrolled actuary and approved by the
30 elected retirement association's board. The amount to be paid shall
31 include all administrative and actuarial costs of making that
32 determination. The amount to be paid shall be shared by the South
33 Coast Air Quality Management District and the employee. The
34 share to be paid by the employee shall be determined by good faith
35 bargaining between the district and the recognized employee
36 organization, but in no event shall the employee be required to
37 contribute more than 25 percent of the total amount required to be
38 paid. The elected retirement association's board may not grant that
39 credit for that prior service unless the request for that credit is
40 made to, and the required payment deposited with, the elected

1 retirement association's board no earlier than January 1, 1980, and
2 no later than June 30, 1980. The foregoing shall have no effect on
3 any employee's rights to reciprocal benefits under Article 15
4 (commencing with Section 31830).

5 (6) An employee of the South Coast Air Quality Management
6 District who commenced employment with the district after
7 December 31, 1978, shall be covered by the retirement association
8 established in accordance with this chapter for employees of San
9 Bernardino County. That coverage shall be effected as of the first
10 day of the first month following the employee's commencement
11 date.

12 (7) Notwithstanding paragraphs (2) and (4) above, employees
13 of the South Coast Air Quality Management District who were
14 employed between February 1, 1977, and December 31, 1978, and
15 who terminate their employment between February 1, 1977, and
16 January 1, 1980, shall be deemed to be members of the retirement
17 association established in accordance with this chapter for the
18 employees of Los Angeles County commencing on the date of
19 their employment with the South Coast Air Quality Management
20 District.

21 (i) "District" also includes any nonprofit corporation that
22 operates one or more museums within a county of the 15th class,
23 as described by Sections 28020 and 28036 of the Government
24 Code, as amended by Chapter 1204 of the Statutes of 1971,
25 pursuant to a contract between the corporation and the board of
26 supervisors of the county, and that has entered into an agreement
27 with the board and the county setting forth the terms and conditions
28 of the corporation's inclusion in the county's retirement system.

29 (j) "District" also includes any economic development
30 association funded in whole or in part by a county of the 15th class,
31 as described by Sections 28020 and 28036 of the Government
32 Code, as amended by Chapter 1204 of the Statutes of 1971, and
33 that has entered into an agreement with the board of supervisors
34 and the county setting forth the terms and conditions of the
35 association's inclusion in the county's retirement system.

36 (k) "District" also includes any special commission established
37 in the Counties of Tulare and San Joaquin as described by Section
38 14087.31 of the Welfare and Institutions Code, pursuant to a
39 contract between the special commission and the county setting
40 forth the terms and conditions of the special commission's

1 inclusion in the county’s retirement system with the approval of
2 the board of supervisors and the board of retirement.

3 (l) (1) “District” also includes the retirement system established
4 under this chapter in Orange County.

5 (2) “District” also includes the retirement system established
6 under this chapter in San Bernardino County at such time as the
7 board of retirement, by resolution, makes this section applicable
8 in that county.

9 (3) “District” also includes the retirement system established
10 under this chapter in Contra Costa County.

11 (4) “District” also includes the retirement system established
12 under this chapter in Ventura County.

13 (5) “District” also includes a retirement system established under
14 this chapter at the time that the board of retirement, by resolution,
15 makes this ~~section~~ *subdivision* applicable to the retirement system
16 in that county.

17 (m) “District” also includes the Kern County Hospital Authority,
18 a public agency that is a local unit of government established
19 pursuant to Chapter 5.5 (commencing with Section 101852) of
20 Part 4 of Division 101 of the Health and Safety Code.

21 ~~SEC. 2.~~

22 *SEC. 3.* Section 31522.5 of the Government Code is amended
23 to read:

24 31522.5. (a) In a county in which the board of retirement has
25 appointed personnel pursuant to Section 31522.1, the board of
26 retirement may appoint an administrator, an assistant administrator,
27 a chief investment officer, senior management employees next in
28 line of authority to the chief investment officer, subordinate
29 administrators, senior management employees next in line of
30 authority to subordinate administrators, and legal counsel.

31 (b) Notwithstanding any other provision of law, the personnel
32 appointed pursuant to this section may not be county employees
33 but shall be employees of the retirement system, subject to terms
34 and conditions of employment established by the board of
35 retirement. Except as specifically provided in this subdivision, all
36 other personnel shall be county employees for purposes of the
37 county’s employee relations resolution, or equivalent local rules,
38 and the terms and conditions of employment established by the
39 board of supervisors for county employees, including those set
40 forth in a memorandum of understanding.

1 (c) Except as otherwise provided by Sections 31529.9 and
2 31596.1, the compensation of personnel appointed pursuant to this
3 section shall be an expense of administration of the retirement
4 system, pursuant to Section 31580.2.

5 (d) The board of retirement and board of supervisors may enter
6 into any agreements as may be necessary and appropriate to carry
7 out the provisions of this section.

8 (e) Section 31522.2 is not applicable to any retirement system
9 that elects to appoint personnel pursuant to this section.

10 (f) This section shall apply in Orange County.

11 (g) This section shall apply to the retirement system established
12 under this chapter in San Bernardino County at such time as the
13 board of retirement, by resolution, makes this section applicable
14 in that county.

15 (h) This section shall apply to a retirement system established
16 under this chapter at the time that the board of retirement, by
17 resolution, makes this section applicable in that county.

18 ~~SEC. 3.~~

19 *SEC. 4.* Section 31522.7 of the Government Code is amended
20 to read:

21 31522.7. (a) In addition to the authority provided pursuant to
22 Section 31522.5, the board of retirement in the County of San
23 Bernardino, or in any other county in which this section has been
24 made applicable, may appoint an administrator, an assistant
25 administrator, a chief investment officer, senior management
26 employees next in line of authority to the chief investment officer,
27 subordinate administrators, senior management employees next
28 in line of authority to subordinate administrators, supervisors and
29 employees with specialized training and knowledge in pension
30 benefit member services, investment reporting compliance,
31 investment accounting, pension benefit tax reporting, pension
32 benefit financial accounting, pension law, and legal counsel.

33 (b) Notwithstanding any other provision of law, the personnel
34 appointed pursuant to this section may not be county employees
35 but shall be employees of the retirement system, subject to terms
36 and conditions of employment established by the board of
37 retirement. Except as specifically provided in this subdivision, all
38 other personnel shall be county employees for purposes of the
39 county's employee relations resolution, or equivalent local rules,
40 and the terms and conditions of employment established by the

1 board of supervisors for county employees, including those set
2 forth in a memorandum of understanding.

3 (c) Except as otherwise provided by Sections 31529.9 and
4 31596.1, the compensation of personnel appointed pursuant to this
5 section shall be an expense of administration of the retirement
6 system, pursuant to Section 31580.2.

7 (d) The board of retirement and board of supervisors may enter
8 into any agreements as may be necessary and appropriate to carry
9 out the provisions of this section.

10 (e) Section 31522.2 is not applicable if the retirement system
11 elects to appoint personnel pursuant to this section.

12 (f) This section shall apply to the retirement system established
13 under this chapter in San Bernardino County at such time as the
14 board of retirement, by resolution, makes this section applicable
15 in that county.

16 (g) This section shall apply to a retirement system established
17 under this chapter at the time that the board of retirement, by
18 resolution, makes this section applicable in that county.

19 ~~SEC. 4.~~

20 *SEC. 5.* Section 31522.75 is added to the Government Code,
21 immediately following Section 31522.7, to read:

22 31522.75. (a) Any retirement system established under this
23 chapter, including a retirement system that, at the time of the
24 enactment of this section, is operating pursuant to Section 31522.5,
25 31522.7, or 31522.9, may elect to make this section, *paragraph*
26 *(5) of subdivision (l) of* Section 31468, and Section 31522.5,
27 31522.7, or 31522.9, applicable to the retirement system upon
28 adoption of a resolution by the board of retirement.

29 (b) A board of retirement may elect to appoint personnel, or
30 may authorize the retirement administrator to appoint personnel,
31 to administer the system as provided in this section.

32 (c) (1) Notwithstanding any other law, the personnel appointed
33 pursuant to this section and the sections referenced in subdivision
34 (a) shall not be county employees, but shall be employees of the
35 retirement system, subject to terms and conditions of employment
36 established by the board of retirement and the provisions of this
37 section.

38 (2) A county employee to whom the California Public
39 Employees' Pension Reform Act of 2013 (~~Article 4, commencing~~
40 ~~4 (commencing with Section 7522 7522)~~ of Chapter 21 of Division

1 7 of Title 1) did not apply before becoming a retirement system
2 employee shall maintain that status as an employee of the
3 retirement system.

4 (3) For purposes of employment by a subsequent public
5 employer, as described in paragraph (1) of subdivision (c) of
6 Section 7522.02, the retirement system shall have the status of the
7 county as a subsequent employer.

8 (4) With regard to an individual who was employed by the
9 county before January 1, 2013, and who becomes a retirement
10 system employee and then changes employment positions as
11 described in paragraph (2) of subdivision (c) of Section 7522.02,
12 the retirement system shall have the former obligations of the
13 county to provide a defined benefit plan that otherwise would have
14 been available to the employee had he or she remained a county
15 employee.

16 (d) Any employees who were previously appointed to retirement
17 system personnel positions pursuant to Section ~~31522.2 or 31522.3~~
18 ~~31522.2, 31522.3, or 31522.4~~ shall cease to be county employees
19 and shall become retirement system employees at their existing or
20 equivalent classifications as of the date the board of retirement
21 makes this section applicable pursuant to subdivision (a), subject
22 to any subsequent revisions the retirement board may make
23 pursuant to regulations governing terms and conditions of
24 employment, and when applicable, the provisions of a subsequent
25 ~~memoranda~~ memorandum of understanding or bargaining
26 agreement covering the employee.

27 (e) Any employees who were previously appointed to retirement
28 system personnel positions pursuant to Section 31522.1 and are
29 subsequently appointed as retirement system employees pursuant
30 to subdivision (a) shall cease to be county employees and shall
31 become retirement system employees at their existing or equivalent
32 classifications as of the date the board of retirement makes this
33 section ~~applicable~~. *applicable, subject to any subsequent revisions*
34 *the retirement board may make pursuant to regulations governing*
35 *terms and conditions of employment and, when applicable, the*
36 *provisions of a subsequent memorandum of understanding or*
37 *bargaining agreement covering the employee.*

38 (f) A retirement system that elects to make this section
39 applicable shall recognize as the exclusive representative of those
40 former county employees who become retirement system

1 employees the employee organization that represented those
2 employees, if any, and shall honor the provisions in any
3 ~~memoranda memorandum~~ of understanding or bargaining
4 agreement in effect on the date the board of retirement makes this
5 section applicable for the duration of the ~~memoranda memorandum~~
6 of understanding or bargaining agreement.

7 (g) The following shall apply to those persons who become
8 retirement system employees pursuant to this section:

9 (1) Employment seniority of a retirement system employee,
10 including, but not limited to, an employee's continuous service
11 date used for purposes of retirement or other benefits, as calculated
12 and used under the county system in effect before the date this
13 section becomes applicable, shall be calculated and used in the
14 same manner by the retirement system at the time the county
15 employee becomes a retirement system employee, subject to any
16 subsequent revisions the retirement board may make pursuant to
17 regulations governing terms and conditions of employment, and
18 when applicable, the provisions of a subsequent ~~memoranda~~
19 *memorandum* of understanding or bargaining agreement covering
20 the employee.

21 (2) Retirement system employees shall have the same status
22 they had as probationary, permanent, or regular employees under
23 the county system in effect on the date this section becomes
24 applicable, subject to any subsequent revisions the retirement board
25 may make pursuant to regulations governing terms and conditions
26 of employment, and when applicable, the provisions of a
27 subsequent ~~memoranda memorandum~~ of understanding or
28 bargaining agreement covering the employee.

29 (3) Retirement system employees shall receive their same salary
30 rates, leaves of absence, leave accrual rates, including all related
31 compensation rules and provisions applicable to those salary rates,
32 leaves, and accrual rates as under the county system on the date
33 this section becomes applicable, subject to any subsequent revisions
34 the retirement board may make pursuant to regulations governing
35 terms and conditions of employment, and when applicable, the
36 provisions of a subsequent ~~memoranda memorandum~~ of
37 understanding or bargaining agreement covering the employee.

38 (4) (A) Retirement system employees shall be afforded the
39 opportunity to participate in county benefit plans and programs,
40 including, but not limited to, group health, dental and life insurance,

1 workers' compensation, and deferred compensation that existed
2 on the date this section becomes applicable, under the same terms
3 and conditions as those programs were available to county
4 employees. The retirement board shall contract with the county to
5 administer the county benefit plans and programs for retirement
6 system employees, under the same terms and conditions applicable
7 to county employees, and shall provide the employer cost for
8 participation in the programs unless and until the retirement board
9 chooses to provide different benefits or different benefit levels
10 through another provider.

11 (B) The participation of retirement system employees in county
12 benefit plans or programs, and the county's administration of
13 certain compensation or benefits for retirement employees pursuant
14 to this section, shall not create or be construed to create, a meet
15 and confer obligation between the county and any employee
16 organization recognized to represent retirement system employees.

17 (h) The board of retirement and the county may enter into any
18 agreements necessary and appropriate to carry out this section.

19 (i) Sections 31522.1, ~~31522.2 and 31522.3~~ 31522.2, 32522.3,
20 and 32522.4 shall no longer apply to a retirement system that has
21 made this section applicable.

22 (j) Upon adoption of this section, the board of retirement may
23 make regulations consistent with this chapter, and the provisions
24 of Section 31525 that require approval of retirement board
25 regulations by the board of supervisors shall no longer apply.

26 (k) The compensation of personnel appointed pursuant to this
27 section shall be an expense of administration of the retirement
28 system pursuant to Section 31580.2, except as provided in Section
29 31522.5, 31522.7, or 31522.9, as those sections may apply to a
30 retirement system that has adopted them.

31 (l) This section shall not be construed as to modify any authority,
32 or to require any subsequent action by, a retirement system that
33 has made *paragraph (5) of subdivision (l) of Section 31468* and
34 Section 31522.5, 31522.7, 31522.9, or 31522.10 applicable to the
35 retirement system prior to the effective date of this section.

36 (m) Any retirement system that has elected to make either
37 Section 31522.5, 31522.7, or 31522.9 applicable upon adoption
38 of a subsequent resolution by the board of retirement may make
39 a different section apply.

1 ~~SEC. 5.~~

2 *SEC. 6.* Section 31522.9 of the Government Code is amended
3 to read:

4 31522.9. (a) The board of retirement of a county may appoint
5 a retirement administrator and other personnel as are required to
6 accomplish the necessary work of the board. The board may
7 authorize the administrator to make these appointments on its
8 behalf. Notwithstanding any other law, the personnel so appointed
9 shall not be county employees but shall become employees of the
10 retirement system, subject to terms and conditions of employment
11 established by the board of retirement, including those set forth in
12 ~~memoranda~~ *a memorandum* of understanding executed by the
13 board of retirement and recognized employee organizations.

14 (b) Sections 31522.1 and 31522.2 shall not apply to a retirement
15 system that appoints personnel pursuant to this section.

16 (c) The retirement system that appoints personnel pursuant to
17 this section is a public agency for purposes of the
18 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
19 3500) of Division 4).

20 (d) The compensation of personnel appointed pursuant to this
21 section shall be an expense of administration of the retirement
22 system, pursuant to Section 31580.2, except as provided in Sections
23 31529.5, 31529.9, and 31596.1.

24 (e) The board of retirement and the board of supervisors may
25 enter into agreements as they determine are necessary and
26 appropriate in order to carry out the provisions of this section.

27 (f) The retirement system, upon the effective date of this section,
28 shall retain, for a 90-day transition employment period,
29 nonprobationary employees who, upon the effective date of this
30 section, were covered by a county memorandum of understanding
31 and employed by the county at the retirement system's facilities,
32 unless just cause exists to terminate the employees or legitimate
33 grounds exist to lay off these employees. If during the 90-day
34 period the retirement system determines that a layoff of these
35 employees is necessary, the retirement system shall retain the
36 employees by seniority within job classification. The terms and
37 conditions of employment of the employees retained pursuant to
38 this subdivision shall be subject to the terms and conditions
39 established by the applicable ~~memoranda~~ *memorandum* of
40 understanding executed by the board of retirement and the

1 recognized employee organizations. During the 90-day transition
2 period, probationary employees shall maintain only those rights
3 they initially acquired pursuant to their employment with the
4 county.

5 (g) Subject to the employees' rights under the
6 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
7 3500) of Division 4), the retirement system, upon the effective
8 date of this section, shall recognize as the exclusive representative
9 of the employees retained pursuant to subdivision (f) the recognized
10 employee organizations that represented those employees when
11 employed by the county. The initial terms and conditions for those
12 employees shall be as previously established by the applicable
13 ~~memoranda~~ memorandum of understanding executed by the county
14 and recognized employee organizations.

15 (h) This section shall apply in Contra Costa County.

16 (i) This section shall apply to a retirement system established
17 under this chapter at the time that the board of retirement, by
18 resolution, makes this section applicable in that county.

19 ~~SEC. 6:~~

20 *SEC. 7.* Section 31528 of the Government Code is amended
21 to read:

22 31528. (a) Unless permitted by this chapter, a member or
23 employee of the board shall not become an endorser, surety, or
24 obligor on, or have any personal interest, direct or indirect, in the
25 making of any investment for the board, or in the gains or profits
26 accruing from those investments. A member or employee of the
27 board shall not directly or indirectly, for himself or herself, or as
28 an agent or partner of others, borrow or use any of the funds or
29 deposits of the retirement system, except to make current and
30 necessary payments authorized by the board.

31 (b) A member or employee of the board shall not, directly or
32 indirectly, by himself or herself, or as an agent or partner or
33 employee of others, sell or provide any investment product that
34 would be considered an asset of the fund, to any retirement system
35 established pursuant to this chapter.

36 (c) An individual who held a position designated in Section
37 31522.3, 31522.4, 31522.5, or established pursuant to Section
38 31522.75, or was a member of the board or an administrator, shall
39 not, for a period of two years after leaving that position, for
40 compensation, act as agent or attorney for, or otherwise represent,

1 any other person except the county, by making any formal or
2 informal appearance before, or any oral or written communication
3 to, the retirement system, or any officer or employee thereof, if
4 the appearance or communication is made for the purpose of
5 influencing administrative or legislative action, or any action or
6 proceeding involving the issuance, amendment, awarding, or
7 revocation of a permit, license, grant, contract, or sale or purchase
8 of goods or property.

9 ~~SEC. 7.~~

10 *SEC. 8.* Section 31529.9 of the Government Code is amended
11 to read:

12 31529.9. (a) In addition to the powers granted by Sections
13 31522.5, 31522.75, 31522.9, 31529, 31529.5, 31614, and 31732,
14 the board of retirement and the board of investment may contract
15 with the county counsel or with attorneys in private practice or
16 employ staff attorneys for legal services.

17 (b) Notwithstanding Sections 31522.5, 31522.7, 31522.75,
18 31529.5, and 31580, the board shall pay, from system assets,
19 reasonable compensation for the legal services.

20 (c) This section applies to any county of the 2nd class, 7th class,
21 9th class, 14th class, 15th class, or the 16th class as described by
22 Sections 28020, 28023, 28028, 28030, 28035, 28036, and 28037.

23 (d) This section shall also apply to any other county if the board
24 of retirement, by resolution adopted by majority vote, makes this
25 section applicable in the county.

26 ~~SEC. 8.~~

27 *SEC. 9.* Section 31535 of the Government Code is amended
28 to read:

29 31535. The board may issue subpoenas and subpoenas duces
30 tecum, and compensate persons subpoenaed. This power shall be
31 exercised and enforced in the same manner as the similar power
32 granted the board of supervisors in Article 9 (commencing with
33 Section 25170) of Chapter 1, Part 2, Division 2; except that the
34 power shall extend only to matters within the retirement board's
35 jurisdiction, and committees of the board shall not have this power.
36 Reasonable fees and expenses may be provided for by board
37 regulation for any or all of such witnesses regardless of which
38 party subpoenaed them.

39 Subpoenas shall be signed by the chairman or secretary of the
40 retirement board, except that the board may by regulation provide

1 for express written delegation of its subpoena power to any referee
2 it appoints pursuant to this chapter or to any administrator
3 appointed pursuant to Section 31522.2, 31522.5, 31522.7, 31522.9,
4 or 31522.10.

5 Any member of the board, the referee, or any person otherwise
6 empowered to issue subpoenas may administer oaths to, or take
7 depositions from, witnesses before the board or referee.

8 *SEC. 10. Section 31557.3 of the Government Code is amended*
9 *to read:*

10 31557.3. On the date a district, as defined in subdivision (I) of
11 Section 31468, is included in the retirement system, any personnel
12 appointed pursuant to Sections 31522.5, 31522.9, 31522.10,
13 31522.7, 31522.75, and 31529.9 who had previously been in county
14 service shall continue to be members of the system without
15 interruption in service or loss of credit. Thereafter, each person
16 entering employment with the district shall become a member of
17 the system on the first day of the calendar month following his or
18 her entrance into service.

19 ~~SEC. 9.~~

20 *SEC. 11. Section 31580.2 of the Government Code is amended*
21 *to read:*

22 31580.2. (a) In counties in which the board of retirement, or
23 the board of retirement and the board of investment, have appointed
24 personnel pursuant to Section 31522.1, 31522.5, 31522.7,
25 31522.75, 31522.9, or 31522.10, the respective board or boards
26 shall annually adopt a budget covering the entire expense of
27 administration of the retirement system which expense shall be
28 charged against the earnings of the retirement fund. The expense
29 incurred in any year may not exceed the greater of either of the
30 following:

31 (1) Twenty-one hundredths of 1 percent of the accrued actuarial
32 liability of the retirement system.

33 (2) Two million dollars (\$2,000,000), as adjusted annually by
34 the amount of the annual cost-of-living adjustment computed in
35 accordance with Article 16.5 (commencing with Section 31870).

36 (b) Expenditures for computer software, computer hardware,
37 and computer technology consulting services in support of these

- 1 computer products shall not be considered a cost of administration
- 2 of the retirement system for purposes of this section.

O



B. AB 2376 (Assembly PERS Committee) – SDCERA Proposal

YEAR 2016 SACRS LEGISLATIVE PLATFORM WORKSHEET

PLEASE COMPLETE AND RETURN BY SEPTEMBER 4, 2015

Title of Issue: Sworn Statement Requirement

Association: San Diego County Employees Retirement Association (SDCERA)

Contact Person: Johanna Shick, Chief Service Officer
Elaine Reagan, Chief Legal Officer

Phone #: 619.515.6815
619.515.6804

Fax #: 619.515.5071
619.515.5067

Please answer the following questions as fully as possible:

1. Description of issue.

Government Code §31526 states “The regulations shall include provisions: (a) For the election of officers, their terms, meetings, and all other matters relating to the administrative procedure of the board. (b) For the filing of a sworn statement by every person who is or becomes a member, showing date of birth, nature and duration of employment with the county, compensation received, and such other information as is required by the board. (c) For forms of annuity certificates and for such other forms as are required.”

Some retirement systems receive date of birth, nature and duration of employment with the county and compensation automatically via electronic payroll feed from the County. At the time the statute became effective in 1947 electronic payroll feeds did not exist, making the collection of this information critical for enrolling members into the system.

When counties automatically enroll eligible employees into the retirement system, and collect and report to the retirement system the required information, the requirement of collecting a sworn statement from each eligible employee is duplicative and unnecessary. Further, requiring the collection of a sworn statement from each eligible employee creates compliance issues and inefficiencies. Because not all employees return their sworn statements, additional staff time and resources must be expended to obtain the form from employees in order to comply with Government Code §31526; however, the retirement system already has the necessary information from the employer via the payroll feed.

2. Recommended solution.

Add language that would allow counties to collect members’ date of birth, nature and duration of employment with the county, and compensation received from the employer in lieu of requiring the member to complete a sworn statement. This would enable those counties that have implemented procedures to automatically enroll eligible employees into the retirement system, and collect and report the required information to the retirement system automatically to streamline processes, thus making the administration of the benefit more efficient and bringing statute in alignment with modern-day technology.

3. Specific language that you would like changed in, or added to, '37 Act Law, and suggested code section numbers.

§31526: The regulations shall include provisions: (a) For the election of officers, their terms, meetings, and all other matters relating to the administrative procedure of the board. (b) For the filing of a sworn statement by every person who is or becomes a member, showing date of birth, nature and duration of employment with the county, compensation received, and such other information as is required by the board or, alternatively and in lieu of a sworn statement, for such information to be provided by the member's employer to the retirement association in a form to be determined by the retirement association. (c) For forms of annuity certificates and for such other forms as are required.

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

The requested addition to Government Code §31526 affects all CERL systems, not only SDCERA.

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?

The proposed amendment is unlikely to raise opposition as it is designed to allow the status quo for those systems that prefer it. It does not prohibit systems from continuing to use sworn statements; it simply allows those systems gathering this information electronically to streamline their processes and more reliably collect the information.

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

Johanna Shick, Chief Service Officer
Elaine Reagan, Chief Legal Officer

E-mail or mail your legislative proposals to:

Jim Lites
California Strategies, LLC
980 9th Street, Suite 2000
Sacramento, CA 95814
Phone: (916) 266-4575
Email: jlites@calstrat.com

AMENDED IN ASSEMBLY MARCH 9, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2376

Introduced by Committee on Public Employees, Retirement, and Social Security (Assembly Members Cooper (Chair), Bonta, Cooley, Gonzalez, and O'Donnell)

February 18, 2016

An act to amend Sections 31494.2, 31494.5, ~~and 31526~~ of 31526, and 31641.4 of, and to add Sections 31495.7 and 31520.6 to, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2376, as amended, Committee on Public Employees, Retirement, and Social Security. County employees' retirement: Los Angeles County.

The County Employees Retirement Law of 1937 (CERL) establishes retirement plans, known as Retirement Plan D and Retirement Plan E, that are applicable in the retirement system in Los Angeles County and prescribes procedures for members to transfer between those plans. CERL defines "Retirement Plan E" to mean the noncontributory retirement plan established by specific provisions, and defines "Retirement Plan D" to mean the contributory retirement plan otherwise available to new members of the retirement system on the transfer date.

This bill would revise the definition of Retirement Plan D to, instead, refer to the contributory retirement plan otherwise available to members of the system between June 1, 1979, and December 31, 2012, inclusive.

CERL provides for the retirement system in Los Angeles County specific ages and pension allowances for normal and early retirement. Under CERL, a member of a CERL retirement system who is eligible

to retire at 50 years of age pursuant to specified statute, or who is required to retire because of age while a member of the Public Employees' Retirement System (PERS), a CERL retirement system in another county, the State Teachers' Retirement System (STRS), or a retirement system of any other public agency of the state that has established reciprocity with PERS subject to certain conditions, but who cannot retire concurrently from PERS, a CERL retirement system in another county, STRS, or a retirement system of any other public agency of the state that has established reciprocity with PERS subject to certain conditions, is entitled to have final compensation and service determined under specific statutes as if the member had retired concurrently under that other system (concurrent retirement exception). Provisions of CERL specifically applicable to Los Angeles County, among other things, apply reciprocal benefits, including the concurrent retirement exception, to the retirement system in Los Angeles County.

This bill would amend provisions of CERL specifically applicable to Los Angeles County to provide that the concurrent retirement exception applies to a member of the retirement system in Los Angeles County eligible to retire at 55 years of age and would state that the amendment is declaratory of existing law.

CERL sets forth the membership composition for boards of retirement, as specified. Under that law, the retirement board in specified counties is comprised of 9 members and an alternate member, as specified. That law also authorizes specified counties to appoint an alternate retired member to the office of the 8th member of the board and authorizes the alternate retired member to vote as a member of the board only in the event the 8th member is absent from a board meeting for any cause.

This bill would additionally authorize the alternate retired member to vote as a member of the board if the 8th member is present and both the 2nd and 3rd, both the 2nd and 7th, or both the 3rd and 7th members are absent for any cause.

Under CERL, except as specified, the management of a retirement system is vested in the board of retirement, ~~with membership as prescribed:~~ retirement. CERL authorizes such a board to make regulations not inconsistent with that law, and requires that the regulations include specific provisions, including provisions for the filing of a sworn statement by every person who is or becomes a member, showing date of birth, nature and duration of employment with the county, compensation received, and other information as is required by the board.

This bill would authorize those regulations, in lieu of a sworn statement, to provide for the submission by a member's employer to the retirement association of the information otherwise required in a sworn statement, in a form determined by the retirement association.

CERL requires that a safety member who receives credit for prior employment in public service, the principal duties of which consisted of active law enforcement or active fire suppression, or active service in the Armed Forces of the United States during time of war or national emergency, have his or her pension or retirement allowance for that service calculated on the same basis as the calculation of the retirement allowance the member would receive as a safety member under certain laws relating to the retirement of safety members for service.

This bill would require instead that the allowance be calculated on the same basis as the calculation of the retirement allowance the member would receive as a safety member under the safety benefit formula in effect on the date of the member's initial safety membership.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31494.2 of the Government Code is
2 amended to read:
3 31494.2. (a) A general member whose benefits are governed
4 by Retirement Plan D may, during a period of active employment,
5 elect to change plan membership and become a member,
6 prospectively, in Retirement Plan E. The election shall be made
7 upon written application signed by the member and filed with the
8 board, pursuant to enrollment procedures and during an enrollment
9 period established by the board, which enrollment period shall not
10 occur more frequently than once every three years for that member.
11 The change in plan membership shall be effective as of the transfer
12 date, as defined in subdivision (d). Except as otherwise provided
13 in this section, the rights and obligations of a member who elects
14 to change membership under this section shall be governed by the
15 terms of this article on and after the transfer date. Prior to the
16 transfer date, the rights to retirement, survivors', or other benefits
17 payable to a member and his or her survivors or beneficiaries shall
18 continue to be governed by Retirement Plan D.

1 (b) Except as otherwise provided in this section, effective as of
2 the transfer date, a member who has transferred to Retirement Plan
3 E pursuant to this section and his or her survivors or beneficiaries
4 shall receive retirement, survivors', and other benefits that shall
5 consist of: (1) the benefits to which they are entitled under the
6 terms of Retirement Plan E, but based on the member's service
7 credited only under that plan, and payable at the time and in the
8 manner provided under Retirement Plan E, and (2) the benefits to
9 which they would have been entitled under the terms of Retirement
10 Plan D had the member remained a member of Retirement Plan
11 D, but based on the member's service credited only under that
12 plan, and payable at the time and in the manner provided under
13 Retirement Plan D. Except as otherwise provided in this section,
14 the calculation of the member's, survivors', or beneficiaries'
15 benefits under each plan shall be subject to that plan's respective,
16 separate terms, including, but not limited to, the definitions of
17 "final compensation" and provisions establishing cost-of-living
18 adjustments, establishing minimum retirement age and service
19 requirements, and governing integration with federal social security
20 payments. Notwithstanding the foregoing, the aggregate service
21 credited under both retirement plans shall be taken into account
22 for the purpose of determining eligibility for and vesting of benefits
23 under each plan.

24 (c) Notwithstanding any other provision of Retirement Plan D
25 or Retirement Plan E:

26 (1) A member who has transferred to Retirement Plan E pursuant
27 to this section may not retire for disability and receive disability
28 retirement benefits under Retirement Plan D.

29 (2) If a member who has transferred to Retirement Plan E
30 pursuant to this section dies prior to retirement, that member's
31 survivor or beneficiary may not receive survivor or death benefits
32 under Retirement Plan D but shall receive a refund of the member's
33 contributions to Retirement Plan D together with all interest
34 credited thereto.

35 (d) As used in this section:

36 (1) "Period of active employment" means a period during which
37 the member is actively performing the duties of a full-time or
38 part-time employee position or is on any authorized paid leave of
39 absence, except a leave of absence during which the member is
40 totally disabled and is receiving, or is eligible to receive, disability

1 benefits, either during or after any elimination or qualifying period,
2 under a disability plan provided by the employer.

3 (2) "Retirement Plan D" means the contributory retirement plan
4 otherwise available to members of the system between June 1,
5 1979, and December 31, 2012, inclusive.

6 (3) "Retirement Plan E" means the noncontributory retirement
7 plan established under this article.

8 (4) "Transfer date" means the first day of the first month that
9 is at least 30 days after the date that the application is filed with
10 the board to change plan membership under subdivision (a).

11 (e) This section shall only be applicable to Los Angeles County
12 and shall not become operative until the board of supervisors of
13 that county elects, by resolution adopted by a majority vote, to
14 make this section operative in the county.

15 SEC. 2. Section 31494.5 of the Government Code is amended
16 to read:

17 31494.5. (a) A general member whose benefits are governed
18 by Retirement Plan E may, during a period of active employment,
19 elect to change plan membership and become a member,
20 prospectively, in Retirement Plan D. The election shall be made
21 upon written application signed by the member and filed with the
22 board, pursuant to enrollment procedures and during an enrollment
23 period established by the board, which enrollment period shall not
24 occur more frequently than once every three years for that member.
25 The change in plan membership shall be effective as of the transfer
26 date, as defined in subdivision (g). Except as otherwise provided
27 in this section, the rights and obligations of a member who elects
28 to change membership under this section shall be governed by the
29 terms of Retirement Plan D on and after the transfer date. Prior to
30 the transfer date, the rights to retirement, survivors', or other
31 benefits payable to a member and his or her survivors or
32 beneficiaries shall continue to be governed by Retirement Plan E.

33 (b) If a member has made the election to change plans under
34 subdivision (a), monthly contributions by the member and the
35 employer under the terms of Retirement Plan D shall commence
36 as of the transfer date. For the purposes of calculating the member's
37 contribution rate under Retirement Plan D, his or her entry age
38 shall be deemed to be his or her age at his or her birthday nearest
39 the transfer date; however, if the member exchanges service credit
40 in accordance with subdivision (c), with regard to contributions

1 made for periods after that exchange, his or her entry age shall be
2 adjusted and deemed to be the member's age at his or her birthday
3 nearest the date on which begins the most recent period of
4 unbroken service credited under Retirement Plan D, taking into
5 account service purchased under subdivision (c). In no event shall
6 the exchange of service under subdivision (c) affect the entry age
7 with respect to, or the cost of, employee contributions made, or
8 service purchased, prior to the exchange.

9 (c) (1) A general member who has elected to change plans
10 under subdivision (a) also may elect to exchange, at that time or
11 any time thereafter, but prior to the earlier of his or her application
12 for retirement, termination from employment, or death, some
13 portion designated in whole-month increments, or all of the service
14 credited under Retirement Plan E for an equivalent amount of
15 service credited under Retirement Plan D, provided, however, that
16 the member may not exchange less than 12 months' service or, if
17 less, the total service credited under Retirement Plan E. The
18 exchange shall be effective on the date when the member completes
19 the purchase of that service by depositing in the retirement fund,
20 by lump sum or regular monthly installments, over the period of
21 time determined by a resolution adopted by a majority vote of the
22 board of retirement, or both, but in any event prior to the earlier
23 of his or her death or the date that is 120 days after the effective
24 date of his or her retirement, the sum of: (1) the contributions the
25 member would have made to the retirement fund under Retirement
26 Plan D for that length of time for which the member shall receive
27 credit as service under Retirement Plan D, computed in accordance
28 with the rate of contribution applicable to the member under
29 Retirement Plan D, based upon his or her entry age, and in the
30 same manner prescribed under Retirement Plan D as if that plan
31 had been in effect during the period for which the member shall
32 receive service credit, and (2) the regular interest thereon.

33 (2) For the purposes of this subdivision, a member's entry age
34 shall be deemed to be the member's age at his or her birthday
35 nearest the date on which begins the most recent period of
36 unbroken service credited under Retirement Plan D following
37 completion of the service exchange under this subdivision. A
38 member may receive credit for a period of service under only one
39 plan and in no event shall a member receive credit for the same

1 period of service under both Retirement Plan D and Retirement
2 Plan E.

3 (3) A member who fails to complete the purchase of service as
4 required under this subdivision shall be treated as completing an
5 exchange of service under Retirement Plan E for an equivalent
6 amount of service under Retirement Plan D only with regard to
7 the service that actually has been purchased through completed
8 deposit with the retirement fund of the requisite purchase amount,
9 calculated in accordance with this subdivision.

10 (d) Except as otherwise provided in this section, effective as of
11 the transfer date, a member who has transferred to Retirement Plan
12 D pursuant to this section and his or her survivors or beneficiaries
13 shall receive retirement, disability, survivors', death, or other
14 benefits that shall consist of: (1) the benefits to which they are
15 entitled under the terms of Retirement Plan D, but based on the
16 member's service credited only under that plan, and payable at the
17 time and in the manner provided under Retirement Plan D, and
18 (2) the benefits to which they would have been entitled under the
19 terms of Retirement Plan E had the member remained a member
20 of Retirement Plan E, but based on the member's service credited
21 only under that plan, and payable at the time and in the manner
22 provided under Retirement Plan E. Except as otherwise provided
23 in this section, the calculation of the portion of a member's or
24 beneficiary's benefit that is attributable to each plan is subject to
25 that plan's respective, separate terms, including, but not limited
26 to, the definitions of "final compensation" and provisions
27 establishing cost-of-living adjustments, establishing minimum age
28 and service requirements, and governing integration with federal
29 social security payments. Notwithstanding the foregoing, the
30 aggregate service credited under both Retirement Plan D and
31 Retirement Plan E shall be taken into account for the purpose of
32 determining eligibility for, and vesting of, benefits under each
33 plan.

34 (e) Notwithstanding any other provision of Retirement Plan D
35 or Retirement Plan E, a member who transfers into Retirement
36 Plan D under this section may retire for service-connected or
37 nonservice-connected disability and receive disability benefits
38 under Retirement Plan D only if he or she has either (1) completed
39 two continuous years of active service after his or her most recent
40 transfer date, or (2) earned five years of retirement service credit

1 under Retirement Plan D after his or her most recent transfer date.
2 Notwithstanding any other provision to the contrary, a member
3 who becomes disabled and does not meet either of these conditions
4 (1) may apply for and receive only a deferred or service retirement
5 allowance, or (2) may elect to transfer prospectively back to
6 Retirement Plan E, and for the purposes of calculating his or her
7 retirement benefits under this section, shall in lieu of credit under
8 Retirement Plan D be credited with service under Retirement Plan
9 E as provided under subdivision (g) of Section 31488 during any
10 period he or she is totally disabled and is receiving, or eligible to
11 receive, disability benefits, either during or after any elimination
12 or qualifying period, under a disability plan provided by the
13 employer up to the earlier of the date he or she retires or no longer
14 qualifies for disability benefits. If a member dies before he or she
15 is eligible to retire and before completing either two continuous
16 years of active service after the transfer date into Retirement Plan
17 D or after earning five years of retirement service credit under
18 Retirement Plan D after that transfer date, that member's
19 beneficiary shall not be entitled to the survivor allowance under
20 Section 31781.1 or 31781.12, if operative.

21 (f) Notwithstanding any other provisions of Retirement Plan D
22 or Retirement Plan E, a member who has transferred to Retirement
23 Plan D pursuant to this section and who retires for disability when
24 eligible under this section and Retirement Plan D, may not also
25 retire for service and receive service retirement benefits under
26 Retirement Plan E. However, for the purpose of calculating
27 disability benefits under Retirement Plan D, the "sum to which he
28 or she would be entitled as service retirement" or his or her "service
29 retirement allowance," as those terms are used in Sections 31726,
30 31726.5, and 31727.4, shall consist of the blended benefit to which
31 the member would be entitled under subdivision (d) if he or she
32 retired for service, not just the service retirement benefit to which
33 he or she would be entitled under Retirement Plan D.

34 (g) As used in this section:

35 (1) "Active service" means time spent on active, on-the-job
36 performance of the duties of a full-time or part-time position and
37 on any authorized paid leaves of absence; provided, however, that
38 any authorized paid leave of absence or part-time service shall not
39 constitute active service if the leave of absence or part-time service
40 is necessitated by a preexisting disability, injury, or disease. The

1 board of retirement shall determine whether or not a leave of
2 absence or part-time service is necessitated by a preexisting
3 disability, injury, or disease, and thus excluded from the member's
4 active service, based upon evidence presented by the employer
5 and the member upon request by the board.

6 (2) "Entry age" means the age used for calculating the normal
7 rate of contribution to Retirement Plan D with respect to a member
8 who has transferred membership to Retirement Plan D under this
9 section.

10 (3) "Period of active employment" means a period during which
11 the member is actively performing the duties of a full-time or
12 part-time employee position or is on any authorized paid leave of
13 absence, except a leave of absence during which the member is
14 totally disabled and is receiving, or is eligible to receive, disability
15 benefits, either during or after any elimination or qualifying period,
16 under a disability plan provided by the employer.

17 (4) "Retirement Plan D" means the contributory retirement plan
18 otherwise available to members of the system between June 1,
19 1979, and December 31, 2012, inclusive.

20 (5) "Retirement Plan E" means the noncontributory retirement
21 plan established under this article.

22 (6) "Transfer date" means the first day of the first month that
23 is at least 30 days after the date that the application is filed with
24 the board to change plan membership under subdivision (a).

25 (h) This section shall only be applicable to Los Angeles County
26 and shall not become operative until the board of supervisors of
27 that county elects, by resolution adopted by a majority vote, to
28 make this section operative in the county.

29 *SEC. 3. Section 31495.7 is added to the Government Code, to*
30 *read:*

31 *31495.7. Section 31835.1 applies to a member eligible to retire*
32 *at 55 years of age pursuant to Section 31491. This section is*
33 *declaratory of existing law.*

34 *SEC. 4. Section 31520.6 is added to the Government Code, to*
35 *read:*

36 *31520.6. Notwithstanding any provision to the contrary in*
37 *Section 31520.3 or 31520.5, in any county in which there is an*
38 *alternate retired member, if the eighth member is present, the*
39 *alternate retired member may also vote as a member of the board*
40 *in the event both the second and third, or both the second and*

1 *seventh, or both the third and seventh members are absent for any*
 2 *cause.*

3 ~~SEC. 3.~~

4 *SEC. 5.* Section 31526 of the Government Code is amended
 5 to read:

6 31526. The regulations shall include provisions:

7 (a) For the election of officers, their terms, meetings, and all
 8 other matters relating to the administrative procedure of the board.

9 (b) For one of the following:

10 (1) The filing of a sworn statement by every person who is or
 11 becomes a member, showing date of birth, nature and duration of
 12 employment with the county, compensation received, and other
 13 information as is required by the board.

14 (2) In lieu of a sworn statement, the submission by the member's
 15 employer to the retirement association of the information otherwise
 16 required in paragraph (1), in a form determined by the retirement
 17 association.

18 (c) For forms of annuity certificates and other forms as required.

19 *SEC. 6.* Section 31641.4 of the Government Code is amended
 20 to read:

21 31641.4. (a) A member shall receive credit for employment
 22 in public service only for such service as he *or she* is not entitled
 23 to receive a pension or retirement allowance from ~~such~~ *the* public
 24 agency. The service for which ~~he~~ *the member* elects to contribute
 25 and the fact that no pension or retirement allowance will accrue
 26 to ~~such~~ *the* member by virtue of ~~his~~ *the member's* employment in
 27 ~~such that~~ public agency ~~must shall~~ be certified to by an officer of
 28 the public agency where he *or she* rendered ~~such that~~ public service
 29 or ~~must shall~~ be established to the satisfaction of the board.

30 ~~Notwithstanding~~

31 (b) ~~Notwithstanding~~ any other ~~provision of~~ law, a safety member
 32 who receives credit for prior employment in public service, the
 33 principal duties of which consisted of active law enforcement or
 34 active fire suppression, or active service in the ~~armed services~~
 35 *Armed Forces* of the United States during time of war or national
 36 emergency, shall have his *or her* pension or retirement allowance
 37 for ~~such that~~ service calculated on the same basis as the calculation
 38 of the retirement allowance ~~such the~~ member would receive as a
 39 safety member under ~~Section 31664.~~ *the safety benefit formula in*
 40 *effect on the date of the member's initial safety membership.*

1 ~~A~~
2 (c) A safety member who entered the service as a peace officer
3 prior to the establishment of the safety membership provisions in
4 his *or her* county shall be considered a safety member from his *or*
5 *her* initial hiring date, for the purposes of this section,
6 notwithstanding any other ~~provision~~ of law.

O

C. 2016 SACRS Legislation Update



**STATE ASSOCIATION OF COUNTY RETIREMENT SYSTEMS
LEGISLATIVE REPORT**
by Mike Robson and Trent Smith
April 7, 2016

The 2016 Legislative Session is in full gear. Legislative committee hearings are underway, bills are getting amended, and deliberations on the State Budget are taking place in budget subcommittees. April and early May are very busy times because bills are being heard and voted on for the first time and all the wrinkles to legislation are getting ironed out. This dynamic is playing out with State Association of County Retirement Systems' (SACRS) own legislative agenda for 2016.

SACRS SPONSORED LEGISLATION

AB 2376 -- (Assembly Committee on PERSS)

AB 2376 is the Assembly PERSS Committee Omnibus bill dealing with the County Employee Retirement Law (CERL). At this time, it is a three-part bill dealing with what are considered technical, non-controversial changes to the CERL, including a SACRS sponsored provision pertaining to sworn statements.

Sworn Statements

Currently, the law requires regulations of every board to include a provision for the filing of a sworn statement by every person who is or becomes a member, showing date of birth, nature and duration of employment with the county, compensation received, and such other information as is required by the board.

Historically, 1937 Act systems have utilized a signed, hard copy document as the sworn statement. However, with advances in technology, some systems are now obtaining the same information via an electronic payroll feed from the participating employer. For those systems that do this, having to collect a signed, hard copy document from the member can be viewed as duplicative, unnecessary, and an inefficient use of resources. At the same time, however, there are some systems that view the continued collection of a signed document as valuable, for example, in a situation where there is a dispute regarding the age of the member.

AB 2376 would accommodate both approaches by allowing each system to designate whether it will collect the pertinent information via the traditional sworn statement or via some other format, including electronically from the employer.

Alternate Board Members

Other relevant provisions of this bill include the County Retired Employee Association's sponsored provision dealing with alternate members of system boards. Under current law,

counties are authorized to appoint an alternate retired member to the office of the eighth member of the board and authorizes the alternate retired member to vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause.

AB 2376 would additionally authorize the alternate retired member to vote as a member of the board if the eighth member is present and both the second and third, both the second and seventh, or both the third and seventh members are absent for any cause.

Safety Employee Credit

This section of AB 2376 would update the CERL to ensure that safety members under PEPRAs who get credit for prior service in safety, fire, or military service are able to calculate their safety benefit based on the formula in effect on the date of the member's initial safety membership. This provision was brought forward by the Ventura County Retirement System and is supported by the SACRS Legislative Committee.

LACERA

This section of AB 2376 would amend provisions of CERL specifically applicable to Los Angeles County to provide that the concurrent retirement exception applies to a member of the retirement system in Los Angeles County eligible to retire at 55 years of age and would state that the amendment is declaratory of existing law.

AB 2376 will be heard and voted on in the Assembly PERSS Committee on May 6.

AB 1853 (Cooper)

Alternate Operating Authority

AB 1853 is the SACRS' expected-to-be-sponsored measure to authorize the retirement boards operating under the CERL to modernize the operating authority structure for their system so that they can continue to fulfill their mission and meet the fiduciary responsibilities they owe to their stakeholders.

As currently written, the bill would give the 1937 Act Boards of Retirement the optional authority to be the direct employer of personnel within the system based on one of several existing statutory frameworks for doing so. The options available would be the OCERS, SBCERA, or CCCERA models.

AB 1853 removes the need for pursuing ongoing piecemeal modernization of operating authority by putting in place a standing mechanism for system's to adopt. The bill would continue to protect the rights of the retirement personnel that would shift from county employment to system employment and the governing structure of the boards would not change. This bill will bring a

needed level of system autonomy while maintaining all transparency, budgeting accountability, and fiduciary responsibility.

AB 1853 will be heard in the Assembly PERSS Committee on May 6.

Pension Initiatives and Pension Legislation

Two initiatives aimed at capping pensions and eliminating defined benefit plans being pushed by former San Jose Mayor Chuck Reed and former San Diego City Councilmember Carl De Maio had received title and summary from the Attorney General and were eligible to begin collecting signatures to qualify for the November 2016 ballot. However, the proponents of the initiatives, fearing poor voter reception pulled their initiatives and are re-evaluating their approach to pension reform.

AB 1812 (Wagner) Pension Caps

Consistent with the above mentioned initiatives and proponents, Assemblyman Don Wagner from Orange County introduced AB 1812 which would cap public employee pensions at \$100,000 for those employees without Social Security and \$80,000 for those with Social Security. This bill was set for hearing on April 6, but was pulled from the calendar by the author prior to the hearing.

D. Jim Lites, SACRS Consultant Update
CERL (No Action)

No printed materials

D. Jim Lites, SACRS Consultant Update
UC Berkeley Ad Hoc Cmte Recommendation (No Action)

SACRS / UC Berkeley Public Pension Management Program

Ad Hoc Committee

Final Recommendations

March 1, 2016

Introduction

In 2015, the SACRS Board of Directors created an Ad Hoc Committee to review and examine the SACRS UC Berkeley Public Pension Management Program. The Committee met throughout 2015 and early in 2016 to examine what, if any, program modifications, updates or improvements may be identified. The Committee examined program data, such as attendance statistics, financial sponsorships, and curriculum content for UC Berkeley and other similar programs. With a goal of building and sustaining long-term interest in attendance of SACRS trustees and senior staff, the Committee found modifications to the program were warranted. This report outlines the Committee's final recommendations to the SACRS Board of Directors for UC Berkeley Public Pension Management Program to be effective in the 2017 program year.

SACRS would like to thank the members that served on the Ad Hoc Committee for their dedication and work to examine and improve the program:

Members:

Yves Chery – LACERA, SACRS President
Zandra Cholmondeley – Santa Barbara
Gloria Dominguez – Kern
Linda Jordan – Mesirow Financial
Daniel Lass – BNYMellon
J.J. Popowich – LACERA
Graham Schmidt – Cheiron
Michal Settles – San Mateo
Jeff Wickman – Marin

Staff:

Jim Lites
Sulema Peterson

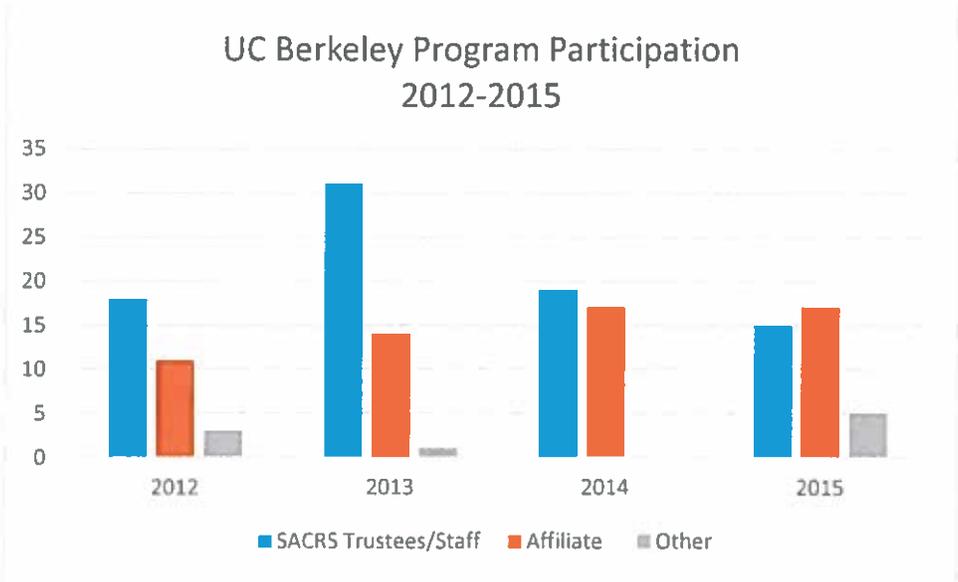
Ad Hoc Committee Findings

The Committee identified various trends and facts about the program that informed and guided the recommendations. The Committee found the program content well-positioned compared similar programs offered by CALAPRS at Pepperdine & UCLA and IFEBP at Wharton. The Committee utilized data points from a 2015 SACRS survey, which seemed to indicate once an individual attended a Berkeley conference, there was little intent to attend a second time. This is something the Committee examined and sought to address. Below is a chart that highlights the various types of content offered by SACRS at Berkeley and similar programs.

**SACRS UC Berkeley
Public Pension Investment Management Program
Peer Program Content Comparison Matrix**

Program Content Matrix	SACRS UC Berkeley Program	CALAPRS Pepperdine	CALAPRS UCLA (lodging mandatory)	Wharton
Investment Introduction	X	X	X	
Investment/Portfolio Theory	X		X (Broad topic of "investments")	X
Fiduciary Principles		X		
Governance – Effective Board Traits/Leadership/ Role of the Board	X	X (Most comprehensive – full day session)	X	
Disability		X		
Asset Allocation		X		X
Mean-Variance Analysis	X			
Performance Evaluation				X
Macro Economics			X	X
Risk	X			X
Actuarial Principles/Practice	X		X	
Real Assets	X			
Alternative Investments	X			
Valuation				X
Behavioral Finance	X			
Current Event Topics (ie, Municipal Bankruptcy)	X			

One of the primary goals of the Berkeley program was to provide investment education and training for SACRS trustees and senior staff. After trending downward in the last two years, trustee and staff attendance fell below affiliates for the first time in 2015. The Committee found improved marketing both within SACRS and to other potential attendees, could strengthen participation of our primary target audience. The chart below shows the Berkeley attendance breakdown over the last four years.



With respect to the financial health of the program, sponsorships have increased steadily over the last five years, a positive trend that has allowed the program to expand to four days, yet hold flat the SACRS financial commitment. The revenue and expenditures of the last four years are attached to this report.

Committee Recommendations

1. **Maintain Current Program in 2016.** In order to prevent any loss in continuity or momentum for the current program, the Committee recommends moving forward with the 2016 as scheduled. The proposed program modifications are proposed for the 2017 program year.

2. **Return to a 3-day program.** The fourth day of the program, added at the beginning, has provided a day of introductory investment topics since 2013.
3. **Annual Alternating Curriculum.** The Committee proposes to alternate the curriculum every other year with introductory topics in the first year and more advanced investment topics and trends in the second year.
 - A. **Introductory Curriculum** – In this year’s program, the Haas faculty is asked to concentrate on introductory concepts for newer trustees and staff with an emphasis on practical application of the concepts presented, such as model asset allocations and portfolio efficiency.
 - B. **Advanced Curriculum** – In this alternate year’s program, the Haas faculty is asked to focus on a more seasoned investment audience, and to focus on current trends within the institutional investor marketplace that might be useful for more advanced trustees and staff as they consider investment options for their systems.
4. **Augment & Broaden Marketing of the Program.** The Committee recommends SACRS augment the marketing of the Berkeley program. The targets of increased marketing efforts will include trustees and senior 1937 Act retirement system staff and other public retirement system professionals from other in-state and possibly out-of-state systems. The marketing materials should position the Berkeley program vis-à-vis the Pepperdine, UCLA and Wharton programs. Should these efforts increase the total number of attendees, it could be positive for the long-term goals of the program.
5. **Attendance Fee Pricing.** While general marketing efforts have extended beyond the SACRS community, the program had not established any pricing differentials based on SACRS membership. The Ad Hoc Committee recommends that pricing be adjusted to reflect a higher price for attendance by non-SACRS members.

In addition, the Committee recommends consideration of an internal SACRS pricing differential based on total system assets. Systems with \$3 billion or less in assets could be offered a lower attendance fee than systems over \$3 billion. This recommendation is intended to make the program more economical for smaller systems that may have limited resources or policies that limit travel expenditures.

6. Integrate Program Elements at SACRS Conferences. At the fall 2015 SACRS Conference, Haas School of Business faculty member Professor Greg LaBlanc, spoke during one of the general sessions. This provided the attendees with a strong flavor of the types of presentations and topics they might expect during the SACRS Berkeley program.

This recommendation suggests the Board of Directors and the Program Committee examine how more of the Berkeley program content could be integrated in the SACRS Conference agendas.

Conclusion

The goal of the Committee was to examine the Berkeley program and identify any modifications that may be warranted to ensure the program was structured to be sustainable over the long-term. The recommendations contained herein are designed to fulfill this goal. The program feedback has been positive and the Berkeley offering is viewed as valuable and fulfilling an information segment for investment education that compliments, rather than conflicts, with similar programs. The recommendations are intended to build upon this value and further enhance it.

7. SACRS Bylaws Committee Report – Vote
Vivian Gray, SACRS Bylaws Committee Chair

A. Amendment to Article IV - Delegates

April 1, 2016

To: SACRS Membership
From: Vivian Gray, SACRS Bylaws Committee Chair
SACRS Bylaws Committee
Re: Amendment to SACRS Bylaws – Article IV- Delegates

At the request of Tulare CERA (TCERA), the Bylaws committee was asked to review TCERA's concerns regarding who may serve as an "Alternate Delegate" at SACRS Business meetings. After thoughtful review, the Bylaws committee determined that additional clarification would be helpful. The Committee developed the following language, enlisted SACRS Attorney to review and presented to the Board of Directors in September. SACRS attorney certified the language conforms with the Bylaws and presents no conflicts.

The following amendments to the SACRS Bylaws are being proposed for the Membership's approval: (~~delete language~~, new language)

Article IV- DELEGATES

Section 2-- Alternate Delegates

Alternate delegates may be designated in writing by the member County Retirement Board. ~~All alternates shall be regular members consistent with Article III, Section 1(a) herein.~~

Insert New Section 3.

Section 3-- Voting by Delegates/Alternate Delegates

Voting delegates serve as a proxy ~~vote~~ for their ~~system~~ respective County Retirement System. The delegate or alternate delegate shall vote ~~according to the direction of~~ as directed by their respective County Retirement System.

Section 3—Credentials will need to be amended as well to reflect the additional section.

Renumber Credentials:

Section 4--Credentials

8. SACRS Nomination Committee – 2016-2017 SACRS BOD Elections - Vote
Ray McCray, Nomination Committee Chair

A. SACRS BOD 2016 – 2017 Ballot



SACRS MEMORANDUM

March 31, 2016

Attn: SACRS Administrators
From: Raymond McCray, SACRS Nominating Committee Chair
SACRS Nominating Committee
Re: SACRS Board of Directors Elections 2016-2017 – Final Ballot

Per SACRS Bylaws, Article VI ~ Section 2 – Election, Qualification and Term of Office

“The officers of SACRS shall be regular members of SACRS. The officers shall be elected by majority vote of the quorum of delegates and alternate delegates present at the first meeting in each calendar year and shall hold office for one (1) year and until a successor is elected.”

Per SACRS Bylaws, Article VI ~ Section 4 - Officer Elections

“...The Board of any regular member County Retirement System may submit write-in candidates to be included in the Nominating Committee’s final ballot provided the Nominating Committee receives those write-in candidates prior to March 25th. The Nominating Committee will report a final ballot to each regular member County Retirement System prior to April 1.

The Administrator of each regular member County Retirement System shall be responsible for communicating the Nominating Committee’s recommended ballot and final ballot to each trustee and placing the election of SACRS Officers on his or her Board agenda. The Administrator shall acknowledge the completion of these responsibilities with the Nominating Committee...”

Below is the final ballot for the upcoming election. As in the past, a voting delegate may entertain a motion to vote by individual officer positions or by complete ballot. Please be sure to authorize your voting delegate to vote either way.

The elections will be held at the upcoming SACRS Spring Conference May 10-13, 2016 at the Westin South Coast Plaza Hotel in Costa Mesa. Elections will be held during the Annual Business meeting on Friday, May 13, 2016.

Please distribute the ballot to all standing/eligible board members for approval and authorization for your voting delegate. As stated above, Administrators are required to send acknowledgement of completion to our office at sulema@sacrs.org.

Continued



SACRS Nominating committee recommended 2016-2017 final ballot:

- President Dan McAllister, San Diego CERA
- Vice President Gabe Rodrigues, Contra Costa CERA
- Treasurer Larry Walker, San Bernardino CERA
- Secretary Art Goulet, Ventura CERA

If you have any questions or require assistance, please contact me directly at 209-468-2163 or raym1@sbcglobal.net. Thank you for your prompt attention to this timely matter.

Sincerely,

Raymond McCray

Raymond McCray, San Joaquin County
SACRS Nominating Committee Chair

CC: SACRS Board of Directors
SACRS Nominating Committee Members
Sulema H. Peterson, SACRS Administrator

RMC:shp

9. SACRS Committee & Breakout Reports:

Committee	Chair	Breakout Reports	Representative
Affiliate	Michael Bowman	Administrators	Linda Webb
Audit	Steve Delaney	Attorneys	David Lantzer
Bylaws	Vivian Gray	Disability	Cristal Rodriguez
Education	Christie Porter	Internal Auditors	Harsh Jadhav
Legislative	Richard Stensrud	Investment Officers	Steve Marsh
Nomination	Ray McCray	Ops & Benefits	Jeannine Smart
Program	Gabe Rodrigues	Safety Trustees	Tracy Towner
		General Trustees	Vivian Gray

Next scheduled SACRS Association Business Meeting will be held Friday, November 11, 2016, at the Renaissance Esmeralda Resort & Spa, Indian Wells, CA.