

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

Meeting Date
02/13/13
Agenda Item
#3

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December 12, 2012

The Board of Retirement met in regular session at 9:00 a.m. on Wednesday, December 12, 2012 in the Conference Room of the Contra Costa County Employees' Retirement Association, 1355 Willow Way, Suite 221, Concord, CA.

Present: Debora Allen, Terry Buck, Richard Cabral, John Gioia, Brian Hast, Jerry Holcombe, Sharon Naramore, John Phillips, Gabe Rodrigues, Jerry Telles, Maria Theresa Viramontes and Russell Watts

Absent: None

Staff: Marilyn Leedom, Retirement Chief Executive Officer; Kurt Schneider, Retirement Deputy Chief Executive Officer; Timothy Price, Retirement Chief Investment Officer; Karen Levy, General Counsel; and Vickie Kaplan, Retirement Accounting Manager

Outside Professional Support: Harvey Leiderman
Representing: Reed Smith LLP

Other Attendees:

Luz Casas	Contra Costa County Employees' Retirement Association (CCCERA) Staff
Karen Davis	CCCERA Staff
Christina Dunn	CCCERA Staff
Jessica Huffman	CCCERA Staff
Tracy Kroll	CCCERA Staff
Joelle Luhn	CCCERA Staff
Justine Rossini	CCCERA Staff
Liz Walker	CCCERA Staff
Mike Sloan	Contra Costa County Retired Employees Association
Kris Hunt	Contra Costa County Taxpayers Association
Peter Cheung	Paladin
Jim Bickert	Deputy Sheriff's Association (DSA)
Ken Westermann	DSA
Michelle Johnston	Auditor-Controller
Teji O'Malley	Central Contra Costa Sanitary District (CCCSD)
Lucy Fogarty	Superior Court
Brandy Sandborn	Superior Court
Lisa Driscoll	County Administrators Office
Vincent Wells	Contra Costa County Fire Protection District
Todd Smithey	CCCSD
Rollie Katz	Local One
Mike Mohun	San Ramon Valley Fire

1. Pledge of Allegiance

Viramontes led all in the *Pledge of Allegiance*.

2. Recognition of Liz Walker for 15 years of service

Viramontes recognized and congratulated Liz Walker for her 15 years of service.

Viramontes reported Item 8 will be discussed at 11:00 a.m. Paul Angelo from The Segal Company is unable to attend and will call at that time.

3. Public Comment

Kris Hunt, Contra Costa Taxpayers Association, expressed her disappointment that audio recording of the Board meetings and changing the schedule for the closed session portion of the Board meetings has not been placed on the agenda for discussion.

4. Approval of Minutes

It was M/S/C to approve the minutes of the October 24, 2012 Board meeting. (Yes: Allen, Buck, Cabral, Gioia, Hast, Phillips, Telles, Viramontes and Watts)

5. Routine Items

It was M/S/C to approve the routine items of the December 12, 2012 meeting. (Yes: Allen, Buck, Cabral, Gioia, Hast, Phillips, Telles, Viramontes and Watts)

It was the consensus of the board to move to item 9.

9. Addendum to "Compensation for Retirement Purposes" policy for new members on or after January 1, 2013 (PEPRA)

Levy reported the proposed second addendum to this policy is another step in implementing the California Public Employees Pension Reform Act of 2013, or PEPRA. She noted this addendum applies to new members only, not "legacy" members. She noted PEPRA uses the term, "pensionable compensation" to define the compensation used for retirement purposes.

Levy reviewed the statutory definition of "pensionable compensation" and the pay items that are excluded from "pensionable compensation" as defined by Government Code Section 7522.34. There was discussion on the definitions of "normal working hours" and "base pay."

Discussion followed on whether to adopt the proposed policy and amend at a later date if more information becomes available as to the definition of "base pay". Leiderman noted that it was his understanding that the CalPERS Chief Counsel felt that "base pay" does not include any pay items other than base pay.

Levy also reviewed implementation approaches taken by other CERL Systems noting that CalPERS, who is also subject to this new statute, has not published a position on whether it will be implementing "pensionable compensation" to include base pay only or base pay plus special items of compensation. She

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recommended that the pensionable compensation implementation approach selected for CCCERA should be subject to further clarification of the law, including legislative and decisional law, as well as clarification from CalPERS on how they intend to implement "pensionable compensation."

Lisa Driscoll, County Administrators Office, requested clarification on whether it would create an unfunded liability if the "base pay only" approach was adopted and then later amended causing employers to under-collect contributions.

Jim Bickert, DSA, stated Sonoma County has recently gone through pay codes one by one and determined a vast majority of the pay codes will remain in "pensionable compensation". He feels that since other CERL systems are taking a different approach than the "base pay only" approach, the law does not appear to be clear on the definition of "pensionable compensation."

Discussion followed regarding the timeframe the decision needs to be made within and which decision would have the least amount of impact on members and employers if it later needs to be amended.

It was *M/S* to adopt the second amended policy as presented with the understanding the policy can be amended.

A substitute motion was *M/S* to notify employers the definition of "pensionable compensation" is limited to "base pay only" and to adopt the second amended policy excluding Item 3(h) until January when it can be clarified.

Levy noted by excluding Item 3(h), a portion of the statute defining "pensionable compensation" is being removed from the policy.

After discussion on the substitute motion, the question was called.

It was *M/* to call for the question. The motion was lost.

The substitute motion was *M/S/C* to notify employers that "pensionable compensation" for PEPRAs members is limited to "base pay only" until January or as soon as it can be clarified and to adopt the second addendum to the board's compensation policy excluding Item 3(h). (Yes: Allen, Gioia, Hast, Phillips, Telles, Viramontes and Watts. No: Buck. Abs.: Cabral)

It was the consensus of the Board to move to item 8.

8. Implementation of rate methodology for new members on or after January 1, 2013 (PEPRA)

Schneider noted the Board began discussion at the November 28, 2012 Board meeting whether member contribution rates for PEPRAs members should be calculated using a flat rate method or an age at entry method. At the November meeting the Board requested input from the employers to determine the employer's preference. Schneider distributed a letter from the County which stated the preference of the County was to use the age at entry methodology for calculating contribution rates for PEPRAs members. He noted the other employers that responded to his inquiry either expressed a preference for

a flat rate or expressed no preference at all. The County was the only employer that expressed a preference for the age at entry method. Those that favored the flat rate cited ease of administration, more clarity in explaining the benefit structure to new hires, and less litigation risk. One employer with no preference noted that since the method chosen is not expected to affect the employers' cost, the decision should be left to retirement experts and the Board based on what is best for the System.

Paul Angelo, via telephone, reported other CERL systems have adopted the flat rate methodology for PEPRA members. He discussed the reasons The Segal Company made the recommendation for a flat rate method for PEPRA members.

Discussion followed regarding the advantages and disadvantages of a flat rate method and the age of entry method. It was noted the flat rate method does not mean a fixed rate. Angelo noted the member rate would change by a minimum of 0.25% but only when the normal cost of the plan changed by at least 1%. Angelo stated a decision would need to be made by January 1, 2013 in order to provide enough time to calculate and implement the rates for PEPRA members entering the system on January 1, 2013.

Rollie Katz, Local 1, stated he has not had a discussion with the County regarding the different methodologies for calculating PEPRA member contribution rates, but does not feel that the union would have a preference on the method used for calculating the rates for future employees, although he felt a flat rate would work.

It was **M/S** to implement the flat rate method for calculating contribution rates for members entering the PEPRA tiers effective January 1, 2013.

The Board discussed the differences in member contribution rates between using the age at entry method and the flat rate method, based on the illustration provided by staff. It was noted the rates are for illustration purposes only and will not be the same as the rates calculated by the actuary.

A substitute motion was **M/S** to implement the age of entry method for calculating contribution rates for members entering the PEPRA tiers effective January 1, 2013. (Yes: Allen, Gioia, Viramontes and Watts. No: Buck, Cabral, Hast, Phillips and Telles). Motion Failed.

The original motion was **M/S/C** to implement the flat rate method for calculating contribution rates for members entering the PEPRA tiers effective January 1, 2013. (Yes: Buck, Cabral, Hast, Phillips and Telles. No: Allen, Gioia and Watts. Abs.: Viramontes)

Phillips was not present for subsequent discussion and voting.

It was the consensus of the Board to move to Item 11.

11. Retiree Mailing Policy

Levy reported on Senate Bill 1382 and discussed the proposed amendments to CCCERA's Policy on Mailings to Retirees. She noted the provisions of Senate Bill 1382 will become effective on January 1, 2013.

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Mike Sloan, President of the Contra Costa County Retired Employees Association and Vice President of California State Retirees, noted the organizations he represents sponsored Senate Bill 1382 due to the restrictions of CCCERA's current Policy on Mailings to Retirees. He stated he understands restricting political campaign information, but was questioning limiting the solicitation of benefits for retirees. He felt sending information to retirees regarding a vision plan, for example, should not be restricted.

Pat Patterson, Chairman of the Retiree Support Group (RSG), stated the RSG attorney assisted with writing the legislation for Senate Bill 1382. He noted he sent a letter to the CCCERA Board detailing the intent of the law, in particular to allow the retiree groups to use the CCCERA mailing list to stay in contact with the members of the retiree organization. He explained the legislation allows the retiree organization to send correspondence to a limited audience, as often as needed and without any censorship or disclaimers.

The Board discussed amendments to the proposed policy to include: under Criteria, changing the sentence to "The content of the communications are wholly the responsibility of the retiree organization and the Board does not have any liability for the content or accuracy of the communications. (Id.)"; under Procedure, Item 1, changing the sentence to read "All requests will be reviewed by the Retirement Chief Executive Officer or designee to be consistent with the policy and applicable law."; Item 2, changing the sentence to read "The material must not imply CCCERA's endorsement or affirmation of the accuracy of the information."; and Item 6, by removing the words "legal review" from the second line.

It was *M/S/C* to adopt the amended Policy on Mailings to Retirees with the additional amendments listed above. (Yes: Allen, Buck, Cabral, Gioia, Hast, Holcombe, Telles, Viramontes and Watts)

12. Use of CCCERA funds to pay for mailing of full agenda packets for various retiree groups

This item was removed from the Agenda.

13. Board meeting schedule for 2013.

It was *M/S/C* to adopt the Board meeting schedule for 2013 changing the September 18, 2013 meeting to September 11, 2013. (Yes: Allen, Buck, Cabral, Gioia, Hast, Holcombe, Telles, Viramontes and Watts)

It was the consensus of the Board to move to Item 6.

CLOSED SESSION

The Board moved into closed session pursuant to Govt. Code Section 54957 and 54956.9(a).

The Board moved into open session

6. Disability Retirements

Telles was not present for subsequent discussion and voting.

It was *M/S/C* to accept the Medical Advisor's recommendation and grant the following disability benefit:

- a. Janet McIntire - Non-service Connected (Yes: Buck, Cabral, Gioia, Hast, Holcombe, Naramore, Viramontes and Watts. Abs.: Allen)

Telles was present for subsequent discussion and voting.

Gioia was not present for subsequent discussion and voting.

- 7. a. There was no reportable action related to Govt. Code Section 54956.9(a).

Gioia was present for subsequent discussion and voting.

- b. There was no reportable action related to Govt. Code Section 54956.9(a).

It was the consensus of the Board to move to Item 10.

10. Adoption of Policy Regarding Assessment and Determination of Compensation Enhancements

Levy noted a provision of Assembly Bill 340 requires the CCCERA Board of Retirement to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a CCCERA member's benefit. She noted the recommended procedure is similar to CCCERA's Disability Retirement Application and Hearing Process.

The Board discussed the proposed administrative process including the referral to a hearing officer.

It was *M/S/C* to direct staff to return with an additional option in January for an established procedure that does not necessitate the referral of matters to a hearing officer. (Yes: Allen, Buck, Cabral, Gioia, Hast, Holcombe, Telles, Viramontes and Watts)

Gioia was not present for subsequent discussion and voting.

It was the consensus of the Board to move to Item 15.

15. Review of Intech's CEO resignation

Price reported the Chief Executive Officer (CEO) of Intech resigned suddenly and the Chief Investment Officer (CIO), Adrian Banner will be taking on the role, in addition to the role of CIO. He noted the CEO's executive responsibilities have been transitioned to Banner and other members of Intech's senior leadership team.

The Board directed staff to notify them if Intech loses accounts as a result of this leadership change.

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After discussion, it was *M/S/C* to put both the Intech Large Cap Core and Global Low Volatility portfolios on the Watch List for personnel changes and request a presentation from Intech regarding the personnel changes. (Yes: Allen, Buck, Cabral, Hast, Holcombe, Telles, Viramontes and Watts)

It was the consensus of the Board to move to Item 14.

14. Strategic plan regarding alternative asset allocation

Price noted the Board adopted an asset allocation study in June 2011 that resulted in an increase in the allocation to Alternative Investments from 7% to 10%. He presented a proposed 3-year plan to identify new investment strategies and work towards deploying more capital within the alternative investment category to reach the long-term target allocation of 10%. The proposed plan also provides education on dedicated non-US strategies, venture capital and/or alternative debt-oriented strategies for the Board.

It was *M/S/C* to accept staff's report and direct Milliman to issue an RFP for a small to midsize fund of funds and to provide education to the Board on these investments. (Yes: Allen, Buck, Hast, Holcombe, Telles, Viramontes and Watts. Abs: Cabral)

16. Conference Seminar Attendance

- a. It was *M/S/C* to authorize the attendance of 1 Board member at the 2012 Legislative Conference, NCPERS, January 27-29, 2013, Washington, D.C. (Yes: Allen, Buck, Cabral, Hast, Holcombe, Telles, Viramontes and Watts)
- b. It was *M/S/C* to authorize the attendance of all Board members and appropriate staff at the General Assembly, CALAPRS, March 3-5, 2013, San Francisco, CA. (Yes: Allen, Buck, Cabral, Hast, Holcombe, Telles, Viramontes and Watts)
- c. It was *M/S/C* to authorize the attendance of 1 staff member at the NAPPA Seminar, February 8-10, 2013, Washington, D.C. (Yes: Allen, Buck, Cabral, Hast, Holcombe, Telles, Viramontes and Watts)

17. Miscellaneous

(a) Staff Report -

Leedom reported staff is working on an iPad policy noting they are reviewing wireless or 3G options.

Price reported on an onsite visit to PIMCO and Research Affiliates Office and felt it was a very positive meeting. Leedom, Rodrigues, Viramontes and Youngman were also in attendance.

Price reported he also had positive meetings with Pathway and Carpenter.

He reported DBL Investors discovered an error in allocation of distributions. He will provide an update once he has more information.

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Levy reported that an urgency PEPRRA clean-up bill has been introduced by Senator Negrete McLeod. Among other changes, the urgency bill, SB 13, would repeal a provision of AB340 regarding industrial disability benefits for safety members (Gov't. Code §7522.66).

(b) Outside Professionals' Report -

None

(c) Trustees' Comments -

Viramontes commented on the PIMCO onsite visit noting she felt very confident in the investment.

Buck commented on depooling and the effect on the smaller employer groups.

He reported 3 Moraga-Orinda firefighters were injured in an auto accident and noted due to the size of the Moraga-Orinda Fire Department this could increase the departments cost by 3% if they are unable to return to work. Levy noted CCCERA and the employer has the right to subrogate.

Cabral questioned when the books are closed on 12/31/12, if CCCERA is expecting a good investment year. Price reported preliminary numbers are looking good.

It was *M/S/C* to adjourn the meeting. (Yes: Allen, Buck, Cabral, Hast, Holcombe, Telles, Viramontes and Watts)

Maria Theresa Viramontes, Chairman

John B. Phillips, Secretary