

Memorandum

MEETING DATE

JUN 13 2012

AGENDA ITEM

MISC

Date: June 13, 2012

To: Board of Retirement
Marilyn Leedom, Retirement Chief Executive Officer
Retirement Staff

From: Karen Levy, General Counsel

Subject: 2012 Edition of the County Employees Retirement Law of 1937 and the
2012 CCCERA Lawbook

The 2012 edition of the County Employees Retirement Law of 1937 ("CERL") has arrived and was distributed to members of the board and staff. We have also prepared the 2012 CCCERA Lawbook and posted it on the website at cccera.org under the "publications" link.

Although there were a large number of legislative bills introduced last year on pension issues, only a few additions and amendments were made to the CERL, some applying only to specified retirement systems other than CCCERA. The changes relevant to CCCERA are:

SB 373 (DeSaulnier) amended Government Code Section 31484.9 to delete the January 1, 2012 sunset provision, thereby extending indefinitely the authorization of the Contra Costa County Board of Supervisors to establish different retirement benefits for different bargaining units of safety employees represented by the Contra Costa County Deputy Sheriffs' Association, and the unrepresented groups of safety employees in similar job classifications and the supervisors and managers of those employees, as specified, pursuant to a resolution making those provisions applicable to Contra Costa County.

SB 203 (Currea) amended Sections 31520.1, 31520.2, 31520.3, and 31520.5, added Section 31523.1, and repealed and added Section 31523 of the Government Code, related to CERL retirement boards. This bill:

- Deleted the authority of the board to prohibit a board member from having the same rights, privileges, responsibilities, and access to closed sessions as other board members, or from holding positions on committees of the board.
- Changed the process for filling vacancies of elected board members by requiring the retirement board to cause an election to be held at the earliest possible date to fill a vacancy.

CCCERA

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- Added a requirement that the alternate retired board member fill a vacancy in the 8th member seat for the remainder of the 8th member's term of office, and that the board of retirement appoint a replacement alternate member in the same manner as prescribed for the initial appointment of an alternate retired member, who must serve until the expiration of the current term of the current member.

We have updated the CCCERA Lawbook with these changes and posted on cccera.org, as mentioned above. A hard copy is available upon request.



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Subject: Status of CCCERA's Application For IRS Letter of Determination

CCCERA filed an application with the Internal Revenue Service for a letter of determination in January of 2011. A "Letter of Determination" is a favorable ruling from the IRS stating that the terms of the retirement plan comply with applicable provisions of the Internal Revenue Code and IRS rules. It means that the retirement plan is "tax-qualified" under the Internal Revenue Code and IRS rules, and plan participants will not be taxed when contributions are made to the plan, but rather upon receipt of benefits at retirement. The IRS had previously issued a favorable letter of determination to CCCERA in 1987, and in 2008 encouraged pension plans to file applications during Cycle C and E.

CCCERA's application was made after the Board of Retirement adopted tax compliance policies, as recommended by tax counsel. Included with the application was a Voluntary Compliance Program ("VCP") application, whereby certain plan amendments and corrections were raised. CCCERA received in February of 2011 the first ruling from the IRS, regarding the VCP portion of the application. The ruling provided that the plan amendments would be treated as if they were adopted timely. The IRS advised that the determination letter portion of the application would be handled by a different group of IRS staffers. No time horizons were provided for the next steps in the process. We are advised that the IRS staffers are working on the applications. As we did in 2011, we have updated the CCCERA plan document with the current statutory changes, and will be providing it to the IRS.



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