



AGENDA

RETIREMENT BOARD MEETING

REGULAR MEETING

May 5, 2021, 9:00 a.m.

Due to the Contra Costa County and State of California Coronavirus (COVID-19) health orders, and as permitted by Executive Order N-29-20 issued on March 17, 2020, the Board of Retirement shall hold its meeting via teleconferencing. The meeting is accessible telephonically at 669-900-6833, Webinar ID: 941 7279 7036, Passcode: 633712, or via the web at:

<https://zoom.us/j/94172797036?pwd=ZkN4eklCY2FsZHRMUUJvSWowekxOUT09> Passcode: 633712

Persons who wish to make public comment may submit their comment to:

publiccomment@cccera.org on the day of the meeting, either before or during the meeting.

Public comments are limited to any item of interest to the public that is within the subject matter jurisdiction of the Board of Retirement. (Gov't Code Section 54954.3(a).) All comments submitted will be included in the record of the meeting. The comments will be read into the record at the meeting, subject to a three-minute time limit per comment.

THE RETIREMENT BOARD MAY DISCUSS AND TAKE ACTION ON THE FOLLOWING:

1. Pledge of Allegiance.
2. Roll Call.
3. Accept comments from the public.
4. Approve minutes from the April 14, 2021 meeting.
5. Routine items for May 5, 2021.
 - a. Approve certifications of membership.
 - b. Approve service and disability allowances.
 - c. Accept disability applications and authorize subpoenas as required.
 - d. Approve death benefits.
 - e. Accept travel report.
 - f. Accept asset allocation report.
 - g. Accept liquidity report.

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

CLOSED SESSION

6. The Board will go into closed session pursuant to Govt. Code Section 54957 to consider recommendations from the medical advisor and/or staff regarding the following disability retirement applications:

<u>Member</u>	<u>Type Sought</u>	<u>Recommendation</u>
a. Christopher Williams	Service Connected	Service Connected

7. The Board will continue in closed session pursuant to Govt. Code Section 54957 to consider the Hearing Officer’s recommendation regarding the disability application for Shahla Rezwani.

8. The Board will continue in closed session pursuant to Govt. Code Section 54956.9(d)(1) to confer with legal counsel regarding pending litigation:

- a. *Contra Costa County Deputy Sheriffs Association, et al., v. Board of Retirement of CCCERA, et al., Contra Costa County Superior Court, Case No. MSN12-1870*
- b. *Contra Costa County Deputy Sheriffs Association, et al., v. Board of Retirement of CCCERA, et al., Contra Costa County Superior Court, Case No. C15-00598*
- c. *Public Employees Union Local No. 1, et al., v. Board of Retirement of CCCERA, et al., Contra Costa County Superior Court, Case No. N14-2021*

OPEN SESSION

9. Consider and take possible action to amend the Policy on Determining “Compensation Earnable” Under Assembly Bill 197 For Purposes of Calculating Retirement Benefits For “Legacy” (Pre-PEPRA) Members.
10. Consider and take possible action concerning the SACRS legislative proposal to be voted on at the May 2021 SACRS Conference.
11. Miscellaneous
- a. Staff Report
 - b. Outside Professionals’ Report
 - c. Trustees’ comments

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.



RETIREMENT BOARD MEETING MINUTES

REGULAR MEETING

April 14, 2021

9:00 a.m.

The Board of Retirement meeting was accessible telephonically at (669) 900-6833, Webinar ID 968 9735 5359, Passcode 817739, due to the Contra Costa County and State of California Coronavirus (COVID-19) Shelter In Place Orders, and as permitted by Executive Order N-29-20 issued on March 17, 2020.

1. Pledge of Allegiance

The Board and staff joined in the *Pledge of Allegiance*.

2. Recognition of Son Lu for 15 years of service

Smithey recognized and congratulated Son Lu for his 15 years of service.

3. Roll Call

Present: Candace Andersen, Donald Finley, Scott Gordon, Jerry Holcombe, Louie Kroll, Jay Kwon, David MacDonald, John Phillips, Reggie Powell, Mike Sloan, Todd Smithey and Russell Watts

Absent: None

Staff: Gail Strohl, Chief Executive Officer; Christina Dunn, Deputy Chief Executive Officer; Timothy Price, Chief Investment Officer; Karen Levy, General Counsel; Anne Sommers, Administrative/HR Manager; Henry Gudino, Accounting Manager; Tim Hoppe, Retirement Services Manager; and Jasmine Lee, Member Services Manager

Outside Professional Support:

Harvey Leiderman
Chris Fikes
Sue Ziegler
Jeff Adair
Ed Meyers

Representing:

Reed Smith
Segal Consulting
Segal Consulting
Sagitec Solutions, LLC
Sagitec Solutions, LLC

Sriram Ramanujam	Sagitec Solutions, LLC
Srinivas (KC) Kolluru	Sagitec Solutions, LLC
John Finnegan	Sagitec Solutions, LLC
Bjorn Larson	Sagitec Solutions, LLC

4. Accept comments from the public

No member of the public offered comment.

5. Approval of Minutes

It was **M/S/C** to approve the minutes from the March 10, 2021 Board Meeting. (Yes: Anderson, Finley, Gordon, Holcombe, Kroll, MacDonald, Phillips, Smithey and Watts)

6. Routine Items

It was **M/S/C** to approve the routine items of the April 14, 2021 Board meeting. (Yes: Andersen, Finley, Gordon, Holcombe, Kroll, MacDonald, Phillips, Smithey and Watts)

CLOSED SESSION

The Board moved into Closed Session pursuant to Govt. Code Section 54957 and 54956.9 (d)(1)

The Board moved into open session

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

- a. Shawn Pate – Service Connected (Yes: Andersen, Finley, Gordon, Holcombe, Kroll, MacDonald, Phillips, Smithey and Watts)
- b. Kim Willey – This item was referred to staff to provide additional medical information.

8. There was no reportable action related to Govt. Code Sections 54957

9. There was no reportable action related to Govt. Code Section 54956.9(d)(1). Trustee MacDonald recused himself from this item and was not present for subsequent discussion and voting.

Finley was not present for subsequent discussion and voting.

10. Consider and take possible action to authorize the Chief Executive Officer to execute an agreement with Sagitec Solutions LLC to provide pension administration system software, implementation, hosting and support services in an amount not to exceed \$13,000,000

Strohl and Segal Consulting provided information regarding the request for proposal and subsequent evaluation process noting that after careful consideration by the Pension

Administration System Oversight Team the recommended vendor is Sagitec Solutions, LLC.

Sagitec Solutions, LLC presented information regarding the company and the pension administration system software.

Andersen, Phillips and Watts were not present for subsequent discussion and voting.

It was **M/S/C** to authorize the Chief Executive Officer to execute an agreement with Sagitec Solutions, LLC to provide administration system software, implementation, hosting and support services in an amount not to exceed \$13,000,000.000. (Yes: Gordon, Holcombe, Kroll, Kwon, MacDonald, Powell and Smithey)

11. Consider and take possible action to cause an election to be held to fill the upcoming vacancy in the third general seat of the Board of Retirement

It was **M/S/C** to cause an election to be held at the earliest possible date to fill the upcoming vacancy in the third general seat of the Board of Retirement, in accordance with Government Code Section 31523. (Yes: Gordon, Holcombe, Kroll, Kwon, MacDonald, Powell and Smithey)

12. Consider and take possible action to authorize issuance of a Request for Proposal for death notification services

It was **M/S/C** to authorize the issuance of a Request for Proposal for death notification services. (Yes: Gordon, Holcombe, Kroll, Kwon, MacDonald, Powell and Smithey)

13. Consider and take possible action on SACRS Board of Directors Election

It was **M/S/C** to accept the nominating committee ballot and direct our voting member to vote as such. (Yes: Gordon, Holcombe, Kroll, Kwon, MacDonald, Powell and Smithey)

14. Miscellaneous

(a) Staff Report –

Price updated the Board on an organizational change of one of the investment managers, Pyrford.

Strohl noted this was the last meeting for Trustee Smithey due to his retirement and she thanked him for his service to CCCERA.

(b) Outside Professionals' Report -

None

(c) Trustees' comments –

Gordon recognized Smithey for a wonderful job as Chair for the last four consecutive years.

Smithey thanked the Board noting serving on the Board has been the highlight of his career.

It was **M/S/C** to adjourn the meeting in honor of Todd Smithey's Retirement. (Yes: Gordon, Holcombe, Kroll, Kwon, MacDonald, Powell and Smithey)

Todd Smithey, Chairman

David MacDonald, Secretary

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

<p><i>Meeting Date</i> 05/05/2021 <i>Agenda Item</i> #5</p>
--

BOARD OF RETIREMENT

Page 1

May 5, 2021

Items requiring Board Action

A. *Certifications of Membership – see list and classification forms.*

B. *Service and Disability Retirement Allowances:*

<u>Name</u>	<u>Number</u>	<u>Effective Date</u>	<u>Option Type</u>	<u>Tier</u>	<u>Selected</u>
Bins, Brice	60762	03/31/21	SR	Tier I	Unmodified
Bonthron, Brian	61357	01/15/21	SR	Safety A	Unmodified
Camarena, Matthew	72745	01/07/21	SR	Tier III	Unmodified
Chernev, Celia	48409	01/07/21	SR	Tier II and III	Option 2
DeVries, Douglas	63709	02/08/21	SR	Tier II and III	Option 2
Earls, Linda	72543	01/31/21	SR	Tier III	Option 1
Enea, Lynn	54753	02/16/21	SR	Tier II and III	Option 1
Hauschild, Thomas	52140	01/04/21	SR	Safety A	Unmodified
Haynes, Melanie	D9500	01/07/21	SR	Tier II and III	Unmodified
Hui, Patricia	51891	11/01/20	SR	Tier I	Option 1
Indelicato, Marcelle	55347	01/31/21	SR	Tier III	Unmodified
Keene, Jeanetta	D9990	01/13/21	SR	Tier I	Option 1
Kirkpatrick, Rhonda	66901	01/01/21	SR	Tier III	Unmodified
Kopitar, Terrillynn	63063	01/03/21	SR	Tier III	Unmodified
Landry, John	37088	01/29/21	SR	Tier II and III	Unmodified
Lamica, Victoria	D3406	12/31/20	SR	Tier I	Unmodified
Medina, Abraham	66455	12/27/20	SR	Safety A	Unmodified
Otis, Robin	63810	01/30/21	SR	Tier II and III	Unmodified
Pedersen, Carol	51853	01/01/21	SR	Tier III	Unmodified
Puell, Michael	49936	01/30/21	SR	Tier I	Unmodified
Rafeedie, Linda	73203	01/03/21	SR	Tier III	Unmodified
Robles, Conrado	49420	01/04/21	SR	Tier II and III	Unmodified
Saeturn, Mouang	43015	09/30/20	SR	Tier II and III	Unmodified
Sampayan, Samuel	54597	01/01/21	SR	Tier III	Unmodified
Sandri, Karen	44119	01/01/21	SR	Tier II and III	Unmodified
Van Wert, Donna	75240	01/01/21	SR	Tier III	Option 2

Option Type

NSP = Non-Specified
 SCD = Service Connected Disability
 SR = Service Retirement
 NSCD = Non-Service Connected Disability
 * = County Advance
 Selected w/option

Tier

I = Tier I
 II = Tier II
 III = Tier III
 S/A = Safety Tier A
 S/C = Safety Tier C
 Pepra 4.2 = Pepra Tier 4 (2% COLA)
 Pepra 4.3 = Pepra Tier 4 (3% COLA)
 Pepra 5.2 = Pepra Tier 5 (2% COLA)
 Pepra 5.3 = Pepra Tier 5 (3% COLA)
 S/D = Pepra Safety Tier D
 S/E = Pepra Safety Tier E

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

C. Disability Retirement Applications: The Board's Hearing Officer is hereby authorized to issue subpoenas in the following cases involving disability applications:

<u>Name</u>	<u>Number</u>	<u>Filed</u>	<u>Type</u>
O'Reilley, Melissa	75042	03/24/21	SCD
Ross, Brenda	68203	04/07/21	SCD

D. Deaths:

<u>Name</u>	<u>Date of Death</u>	<u>Employer as of Date of Death</u>
Amantea, Salvatore	03/27/21	Contra Costa County
Bates, Ralph	03/16/21	Central Contra Costa Sanitary District
Bouchet, Donald	03/17/21	Contra Costa County
Carrier, Kathleen	04/19/21	Contra Costa County
Descans, Glen	04/18/21	Central Contra Costa Sanitary District
Farry, Catherine	08/03/20	Contra Costa County
Figueroa, Deborah	03/30/21	Contra Costa County
Hasbrouck, Edward	04/06/21	Contra Costa County
Hopkins, Elaine	03/04/21	Contra Costa County
Hull, Rosemary	04/03/21	Contra Costa County
Jenssen, Dale	04/13/21	Contra Costa County
Kentebe, Katherine	03/25/21	Contra Costa County
McDonald, Diana	03/20/21	Contra Costa County
Oranje, Johanna	04/06/21	Contra Costa County
Robertson, Eleanor	04/02/21	Contra Costa County
Shevlin, Beryl	01/14/21	Contra Costa County
Struntz, Duane	04/02/21	Contra Costa County
Villanueva, Audie	03/16/21	Contra Costa County

Option Type
 NSP = Non-Specified
 SCD = Service Connected Disability
 SR = Service Retirement
 NSCD = Non-Service Connected Disability
 * = County Advance
 Selected w/option

Tier
 I = Tier I
 II = Tier II
 III = Tier III
 S/A = Safety Tier A
 S/C = Safety Tier C

Pepra 4.2 = Pepra Tier 4 (2% COLA)
 Pepra 4.3 = Pepra Tier 4 (3% COLA)
 Pepra 5.2 = Pepra Tier 5 (2% COLA)
 Pepra 5.3 = Pepra Tier 5 (3% COLA)
 S/D = Pepra Safety Tier D
 S/E = Pepra Safety Tier E

CERTIFICATION OF MEMBERSHIPS

Name	Employee Number	Tier	Membership Date	Employer
Abbassi, Arash	90282	P5.2	03/01/21	Contra Costa County
Abcede, Alvin	89566	P5.2	03/01/21	Contra Costa County
Andrade, Rhianna	90291	P5.2	03/01/21	Contra Costa County
Bach, Sofia	90353	P4.2	03/01/21	Contra Costa County Fire Protection District
Bacigalupi, Greg	90316	P5.2	03/01/21	Contra Costa County
Baron, Anelli	90301	P5.2	03/01/21	Contra Costa County
Beard, Tyler	90380	P5.2	03/01/21	Contra Costa County
Bernabe, Mathew	90393	P5.2	03/01/21	Contra Costa County
Blank, Tanner	90387	P5.2	03/01/21	Contra Costa County
Burgers, Crystal	90204	P5.2	03/01/21	Contra Costa County
Cabrera, Yessenia	90238	P5.2	03/01/21	Contra Costa County
Calub, Rachel Anne	90358	P5.2	03/01/21	Contra Costa County
Castillo Bayona, Julio	89842	P5.2	03/01/21	Contra Costa County
Castro, Jennifer	87227	P5.2	03/01/21	Contra Costa County
Chau, Lisa	90292	P5.2	03/01/21	Contra Costa County
Chen, Han	90279	P5.2	03/01/21	Contra Costa County
Chouhan, Navneet	90183	P5.2	03/01/21	Contra Costa County
Cowan, Robert	90389	P5.2	03/01/21	Contra Costa County
Cowen, Zachary	90390	P5.2	03/01/21	Contra Costa County
Crow, Thomas	90377	P5.2	03/01/21	Contra Costa County
Cruz, Edgar	90100	P5.2	03/01/21	Contra Costa County
Curry, Nicole	90384	P5.2	03/01/21	Contra Costa County
Del Rosario, Kris Katrina Kim	90208	P5.2	03/01/21	Contra Costa County
Deshpande, Durga	90333	P5.2	03/01/21	Contra Costa County
Dhillon, Gurdeep	90184	P5.2	03/01/21	Contra Costa County
Dimaculangan, Erwin	90201	P5.2	03/01/21	Contra Costa County
Drees, Jacob	90388	P5.2	03/01/21	Contra Costa County
Erickson, Melanie	79142	P5.2	03/01/21	Contra Costa County
Espinoza Rebolledo, Jesus	88753	P5.2	03/01/21	Contra Costa County
Esqueda, Francisco	88634	P5.2	03/01/21	Contra Costa County
Fischer, Michael	90203	P5.2	03/01/21	Contra Costa County
Fisher, Jontelle	90318	P5.2	03/01/21	Contra Costa County
Gamba, Benjamin	90378	P5.2	03/01/21	Contra Costa County
Ghuloum, Samya	90289	P5.2	03/01/21	Contra Costa County
Glenn, Nathan	90376	P5.2	03/01/21	Contra Costa County
Hall, Jennifer	90263	P5.2	03/01/21	Contra Costa County
Han, Liezl	88650	P5.2	03/01/21	Contra Costa County
Herrington, James	88437	P5.2	03/01/21	Contra Costa County
Hindsman, Emily	90205	P5.2	03/01/21	Contra Costa County
Hoeven, Valentina	90345	P5.2	03/01/21	Contra Costa County
Hunt, Chamaine	88998	P5.2	03/01/21	Contra Costa County
Iyer, Varshni	89900	P5.2	03/01/21	Contra Costa County
Johnson, Randi	90311	P5.2	03/01/21	Contra Costa County
Keith, Cheryl	90212	P5.2	03/01/21	Contra Costa County

Key:

I = Tier I	P4.2 = PEPR Tier 4 (2% COLA)	S/A = Safety Tier A
II = Tier II	P4.3 = PEPR Tier 4 (3% COLA)	S/C = Safety Tier C
III = Tier III	P5.2 = PEPR Tier 5 (2% COLA)	S/D = Safety Tier D
	P5.3 = PEPR Tier 5 (3% COLA)	S/E = Safety Tier E

CERTIFICATION OF MEMBERSHIPS

Name	Employee Number	Tier	Membership Date	Employer
Lardner, Matthew	88770	P5.2	03/01/21	Contra Costa County
Lau, Andrew	90392	P5.2	03/01/21	Contra Costa County
Lejano, Justin	82084	P5.2	03/01/21	Contra Costa County
Lipscomb, Jessica	90320	P5.2	03/01/21	Contra Costa County
Locatelli, Aubrey	90261	P5.2	03/01/21	Contra Costa County
Mangram, Kinsha	90352	P4.2	03/01/21	Contra Costa County Fire Protection District
Martinez, Marco	90344	P5.2	03/01/21	Contra Costa County
Martinez, Rebecca	90230	P5.2	03/01/21	Contra Costa County
Medina, Madelene	90286	P5.2	03/01/21	Contra Costa County
Moses, Michael	90268	PE.2	03/01/21	Contra Costa County Fire Protection District
Moua, Matthew	90211	P5.2	03/01/21	Contra Costa County
Muegge, Matthew	90346	P5.2	03/01/21	Contra Costa County
Munoz, Angelina	86299	P5.2	03/01/21	Contra Costa County
Naval, Jamie Marie	90288	P5.2	03/01/21	Contra Costa County
Navarrete, Stephanie	90228	P5.2	03/01/21	Contra Costa County
Nushi, Sharon	79691	P5.2	03/01/21	Contra Costa County
Palmo, Tenzin	90321	P5.2	03/01/21	Contra Costa County
Peter, Jeffrey	90232	PE.2	03/01/21	Contra Costa County Fire Protection District
Plaskiewicz, Scott	90281	P5.2	03/01/21	Contra Costa County
Radosevich, Jesse	90348	P5.2	03/01/21	Contra Costa County
Ramirez-Elizalde, Paola	90264	P5.2	03/01/21	Contra Costa County
Rauniyar, Archana	90066	P5.2	03/01/21	Contra Costa County
Real, Soledad	90385	P5.2	03/01/21	Contra Costa County
Remick, Catherine	90229	P5.2	03/01/21	Contra Costa County
Rodriguez, Adilene	90277	P5.2	03/01/21	Contra Costa County
Rodriguez, Connor	90386	P5.2	03/01/21	Contra Costa County
Ruiz, Mitchell	90391	P5.2	03/01/21	Contra Costa County
Samorano, Eva	D7830	P4.3	03/01/21	Sam Ramon Valley Fire Protection District
Samson, Samuel	90375	P5.2	03/01/21	Contra Costa County
Sandhu, Pardeep	90092	P5.2	03/01/21	Contra Costa County
Schilling, Elise	90233	P5.2	03/01/21	Contra Costa County
Schmuck, Mark	D9500	P5.3	03/01/21	Contra Costa County Superior Courts
Silva, Vanessa	90347	P5.2	03/01/21	Contra Costa County
Sullivan, Jacqueline	90213	P5.2	03/01/21	Contra Costa County
Thompson, Joshua	90395	P5.2	03/01/21	Contra Costa County
Tompkins, Maria Teresa	71414	III	03/01/21	Contra Costa County
Torres, Karla	90315	P5.2	03/01/21	Contra Costa County
Tram, Tran	90302	P5.2	03/01/21	Contra Costa County
Tusubira, Florence	90319	P5.2	03/01/21	Contra Costa County
Vahidizadeh, Ali	80778	P5.2	03/01/21	Contra Costa County
Vierra, Anthony	90394	P5.2	03/01/21	Contra Costa County
Villanueva, Ryan	90382	P5.2	03/01/21	Contra Costa County
Yambao, Florinda	45502	P5.2	03/01/21	Contra Costa County

Key:

I = Tier I	P4.2 = PEPR Tier 4 (2% COLA)	S/A = Safety Tier A
II = Tier II	P4.3 = PEPR Tier 4 (3% COLA)	S/C = Safety Tier C
III = Tier III	P5.2 = PEPR Tier 5 (2% COLA)	S/D = Safety Tier D
	P5.3 = PEPR Tier 5 (3% COLA)	S/E = Safety Tier E

TIER CHANGES

<i>Name</i>	<i>Employee Number</i>	<i>Old Tier</i>	<i>New Tier</i>	<i>Effective Date</i>	<i>Employer</i>	<i>Reason for Change</i>
Drake, Adam	89354	S/E	P5.2	02/01/21	Contra Costa County	Demotion

Key:

I = Tier I	P4.2 = PEPR A Tier 4 (2% COLA)	S/A = Safety Tier A
II = Tier II	P4.3 = PEPR A Tier 4 (3% COLA)	S/C = Safety Tier C
III = Tier III	P5.2 = PEPR A Tier 5 (2% COLA)	S/D = Safety Tier D
	P5.3 = PEPR A Tier 5 (3% COLA)	S/E = Safety Tier E

Meeting Date

05/05/2021

Agenda Item

#5

CCCERA Board of Trustees
Training & Educational Conference Expenses Paid During
Quarter 1 2021 (January to March)

Trustee:	Conference Name/Purpose:	Location:	Dates:	Total
Candace Andersen	NONE			
Donald Finley	NONE			
Scott Gordon	NONE			
Jerry Holcombe	CALAPRS General Assembly	Virtual	March 8-9, 2021	250.00
Louie Kroll	NONE			
Jay Kwon	CALAPRS General Assembly	Virtual	March 8-9, 2021	250.00
David J. MacDonald	CALAPRS General Assembly	Virtual	March 8-9, 2021	250.00
John Phillips	CALAPRS General Assembly	Virtual	March 8-9, 2021	250.00
Mike Sloan	CALAPRS General Assembly	Virtual	March 8-9, 2021	250.00
Todd Smithey	NONE			
Russell V. Watts	CALAPRS General Assembly	Virtual	March 8-9, 2021	250.00

**Contra Costa County Employees' Retirement Association
Asset Allocation as of March 31, 2021**

**Meeting Date
05/05/2021
Agenda Item
#5**

	Market Value	Percentage of Total Fund	Current Target Percentage	Current Target Over/(Under)	Long Term Target	Long Term Over/(Under)
Liquidity						
Sit	595,942,002	5.8%	6.0%	-0.2%		
Dimensional Fund Advisors	380,581,485	3.7%	6.0%	-2.3%		
Insight	985,650,693	9.6%	13.0%	-3.4%		
Total Liquidity	1,962,174,180	19.1%	25.0%	-5.9%	24.0%	-4.9%
		Range 16% - 28%				
Growth						
Domestic Equity						
Boston Partners	270,191,010	2.6%	2.0%	0.6%		
Jackson Square	237,239,524	2.3%	2.0%	0.3%		
BlackRock Index Fund	243,392,950	2.4%	2.0%	0.4%		
Emerald Advisors	199,810,544	1.9%	1.5%	0.4%		
Ceredex	188,206,009	1.8%	1.5%	0.3%		
Total Domestic Equity	1,138,840,038	11.1%	9.0%	2.1%	5.0%	6.1%
Global & International Equity						
Pyrford (BMO)	520,286,529	5.1%	5.0%	0.1%		
William Blair	618,343,105	6.0%	5.0%	1.0%		
First Eagle	506,842,348	4.9%	4.0%	0.9%		
Artisan Global Opportunities	588,130,287	5.7%	4.0%	1.7%		
PIMCO/RAE Emerging Markets	418,111,180	4.1%	4.0%	0.1%		
TT Emerging Markets	460,699,031	4.5%	4.0%	0.5%		
Total Global & International Equity	3,112,412,479	30.3%	26.0%	4.3%	24.0%	6.3%
Private Equity						
Private Credit						
Real Estate - Value Add						
Real Estate - Opportunistic & Distress						
Real Estate - REIT (Adelante)						
High Yield (Allianz)						
Risk Parity						
AQR GRP EL	247,937,376	2.4%	5.0%	-0.2%	5.0%	-0.2%
PanAgora	248,008,376	2.4%				
Total Other Growth Assets	3,134,753,739	30.5%	33.5%	-3.0%	37.0%	-6.5%
Total Growth Assets	7,386,006,256	71.8%	68.5%	3.3%	66.0%	5.8%
		Range 60% - 80%				
Risk Diversifying						
AFL-CIO	262,748,956	2.6%	3.0%	-0.4%	3.0%	-0.4%
Parametric Defensive Equity	112,348,727	1.1%	2.0%	-0.9%	3.5%	-2.4%
Acadian MAARS	127,602,979	1.2%	1.5%	-0.3%	3.5%	-2.3%
Wellington Real Total Return	168,040	0.0%	0.0%			
Total Risk Diversifying	502,868,702	4.9%	6.5%	-1.6%	10.0%	-5.1%
		Range 0% - 10%				
Cash and Overlay						
Overlay (Parametric)	132,575,624	1.3%		1.3%		
Cash	302,455,423	2.9%		2.9%		
Total Cash and Overlay	435,031,047	4.2%	0.0%	4.2%	0.0%	4.2%
Total Fund	10,286,080,185	100%	100%		100%	

*Current targets and ranges reflect asset allocation targets accepted by the Board on July 22, 2020 (BOR Resolution 2020-2).

**Private Market Investments
As of March 31, 2021**

REAL ESTATE - Value Add

	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
Invesco IREF III	08/01/13	08/01/20				35,000,000	167,336	0.00%	
Invesco IREF IV	12/01/14	12/01/21				35,000,000	17,651,734	0.17%	4,453,599
Invesco IREF V	09/11/18	09/11/25				75,000,000	46,626,628	0.45%	29,743,834
Long Wharf FREG IV	08/14/13	09/30/21				25,000,000	1,971,081	0.02%	
Long Wharf FREG V	10/31/16	09/30/24				50,000,000	35,324,072	0.34%	
Long Wharf LREP VI	02/05/20	02/05/28				50,000,000	11,983,068	0.12%	38,910,094
LaSalle Income & Growth Fund VI	01/31/12	01/31/19				75,000,000	22,449,699	0.22%	3,946,000
LaSalle Income & Growth Fund VII	10/31/16	09/30/24				75,000,000	57,272,398	0.56%	8,502,404
						630,000,000	193,446,016	1.88%	85,555,931
Outstanding Commitments							85,555,931		
Total							279,001,947		

REAL ESTATE -Opportunistic & Distressed

	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
DLJ Real Estate Capital Partners, L.P. III	06/30/05	06/30/14	in full liq.			75,000,000	16,407,393	0.16%	4,031,338
DLJ Real Estate Capital Partners, L.P. IV	12/31/07	09/30/18				100,000,000	58,323,348	0.57%	1,876,084
DLJ Real Estate Capital Partners, L.P. V	07/31/13	12/31/22				75,000,000	42,278,524	0.41%	18,029,821
DLJ Real Estate Capital Partners, L.P. VI	02/28/19	01/31/29				50,000,000	16,254,417	0.16%	25,050,462
Oaktree Real Estate Opportunities Fund V	02/01/11	02/01/21				50,000,000	3,474,839	0.03%	25,750,000
Oaktree Real Estate Opportunities Fund VI	09/30/13	09/30/20				80,000,000	27,795,386	0.27%	18,400,000
Oaktree Real Estate Opportunities Fund VII	02/28/15	02/28/23				65,000,000	46,409,317	0.45%	16,120,000
Siguler Guff Distressed Real Estate Opp. Fund	07/30/11	07/30/22				75,000,000	27,013,985	0.26%	5,625,000
Siguler Guff Distressed Real Estate Opp. Fund II	08/31/13	08/31/25				70,000,000	43,989,324	0.43%	8,015,000
Siguler Guff Distressed Real Estate Opp. II Co-Inv	01/31/16	10/31/25				25,000,000	16,414,305	0.16%	4,462,138
Paulson Real Estate Fund II	11/10/13	11/10/20				20,000,000	21,214,305	0.21%	654,377
Angelo Gordon Realty Fund VIII	12/31/11	12/31/18				80,000,000	19,602,199	0.19%	12,334,302
Angelo Gordon Realty Fund IX	10/10/14	10/10/22				65,000,000	59,467,994	0.58%	7,572,500
						830,000,000	398,645,336	3.88%	147,921,022
Outstanding Commitments							147,921,022		
Total							546,566,358		

PRIVATE CREDIT

	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
Torchlight Debt Opportunity Fund III	09/30/08	06/30/16	2nd 1 YR	LP	06/30/18	75,000,000	0	0.00%	0
Torchlight Debt Opportunity Fund IV	08/01/12	08/30/20				60,000,000	9,678,825	0.09%	0
Torchlight Debt Opportunity Fund V	12/31/14	09/17/22				75,000,000	20,191,792	0.20%	15,000,000
Angelo Gordon Energy Credit Opportunities	09/10/15	09/10/20				16,500,000	2,347,372	0.02%	2,319,783
CCCERA StepStone	12/01/17	11/30/27				1,020,000,000	711,825,537	6.92%	376,489,909
						1,374,500,000	744,043,526	7.23%	393,809,692
Outstanding Commitments							393,809,692		
Total							1,137,853,218		

**Private Market Investments
As of March 31, 2021**

PRIVATE EQUITY	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
Adams Street Partners	12/22/95	12/22/25				244,918,034	151,031,789	1.47%	24,647,580
Adams Street Secondary II	12/31/08	12/31/20				28,365,000	5,550,031	0.05%	1,635,000
Adams Street Secondary V	10/31/12	10/31/22				30,845,875	20,263,011	0.20%	9,154,125
Adams Street Venture Innovation Fund	03/09/16	03/09/28				55,537,500	81,413,636	0.79%	19,462,500
AE Industrial Partners Fund II	05/18/18	05/18/28				16,554,769	17,306,235	0.17%	19,249,566
Bay Area Equity Fund	06/14/04	12/31/14	2nd 2 YR	LP	12/31/2017	10,000,000	2,392,861	0.02%	0
Bay Area Equity Fund II	2/29/09	12/31/19				10,000,000	11,210,395	0.11%	0
Carpenter Community BancFund	10/31/09	10/31/19				29,314,657	0	0.00%	0
EIF USPF II	06/15/05	06/15/15	3rd 1 YR	LP	06/15/18	65,029,556	5,128,781	0.05%	0
EIF USPF III	02/28/07	02/28/17	1st 1 YR	LP	02/28/18	71,409,097	13,258,474	0.13%	0
EIF USPF IV	06/28/10	06/28/20				64,155,474	37,141,416	0.36%	4
Ares EIF V	09/09/15	11/19/25				52,779,673	37,933,167	0.37%	14,537,204
Genstar Capital Partners IX, L.P.	02/18/19	02/18/29				19,628,275	24,722,151	0.24%	31,525,882
GTCR VIII	10/27/20	12/31/36				0	0	0.00%	50,000,000
Oaktree Private Investment Fund 2009	02/28/10	12/15/19				34,816,559	947,789	0.01%	6,308,961
Ocean Avenue Fund II	05/07/14	05/07/24				27,000,000	14,575,316	0.14%	3,000,000
Ocean Avenue Fund III	12/09/15	12/09/25				43,500,000	43,242,527	0.42%	6,500,000
Paladin III	08/15/08	08/15/18				34,331,097	27,924,818	0.27%	419,157
Pathway	11/09/98	05/31/21				125,410,062	10,177,565	0.10%	10,739,532
Pathway 2008	12/26/08	12/26/23				29,574,269	16,646,770	0.16%	2,995,774
Pathway 6	05/24/11	05/24/26				38,977,218	37,892,364	0.37%	3,620,385
Pathway 7	02/07/13	02/07/23				67,470,913	73,148,855	0.71%	6,352,236
Pathway 8	11/23/15	11/23/25				43,297,812	59,514,608	0.58%	10,144,110
Siguler Guff CCCERA Opportunities	06/03/14	05/31/25				170,583,208	156,015,694	1.52%	33,097,500
Siguler Guff Secondary Opportunities	12/31/16	12/31/26				29,999,802	0	0.00%	20,000,198
Siris Partners IV	05/18/18	05/18/28				19,610,842	18,954,137	0.18%	17,473,632
TPG Healthcare Partners, L.P.	06/27/19	06/27/29				6,796,104	6,661,633	0.06%	18,491,481
Trident VIII, L.P.	05/24/19	05/24/29				13,549,528	14,068,898	0.14%	26,912,492
Real Assets									
Aether III & III Surplus	11/30/13	11/30/20				75,747,680	64,009,047	0.62%	4,743,454
Aether IV	01/01/16	01/01/28				43,675,593	41,381,551	0.40%	8,926,864
Commonfund Capital Natural Resources IX	06/30/13	06/30/20				45,899,994	32,957,423	0.32%	4,100,006
Wastewater Opportunity Fund	12/31/15	11/30/22				25,204,910	17,441,996	0.17%	1,754,258
						1,630,970,188	1,042,912,938	11.61%	355,791,900
Outstanding Commitments							355,791,900		
Total							1,398,704,838		

Market value equals the most recent reported net asset value, plus capital calls after net asset value date, less distributions after net asset value date.

The Target Termination column is the beginning of liquidation of the fund, however, some funds may be extended for an additional two or three years.



**Contra Costa County Employees' Retirement Association
Liquidity Report – March 2021**

March 2021 Performance

	Cash Flow	Coverage Ratio
Benefit Cash Flow Projected by Model	\$44,000,000	
Liquidity Sub-Portfolio Cash Flow	\$44,000,000	100%
Actual Benefits Paid	\$43,730,669	101%
<i>Next Month's Projected Benefit Payment</i>	\$44,000,000	

Monthly Manager Positioning – March 2021

	Beginning Market Value	Liquidity Program Cash Flow	Market Value Change/Other Activity	Ending Market Value
Sit	\$598,365,700	(\$1,250,000)	(\$1,173,698)	\$595,942,002
DFA	\$396,174,519	(\$15,000,000)	(\$593,034)	\$380,581,485
Insight	\$1,014,014,019	(\$27,750,000)	(\$613,326)	\$985,650,693
Liquidity	\$2,008,554,238	(\$44,000,000)	(\$2,380,058)	\$1,962,174,180
Cash	\$269,232,231	\$269,331	\$32,953,860	\$302,455,423
Liquidity + Cash	\$2,277,786,469	(\$43,730,669)	\$30,573,803	\$2,264,629,603

Functional Roles

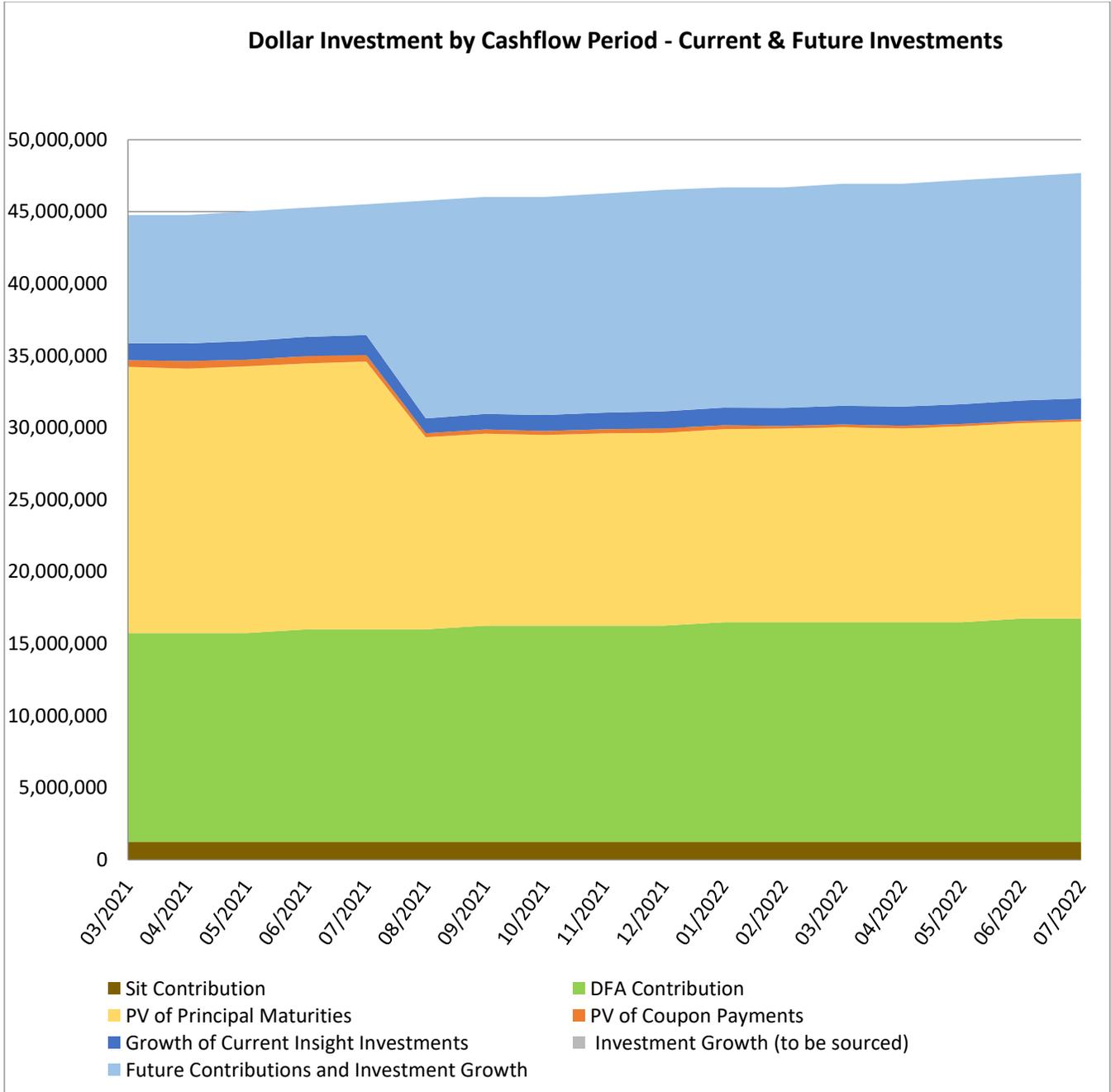
Manager	Portfolio Characteristics	Liquidity Contribution
Sit	High quality portfolio of small balance, government guaranteed mortgages with higher yields.	Pays out net income on monthly basis.
DFA	High quality, short duration portfolio of liquid, low volatility characteristics.	Pays out a pre-determined monthly amount. DFA sources liquidity from across their portfolio.
Insight	Buy and maintain (limited trading) portfolio of high quality, short duration, primarily corporates.	Completion portfolio makes a payment through net income and bond maturities that bridges the gap between other managers and projected payment.
Cash	STIF account at custodial bank.	Buffer in the event of any Liquidity shortfall/excess.

Notes

The third cash flow for 2021 from the liquidity program was completed on March 23rd. The actuarial model cash flow was higher than actual experience, producing \$269 thousand more than the actual benefits paid.

Cash Flow Structure

The chart below shows the sources of cash flow for the next year and a half of CCCERA's projected benefit payments. This table will change slightly as the model is tweaked and as the portfolios receive new rounds of funding each July as part of the Annual Funding Plan, as well as the reduction from four to three years of Liquidity needs in July 2021.





MEMORANDUM

Date: May 5, 2021

To: CCCERA Board of Retirement

From: Christina Dunn, Deputy Chief Executive Officer
Karen Levy, General Counsel

Subject: Amendments to Policy on Determining “Compensation Earnable” Under Assembly Bill 197 For Purposes of Calculating Retirement Benefits For “Legacy” (Pre-PEPRA) Members

Background

The California Supreme Court issued a unanimous decision upholding the constitutionality of the legislative changes contained in Assembly Bill 197 to the definition of “compensation earnable.” The Supreme Court decision was issued in the case *Alameda County Deputy Sheriff’s Assoc. et al., v. Alameda County Employees’ Retirement Assn., et al.*, and is referred to as the *Alameda* decision. The decision resolved legal challenges which sought to prevent CCCERA and two other county retirement systems from implementing the AB 197 amendments to the County Employees Retirement Law of 1937 (“CERL”), Govt. Code §31450 *et seq.*

CCCERA’s Policy on Determining “Compensation Earnable” Under Assembly Bill 197 For Purposes of Calculating Retirement Benefits For “Legacy” (Pre-PEPRA) Members (“Compensation Earnable” Policy) was adopted in September of 2014 to comply with a Judgment and Writ issued in 2014 by the Contra Costa County Superior Court. The 2014 Judgment and Writ changed the way CCCERA was obligated to calculate Legacy Members’ retirement allowances, primarily by requiring CCCERA to exclude certain elements of compensation that previously were treated as “compensation earnable” if earned or received during the final average salary (“FAS”) period.

Under the *Alameda* decision, the 2014 Judgment and Writ will no longer apply, and CCCERA will be required to implement AB 197 in full. CCCERA will be required to reverse any aspects of the 2014 Judgment and Writ that may be inconsistent with AB 197. In order to accomplish that, the following amendments to the “compensation earnable” policy are appropriate:

1. “Estoppel Class” Benefits. The *Alameda* decision rejected the estoppel concept. Based on the Supreme Court’s decision, the extra leave pay beyond what AB 197 allows should not be included in benefit calculations. In order to align CCCERA’s policy with the *Alameda* decision, the “Estoppel Class” benefits should be removed from the “compensation earnable” policy.
2. Exclusion of Payments For Additional Services Rendered Outside of Normal Working Hours. The *Alameda* decision upheld the exclusion for: “Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise” found in G.C. § 31461(b)(3). The exclusion should remain in the “compensation earnable” policy, with several adjustments. The policy should clarify that “normal working hours” and whether the service is required (versus voluntary) are to be determined based on applicable employer regulation, resolution or memorandum of understanding. Further, the analysis of others in the same grade or classification should not be limited to a retiring member’s last year, but instead, should consider all pay periods. This will ensure that pensionability determinations can be made at the outset for the purpose of collecting retirement contributions accurately.
3. In Attachment A, we recommend clarifying that pay for overtime, standby, on-call or canine care that is for services performed outside normal working hours is excluded from “compensation earnable.”
4. Lastly, we recommend renaming the policy: “Compensation Earnable Policy.”

An amended policy that includes the recommended changes is enclosed as Attachment A. A redline reflecting all suggested changes is enclosed as Attachment B.

Next steps: staff will analyze the following remaining items: (1) member contributions towards items of pay no longer pensionable pursuant to AB 197 and potential refunds; (2) overpayment of benefits to the Estoppel Class; and (3) any other overpayments of benefits arising from any post July 12, 2014 inclusion of pay for services outside normal working hours such as on-call or standby. These items are expected to come before the board at a future meeting.

Recommendation

Consider and take possible action to amend the Policy on Determining “Compensation Earnable” Under Assembly Bill 197 For Purposes of Calculating Retirement Benefits For “Legacy” (Pre-PEPRA) Members.

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT

COMPENSATION EARNABLE POLICY

Adopted: 9/10/2014
Amended: __/__/2021

I. INTRODUCTION

In 1997, the California Supreme Court held that "compensation earnable" used to determine a retiring member's retirement allowance ordinarily includes all cash payments received for services performed, with the exception of overtime pay. *Ventura Deputy Sheriffs' Assn. v. Board of Retirement*, 16 Cal.4th 483 (1997). In 2012, the California Legislature enacted and the Governor signed into law Assembly Bill 197, which changed the way the Board of Retirement must calculate "compensation earnable". The effective date of AB 197 was January 1, 2013, but that date was postponed until July 12, 2014 by an order of the Contra Costa County Superior Court.¹ AB 197 applies to the calculation of benefits for all active or deferred employees who first became CCCERA members before January 1, 2013 ("Legacy Members.") AB 197 does not apply to "New Members," generally those who became members of CCCERA for the first time on or after January 1, 2013. The retirement allowances of "New Members" will be calculated under the provisions of the California Public Employees' Pension Reform Act of 2013 ("PEPRA.")

On May 12, 2014, the Contra Costa County Superior Court issued a final Judgment and Writ interpreting AB 197 and concluding that it was consistent with prior law. The Court's Statement of Decision supporting the Judgment concluded that several of CCCERA's prior practices were not consistent with applicable law — primarily with reference to the inclusion of leave sell-backs and cash-outs for time not both earned and payable annually during the one- or three-year final average salary ("FAS") period. CCCERA was required to apply the Judgment and Writ to all retirements occurring on or after July 12, 2014.

AB 197 and the Judgment and Writ changed the way CCCERA is obligated to calculate Legacy Members' retirement allowances, primarily by requiring CCCERA to exclude certain elements of compensation that previously were treated as "compensation earnable" if earned or received during the FAS period. AB 197 provides that these exclusions from "compensation earnable" are intended to be consistent with and not in conflict with the holdings in *Salus v. San Diego County Employees Retirement Association*, 117 Cal.App.4th 734 (2004) and *In re Retirement Cases*, 110 Cal.App.4th 426 (2003). (Gov. Code § 31461(c).) These two appellate court decisions held as follows: (1) Compensation that may only be received at termination and never during service must be excluded from "compensation earnable"; and (2) Amounts received at the end of a career that "distort" the notion of "average annual compensation" must also be excluded.

¹ *Contra Costa County Deputy Sheriffs Association, et al., v. CCCERA, et al.*, Contra Costa County Superior Court, Case No. N12-1870.

The Legislature intended that the Board's implementation of AB 197 be guided by these two principles, and the CCCERA Board intends to follow these principles in implementing the requirements of AB 197.

In 2020, the California Supreme Court upheld the statutory exclusions in AB 197, rejected the estoppel claims made by the petitioners, and ordered the case to remand first to the court of appeal and then to the trial court to vacate the trial court's judgment and conduct further proceedings consistent with the *Alameda* decision. *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al.* (2020) 9 Cal.5th 1032 ("Alameda"). The Board intends to follow the principles set forth in the *Alameda* decision in implementing the requirements of AB 197.

II. PURPOSE

The purpose of this Policy is to set forth what elements of pay constitute "compensation earnable" for Legacy Members under applicable law.

III. POLICY

This Policy identifies what elements of compensation are considered "compensation earnable" during the FAS period and sets forth the policies and practices CCCERA intends to follow in implementing the new law. A list of general pay items that are included in, and excluded from, "compensation earnable" by CCCERA effective on and after July 12, 2014 is attached hereto as Attachment A.

Where an item of remuneration is not excluded categorically from "compensation earnable," CCCERA's participating employers will need to collect and pay both employer and employee contributions on such amounts, if and when paid during service.

A. "Compensation Earnable" Is the Average Annual Compensation For the Period Under Consideration.

Applicable Law: *"Compensation earnable" by a member means the average compensation as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay. The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence.*

Compensation, as defined in Section 31460, that has been deferred shall be deemed "compensation earnable" when earned, rather than when paid. (Gov. Code Section 31461(a).)

CCCERA Policies and Practices. This provision remains unchanged under AB 197. The section primarily defines what constitutes an ordinary work week, excluding compensation received for non-mandatory "overtime." Consistent with the Supreme Court decision in *Ventura Deputy Sheriffs' Assn. v. Board of Retirement*, 16 Cal.4th 483 (1997), "compensation earnable" ordinarily includes all cash payments received for services performed during normal working hours, and usually does not have to be earned or received by everybody else in the same grade or

class. Thus, "compensation earnable" ordinarily includes regular salary, service and skill based differentials (e.g. POST, CPA, bilingual pay), holiday pay, allowances (uniform, automobile). "Compensation earnable" excludes overtime pay.

B. "Compensation Earnable" Excludes Payments For Unused Leave To The Extent They Exceed What Was Both Earned and Could Have Been Sold Back For Cash During Service During The FAS Period

Applicable Law: *"Compensation earnable" does not include, in any case, the following: Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid. (G.C. § 31461(b)(2).)*

CCCERA Policies and Practices. Every CCCERA employer has policies and memoranda of understanding governing its employees' ability to earn vacation, sick, compensatory and other leave time, and to receive the value of some or all of those accruals in cash in lieu of time off, but not all such cash payment for unused leave can be included as "compensation earnable". Cash payment for unused leave will be included only to the extent it does not exceed that which may be earned and payable in each 12-month period during the final average salary period.

The CCCERA Board has determined that if a Legacy Member has an employment agreement that allows an annual "sell back" of a certain number of leave hours (e.g., every calendar or fiscal year), then the payment to be included in the FAS period will be limited to that same number of hours per year, regardless of whether the member actually cashed out more during the selected one- or three-year FAS period. Thus, if a member earns 240 hours of vacation leave in a calendar year and is allowed to sell back 80 hours of unused leave each calendar year, the amount that can be counted as "earned and payable" during the FAS period will be 80 hours, even if the member chose a FAS period that "straddles" two calendar years and sells back 80 hours twice during that period. This avoids the distortion that could arise between comparable members solely due to the selection of the twelve (or thirty-six) month FAS period, and yields a true "average annual" compensation earnable.

In general, it does not matter whether the member actually received the cash in lieu of time while still employed or at termination. If it was both earned and payable during the FAS period and does not exceed the employment agreement annual sell back limits, it will be "compensation earnable," regardless of when actually paid.

CCCERA will not need to trace the origin of each hour of leave earned, accrued and/or sold during a member's career. CCCERA will look to the applicable employment agreement to determine how much a member may earn and receive in cash in each time period (e.g., each calendar year or fiscal year) during the FAS period to determine how much is to be included in "compensation earnable."

C. "Compensation Earnable" Excludes Termination Pay.

Applicable Law: *"Compensation earnable" does not include, in any case, the following: Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid. (G.C. § 31461(b)(4).)*

CCCERA Policies and Practices. AB 197 made clear, based on case law precedent, that payments that are not both earned and payable to the member during service, but only received because of termination of employment, may not be included in the calculation of the retirement allowance. For example, severance pay and termination pay are generally excluded from "compensation earnable." It is recognized, however, that some pay for unused leave that could have been received during service may not be received until termination, solely due to the member's choice not to take it during service. Taking the money in a "lump sum" at termination does not necessarily disqualify it from inclusion in "compensation earnable." So long as the total of leave cashouts received during the FAS period and at termination does not exceed the amount that was both earned and could have been paid in cash during the FAS period, it will be included in calculating the retirement allowance, subject to the annual "sell back" limitation described in Section III.B. of this Policy. Amounts in excess of that amount will be excluded from "compensation earnable."

D. "Compensation Earnable" Excludes Payments For Additional Services Rendered Outside of Normal Working Hours.

Applicable Law: *"Compensation earnable" does not include, in any case, the following: Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise. (G.C. § 31461(b)(3).)*

CCCERA Policies and Practices. Pay received for services rendered outside normal working hours is not included in "compensation earnable." To be included, the time for which compensation is received:

- (1) must be the normal working hours set forth in the applicable regulation, resolution or employment agreement;
- (2) must be required by the employer to be worked by the employee (as distinguished from voluntarily worked) as set forth in the applicable regulation, resolution or employment agreement; and
- (3) must be ordinarily worked by all others in the same grade or classification at the same rate of pay.

Pay that will be reviewed under these conditions is often described as "standby" and "on-call." Employers should utilize two separate pay codes: one for pensionable pay that meets the above three-point test; and the other for non-pensionable pay that does not meet the test; and must report to CCCERA as pensionable only that pay that meets the test set forth above. Employer contributions should only be taken against the pensionable pay code.

E. "Compensation Earnable" Excludes Compensation Determined By the Board To Have Been Paid To Enhance A Member's Retirement Benefits.

Applicable Law: *"Compensation earnable" does not include, in any case, the following:*

Any compensation determined by the board to have been paid to enhance a member's retirement benefit under that system. That compensation may include:

(A) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.

(B) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.

(C) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.

(G.C. § 31461(b)(1).)

CCCERA Policies and Practices. AB 197 gives the Board authority to review employer pay practices generally, and compensation received individually, to determine if any element of compensation being considered as "compensation earnable" during the FAS period was paid to "enhance" the member's retirement benefit. Examples would include converting from the use of an automobile for many years during service to the sudden receipt of an auto allowance in the year before retirement; converting from employer payments to third-party insurance providers during a member's career to making direct cash payments to the member instead, and having the member separately purchase insurance coverage with the cash; a bonus received at the end of career solely for announcing one's retirement; retroactive grants of cashable leave time; pay received for voluntary after-hours "on-call" service substantially exceeding the member's practice during his or her career; "termination pay" that could not have been received during service; departmental transfers to higher paying positions in a member's final year after it is known the member is retiring; and similar examples of activities that appear to distort the "average annual" compensation earnable the member would have received had he or she not been nearing retirement.

Before the Board makes a determination under this provision, it will afford the member appropriate due process, including an opportunity to appear before the Board and present evidence to support the inclusion of the pay item in calculating the member's retirement allowance, as set forth in the Policy Regarding Assessment and Determination of Compensation Enhancements.

IV. IMPLEMENTATION BY CCCERA

The Chief Executive Officer, with assistance from legal counsel, is responsible for implementing the Board's determination related to "compensation earnable." The CEO is authorized to examine new pay codes and determine their pensionability as follows: If new pay codes are substantially similar to ones addressed in this Policy, the CEO is authorized to notify the employer of the pay item's pensionability without taking the item to the Board. If new pay codes are unusual or unique, the CEO will present the pay code to the Board for the Board's determination on pensionability. In all cases, the CEO will keep the Board informed regarding significant ongoing issues and challenges, as appropriate.

This Policy was adopted originally by the Board of Retirement on September 10, 2014 and superseded the predecessor "Determining Which Pay Items are 'Compensation' for Retirement Purposes," as amended, and the Addendum thereto.

Attachment A

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT

**CHART OF GENERAL PAY ITEMS THAT ARE INCLUDED IN AND EXCLUDED
FROM "COMPENSATION EARNABLE" EFFECTIVE JULY 12, 2014 UNDER
ASSEMBLY BILL 197
FOR "LEGACY" (PRE-PEPRA) MEMBERS**

The following list applies to the calculation of benefits for all active or deferred employees who first became CCCERA members before January 1, 2013 ("Legacy Members"). New members after that date will have their retirement allowances calculated under the provisions of the California Public Employees' Pension Reform Act of 2013 ("PEPRA").

"Compensation earnable" ordinarily includes:

- Regular base salary
- FLSA premium pay for regularly scheduled work assignment (fire and law enforcement)
- Longevity pay
- Cash payments for special skills and qualifications and unique services, such as:
 - bilingual pay
 - shift differential
 - special assignment differential
 - holiday pay
- Educational incentive pay (e.g. POST, CPA)
- In-service leave cash outs (earned and payable each year, regardless of when actually paid)
- Allowances (e.g. uniform, automobile)

"Compensation earnable" ordinarily excludes:

- Pay for additional services performed outside normal working hours, including pay for overtime, on-call, standby and canine care
- Expense reimbursements
- The monetary value of advantages received in kind, such as:
 - uniforms
 - employer payments to third-party insurers
 - lodging
 - transportation
 - the use of an automobile.
- Employer contributions to deferred compensation plans
- Lump sum at termination for accrued unused leave that exceeds the amount that is both earned and can be cashed out annually during the FAS period
- Severance pay

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT

~~POLICY ON DETERMINING "COMPENSATION EARNABLE"~~
~~UNDER ASSEMBLY BILL 197~~
~~FOR PURPOSES OF CALCULATING RETIREMENT BENEFITS~~
~~FOR "LEGACY" (PRE-PEPRA) MEMBERS POLICY~~

Adopted: 9/10/2014

Amended: / /2021

I. INTRODUCTION

In 1997, the California Supreme Court held that "compensation earnable" used to determine a retiring member's retirement allowance ordinarily includes all cash payments received for services performed, with the exception of overtime pay. *Ventura Deputy Sheriffs' Assn. v. Board of Retirement*, 16 Cal.4th 483 (1997). In 2012, the California Legislature enacted and the Governor signed into law Assembly Bill 197, which changed the way the Board of Retirement must calculate "compensation earnable". The effective date of AB 197 was January 1, 2013, but that date was postponed until July 12, 2014 by an order of the Contra Costa County Superior Court.¹ AB 197 applies to the calculation of benefits for all active or deferred employees who first became CCCERA members before January 1, 2013 ("Legacy Members.") AB 197 does not apply to "New Members," generally those who became members of CCCERA for the first time on or after January 1, 2013. The retirement allowances of "New Members" will be calculated under the provisions of the California Public Employees' Pension Reform Act of 2013 ("PEPRA.")

On May 12, 2014, the Contra Costa County Superior Court issued a final Judgment and Writ interpreting AB 197 and concluding that it was consistent with prior law. The Court's Statement of Decision supporting the Judgment concluded that several of CCCERA's prior practices were not consistent with applicable law — primarily with reference to the inclusion of leave sell-backs and cash-outs for time not both earned and payable annually during the one- or three-year final average salary ("FAS") period. ~~Although the litigation is now on appeal, CCCERA was required to apply the Judgment and Writ have not been stayed, and CCCERA is legally bound to apply them~~ to all retirements occurring on or after July 12, 2014.

AB 197 and the Judgment and Writ changed the way CCCERA is obligated to calculate Legacy Members' retirement allowances, primarily by requiring CCCERA to exclude certain elements of compensation that previously were treated as "compensation earnable" if earned or received during the FAS period. AB 197 provides that these exclusions from "compensation earnable" are intended to be consistent with and not in conflict with the holdings in *Salus v. San Diego County Employees Retirement Association*, 117 Cal.App.4th 734 (2004) and *In re Retirement Cases*, 110 Cal.App.4th 426 (2003). (Gov. Code § 31461(c).) These two appellate court

¹ *Contra Costa County Deputy Sheriffs Association, et al., v. CCCERA, et al.*, Contra Costa County Superior Court, Case No. N12-1870.

decisions held as follows: (1) Compensation that may only be received at termination and never during service must be excluded from "compensation earnable"; and (2) Amounts received at the end of a career that "distort" the notion of "average annual compensation" must also be excluded. The Legislature intended that the Board's implementation of AB 197 be guided by these two principles, and the CCCERA Board intends to follow these principles in implementing the requirements of AB 197.

In 2020, the California Supreme Court upheld the statutory exclusions in AB 197, rejected the estoppel claims made by the petitioners, and ordered the case to remand first to the court of appeal and then to the trial court to vacate the trial court's judgment and conduct further proceedings consistent with the Alameda decision. Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al. (2020) 9 Cal.5th 1032 ("Alameda"). The Board intends to follow the principles set forth in the Alameda decision in implementing the requirements of AB 197.

II. PURPOSE

The purpose of this Policy is to set forth what elements of pay constitute "compensation earnable" for Legacy Members under ~~AB 197 and the Superior Court's Final Judgment and Writ~~applicable law.

III. POLICY

This Policy identifies what elements of compensation are ~~now~~ considered "compensation earnable" during the FAS period and sets forth the policies and practices CCCERA intends to follow in implementing the new law. A list of general pay items that are included in, and excluded from, "compensation earnable" by CCCERA effective on and after July 12, 2014 is attached hereto as Attachment A.

Where an item of remuneration is not excluded categorically from "compensation earnable," CCCERA's participating employers will need to collect and pay both employer and employee contributions on such amounts, if and when paid during service.

A. "Compensation Earnable" Is the Average Annual Compensation For the Period Under Consideration.

Applicable Law: *"Compensation earnable" by a member means the average compensation as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay. The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence.*

Compensation, as defined in Section 31460, that has been deferred shall be deemed "compensation earnable" when earned, rather than when paid. (Gov. Code Section 31461(a).)

CCCERA Policies and Practices. This provision remains unchanged under AB 197. The section primarily defines what constitutes an ordinary work week, excluding compensation received for

non-mandatory "overtime." Consistent with the Supreme Court decision in *Ventura Deputy Sheriffs' Assn. v. Board of Retirement*, 16 Cal.4th 483 (1997), "compensation earnable" ordinarily includes all cash payments received for services performed during normal working hours, and usually does not have to be earned or received by everybody else in the same grade or class. Thus, "compensation earnable" ordinarily includes regular salary, service and skill based differentials (e.g. POST, CPA, bilingual pay), holiday pay, allowances (uniform, automobile). "Compensation earnable" excludes overtime pay.

B. "Compensation Earnable" Excludes Payments For Unused Leave To The Extent They Exceed What Was Both Earned and Could Have Been Sold Back For Cash During Service During The FAS Period

Applicable Law: *"Compensation earnable" does not include, in any case, the following: Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid. (G.C. § 31461(b)(2).)*

CCCERA Policies and Practices. Every CCCERA employer has policies and memoranda of understanding governing its employees' ability to earn vacation, sick, compensatory and other leave time, and to receive the value of some or all of those accruals in cash in lieu of time off, but not all such cash payment for unused leave can be included as "compensation earnable". Cash payment for unused leave will be included only to the extent it does not exceed that which may be earned and payable in each 12-month period during the final average salary period.

The CCCERA Board has determined that if a Legacy Member has an employment agreement that allows an annual "sell back" of a certain number of leave hours (e.g., every calendar or fiscal year), then the payment to be included in the FAS period will be limited to that same number of hours per year, regardless of whether the member actually cashed out more during the selected one- or three-year FAS period. Thus, if a member earns 240 hours of vacation leave in a calendar year and is allowed to sell back 80 hours of unused leave each calendar year, the amount that can be counted as "earned and payable" during the FAS period will be 80 hours, even if the member chose a FAS period that "straddles" two calendar years and sells back 80 hours twice during that period. This avoids the distortion that could arise between comparable members solely due to the selection of the twelve (or thirty-six) month FAS period, and yields a true "average annual" compensation earnable.

In general, it does not matter whether the member actually received the cash in lieu of time while still employed or at termination. If it was both earned and payable during the FAS period and does not exceed the employment agreement annual sell back limits, it will be "compensation earnable," regardless of when actually paid.

CCCERA will not need to trace the origin of each hour of leave earned, accrued and/or sold during a member's career. CCCERA will look to the applicable employment agreement to

determine how much a member may earn and receive in cash in each time period (e.g., each calendar year or fiscal year) during the FAS period to determine how much is to be included in "compensation earnable."

~~(i) Exception: "Estoppel Class" Members Are Entitled to Include Additional Leave Cash Out Amounts Beyond What AB 197 Allows.~~

~~Applicable Law.~~ The Judgment and Writ recognize that some Legacy Members of CCCERA may be entitled to include additional leave cash out amounts in their "compensation earnable" beyond the amounts allowed by AB 197. The requirements are:

- ~~➤ Before Dec. 31, 2012, the member's employer allowed, during employment, a cash out of unused leave time in amounts in excess of the amount of leave time earned in the selected FAS period.~~
- ~~➤ On Dec. 31, 2012, the member had accrued ("banked") such excess leave time.~~
- ~~➤ At retirement, the member still has some or all of that banked leave time at commencement of his or her FAS period.~~
- ~~➤ The member cashes out some or all of that bank during service in the FAS period (not upon termination).~~

~~If all the foregoing requirements are met, CCCERA also will include in the Legacy Member's "compensation earnable" for the FAS period the lesser of (a) the accrued bank or (b) the amount of the bank actually cashed out during the FAS period.~~

~~The CCCERA Board has determined that the bank can be preserved entirely if the member never uses or sells back more than what the member earns and can sell after December 31, 2012. For example, assume that the member had a bank of 320 hours on December 31, 2012, and prior to the beginning of the final compensation period the member only uses or sells back hours that the member earned after December 31, 2012. If the employer allows the member to sell back 320 hours during the final compensation period, it will all count towards the retirement allowance.~~

C. "Compensation Earnable" Excludes Termination Pay.

Applicable Law: "Compensation earnable" does not include, in any case, the following: Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid. (G.C. § 31461(b)(4).)

CCCERA Policies and Practices. AB 197 made clear, based on case law precedent, that payments that are not both earned and payable to the member during service, but only received because of termination of employment, may not be included in the calculation of the retirement allowance. For example, severance pay and termination pay are generally excluded from "compensation earnable." It is recognized, however, that some pay for unused leave that could have been received during service may not be received until termination, solely due to the member's choice not to take it during service. Taking the money in a "lump sum" at termination does not necessarily disqualify it from inclusion in "compensation earnable." So long as the total of leave cashouts received during the FAS period and at termination does not exceed the amount that was both earned and could have been paid in cash during the FAS period, it will be included in calculating the retirement allowance, subject to the annual "sell back" limitation described in Section III.B. of this Policy. Amounts in excess of that amount will be excluded from "compensation earnable."

D. "Compensation Earnable" Excludes Payments For Additional Services Rendered Outside of Normal Working Hours.

Applicable Law: "Compensation earnable" does not include, in any case, the following: Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise. (G.C. § 31461(b)(3).)

CCCERA Policies and Practices. Pay received for ~~overtime~~ services rendered outside normal working hours is not included in "compensation earnable." To be included, the time for which compensation is received-

- (1) must be the normal working hours set forth in the applicable regulation, resolution or employment agreement;
- (2) must be required by the employer to be worked by the employee (as distinguished from voluntarily worked) ~~and~~ as set forth in the applicable regulation, resolution or employment agreement; and
- (3) must be ordinarily worked by all others in the same grade or classification at the same rate of pay ~~during the FAS period~~.

Pay that will be reviewed under these conditions is often described as "standby" and "on-call." Employers should utilize two separate pay codes: one for pensionable pay that meets the above three-point test; and the other for non-pensionable pay that does not meet the test; and must report to CCCERA as pensionable only that pay ~~for work that is required of and ordinarily served by everyone in~~ meets the same grade or classification, attest set forth above. Employer contributions should only be taken against the same rate of pensionable pay ~~code~~.

|

E. "Compensation Earnable" Excludes Compensation Determined By the Board To Have Been Paid To Enhance A Member's Retirement Benefits.

Applicable Law: *"Compensation earnable" does not include, in any case, the following:*

Any compensation determined by the board to have been paid to enhance a member's retirement benefit under that system. That compensation may include:

(A) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.

(B) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.

(C) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.

(G.C. § 31461(b)(1).)

CCCERA Policies and Practices. AB 197 gives the Board authority to review employer pay practices generally, and compensation received individually, to determine if any element of compensation being considered as "compensation earnable" during the FAS period was paid to "enhance" the member's retirement benefit. Examples would include converting from the use of an automobile for many years during service to the sudden receipt of an auto allowance in the year before retirement; converting from employer payments to third-party insurance providers during a member's career to making direct cash payments to the member instead, and having the member separately purchase insurance coverage with the cash; a bonus received at the end of career solely for announcing one's retirement; retroactive grants of cashable leave time; pay received for voluntary after-hours "on-call" service substantially exceeding the member's practice during his or her career; "termination pay" that could not have been received during service; departmental transfers to higher paying positions in a member's final year after it is known the member is retiring; and similar examples of activities that appear to distort the "average annual" compensation earnable the member would have received had he or she not been nearing retirement.

Before the Board makes a determination under this provision, it will afford the member appropriate due process, including an opportunity to appear before the Board and present evidence to support the inclusion of the pay item in calculating the member's retirement allowance, as set forth in the Policy Regarding Assessment and Determination of Compensation Enhancements.

IV. IMPLEMENTATION BY CCCERA

The ~~Retirement~~ Chief Executive Officer, with assistance from legal counsel, is responsible for implementing the Board's determination related to "compensation earnable." The CEO is authorized to examine new pay codes and determine their ~~pensionability~~pensionability as follows: If new pay codes are substantially similar to ones addressed in this Policy, the CEO is authorized to notify the employer of the pay item's pensionability without taking the item to the Board. If new pay codes are unusual or unique, the CEO will present the pay code to the Board for the Board's determination on pensionability. In all cases, the CEO will keep the Board informed regarding significant ongoing issues and challenges, as appropriate.

This Policy was adopted originally by the Board of Retirement on September 10, 2014 and ~~superseded~~superseded the predecessor "Determining Which Pay Items are 'Compensation' for Retirement Purposes," as amended, and the Addendum thereto.

Attachment A

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT

**CHART OF GENERAL PAY ITEMS THAT ARE INCLUDED IN AND EXCLUDED
FROM "COMPENSATION EARNABLE" EFFECTIVE JULY 12, 2014 UNDER
ASSEMBLY BILL 197 ~~AND THE SUPERIOR COURT'S JUDGMENT AND WRIT
FOR "LEGACY" (PRE-PEPRA) MEMBERS~~**

The following list applies to the calculation of benefits for all active or deferred employees who first became CCCERA members before January 1, 2013 ("Legacy Members."→). New members after that date will have their retirement allowances calculated under the provisions of the California Public Employees' Pension Reform Act of 2013 ("PEPRA."→).

"Compensation earnable" ordinarily includes:

- Regular base salary
- FLSA premium pay for regularly scheduled work assignment (fire and law enforcement)
- Longevity pay
- Cash payments for special skills and qualifications and unique services, such as:
 - bilingual pay
 - shift differential
 - special assignment differential
 - holiday pay
- Educational incentive pay (e.g. POST, CPA)
- In-service leave cash outs (earned and payable each year, regardless of when actually paid)
- Allowances (e.g. uniform, automobile)
 - ~~Standby or on-call pay (for work during normal working hours, required by the employer and not voluntary, and ordinarily worked by all others in the same grade or classification at the same rate of pay during the FAS period)~~

"Compensation earnable" ordinarily excludes:

- ~~Overtime pay~~
- Pay for additional services performed outside normal working hours, including pay for overtime, on-call, standby and canine care
- Expense reimbursements
- The monetary value of advantages received in kind, such as:
 - uniforms
 - employer payments to third-party insurers
 - lodging
 - transportation
 - the use of an automobile.
- Employer contributions to deferred compensation plans
- Lump sum at termination for accrued unused leave that ~~could not exceed the amount that~~ is both earned and can be cashed out annually during ~~service~~ the FAS period
- Severance pay



Meeting Date
05/05/2021
Agenda Item
#10

MEMORANDUM

Date: May 5, 2021
To: CCCERA Board of Retirement
From: Karen Levy, General Counsel
Subject: State Association of County Retirement Systems 2021 Legislative Proposal

Background

The State Association of County Retirement Systems (SACRS) Legislative Committee is recommending one legislative proposal for SACRS sponsorship for 2021. The proposal will be voted on by the SACRS member systems at the Business Meeting of the SACRS Spring Conference, Friday, May 14, 2021. SACRS member systems may vote to support, oppose, or take no position on the legislative proposal.

A copy of the legislative proposal is enclosed. The Committee recommends supporting SACRS Omnibus Bill SB 634, which contains a number of clean up changes:

1. Clarifying that a Board of Retirement may contract with a private physician to provide medical advice as part of the board's duties related to processing disability claims;
2. Deleting an obsolete reference to procedures for purchasing additional service; and
3. Changing incorrect code references, and fixing typos.

Recommendation

Consider and take possible action to direct the CCCERA Board voting delegate to vote to support the 2021 SACRS legislative proposal at the May 2021 SACRS Conference.

March 5, 2021

TO: SACRS Board of Directors

FROM: SACRS Legislative Committee

RE: Sponsorship of SB 634 (Committee on Labor, Public Employment and Retirement)

Similar to last year with AB 2101 (Committee on Public Employment and Retirement), the Legislative Committee is pursuing another omnibus bill to provide technical and clarifying changes to the CERL. You may recall that SACRS' cleanup changes were initially placed into SB 783, then ultimately amended into AB 2101, a bill sponsored by SACRS, CalPERS, and CalSTRS that provided noncontroversial changes to each entity's respective code sections.

This year, the Senate Committee on Labor, Public Employment and Retirement is authoring another omnibus bill for SACRS, CalPERS, and CalSTRS technical cleanup.

After fielding proposals from member systems and deliberating among the legislative committee, several minor cleanup proposals were selected to be amended into SB 634 at the start of the new legislative session.

These changes include clarifying that a Board of Retirement may contract with a private physician to provide medical advice as part of the board's duties related to processing disability claims, deleting an obsolete reference to procedures for purchasing additional service, changing incorrect code references, and fixing typos. Along with these changes, the Legislative Committee will continue to review noncontroversial proposals to be added into this vehicle in the coming months.

On a separate track, the Legislative Committee continues to review more substantive CERL amendments for consideration by the Board of Directors for the 2022 legislative session.

The SACRS Legislative Committee is requesting Board of Directors approval for SACRS to formally sponsor SB 634. Thank you for your consideration.

The bill language for SB 634 and a summary matrix of CERL provisions in SB 634 are attached.

2021 CERL Amendments

Sec	Gov Code	Topic	Issue/Justification
9 14	31530 31732	County Health Officer as Medical Advisor	Updates statutes to conform to existing practices in which many retirement systems currently use outside, independent medical advisors to evaluate disability claims. Amendments clarify that the county health officer, either directly or through a duly authorized representative, shall advise the board on medical matters. Also clarifies that the board may contract with a physician in private practice under its existing authority to secure the necessary medical service and advice in carrying out its adjudication of disability retirement applications.
10	31565.5	County Office of Education	Fixes incorrect cross references when the Education Code was restructured years ago.
11	31641.8	Service Purchase-Installment Payments	Deletes obsolete section. The payment terms related to pre-tax and after-tax contributions in conformity with federal tax law are generally specified in the contracts that members sign when they elect to make additional contributions.
12 13	31680.2 31680.3	Post-Retirement Employment	Fixes typo/missing words. Section 31680.2 provides that retired members may be reemployed without reinstatement to membership in a position requiring special skills or knowledge for a period of time not to exceed 90 working days or 720 hours in one fiscal year of any other 12-month period. Section 31680.3 provides that the period of time not exceed 120 working days or 960 hours. The current statutes are missing the phrase "a period of time," similar to sentence structure in Section 31680.6.
15	31781.2	Survivor benefits	Fixes typo. The word "the" is missing before "guardian."

Introduced by Committee on Labor, Public Employment and Retirement (Senators Cortese (Chair), Durazo, Laird, Newman, and Ochoa Bogh)

February 19, 2021

An act to amend Sections 22011, 22802, 24204, and 26804 of the Education Code, and to amend Sections 20320, 20322, 20324, 31530, 31565.5, 31680.2, 31680.3, 31732, and 31781.2 of, to add Section 21499.1 to, and to repeal Section 31641.8 of, the Government Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 634, as introduced, Committee on Labor, Public Employment and Retirement. Public employees' retirement.

(1) Existing law, the Teachers' Retirement Law, establishes the State Teachers' Retirement System (STRS) and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. STRS is administrated by the Teachers' Retirement Board. Existing law requires STRS to pay premiums associated with Medicare Part A for certain retired or disabled members, as specified. Existing law creates the Cash Balance Benefit Program, which is administered by the board, to provide a retirement plan for the benefit of participating employees who provide creditable service for less than 50% of full time.

Existing law applicable to the Defined Benefit Program, for applications and documents requiring a signature, requires that the signature be in a form prescribed by the system.

This bill would apply the above-described requirements regarding signed applications and documents to the Cash Balance Benefit Program and the requirement that STRS pay certain Medicare Part A premiums.

Existing law authorizes a member of STRS who is not retired and who was previously excluded from membership in the Defined Benefit Program request to purchase service credit in the program for certain types of other service. The bill would delete and obsolete cross-reference.

This bill would prohibit a member from purchasing service credit for any school year if the purchase would result in more than one year of service for that school year.

Existing law authorizes a member of STRS who files an application for service retirement to change or cancel their retirement application if specified requirements are met. In this regard, existing law requires a member to return the total gross distribution amount of all payments for any canceled retirement benefit, including a lump-sum payment, as specified.

This bill would extend the requirement to return total gross distribution amount, as described above, to apply to any canceled benefit.

(2) The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which is administered by the Board of Administration of the Public Employees' Retirement System. PERL excludes specified appointees, elective officers, and legislative employees from membership in the system unless the person to whom these provisions apply elects to file with the board an election in writing to become a member.

This bill would prescribe the circumstances pursuant to which the start date would be determined for an appointee, elective officer, or legislative employee who elects to become a member of PERS. If the written election is received by the system within 90 days of the applicable appointment, current term, or start date for the position, the bill would require that the effective date be the start date of the appointment, the start date of the term, or the start date of the position. If the election is not received by the system within 90 days, as specified, the effective date would be the first day of the month in which the election is received by the system.

PERL prescribes the circumstances pursuant to which specified payments and benefits may be paid by PERS in connection with the death of a member, among others.

This bill would require that overpayments, issued after the date of death to a member, retired member, or beneficiary, made to or on behalf of any member, retired member, or beneficiary, as specified, be deducted from any subsequent payment or benefit that is payable by PERS as a result of the death.

(3) The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions for the purpose of providing pension, disability, and death benefits to county and district employees. CERL vests management of the retirement systems created pursuant to its provisions in a board of retirement. CERL requires the county health officer to advise the board on medical matters and, if requested, attend its meetings.

This bill would authorize a county health officer's duly authorized representative to also advise the board of retirement with advice on medical matters.

CERL authorizes a member of a system established under its provision who ceases to be an employee of the county under certain provisions of the Education Code to elect to remain a member of the CERL system.

This bill would correct an obsolete cross-reference in this regard.

CERL provides benefits based upon service credit, defines service for this purpose, and authorizes a member to elect to receive service credit for other forms of public service, as defined, by making contributions. CERL authorizes a member who has elected to make contributions to receive service credit to complete payment, at any time prior to the effective date of the member's retirement, by a lump sum.

This bill would repeal the above-described authority of a member to complete a payment by lump sum.

CERL requires a board of retirement to secure medical, investigatory, and other service and advice as is necessary for the purpose of administering provisions relating to disability retirement.

This bill would authorize the board to contract with a physician in private practice for the medical advice necessary to carry out the purpose of provisions relating to disability retirement.

This bill would make various technical and stylistic changes.

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

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

1 SECTION 1. Section 22011 of the Education Code is amended
2 to read:

3 22011. For an application or document requiring a signature,
4 that signature shall be in a form prescribed by the system,
5 including, but not limited to, on paper or made by electronic means.
6 Notwithstanding any other law, an application or document made
7 under this ~~part~~ *part, Part 13.5 (commencing with Section 25900),*
8 *or Part 14 (commencing with Section 26000)* that is signed and
9 submitted by the person authorized to do so using technology and
10 security measures prescribed by the system shall be deemed to be
11 a signed and valid original document.

12 SEC. 2. Section 22802 of the Education Code is amended to
13 read:

14 22802. (a) A member, other than a retired member, who was
15 previously excluded from membership in the Defined Benefit
16 Program may request to purchase service credit for:

- 17 (1) Service as a substitute excluded under Section 22602.
- 18 (2) Creditable service subject to coverage under the Cash
19 Balance Benefit ~~Program, excluding service credited pursuant to~~
20 ~~Section 26402, Program~~ if the member is currently contributing
21 to the Defined Benefit Program and has terminated all service
22 subject to coverage under the Cash Balance Benefit Program. Upon
23 requesting to purchase service credit under this paragraph, the
24 member shall cease to be eligible for a benefit for the same service
25 or time previously credited under the Cash Balance Benefit
26 Program pursuant to Part 14 (commencing with Section 26000).
- 27 (3) Service performed on a part-time basis excluded under
28 Section 22601.5 or Section 22604, other than service credited
29 under paragraph (2).
- 30 (4) Adult education service excluded under Section 22603, as
31 it read on December 31, 1995.
- 32 (5) Service as a school nurse excluded under Section 22606, as
33 it read on December 31, 1995.
- 34 (6) Service performed in a position prior to the date the position
35 was made subject to coverage under the Defined Benefit Program.
- 36 (7) Service subject to coverage under the Defined Benefit
37 Program performed while a member of another California public
38 retirement system, provided the member has ceased to be a member

1 of, and has ceased to be entitled to benefits from, the other
2 retirement system. The member shall not receive credit for the
3 service if the member may redeposit withdrawn contributions and
4 subsequently be eligible for any benefits based upon the same
5 service or based upon other full-time service performed during the
6 same period, from another California public retirement system.

7 (b) A member who requests to purchase service credit under
8 this part for service performed while excluded from membership
9 under the Defined Benefit Program shall pay all of the required
10 contributions for all or the portion of that service for which the
11 member requests to purchase service credit.

12 (c) A member ~~may~~ shall not request to purchase service credit
13 for service or time described in paragraphs (1) and (3) to (7),
14 inclusive, of subdivision (a) if, after the request, the member would
15 continue to receive credit for the same service or time in the Cash
16 Balance Benefit Program under Part 14 (commencing with Section
17 26000) or another public retirement system.

18 (d) *A member shall not purchase service credit for any school*
19 *year if the purchase would result in more than one year of service*
20 *for that school year.*

21 SEC. 3. Section 24204 of the Education Code is amended to
22 read:

23 24204. (a) A service retirement allowance under this part shall
24 become effective upon any date designated by the member,
25 provided all of the following conditions are met:

26 (1) An application for service retirement allowance is filed on
27 a form provided by the system, which is executed no earlier than
28 six months before the effective date of retirement allowance.

29 (2) The effective date is later than the last day the member
30 earned creditable compensation pursuant to Section 22119.2 or
31 22119.3.

32 (3) The effective date is no earlier than one day after the date
33 on which the retirement allowance was terminated under Section
34 24208.

35 (4) The effective date is no earlier than one year following the
36 date on which the retirement allowance was terminated under
37 subdivision (a) of Section 24117.

38 (5) The effective date is no earlier than the date upon and
39 continuously after which the member is determined to the
40 satisfaction of the board to have been mentally incompetent.

1 (6) The effective date is no earlier than one day after the date
 2 upon which the member completes payment of a service credit
 3 purchase pursuant to Section 22801, 22820, or 22826, or payment
 4 of a redeposit of contributions pursuant to Section 23200, except
 5 as provided in Section 22801 or 22829.

6 (b) A member who files an application for service retirement
 7 may change or cancel their retirement application if all of the
 8 following are met:

9 (1) The form provided by the system is received in the system's
 10 headquarters office no later than 30 days from the date the
 11 member's initial benefit payment for the member's most recent
 12 retirement under the Defined Benefit Program is paid by the
 13 system.

14 (2) The member returns the total gross distribution amount of
 15 all payments for any canceled ~~retirement~~ benefit, including a
 16 lump-sum payment being changed to an annuity, to the system's
 17 headquarters office no later than 45 days from the date of the
 18 member's initial benefit payment. The member shall be liable for
 19 any adverse tax consequences that may result from these actions.

20 (c) The retirement date of a member who files an application
 21 for retirement pursuant to Section 24201 on or after January 1,
 22 2012, shall be no earlier than January 1, 2012.

23 (d) Nothing in this section shall be construed to allow a member
 24 to receive more than one type of retirement or disability allowance
 25 for the same period of time by virtue of the member's own
 26 membership.

27 SEC. 4. Section 26804 of the Education Code is amended to
 28 read:

29 26804. Application for a retirement benefit under this part shall
 30 be made on a form prescribed by the system. A participant who
 31 files an application for a retirement benefit may change or cancel
 32 the retirement application if all of the following are met:

33 (a) The form provided by the system is received in the system's
 34 headquarters office no later than 30 days from the date of the
 35 ~~member's~~ *participant's* initial benefit payment.

36 (b) The participant returns the total gross distribution amount
 37 *of all payments* for any canceled retirement benefit, including a
 38 lump-sum payment being changed to an annuity, to the system's
 39 headquarters office no later than 45 days from the date of the
 40 ~~participants's~~ *participant's* initial benefit payment. The participant

1 shall be liable for any adverse tax consequences that may result
2 from these actions.

3 SEC. 5. Section 20320 of the Government Code is amended
4 to read:

5 20320. (a) A person directly appointed by the Governor,
6 without the nomination of any officer or board, or directly
7 appointed by the Attorney General, Lieutenant Governor,
8 Controller, Secretary of State, Treasurer, or Superintendent of
9 Public Instruction exempt from civil service under Article VII of
10 the California Constitution, except those appointed pursuant to
11 subdivision (i) of Section 4 thereof, is excluded from membership
12 in this system unless ~~he or she~~ *the person* files with the board an
13 election in writing to become a member. *The election effective*
14 *date shall be the start date of the current appointment, provided*
15 *the election is received by this system within 90 days of the*
16 *applicable start date. If the election is not received by this system*
17 *within 90 days from the start date, the effective date shall be the*
18 *first day of the month in which the election is received by this*
19 *system.*

20 (b) Upon electing to become a member, the person may further
21 elect at any time prior to retirement to receive service credit for
22 ~~his or her~~ *their* prior, excluded state service by making the
23 contributions as specified in Sections 21050 and 21051.

24 SEC. 6. Section 20322 of the Government Code is amended
25 to read:

26 20322. (a) An elective officer is excluded from membership
27 in this system unless the officer files with the board an election in
28 writing to become a member. *The election effective date shall be*
29 *the start date of the current term, provided the election is received*
30 *by this system within 90 days of the applicable start date. If the*
31 *election is not received by this system within 90 days from the start*
32 *date, the effective date shall be the first day of the month in which*
33 *the election is received by this system.* Upon electing to become a
34 member, the officer may further elect at any time prior to retirement
35 to receive service credit for ~~his or her~~ *their* prior, excluded service
36 by making the contributions as specified in Sections 21050 and
37 21051.

38 (b) As used in this part, “elective officer” includes any officer
39 of the Senate or Assembly who is elected by vote of the members
40 of either or both of the houses of the Legislature, and any

1 appointive officer of a city or county occupying a fixed term of
2 office, as well as officers of the state or contracting agencies elected
3 by the people, and persons elected to a city council or a county
4 board of supervisors.

5 (c) Notwithstanding any other provision of subdivision (a) or
6 (b), elected or appointed officers of a county superintendent of
7 schools, school district, or community college district, or of a
8 contracting agency, who serve on public commissions, boards,
9 councils, or similar legislative or administrative bodies are
10 excluded from membership in this system. This exclusion shall
11 only apply to those elected or appointed officers, other than city
12 or county officers, who are first elected or appointed to an office
13 on or after July 1, 1994, or who are elected or appointed to a term
14 of office not consecutive with the term of office held on June 30,
15 1994. For city or county elected or appointed officers, this
16 exclusion shall only apply to those officers who are first elected
17 or appointed to an office on or after January 1, 1997, or who are
18 elected or appointed to a term of office not consecutive with the
19 term of office held on December 31, 1996. This exclusion shall
20 not apply to persons elected to a city council or county board of
21 supervisors.

22 (d) Any person holding the office of city attorney or the office
23 of assistant city attorney, whether employed, appointed, or elected,
24 is excluded from the definition of “elective officer” as defined in
25 subdivision (b). This subdivision shall apply only to persons first
26 employed, elected, or appointed on or after July 1, 1994, or
27 following any break in state service while serving in the office if
28 the office was held on June 30, 1994.

29 (e) In accordance with Section 20125, the board shall be the
30 sole judge of which elected or appointed positions qualify the
31 incumbent as an “elective officer” in this system under this section.

32 (f) Notwithstanding any other provision of law, with respect to
33 elective officers of contracting agencies, payment by a contracting
34 agency of employer contributions and any other amounts for
35 employer paid benefits under this system shall not be construed
36 as receipt of salary or compensation by the elective officer for
37 purposes of any statutory salary or compensation limitation.

38 SEC. 7. Section 20324 of the Government Code is amended
39 to read:

1 20324. (a) An employee of the Senate or the Assembly, or the
2 respective committees thereof, whose salaries or wages are paid
3 from the Senate Operating Fund or the Assembly Operating Fund
4 or the Operating Funds of the Assembly and Senate, shall be
5 deemed a “legislative employee.” A legislative employee is
6 excluded from membership in this system unless ~~he or she~~ *the*
7 *person* files with the board an election in writing to become a
8 member. *The election effective date shall be the start date of the*
9 *current position, provided the election is received by this system*
10 *within 90 days of the applicable start date. If the election is not*
11 *received by this system within 90 days from the start date, the*
12 *effective date shall be the first day of the month in which the*
13 *election is received by this system.* The election shall not be
14 required of a legislative employee who was a member of this
15 system on October 1, 1963.

16 (b) Upon electing to become a member, a legislative employee
17 may further elect at any time prior to retirement to receive service
18 credit for ~~his or her~~ *their* prior, excluded legislative service and
19 ~~he or she~~ *the legislative employee* shall have the option as to how
20 much of that prior legislative service is to be credited. The
21 legislative employee shall make contributions to this system as
22 specified in Sections 21050 and 21051 for the previous service as
23 a legislative employee for which ~~he or she~~ *desires they desire* to
24 receive service credit.

25 SEC. 8. Section 21499.1 is added to the Government Code, to
26 read:

27 21499.1. Any overpayment, issued after the date of death to a
28 member, retired member, or beneficiary, made to or on behalf of
29 any member, retired member, or beneficiary, including, but not
30 limited to, contributions, interest, retirement allowance, payments
31 of any kind, or federal or state tax, shall be deducted from any
32 subsequent payment or benefit that is payable by this system as a
33 result of the death.

34 SEC. 9. Section 31530 of the Government Code is amended
35 to read:

36 31530. The county health ~~officer~~ *officer, either directly or*
37 *through a duly authorized representative*, shall advise the board
38 on medical matters and, if requested by the board, shall attend its
39 meetings.

1 SEC. 10. Section 31565.5 of the Government Code is amended
2 to read:

3 31565.5. Any member of a system established under this
4 chapter who ceases to be an employee of the county under the
5 provisions of ~~Education Code Section 873~~ *Section 1312 of the*
6 *Education Code* may elect as authorized in ~~Education Code Section~~
7 ~~873.1~~ *Section 1313 of the Education Code* to remain a member of
8 such system.

9 SEC. 11. Section 31641.8 of the Government Code is repealed.

10 ~~31641.8. Any member who has elected to make contributions~~
11 ~~pursuant to this chapter by installment payments may, at any time~~
12 ~~prior to the effective date of his retirement, complete payment~~
13 ~~thereof by lump sum.~~

14 SEC. 12. Section 31680.2 of the Government Code is amended
15 to read:

16 31680.2. (a) Any person who has retired may be employed in
17 a position requiring special skills or knowledge, as determined by
18 the county or district employing ~~him or her, for them, for a period~~
19 ~~of time~~ not to exceed 90 working days or 720 hours, whichever is
20 greater, in any one fiscal year or any other 12-month period
21 designated by the board of supervisors and may be paid for that
22 employment. That employment shall not operate to reinstate the
23 person as a member of this system or to terminate or suspend ~~his~~
24 ~~or her~~ *their* retirement allowance, and no deductions shall be made
25 from ~~his or her~~ *their* salary as contributions to this system.

26 (b) (1) This section shall not apply to any retired person who
27 is otherwise eligible for employment under this section if, during
28 the 12-month period prior to an appointment described in this
29 section, that retired person receives unemployment insurance
30 compensation arising out of prior employment subject to this
31 section with the same employer.

32 (2) A retired person who accepts an appointment after receiving
33 unemployment insurance compensation as described in this
34 subdivision shall terminate that employment on the last day of the
35 current pay period and shall not be eligible for reappointment
36 subject to this section for a period of 12 months following the last
37 day of employment.

38 (3) Beginning January 1, 2013, if any provision of this section
39 conflicts with the California Public Employees' Pension Reform
40 Act of 2013, the provisions of that act shall prevail, except that

1 the limit on postretirement employment provided in subdivision
2 (a) to the greater of 90 working days or 720 hours shall remain
3 effective.

4 SEC. 13. Section 31680.3 of the Government Code is amended
5 to read:

6 31680.3. (a) Notwithstanding Section 31680.2, any member
7 who has been covered under the provisions of Section 31751 and
8 has retired may be reemployed in a position requiring special skills
9 or knowledge, as determined by the county or district employing
10 the member, for *a period of time* not to exceed 120 working days
11 or 960 hours, whichever is greater, in any one fiscal year and may
12 be paid for that employment. That employment shall not operate
13 to reinstate the person as a member of this system or to terminate
14 or suspend the person's retirement allowance, and no deductions
15 shall be made from the person's salary as contributions to this
16 system.

17 (b) (1) This section shall not apply to any retired member who
18 is otherwise eligible for reemployment under this section if, during
19 the 12-month period prior to an appointment described in this
20 section, that retired person receives unemployment insurance
21 compensation arising out of prior employment subject to this
22 section with the same employer.

23 (2) A retired person who accepts an appointment after receiving
24 unemployment insurance compensation as described in this
25 subdivision shall terminate that employment on the last day of the
26 current pay period and shall not be eligible for reappointment
27 subject to this section for a period of 12 months following the last
28 day of employment.

29 (c) Beginning January 1, 2013, if any provision of this section
30 conflicts with the California Public Employees' Pension Reform
31 Act of 2013, the provisions of that act shall prevail.

32 SEC. 14. Section 31732 of the Government Code is amended
33 to read:

34 31732. The board shall secure such medical, investigatory and
35 other service and advice as is necessary to carry out the purpose
36 of this article. Notwithstanding Section 31529, the board may
37 contract with an attorney in private practice for the legal services
38 and advice necessary to carry out the purpose of this article.
39 *Notwithstanding Section 31530, the board may contract with a*
40 *physician in private practice for the medical advice necessary to*

1 *carry out the purpose of this article.* It shall pay for such services
2 and advice such compensation as it deems reasonable.

3 SEC. 15. Section 31781.2 of the Government Code is amended
4 to read:

5 31781.2. In lieu of accepting in cash the death benefit payable
6 under Section 31781 or 31781.01, the surviving spouse of a
7 member who dies prior to reaching the minimum retirement age
8 and who at the date of the member's death has 10 or more years
9 of service to the member's credit, shall have the option to leave
10 the amount of the death benefit on deposit in the retirement system
11 until the earliest date when the deceased member could have retired
12 had the member lived, and at that time receive the retirement
13 allowance provided for in Section 31765, 31765.1, or 31765.11,
14 whichever is applicable.

15 If, at the death of the spouse, the spouse is survived by one or
16 more unmarried children of the member, under the age of 18 years,
17 the retirement allowance shall continue to the child or children,
18 collectively, until every child dies, marries, or attains the age of
19 18 years. If the spouse dies, either before or after the death of the
20 member, without either making the election or receiving any
21 portion of the death benefit, and no part of the death benefit had
22 been paid to any person, prior to the payment of any benefits, the
23 legally appointed guardian of the children shall make the election
24 herein provided for on behalf of the surviving children as, in *the*
25 guardian's judgment, may appear to be in their interest and
26 advantage, and the election so made shall be binding and
27 conclusive upon all parties in interest.

28 Notwithstanding any other provisions of this section, the benefits
29 otherwise payable to the children of the member shall be paid to
30 those children up to the 22nd birthdays of the children if the
31 children remain unmarried and are regularly enrolled as full-time
32 students in an accredited school as determined by the board.

O