

Memorandum

MEETING DATE

OCT 13 2010

AGENDA ITEM

#8

Date: October 5, 2010

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

From: Karen Levy, General Counsel

Subject: Legislative Update

Below is a summary of legislation relating to the County Employees Retirement Law of 1937 ("CERL"). This summary includes 2010 legislation that has been enacted and legislation vetoed by the Governor. For your convenience, we have included a "**Status**" line below each bill summary.

AB 609 – ADMINISTRATIVE COST CAP. This bill has revised the CERL provision limiting the cost of administering the retirement system (Govt. Code Section 31580.2) and repealed Section 31580.3, regarding expenditure for computer software and hardware. The CERL requires the board of retirement to annually adopt a budget covering the entire expense of administration of the retirement system and prohibits the expense incurred in any year from exceeding 18 basis points (18/100 of 1%, or 0.18%) of the total assets of the retirement system. This bill has changed the administrative expense cap to 21 basis points (21/100 of 1%, or 0.21%) of the accrued actuarial liability of the retirement system. The bill excludes computer software, hardware and related consulting services from the administration expenses limit. The changes in the law take effect on January 1, 2011.

Note: CERL sections 31529.9 and 31596.1 remain in effect; legal services provided by attorneys in private practice and staff attorneys are paid from system assets; investment expenses are also a charge against the system assets.

Status: Signed into law by the Governor.

AB 1354 – COST OF LIVING ADJUSTMENTS. Federal law regulates the provision of pension benefits and a retirement system must meet prescribed requirements to maintain its tax qualified status. This bill made the following changes to the CERL to comply with federal law:

- AB 1354 amended section 31538 of the Government Code to further address and require CERL systems to comply with the limits of I.R.C. Section 415. The amount payable to a member in any limitation year, including cost-of-living adjustments, must not exceed the limit established under Section 415(b) of the Internal Revenue Code.



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- AB 1354 added CERL section 31485.17, which provides that if a member dies while performing qualified military service, the survivors of the member shall be entitled to any additional benefits that would have been provided under the retirement system had the member resumed his or her prior employment with an employer that participates in the system and then terminated employment on account of death. (In accordance with I.R.C. Section 401(a)(37)). It further provides that the death of a member while performing qualified military service shall not be treated as a service-connected death or disability. The section applies to deaths occurring on or after January 1, 2007.

Status: Signed into law by the Governor.

AB 1743 – POLITICAL REFORM ACT OF 1974: PLACEMENT AGENTS. This bill amended Government Code Sections 7513.8, 82002, and 82039 of, and to add Sections 7513.86, 7513.87, 82025.3, 82047.3, and 86206. While these are not changes to the CERL, the bill impacts CCCERA's Placement Agent Disclosure Policy, adopted this year as required by G.C. Section 7513.85 and incorporating the statutory definition of "placement agent" (G.C. Sec. 7513.8). The changes, among other items, added that "an individual who is an employee, officer, director, equityholder, partner, member, or trustee of an external manager and who spends one-third or more of his or her time, during a calendar year, managing the securities or assets owned, controlled, invested, or held by the external manager is not a placement agent." (new G.C. Sec. 7513.8(d)(2)). These changes take effect on January 1, 2011. CCCERA's Placement Agent Disclosure Policy will be reviewed and changes consistent with this new legislation will be brought to the Board for consideration.

Status: Signed into law by the Governor.

AB 1987 – PUBLIC RETIREMENT: FINAL COMPENSATION: COMPUTATION: RETIREES. Vetoed by the Governor on September 30, this bill would have provided that, effective July 1, 2011, any change in compensation principally for the purpose of enhancing a member's benefits would not be included in the calculation of a member's final compensation for determining the pension amount. The bill would have required the board of retirement to establish, by board regulation, an ongoing audit process to ensure that a change in a member's compensation is not made principally for the purpose of enhancing a member's retirement benefits. If there were a finding that compensation was paid for the principal purpose of enhancing a member's benefit, the member or the employer would be entitled to present evidence to the contrary. Upon receipt of sufficient evidence to the contrary, the retirement board could reverse its determination. The bill further would have limited the calculation of a member's final compensation to an amount not to exceed the average increase in compensation received within the final compensation period and the 2 preceding years by employees in the same or a related group as that member, and addressed whether certain items of pay are to be included or excluded from final compensation. The bill also would have prohibited a person who retires on or after January 1, 2012, from performing services for any employer covered by a state or local retirement system until that person has been separated from service for a period of at least 180 days.

Status: Vetoed by the Governor, with the message: "While this bill purports to address this issue by segregating out some of the factors that have allowed pension spiking, in some instances it



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still allows local pension boards to determine what is ultimately counted in an employee's pension calculation. This does not provide a consistent treatment of all employees. The taxpayers of California deserve better. I am still hopeful that the Legislature can send me acceptable pension reform legislation. For these reasons, I am unable to sign this bill."

SB 1479 – PUBLIC EMPLOYMENT: RETIREMENT BENEFITS: ADMINISTRATION.

An act to amend Sections 31527 and 31582 of, and to add Section 31618.5 to the Government Code, relating to public employment. The CERL authorizes the retirement board to include specified provisions, by regulation, with respect to the administration of benefits, including the determination of when a person entering county employ becomes a member of the association. Under existing law, the board may provide that a person entering county employ, on a day other than the first day of the calendar month, becomes a member of the association on a day that occurs no later than 6 weeks after the day that person enters county employ. This bill authorizes the establishment of the day that a person, who enters county employ on a day other than the first day of the calendar month, becomes a member of the association on a day that occurs no later than 12 weeks after the day that person enters county employ. This bill also provide for the establishment of the day upon which a member terminates service credited by the association as a day that occurs no earlier than 12 weeks prior to the member's termination from service. (amended CERL Section 31527(h)).

Status: Chaptered by Secretary of State - Chapter No. 158, Statutes of 2010.

SB 1425 – PUBLIC RETIREMENT: FINAL COMPENSATION: COMPUTATION:

RETIREEES. Vetoed by the Governor on September 30, this bill was the companion bill to AB 1987, and would have revised the definition of "creditable compensation" for PERS and STRS, and would have limit the calculation of a member's final compensation to an amount not to exceed the average increase in compensation received within the final compensation period and the 2 preceding years by employees in the same or a related group as that member.

Status: Vetoed by the Governor.



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