



MINUTES

RETIREMENT BOARD MEETING MINUTES

FIRST MONTHLY BOARD MEETING
9:00 a.m.

Retirement Board Conference Room
The Willows Office Park
1355 Willow Way, Suite 221
Concord, California

October 8, 2014

Present: Debora Allen, Scott Gordon, Brian Hast, Louie Kroll, Karen Mitchoff, John Phillips, William Pigeon, Todd Smithey, Jerry Telles and Russell Watts

Absent: Jerry Holcombe and Gabe Rodrigues

Staff: Gail Strohl, Retirement Chief Executive Officer, Kurt Schneider, Deputy Retirement Chief Executive Officer; Timothy Price, Retirement Chief Investment Officer; Karen Levy, Retirement General Counsel; Peter Ahlstrom, Retirement Benefits Manager; Vickie Kaplan, Retirement Accounting Manager; and Christina Dunn, Retirement Administration Manager

Outside Professional Support:	Representing:
Harvey Leiderman	Reed Smith LLP
Paul Angelo	Segal Consulting
John Monroe	Segal Consulting

1. **Pledge of Allegiance**

Hast led all in the *Pledge of Allegiance*.

2. **Accept comments from the public**

No members of the public offered comment.

3. **Approval of Minutes**

It was **M/S/C** to approve the minutes of the June 25, 2014 meeting. (Yes: Allen, Gordon, Hast, Mitchoff, Phillips, Pigeon, Smithey, Telles and Watts). Allen requested the Board not lose sight of an audit committee.

It was **M/S/C** to approve the minutes of the July 9, 2014 meeting. (Yes: Allen, Gordon, Hast, Mitchoff, Phillips, Pigeon, Smithey, Telles and Watts)

It was **M/S/C** to approve the minutes of the August 13, 2014 meeting with a correction to Page 6, the last paragraph of Item 11, to include Phillips as a yes vote. (Yes: Allen, Gordon, Hast, Mitchoff, Phillips, Pigeon, Smithey, Telles and Watts)

4. **Routine Items**

It was M/S/C to approve the routine items of the October 8, 2014 Board meeting. (Yes: Allen, Gordon, Hast, Mitchoff, Phillips, Pigeon, Smithey, Telles and Watts)

It was the consensus of the Board to move to Item 7.

7. **Presentation from Segal regarding the December 31, 2013 Valuation Report** – Paul Angelo, John Monroe

Angelo gave an overview of the presentation of the December 31, 2013 Actuarial Valuation Report.

Monroe reviewed the significant issues in the valuation year. He stated the Valuation Report reflects the changes in leave cash out assumptions for Legacy members. The assumption changes resulted in a decrease in the average employer rate of 4.1% of payroll and a decrease in the average member rate of 0.3% of payroll. He also stated the funding ratio increased from 70.6% to 76.4% and the UAAL decreased from \$2.3 billion to \$1.8 billion. He reported the average employer rate decreased from 49.82% of payroll to 43.58% of payroll. The average member rate decreased from 12.20% of payroll to 11.91% of payroll. He also reported the investment return after smoothing is approximately 9% which reflects recent years' gains.

Angelo noted the market returns are higher than the assumed rate of return.

Monroe reported we are currently deferring over \$500 million of gains which is a significant increase from the prior year. He noted the increase is due to a return of 15%.

8. **Consider and take possible action to adopt the December 31, 2013 Valuation Report and contribution rates for the period July 1, 2015 – June 30, 2016**

After discussion, it was M/S/C to adopt the December 31, 2013 Valuation Report and contribution rates for the period July 1, 2015 – June 30, 2016 as recommend by Segal Consulting. (Yes: Allen, Gordon, Hast, Mitchoff, Phillips, Pigeon, Smithey, Telles and Watts)

9. **Consider and take possible action regarding the interest crediting rate on member accounts**

Schneider reported this item is being brought back from the August 13, 2014 meeting. He reviewed the history on how CCCERA handles interest crediting on member accounts noting it is currently credited at the actuarial assumed rate of return. He stated according to CERL, the Board adopts the interest crediting rate.

There was discussion on possibly using market rate or prime rate plus when members terminate and cash-out their contributions, and using the actuarial assumed rate of return when members convert or purchase service time.

In public comment, Ken Westermann, DSA, asked what percentage of members have taken their money out and how often it happens. He felt some members could invest their money and earn the assumed rate of return or more.

Jerry Palat, ConFire employee and Local 1230 member, spoke against lowering the interest crediting rate. He felt he would be better off to cash out his contributions at retirement and invest himself. Angelo felt it would be hard to match the 7.25% in the outside market.

It was noted if employees terminate and cash out their contributions they wouldn't be eligible for retiree health care or wouldn't receive a COLA.

Jim Bickert, Rains Lucia and Sterns, stated that crediting member accounts with less than what the Board expected to earn on the money would mean the retirement system would expect to earn a profit on members' contributions, which should not be a goal of the system.

It was M/S to keep the current policy. After a discussion on whether or not there would be a significant change to member's accounts or have a negative impact on the system, the motion and second were withdrawn.

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

11. Consider and take possible action on request from the Superior Court to determine whether anticipated furloughs are a reduction in compensation for retirement purposes.

Levy reported the Courts have requested a determination on the impact of the planned furloughs on compensation for retirement purposes as well as retirement contributions.

Levy also reported that the furlough reduction in pay for Legacy (pre-PEPRA) members would not impact "compensation earnable" for retirement purposes if they were determined to be temporary absences, but different rules apply for PEPRA members. Under the PEPRA statute as currently written, CCCERA is not authorized to count furloughs as temporary absences that do not impact "pensionable compensation" for retirement purposes.

In public comment, Steven Ashlan, Contra Costa County Superior Courts, stated their current contract provides for 9 furlough days growing to 10 days next fiscal year. Their goal is to cancel as many if not all furlough days.

It was M/S/C to count the furlough days as temporary absences for Superior Court employees who were Legacy members for fiscal years 2014-15 and 2015-16. (Yes: Allen, Gordon, Hast, Mitchoff, Phillips, Pigeon, Smithey, Telles and Watts)

It was the consensus of the Board to move into closed session.

CLOSED SESSION

The Board moved into closed session pursuant to Govt. Code Section 54956.9(d)(1) and 54956.81.

The Board moved into open session.

5. There was no reportable action related to Govt. Code Section 54956.9(d)(1):

(a) *Contra Costa County Deputy Sheriffs Association, et al., v. Board of Retirement of Contra Costa County Employees' Retirement Association, et al.*, Court of Appeal, 1st Appellate District, Division Four, Case No. A141913.

(b) *Public Employees Union, Local 1, et al. v CCCERA and Board of Retirement, et al.*, Contra Costa County Superior Court Case No. N14-1221.

6. There was no reportable action related to Govt. Code Section 54956.81.

10. Consider and take possible action regarding the Deputy Sheriffs' Association's request for a recoupment of retirement contributions paid by members and the County for "terminal pay."

Hast reported legal counsel has recommended the Board not take any action at this time pending the outcome of pending lawsuits and appeals. The Board accepted DSA's letter as a claim for the return of employer and employee retirement contributions.

12. Consider and take possible action to adopt:

- a. Policy Governing the Overpayment Or Underpayment of Member Contributions
- b. Policy Governing the Overpayment Or Underpayment of Member Benefits

Levy reported the recommended policies deal with the process of correcting errors that occur when a member is underpaid or overpaid by the system. Currently Board Regulations require the CEO to correct errors prospectively and any retroactive corrections are brought to the Board for approval. She reported there is not anything specific in the CERL applicable to CCCERA regarding the process of retroactive correction of errors.

Levy stated the CERL statute provides a default statutory interest rate for crediting member contributions but allows the Board to adopt another rate or a rate that is different from the actuarial assumed rate of return.

In public comment, Ken Westermann, DSA, asked if there would be punitive action taken against a CCCERA employee or the retirement system if an overpayment error is caused by an employee of the retirement system.

Levy reported under IRS rules as a tax-qualified plan, the system must take reasonable steps to correct errors prospectively and retroactively. She also noted that according to IRS rules, the system can go back as long as it is feasible to correct underpayment errors. There are no punitive measures against the system for making errors. However, it is the Board's role to ensure that the system is administered correctly with no or minimal errors.

Paul Andrews, retired, asked if the retirement association, through no fault of their own, has to refund a retiree, can the refund be exempt from taxation or rolled over to another tax exempt qualified account or is it a lump sum distribution.

Schneider stated according to the IRS the refund would be taxable because it should have been taxed in the years it was earned. Levy noted the policies being presented are for individual circumstances and not system-wide errors where groups of members are being effective due to disallowing pay items.

It was the consensus of the Board to bring back this item at a future meeting with additional information on the period of limitations.

Watts was no longer present for subsequent discussion and voting.

13. Presentation of CCCERA expenses; Budget vs Actual as of June 30, 2014

Strohl distributed an updated report and an itemized report noting we are under budget and well within the statute of budgetary expenses of 21 basis points. She reported salaries are under budget due to several vacancies.

She reported she will be doing quarterly updates with more detail and providing mid-year forecasts. She will also be doing additional reporting on investments.

It was **M/S/C** to accept the Budget vs Actual as of June 30, 2014 report. (Yes: Allen, Gordon, Hast, Mitchoff, Phillips, Pigeon, Smithey and Telles)

14. Miscellaneous

(a) Staff Report –

Levy reported that two RFP's were issued, one for a chief labor negotiator to assist the Board in labor negotiations and the second for labor and employment law counsel. She stated that CCCERA received two responses for the chief labor negotiator and five responses for the labor and employment law counsel. She stated the Board can interview the two firms for the chief negotiator and select an ad hoc sub-committee for the limited purpose of reviewing the responses for the labor and employment law counsel.

Allen was no longer present for subsequent discussion and voting.

Price reported we have received 13 responses to the investment consultant RFP.

Strohl reported we are working on next year's budget. The interior remodel is underway and investments will be in their new offices in a few weeks.

(b) Outside Professionals' Report -

Leiderman reported on the Stockton bankruptcy noting Judge Kline did not rule on anything, he just made comments from the bench and will provide a ruling at a later date.


(c) Trustees' comments –

Telles reported he attended the Carpenter Bank conference with Price and was impressed with the conference, CEO and their staff.

It was M/S/C to adjourn the meeting in honor of Telles and Mitchoff's birthday. (Yes: Gordon, Hast, Mitchoff, Phillips, Pigeon, Smithey and Telles)



Brian Hast, Chairman



Jerry Telles, Secretary