



# Options at Retirement Under County Employees Retirement Law of 1937

April 11, 2012

# CERL Optional Settlements

- ▶ **Unmodified:** Survivor receives 60% continuance; if no survivor a lump may be paid to the estate
- ▶ **Option 1:** Survivor receives remaining account balance as a lump sum
- ▶ **Option 2:** Survivor receives 100%\* continuance
- ▶ **Option 3:** Survivor receives 50% continuance
- ▶ **Option 4:** Survivors receives continuance approved by the Board\*

\*Subject to IRS limitations under Board policy

# Unmodified Allowance

- ▶ Provides for the maximum retirement allowance to the member
- ▶ Provides for a benefit after the member's death
  - If there is an "eligible spouse"
    - 60% continues to the spouse for life
  - If there is no eligible spouse
    - 60% continues to the "child or children" (see definition of child below)
  - If there are no surviving spouse or children
    - If the member's total retirement benefits received did not exceed the member's accumulated contributions with interest, the beneficiary or estate receives the excess contributions with interest as a lump sum
- ▶ Definitions applicable to unmodified option
  - Eligible spouse:
    - Married or partnered at least one year prior to retirement
    - Otherwise both of the following conditions must be met
    - Married or partnered at least two years prior to the date of death, and
    - Has attained the age of 55\* years on or prior to the date of death.
  - Child:
    - Under 18 years old and unmarried, or
    - Under 22 years old, unmarried, and enrolled as a full-time student in an accredited school

# Optional Settlements

- ▶ Election must be made in writing
- ▶ Election is irrevocable
- ▶ The designated beneficiaries must each have an “insurable interest” in the member’s life
- ▶ The total benefits to be paid must be the actuarial equivalent of an unmodified retirement allowance, as required by CERL §31760
- ▶ The amount paid to a member’s beneficiaries may not exceed the maximum prescribed by Section 401(a)(9)(G) of the Internal Revenue Code, as set forth in Section 5.E of the Board of Retirement Policy on Internal Revenue Code Compliance, adopted on December 8, 2010
- ▶ Each optional settlement pays a reduced allowance for the life of the member. The reduced amount is calculated by staff using methodology approved by the actuary.
  - “Insurable interest” means an interest based upon a reasonable expectation of pecuniary advantage through the continued life, health, or bodily safety of another person and consequent loss by reason of that person's death or disability or a substantial interest engendered by love and affection in the case of individuals closely related by blood or law.

# Optional Settlement 1

- ▶ Upon the member's death, a lump sum equal to the member's accumulated contributions with interest minus the total "annuity payments" is paid to the member's beneficiary or estate
- ▶ The "annuity payments" are the portion of the retirement allowance paid for by the member's accumulated contributions
- ▶ This results in a larger lump sum than the unmodified option
- ▶ Can take 10 or more years for the annuity payments to exceed the member's accumulated contributions
- ▶ There is no monthly continuance

# Optional Settlement 2

- ▶ Upon the member's death, a continuance equal to 100%\* of the member's retirement allowance continues to the beneficiary
- \* The continuance percentage can be less than 100% in order to comply with Internal Revenue Code (IRC) §401(a)(9)(G)
  - If the beneficiary is not the spouse and is significantly younger than the member, the continuance percentage must sometimes be less than 100%
  - The application of this limit results in a larger allowance to the member and a smaller allowance to the beneficiary

# IRS Minimum Distribution Rules

- ▶ In order to comply with IRC §401(a)(9)(G) the Board adopted a policy that the continuance percentage would not exceed the amount in Treasury Regulation 1.401(1)(9)-6, Q&A-2
- ▶ This does not affect Options 1 or 3
- ▶ The maximum continuance percentage depends on
  - Whether there is a beneficiary who is not the spouse
  - The age of the member at retirement
  - The age of the youngest beneficiary at retirement
- ▶ The maximum continuance percentage is 100% if the only beneficiary is the member's spouse, regardless of age, or if the beneficiary is not more than 10 years younger than the member

# Treasury Regulation 1.401(1)(9)-6, Q&A-2

- ▶ This calculation is not required if the only beneficiary is the member's spouse
- ▶ The "age difference" is the age of the member at retirement minus the age of the youngest beneficiary
- ▶ The "adjusted age difference" is the age difference minus the number of years the member is less than 70
- ▶ The maximum continuance percentage payable to all beneficiaries cannot exceed the percentage that corresponds to the adjusted age difference in the table

Adjusted age difference	Continuance (Percent)	Adjusted age difference	Continuance (Percent)
10 years or less	100	28.....	62
11.....	96	29.....	61
12.....	93	30.....	60
13.....	90	31.....	59
14.....	87	32.....	59
15.....	84	33.....	58
16.....	82	34.....	57
17.....	79	35.....	56
18.....	77	36.....	56
19.....	75	37.....	55
20.....	73	38.....	55
21.....	72	39.....	54
22.....	70	40.....	54
23.....	68	41.....	53
24.....	67	42.....	53
25.....	66	43.....	53
26.....	64	44 and greater	52
27.....	63		



# Examples\*

	Example 1	Example 2
Member's age at retirement	65	51
Youngest beneficiary's age	<u>-35</u>	<u>-27</u>
Age difference	30	24
Years member is younger than age 70	<u>-5</u>	<u>-19</u>
Adjusted age difference	<b>25</b>	<b>5</b>
The maximum continuance percentage	<b>66</b>	<b>100</b>

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18.....	77	36.....	56
19.....	75	37.....	55
20.....	73	38.....	55
21.....	72	39.....	54
22.....	70	40.....	54
23.....	68	41.....	53
24.....	67	42.....	53
<b>25.....</b>	<b>66</b>	43.....	53
26.....	64	44 and greater	52
27.....	63		

\* This calculation is not required if the only beneficiary is the member's spouse

# Optional Settlement 3

- ▶ Upon the member's death, a continuance equal to 50% of the member's retirement allowance continues to the beneficiary
- ▶ The IRS minimum distribution rules never limit the continuance percentage to less than 52%, so the continuance under this option is always 50%

# Optional Settlement 4

- ▶ Only option that allows for multiple beneficiaries
- ▶ Only option that does not specify the continuance amount
  - The continuance is the benefit “approved by the Board, upon the advice of the actuary, continued throughout the life of” the beneficiaries
- ▶ Only option that specifies that “the designation shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system”
  - CCCERA’s actuary has already confirmed that under certain guidelines the designation would not place any additional burden on the System
  - The Board could set guidelines to approve the benefit or could approve each request on a case by case basis
  - Some CERL systems charge the member for calculations involving multiple beneficiaries to alleviate additional burden on the system
- ▶ The maximum continuance percentage is calculated in the same manner as it is for Option 2
- ▶ The reduced benefit amount could be calculated using a procedure analogous to that used for Options 1–3

# Other Considerations

- ▶ What other CERL systems are doing
- ▶ Divorces
- ▶ Other?

# Multiple Beneficiaries at Other CERL Systems

- ▶ Of the 20 CERL systems, only 2 (Mendocino and Stanislaus) do not allow members to name multiple beneficiaries
- ▶ 5 systems charge members for calculations
- ▶ 1 more system is currently considering how much to charge
- ▶ 3 more systems indicated they will consider charging if requests become more frequent
- ▶ 1 system (Fresno) charges, but not for the first request as long as it is “Basic”

# Example: Fresno Approach

- ▶ Board Policy defines “Basic” Option 4 as
  - Benefit structure specified in DRO to provide benefits to former spouse, or
  - Provides equal continuing benefits to multiple beneficiaries
- ▶ Board has pre-approved all requests for “Basic” Option 4 elections
- ▶ No charge to member for first “Basic” Option 4 calculation
- ▶ Member pays full cost for additional calculations or anything different from “Basic” Option 4
- ▶ Requests for benefit structures different from “Basic” Option 4 need to go to the Board for approval

# Divorces

- ▶ Divorce prior to retirement
  - Account is split in accordance with CERL Article 8.4 and a qualified domestic relations order (QDRO)
    - Former spouse awarded separate account
    - Upon Former spouse's retirement, he or she has same options as any other CCCERA member (i.e., can receive an unmodified allowance or a lower allowance pursuant to an Optional Settlement election)
    - Court orders dividing the pension are only enforceable against CCCERA if CCCERA was properly joined in the proceeding and the division terms can be complied with under the plan

# Divorces (continued)

## ▶ Divorce after retirement

- CCCERA handles in accordance with the QDRO on a case by case basis
  - Former spouse is awarded portion of member's monthly pension
  - Former spouse has right to name beneficiary
  - Continuance terms determined by QDRO
  - No change to the optional settlement that was elected by member at retirement