



Employees' Retirement Association
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925.521.3960 fax 925.646.5747

RETIREMENT BOARD MEETING
FIRST MONTHLY MEETING

9:00 a.m.
April 10, 2013

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

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

1. Pledge of Allegiance.
2. Accept comments from the public.
3. Approve minutes from the February 27 and March 14, 2013 meetings.
4. Routine items for April 10, 2013.
 - 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 Asset Allocation Report
5. Discussion of whether pay items beyond base pay are "Pensionable Compensation" under PEPRA G.C. Sec. 7522.34.
6. Consider and take possible action to direct staff on pay items beyond base pay for PEPRA tiers.
7. Discussion of whether standby, on-call and call back pay are "Compensation Earnable" for "classic" (pre-PEPRA) employees under G.C. Sec. 31641 as amended by AB 197.
8. Consider and take possible action to direct staff on standby, on-call and call back pay for "classic" employees.
9. Update from staff on Assessment and Determination of Compensation Enhancements.
10. Educational Session on the Disability process for CCCERA.
11. Consider and take possible action on SACRS Board of Directors Elections.

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.

12. Consider and take possible action on SACRS Voting Proxy Form.

CLOSED SESSION

- ** 13. The Board will go into closed session under Gov. 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. Trina Stewart	Service Connected	Service Connected
b. Orlando Conit	Service Connected	Service Connected
c. Timothy Diaz	Service Connected	Service Connected
d. Andrea Bancroft	Service Connected	Service Connected
e. Irene Paynter	Non-Service Connected	Non-Service Connected

14. The Board will continue in closed session pursuant to Govt. Code Section 54956.9(a) to confer with legal counsel regarding existing litigation (two cases):

- a. *Board of Retirement v. County of Contra Costa, et al.*, Alameda County Superior Court, Case No. RG11608520.
- b. *Contra Costa County Deputy Sheriffs Association, et al., v. CCCERA, et al.*, Contra Costa County Superior Court, Case No. N12-1870.

OPEN SESSION

15. Consider authorizing the attendance of Board and/or staff:
- a. Annual Meeting, Bay Area Equity Fund, June 12, 2013, San Francisco, CA.
16. 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.

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

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February 27, 2013

The Board of Retirement met in regular session at 9:00 a.m. on Wednesday, February 27, 2013 in the Conference Room of the Contra Costa County Employees' Retirement Association, 1355 Willow Way, Suite 221, Concord, CA.

Present: Debora Allen, Terry Buck, Richard Cabral, John Gioia, Brian Hast, Jerry Holcombe, Sharon Naramore, John Phillips, Maria Theresa Viramontes and Russell Watts

Absent: Gabe Rodrigues and Jerry Telles

Staff: Marilyn Leedom, Retirement Chief Executive Officer; Kurt Schneider, Retirement Deputy Chief Executive Officer, Timothy Price, Retirement Chief Investment Officer; Karen Levy, General Counsel; and Vickie Kaplan, Retirement Accounting Manager

Outside Professional Support:	Representing:
Harvey Leiderman	Reed Smith LLP
Bob Helliessen	Milliman
Jeff Youngman	Milliman
Paul Angelo	The Segal Company
John Monroe	The Segal Company

Other Attendees:

Luz Casas	Contra Costa County Employees' Retirement Association (CCCERA) Staff
Christina Dunn	CCCERA Staff
Joelle Luhn	CCCERA Staff
Justine Rossini	CCCERA Staff
Robert Leete	San Ramon Valley Fire District (SRVFD)
H. Jay Kerr	SRVFD
Lucy Fogarty	Contra Costa County Superior Court
Bill Pollacek	Retired Contra Costa County Treasurer
Lisa Driscoll	County Administrators Office
Liz Walker	AFSCME 2700
Michelle Johnston	Auditor-Controller's Office
Bill Cullen	Retiree
Brandy Sandborn	Contra Costa County Superior Court
Steve Beall	Rodeo Sanitary District
Alan Leal	Rodeo Sanitary District
Marnie Huddleston	First 5 Contra Costa
Todd Smithey	Central Contra Costa Sanitary District
Sue Casey	Moraga-Orinda Fire District (MOFD)
Ken Westermann	Contra Costa County Sheriff's Office/Deputy Sheriffs Association
Jim Bickert	Rains Lucia Stern
Mark DeWeese	MOFD
Rollie Katz	Local One
Nick Marnell	LAMORINDA WEEKLY
Wendy Lack	Contra Costa County Taxpayers Association
Kris Hunt	Contra Costa County Taxpayers Association

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Viramontes reported all of the Closed Session items will be moved to the end of the meeting.

1. Pledge of Allegiance

Viramontes led all in the *Pledge of Allegiance*.

2. Public Comment

No members of the public offered comment.

3. Approval of Minutes

It was *M/S/C* to approve the minutes of the January 9, 2013 and the January 23, 2013 meetings. (Yes: Allen, Buck, Cabral, Gioia, Hast, Naramore, Phillips, Viramontes and Watts)

4. Presentation from The Segal Company: Review of Economic Actuarial Assumptions

Angelo reviewed the Economic Actuarial Assumptions for the December 31, 2012 Actuarial Valuation highlighting the following recommendations:

Investment Return - The estimated average future net rate of return on current and future assets of the Association as of the valuation date. This rate is used to discount liabilities.

Recommendation: Reduce the rate from 7.75% per annum to 7.25% per annum.

Alternative Recommendation: Reduce the rate from 7.75% per annum to 7.50% per annum.

Inflation - Future increases in the cost-of-living index which drives investment returns and active member salary increases, as well as cost-of-living adjustments (COLA's) for retirees.

Recommendation: Reduce the rate from 3.50% to 3.25% per annum. Segal recommends decreasing the assumed COLA for those tiers with a 4.00% maximum COLA from 3.50% to 3.25% per year.

Individual Salary Increases - Increases in the salary of a member between the date of the valuation to the date of separation from active service. This assumption has three components: inflationary salary increases, real "across the board" salary increases, and promotional and merit increases.

Recommendation: Reduce the current inflationary salary increase assumption from 3.50% to 3.25% and maintain the current real "across the board" salary increase assumption at 0.75%. This means that the combined inflationary and real "across the board" salary increases will decrease from 4.25% to 4.00%. The promotional and merit increase assumption ranges are from 0.75% to 9.00% for General and 0.75% to 9.50% for Safety. The promotional and merit increases will be reviewed as part of the triennial experience study of non-economic assumptions.

Terminal Pay - Additional pay elements that are expected to be received during the member's final average earnings period.

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Recommendation: The recommendation will be included in the triennial experience study of non-economic assumptions.

5. Economic Assumptions recommended by The Segal Company to be used in the December 31, 2012 valuation

The Board discussed the effects on employers and employees of changing the assumption rate to 7.50% and 7.25%.

It was **M/S** to change the economic assumption rate to 7.50% as recommended by The Segal Company, to be used in the December 31, 2012 Valuation.

There was a lengthy discussion on decreasing the rate and how each rate would affect the risk adjusted model used by Segal. It was noted an assumed rate of return of 7.50% would not provide any risk adjustment and an assumed rate of 7.25% would imply a 0.25% risk adjustment.

Schneider reported on the range of assumption rates used by other '37 Act Systems noting in 2012 ten of the other systems used 7.75%, five systems used 7.50% and one system used 7.25%. Eight '37 Act systems are currently reviewing their assumed rate of return.

Wendy Lack, Contra Costa Taxpayers Association, asked if the risk adjustment being recommended is higher or lower than the Board previously used. Monroe stated it is lower on a historical level.

Kris Hunt, Contra Costa Taxpayers Association, questioned if the clients used in the report are influenced because they are clients of The Segal Company. Angelo reported they are not clients of The Segal Company. She felt the unfunded liability is going to get pushed to the employer and the rate should be one that would eliminate the unfunded liability.

Alan Leal, Rodeo Sanitary District, felt the Board needs to make its assumptions more realistic and collect contributions to pay for the promised benefits.

Bill Cullen, Retiree, felt CCCERA has outperformed their benchmarks year in and year out. He felt nobody benefits from higher rates and there are margins built in to prevent roller coaster rides for employers and employees.

A substitute motion was **M/S/C** to approve an economic assumption rate of 7.25% as recommended by The Segal Company to be used in the December 31, 2012 valuation. (Yes: Allen, Gioia, Phillips, Viramontes and Watts. No: Buck, Hast and Naramore. Abs.: Cabral)

Gioia was not present for subsequent discussion and voting.

7. Review of total portfolio performance - Bob Helliesen, Jeff Youngman

Helliesen informed the Board he will be retiring around the end of 2013.

Helliesen reported on the fourth quarter total portfolio performance and distributed a Flash Report for the period ending January 31, 2013.

CCCERA's total fund fourth quarter return of 2.2% was better than the median public fund at 1.7%. Performance has been strong against peers through the past four years, particularly over the trailing two- and three-year periods, where performance ranked in the 1st and 2nd percentile, respectively. Still, with the exception of the most recent quarter, the fund has slightly underperformed its policy benchmark over trailing time periods. CCCERA performed slightly above the peer median over the past five years. CCCERA has out-performed the median over trailing time periods longer than five years.

Domestic Equity

CCCERA total domestic equities returned 0.7% for the quarter, better than the 0.2% return of the Russell 3000® and the 1.0% return of the median manager.

Ceredex significantly outperformed its index benchmark in the fourth quarter with a return of 6.2% compared to 3.2% for the Russell 2000 Value Index. Strong stock selection in financials, and an overweight to industrials enhanced returns for Ceredex during the fourth quarter. Ceredex is above the index for the trailing year period, 19.0% vs. 18.1%, and ranks in the 38th percentile of small cap value managers.

Delaware beat the benchmark with a return of -0.5% compared to -1.3% for the Russell 1000 Growth Index. Delaware is above its index benchmark for all trailing time periods extending out to the trailing five years, and ranks very well compared to peers. Emerald Advisors trailed its benchmark in the fourth quarter with a return of -1.3% compared to 0.4% for the benchmark. Emerald is ahead of the benchmark over all trailing time periods longer than the most recent quarter, and ranks well versus other small cap growth portfolios.

The Intech Large Cap Core portfolio edged its index in the third quarter with a return of -0.3 compared to -0.4% for the S&P 500, and ranked in the 58th percentile. Intech is close to its benchmark over all trailing time periods, and is above the median fund over the trailing two- through four-year periods. Please note that the Intech portfolio was added to the watch list due to the resignation of Jennifer Young as the Intech CEO. Dr. Adrian Banner, the current Intech CIO, will replace Jennifer Young and maintain his responsibilities as CIO while sharing the CEO responsibilities with other members of Intech's senior leadership.

The PIMCO Stocks Plus portfolio beat the S&P 500 Index in the fourth quarter with a return of 0.0% vs. -0.4%. This return ranked in the 47th percentile. PIMCO is above the benchmark over all trailing time periods extending out to ten years, and is above the median large cap core portfolio for all time periods extending out to the trailing five years. Robeco Boston Partners matched the Russell 1000 Value benchmark with a return of 1.5% in the fourth quarter. Robeco Boston Partners is above its benchmark for all trailing time periods extending out to ten years, and consistently ranks in the top quartile. The WHV large cap core portfolio outperformed the S&P 500 Index during the fourth quarter with a return of -0.2% compared to -0.4% for the S&P 500. This return ranks in the 54th percentile of large cap core equity portfolios. WHV is ahead of the benchmark over the trailing one-, five- and ten-year periods. WHV has had personnel turnover lately and we are recommending that the product be placed on watch for this reason.

International Equity

CCCERA international equities returned 6.4% for the quarter, below the MSCI EAFE return of 6.6% but better than the MSCI ACWI ex-USA return of 5.9% and the median MSCI ACI ex-US manager return of 6.1%. The GMO Intrinsic Value Extended portfolio returned 6.7%, better than the 6.5% return of the Blended Benchmark (100% MSCI EAFE Value Index from inception to February 29, 2012, 100% MSCI ACWI ex-US Value from March 1, 2012 to present). The William Blair portfolio

returned 6.2%, better than the MSCI ACWI ex-US Growth Index return of 5.3%.

GMO was put on watch at the August 29, 2012 Board meeting due to poor performance relative to its benchmark. GMO is above the blended benchmark over the trailing two-, three-, five-, and seven-year time periods, but ranks well below the median fund in all trailing time periods. As of March 1, 2012, GMO increased the allocation to emerging markets in the portfolio, and Milliman is comparing GMO to peers in an all-country ex-USA universe, whereas the majority of GMO's history is in developed markets. We would expect the peer ranking of GMO to improve as the track record including emerging markets grows.

Global Equity

CCCERA global equities returned 2.3% in the quarter, trailing the MSCI ACWI return of 3.0% and the median global equity return of 3.3%. Please note that Artisan Partners was funded with assets from the transition manager in December 2012. Performance of the Artisan Partners portfolio will be reported in the first quarter 2013 performance analysis report, after a full quarter of performance. The First Eagle portfolio returned 2.3%, below the MSCI ACWI Index return. First Eagle is also below the index over the trailing year, 13.9% vs. 16.8%.

The Intech Global Low Volatility portfolio significantly trailed the MSCI ACWI with a return of -0.6% vs. 3.0%. Major detractors from performance in the fourth quarter were an overweight to financials, and poor security selection in the financials and consumer discretionary sectors. Additionally, poor security selection in and an overweight to the Asia/Pacific region hurt performance. Please note both of this firm's products have been put on watch due to the firm's change in CEOs.

The J.P. Morgan portfolio returned 4.1%, above the 3.0% return of the MSCI ACWI Index, and ranked in the 35th percentile. Strong stock selection in industrials, materials, and financials added to fourth quarter performance. Stock selection was strongest in the Asia/Pacific region. Over the trailing year, JP Morgan returned 19.2%, better than the benchmark return of 16.8%, and ranked in the 32nd percentile.

The low volatility mandates which are managed by Intech and First Eagle are expected to protect in a falling market. They have not kept up with the benchmark in the strong rising market over the trailing year, which is no unexpected.

Domestic Fixed Income

CCCERA total domestic fixed income returned 1.5% for the fourth quarter, better than the 0.6% return of the Barclays Universal Index and the 0.5% return of the median core fixed income manager. This return ranked in the 3rd percentile of US Core Fixed Income managers. Over trailing periods extending out to four years, the domestic fixed income performance ranks in the top decile, and it ranks in the 6th percentile over the trailing ten years.

AFL-CIO returned 0.2% in the quarter, which matched the Barclays U.S. Aggregate return and was below the median core fixed income manager. Performance of AFL-CIO is very close to the benchmark over longer periods, and ranks below the median core fixed income manager over all trailing time periods.

Allianz Global returned 3.0%, slightly below the 3.2% return of the ML High Yield Master II Index and the 3.1% return of the median high yield manager. Allianz outperformed the benchmark and the median for the trailing three-, five- and seven-year periods.

Goldman Sachs returned 0.9%, exceeding the Barclays U.S. Aggregate Index and the median fixed income manager. Performance of the Goldman Sachs portfolio has been very strong, beating the benchmark and the median core fixed income manager over all trailing time periods. The workout portfolio managed by Goldman Sachs returned 3.2%, significantly better than the Barclays Aggregate.

Lord Abbett returned 1.2%, exceeding the 0.2% return of the Barclays U.S. Aggregate and the 0.5% return of the median fixed income manager. Lord Abbett has beat the benchmark over all trailing time periods, and consistently ranks in the top decile of core fixed income managers.

PIMCO Total Return returned 1.0%, exceeding the Barclays U.S. Aggregate and the median. PIMCO exceeds the benchmark over all trailing time periods, and consistently ranks in the top quartile of core fixed income managers.

The Torchlight II fund returned 0.5%, significantly below the ML High Yield Master II Index and the high yield fixed income median. The Torchlight Fund III returned 4.0% in the fourth quarter, better than the Merrill Lynch High Yield Master II Index return of 3.2%, and the high yield fixed income median return of 3.1%. The first capital call for Torchlight Fund IV took place in August 2012. In its first full quarter of performance, the Torchlight IV Fund returned 0.7%, below the ML High Yield Master II Index and the high yield fixed income median. Please note that due to the unique structure of these funds, the high yield benchmark is an imperfect benchmark.

International Fixed Income

Lazard Asset Management returned 0.0% in the fourth quarter, which exceeded the Barclays Global Aggregate return of -0.5% but trailed the median global fixed income manager return of 1.9%, and ranked in the 81st percentile of global fixed income portfolios. Lazard has beat the benchmark for all trailing time periods, but ranks at or below the median manager.

Opportunistic

The opportunistic allocation returned 2.5% in the fourth quarter.

Alternative Investments

CCCERA total alternative investments returned 1.8% in the fourth quarter, above the 0.6% return of the S&P + 4% per year benchmark. CCCERA total alternatives beat the benchmark over all time periods greater than the trailing four years, but shorter periods trail the benchmark. (Please note that due to timing constraints, all alternative portfolio returns are for the quarter ending September 30, 2012). For further comments on each individual manager in the CCCERA alternatives portfolio, please refer to page 103.

Adam Street returned 4.2% for the fourth quarter, the Bay Area Equity Fund returned 0.1%, the Carpenter Bancfund returned 1.5%, Energy Investor Fund I returned 4.7%, EIF Fund II returned 2.5%, EIF III returned 1.1%, EIF IV returned 0.2%, Nogales returned 2.5%, Paladin III returned 0.9%, and Pathway returned -0.5%. All but three alternative portfolios beat the 0.6% return of the S&P + 4% per year benchmark during the fourth quarter.

Real Estate

The median real estate manager returned 2.0% for the quarter while CCCERA's total real estate returned 3.6%. CCCERA's total real estate ranks in the first quartile over all trailing time periods with the exception of the trailing two years, when performance ranks in the 40th percentile. Performance over the trailing four years is particularly strong with a return of 11.6% which ranked in the 8th percentile. For comments on each individual manager in the CCCERA real estate portfolio, please refer to page 98.

Adelante Capital REIT returned 2.4%, marginally trailing the Wilshire REIT benchmark return of 2.5%, and ranked in the 62nd percentile of US REIT managers. Over the trailing three years, Adelante returned 19.0% vs. 18.2% for the benchmark, and ranked in the 51st percentile of US REIT managers. Adelante was taken off the watch list at the August 29, 2012 Board meeting.

The INVESCO International REIT portfolio returned 10.8% compared to 8.5% for the FTSE

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EPRA/NAREIT Developed ex-USA benchmark, and ranked in the 9th percentile of international REIT portfolios. INVESCO ranked in the 19th percentile of international REIT portfolios over the trailing year with a return of 42.3% compared to the benchmark return of 38.5%. Over the trailing four years, INVESCO ranked in the 37th percentile with a return of 17.4% compared to the benchmark return of 18.4%.

In the fourth quarter of 2012, Angelo Gordon returned 1.0%, DLJ RECP II returned 2.6%, DLJ RECP III returned 4.6%, and DLJ RECP IV returned 8.0%. (Due to timing constraints, the DLJ portfolio returns are for the quarter ending September 30, 2012). INVESCO Fund I returned 4.9% and INVESCO Fund II returned -1.3%. Long Wharf Fund II returned -1.3 in the fourth quarter, and Long Wharf Fund III returned 3.6%. Oaktree REOF returned 3.1%, the Sigular Guff Distressed Real Estate Opportunities portfolio returned 1.4% and the Willows Office Property returned 0.8%. Please note that the Angelo Gordon, DLJ, and Sigular Guff funds are reported on a one-quarter lag due to financial reporting constraints, while all other portfolios are reported as of the current quarter end.

It was **M/S/C** to accept the Quarterly Report presented by Milliman. (Yes: Allen, Buck, Cabral, Hast, Holcombe, Naramore, Phillips, Viramontes and Watts).

Cabral was not present for subsequent discussion and voting.

a. Consideration of any managers already under review or to be placed under review

Helliesen recommended WHV be added to the watch list for personnel changes. It was **M/S/C** to add WHV to the watch list for personnel changes. (Yes: Allen, Buck, Hast, Holcombe, Naramore, Phillips, Viramontes and Watts)

b. Consideration of any changes in allocations to managers

There were no changes in allocations to managers.

Cabral was present for subsequent discussion and voting.

8. Review of semi-annual rebalancing report

Price reported the semi-annual rebalancing was split into two phases to accommodate funding real assets. He reported that \$64 million was rebalanced from international and global equity to fixed income in early February. Assets were later moved from domestic equity and domestic REITs to fund real assets on February 25, 2013.

It was **M/S/C** to accept the Semi-Annual Rebalancing report. (Yes: Allen, Buck, Cabral, Hast, Holcombe, Naramore, Phillips, Viramontes and Watts).

Gioia was present for subsequent discussion and voting.

9. Consider and take possible action to change the March 13, 2013 Board meeting date

Viramontes reported a conflict with the March 13, 2013 Board meeting date due to conference attendance.

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It was *M/S/C* to change the March 13, 2013 to Thursday, March 14, 2013. (Yes: Allen, Buck, Cabral, Gioia, Hast, Naramore, Phillips, Viramontes and Watts).

10. Conference Seminar Attendance

- (a) It was *M/S/C* to authorize the attendance of 2 Board members and 1 staff member at the Client Conference, Angelo, Gordon & Co., April 10-11, 2013, New York, NY. (Allen, Buck, Cabral, Gioia, Hast, Naramore, Phillips, Viramontes and Watts).
- (b) It was *M/S/C* to authorize the attendance of 2 Board members at the Spring Conference, CRCEA, April 15-17, 2013, Long Beach, CA. (Yes: Allen, Buck, Cabral, Gioia, Hast, Naramore, Phillips, Viramontes and Watts).

12. Miscellaneous

- (a) Staff Report -

Leedom reported CCCERA's Accounting Division received the GFOA award for "Excellence in Financial Reporting" and the "Outstanding Achievement in Popular Financial Reporting" for the year ended December 31, 2011.

She attended the NIRS conference and was very impressed with the speakers and the content of the conference.

She will be providing additional information on the audio recording and storing of Board minutes at a future meeting.

She reported changes with the property manager assigned to The Willows Office Park, which is managed by Transwestern.

The Segal Company will present the results of a preliminary Five Year Projection of Employer Contribution Rate Changes at the March 27, 2013 meeting. They will also provide an educational presentation on actuarial funding policies.

Schneider gave an update on the pensionable compensation analysis, noting he received the MOU's from the County. He and Levy are working towards providing the results of the review to the Board as soon as possible.

Price gave an update on Public Real Assets, noting we are currently funding the new mandates and will provide a full report at the next meeting.

He met with DBL to discuss internal accounting errors, solutions and the use of external accountants. He noted that DBL will review their tax and audit providers once the 2012 books have been closed. He noted both funds are performing well.

Price reported the on-site visit to INTECH is scheduled for March 8, 2013 at Princeton.

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Pathway will be presenting their follow-on private equity fund of funds opportunities at an upcoming meeting.

Price noted that Robeco was sold by Rabobank to Orix, a Japanese insurance company. The legal structure and governance are unchanged. There is no current recommendation to put them on the Watch List.

(b) Outside Professionals' Report -

Helliesen gave an update on the Private Real Assets RFP. He will be presenting the results at a future meeting.

(c) Trustees' Comments -

Viramontes reported on the recent onsite to WHV, including the changes to the WHV board, investment committee and investment products.

Allen reported she attended the NCPERS Legislative Conference and felt it was very informative. She will email a summary to all the Board members.

CLOSED SESSION

The Board moved into closed session pursuant to Govt. Code Section 54956.9(a) (two cases).

The Board moved into open session.

Gioia was not present for subsequent discussion and voting.

6a. There was no reportable action related to Govt. Code Section 54956.9(a).

Gioia was present for subsequent discussion and voting.

6b. There was no reportable action related to Govt. Code Section 54956.9(a).

It was **M/S/C** to adjourn the meeting. (Yes: Allen, Buck, Cabral, Gioia, Hast, Naramore, Phillips, Viramontes and Watts)

Maria Theresa Viramontes, Chairman

John Phillips, Secretary

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Meeting Date
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March 14, 2013

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The Board of Retirement met in regular session at 9:00 a.m. on Thursday, March 14, 2013 in the Conference Room of the Contra Costa County Employees' Retirement Association, 1355 Willow Way, Suite 221, Concord, CA.

Present: Debora Allen, Terry Buck, Richard Cabral, Jerry Holcombe, John Phillips, Gabe Rodrigues, Jerry Telles, Maria Theresa Viramontes and Russell Watts

Absent: John Gioia, Brian Hast and Sharon Naramore

Staff: Marilyn Leedom, Retirement Chief Executive Officer; Kurt Schneider, Retirement Deputy Chief Executive Officer; Timothy Price, Retirement Chief Investment Officer; Karen Levy, General Counsel; and Vickie Kaplan, Retirement Accounting Manager

Outside Professional Support:	Representing:
Harvey Leiderman	Reed Smith LLP
Bob Helliessen	Milliman
Marty Dirks	Milliman
Jeff Youngman	Milliman

Other Attendees:

Luz Casas	Contra Costa County Employees' Retirement Association (CCCERA) Staff
Chih-Chi Chu	CCCERA Staff
Karen Davis	CCCERA Staff
Christina Dunn	CCCERA Staff
Tracy Kroll	CCCERA Staff
Mario Martinez	CCCERA Staff
Justine Rossini	CCCERA Staff
Todd Smithey	Central Contra Costa Sanitary District
Peter Cheung	Paladin
Barbara Bogans	Retiree
Vincent Dee	Pathway Capital
Jim Reinhardt	Pathway Capital
Jason Jenkins	Pathway Capital

1. Pledge of Allegiance

Viramontes led all in the *Pledge of Allegiance*.

2. Recognition of Mario Martinez for 10 years of service

Viramontes recognized and congratulated Mario Martinez for his 10 years of service.

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3. Public Comment

No members of the public offered comment.

4. Approval of Minutes

It was **M/S/C** to approve the minutes of the February 13, 2013 Board meeting. (Yes: Buck, Holcombe, Phillips, Rodrigues, Telles, Viramontes and Watts)

5. Routine Items

It was **M/S/C** to approve the routine items of the March 14, 2013 meeting. (Yes: Buck, Holcombe, Phillips, Rodrigues, Telles, Viramontes and Watts)

Allen was present for subsequent discussion and voting.

CLOSED SESSION

The Board moved into closed session pursuant to Govt. Code Section 54957 and 54956.9(a).

The Board moved into open session.

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

- a. James Laatsch - Service Connected (Yes: Allen, Holcombe, Phillips, Rodrigues, Telles, Viramontes and Watts. Abs. Buck).
- b. Brian Parrish - Service Connected (Yes: Allen, Holcombe, Phillips, Rodrigues, Telles, Viramontes and Watts. Abs. Buck).

7. It was **M/S/C** to accept the Hearing Officer's recommendation and approve the non-service connected disability retirement for Barbara Bogans. (Yes: Allen, Buck, Holcombe, Phillips, Rodrigues, Telles, Viramontes and Watts).

8a. There was no reportable action related to Govt. Code Section 54956.9(a).

8b. There was no reportable action related to Govt. Code Section 54956.9(a).

9. **Presentation from Pathway Private Equity Fund Investors 7 (PPEF 7).** Jim Reinhardt, Vincent Dee, Jason Jenkins

Reinhardt gave an overview of the firm, noting the firm was established in 1991 and has \$25.6 billion in assets currently under Management. He stated they are global investors, invest only in private equities

and are 100% employee owned. They have 107 employees in 5 different locations. He reported there are currently 17 partners and their team is very stable. He also reviewed the working relationship of the partners.

He gave an overview of CCCERA's portfolio, noting there is a total of \$195 million committed between three funds with Pathway.

Dee highlighted Private Equity Fund I (PPEF I) noting the Fund: 1) is fully committed; 2) is outperforming both industry and public market benchmarks over the long term; 3) had record distributions of \$18.8 million in 2012 which exceeded contributions by \$8.3 million; and 4) has significant value remaining across the portfolio with distribution activity expected to remain strong.

Cabral was present for subsequent discussion and voting.

Dee reviewed CCCERA's investment performance including net returns in excess of fees. He also highlighted significant events within the PPEF I portfolio.

Jenkins highlighted Private Equity Fund 2008 (PPEF 2008) noting: 1) CCCERA committed \$30 million in the third quarter of 2009; 2) the portfolio consists of 29 private equity partnerships with more than 400 underlying portfolio companies; 3) the portfolio is exhibiting strong positive momentum even though it is young; and 4) \$64 million has been contributed in the last four months. Jenkins reviewed performance by vintage year noting the portfolio is performing well. He also highlighted significant events within the PPEF 2008 portfolio.

Reinhart highlighted Private Equity Fund Investors 6 (PPEF 6), noting CCCERA committed \$40 million in the second quarter of 2011. He stated through February 2013, PPEF 6 has committed \$140 million across 16 partnerships.

He gave an overview of Private Equity Fund Investors 7 (PPEF 7), noting the fund is nearly identical in characteristics to PPEF 6 but has a slight change in focus. The target size is \$300 million with an expected commitment period of 3-4 years. He reported \$172 million has already closed and they hope to have the final close in April 2013. Fees were also discussed.

10. Commitment to Pathway Private Fund Investors 7 (PPEF 7).

Price reported CCCERA has a long, successful relationship with Pathway. He noted the proposed \$70 million commitment to PPEF 7 will move us towards the 10% target allocation to Alternatives.

The Board discussed the amount of the contribution as a percentage of the target size of PPEF 7 noting the size of the product. The Board also requested Price redistribute to the Board his December 2012 memo outlining the three year investment roadmap to increase CCCERA's alternative investments to the target of 10% of Total Fund assets.

It was *M/S/C* to make a capital commitment of \$70 million to Pathway Private Equity Fund Investors 7 (PPEF 7), subject to successful due diligence, legal review and to authorize the CEO to sign the contracts. (Yes: Allen, Buck, Cabral, Holcombe, Phillips, Rodrigues, Telles, Viramontes and Watts)

11. Cash flow report for July through December 2012

Kaplan presented the Cash Flow report for July through December 2012 noting employee contributions increased by 19% and purchases decreased by almost \$4 million. She reported interest and dividends were up 11% and retiree payroll is up 9%. She also reviewed investment and consultant fees. The Board requested a column be added to the next cash flow report showing the percentage increases/decreases of each category.

It was *M/S/C* to accept the cash flow report for July through December 2012. (Yes: Allen, Buck, Cabral, Holcombe, Phillips, Rodrigues, Telles, Viramontes and Watts)

12. Paperless distribution of Board meeting documents

Leedom reported staff has been researching options for paperless distribution of Board documents and recommends contracting with BoardDocs as the paperless Board document management solution.

She reported BoardDocs is a cloud-based Governance Document Management Service developed specifically for governing bodies. It provides a paperless solution for agendas, backup documentation, policies, and financials, and also allows the storage of audio files created during Board meetings. There would be a link from the CCCERA website to BoardDocs. The program is very detailed but simple to use. It was noted that only public documents would be provided on BoardDocs.

After Board discussion on tools used by other retirement systems and the possible cost savings per year, it was *M/S/C* to authorize staff to contract with BoardDocs. (Yes: Allen, Buck, Cabral, Holcombe, Phillips, Rodrigues, Telles, Viramontes and Watts).

13. iPad Usage Policy

Levy gave an overview of the iPad Usage Policy. The Board had a lengthy discussion on ownership of the iPads, use of the iPads and the responsibility for damages or loss to the iPads.

Telles was not present for subsequent discussion and voting.

Watts was not present for subsequent discussion and voting.

The Board discussed the option of reimbursing Board members and senior staff for purchasing their own electronic device. The Board requested staff bring back a proposed reimbursement policy.

14. Conference Seminar Attendance

- a. It was **M/S/C** to authorize the attendance of 3 Board members and 1 staff member at the Investors Meeting, Energy Investors Funds, May 1-3, 2013, Palm Beach, FL (Yes: Allen, Buck, Cabral, Holcombe, Phillips, Rodrigues and Viramontes)
- b. It was **M/S/C** to authorize the attendance of 2 Board members and 2 staff at the Client Conference, DLJ Real Estate, April 30-May 1, 2013, New York, NY. (Yes: Allen, Buck, Cabral, Holcombe, Phillips, Rodrigues and Viramontes)
- c. It was **M/S/C** to authorize the attendance of 4 Board members and 2 staff at the Client Conference, Adams Street Partners, June 4-5, 2013, Chicago, IL (Yes: Allen, Buck, Cabral, Holcombe, Phillips, Rodrigues and Viramontes)
- d. It was **M/S/C** to authorize the attendance of all Board members and appropriate staff at the Spring Conference, SACRS, May 13-17, 2013, Napa, CA (Yes: Allen, Buck, Cabral, Holcombe, Phillips, Rodrigues and Viramontes)

15. Miscellaneous

(a) Staff Report -

Leedom reported she and Schneider met with the Willows Office Park leasing agents noting the building is at a 92% occupancy rate.

She received a public records request from the Contra Costa Times for all Board conference and seminar travel for the past 3 years.

She is completing a public records request from Jennifer Gollan for disability information on safety members.

Leedom reported the on-site visit to INTECH was postponed due to bad weather and has been rescheduled for March 18th.

She reported Schneider, Kroll and Byrnes are working on a disability presentation for the Board.

Price reported Milliman is working on the Private Real Asset search.

He reported Institutional Shareholder Services will be presenting at the March 27th meeting on proxy voting.

Schneider reported pay code items are still being reviewed and should be completed in a couple of weeks.

He reported there were 172 retirements in December which is higher than a typical December.

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

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March 14, 2013

(b) Outside Professionals' Report -

None

(c) Trustees' Comments -

Cabral reported he and Hast attended the Klausner and Kaufman conference and thought it was a great conference.

He asked if the Board could put out a statement to active members on the status of the DSA lawsuit. Leedom stated it could be included in a future March newsletter.

Allen reported she was troubled that she was contacted on her personal cell phone by a reporter.

It was *M/S/C* to adjourn the meeting. (Yes: Allen, Buck, Cabral, Holcombe, Phillips, Rodrigues and Viramontes)

Maria Theresa Viramontes, Chairman

John B. Phillips, Secretary

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

Meeting Date 04/10/13 Agenda Item #4

BOARD OF RETIREMENT

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April 10, 2013

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>Group</u>	<u>Selected</u>
Arigoni, Esther	67126	02/01/13	SR	III	Unmod
Bartlett, Bonnie	49795	12/21/12	SR	II & III	Unmod
Beyer, Carmen	63224	01/31/13	SR	III	Unmod
Bradley, Scott	D7830	02/08/13	SR	SA	Unmod
Brietzke, Christine	39229	12/28/12	SR	II & III	Unmod
Campbell, Robert	D9500	01/20/13	SR	III	Unmod
Chu, Nerissa	64874	12/29/12	SR	II & III	Unmod
Crane, Charles	35766	12/28/12	SR	I, II & III	Unmod
Dacoron, Nenita	43193	12/29/13	SR	II & III	Unmod
DeLeon, Hermie	48046	12/15/12	SR	II & III	Unmod
Drazich, Janice	66622	12/29/12	SR	III	Option 2
Ebbert, Nancy	47840	12/31/12	SR	III	Option 2
Ellinger, Raymond	62947	12/29/12	SR	II & III	Unmod
Farey, Krista	45612	12/31/12	SR	II & III	Unmod
Ferris, Kathleen	44536	12/27/12	SR	II & III	Unmod
Genet, Joanne	54284	12/28/12	SR	II & III	Unmod
Giles, Christine	55526	12/31/12	SR	III	Unmod
Gordovez, Rosario	39516	12/29/12	SR	II & III	Unmod
Haynes, Roberta	43737	01/04/13	SR	SA & II	Unmod
Hinman, Priscilla	50193	12/28/12	SR	III	Unmod
Hobson, Leslie	19884	12/29/12	SR	I	Unmod
Igbinador, Teresa	42892	12/29/12	SR	II & III	Option 1
Jahner, Pamela	39277	01/31/13	SR	II & III	Unmod
Kal, Deborah	76073	10/01/12	SR	III	Unmod
Kim, Eun	66977	02/28/13	SR	III	Unmod
Kinney, Harry	66415	01/11/13	SCD	SA	Unmod
Landrito, Bernadette	47406	12/30/12	SR	III	Unmod
Laval, Yasmin	54174	12/29/12	SR	III	Unmod
Lilian, Nancy	43181	02/01/13	SR	II & III	Unmod
Lirio, Teresita	67116	02/01/13	SR	III	Unmod
Lloyd, Phyllis	33089	12/29/12	SR	I	Unmod
Maldonado, Suzanne	34200	12/27/12	SR	II & III	Option 1
Malmgren, Marcia	36154	12/29/12	SR	II & III	Unmod
Manglinong, Prescilla	48728	12/29/12	SR	III	Option 4

KEY:

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

Option
 * = County Advance
 Selected w/option

Type
 NSP = Non-Specified
 SCD = Service Disability
 SR = Service Retirement
 NSD = Non-Service Disability

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

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April 10, 2013

Maurer, John	65406	01/01/13	SR	III	Unmod
McCoy, Michael	45119	02/01/13	SR	II	Unmod
Mlack, Cyndi	D9500	12/29/12	SR	II & III	Unmod
Morris, Kelly	62379	01/09/13	SR	III	Option 2
Murphy, Mary	42878	12/29/12	SR	II & III	Option 3
Neuman, Raymond	32515	12/26/12	SR	II & III	Unmod
Owens, Sharyn	50949	12/29/12	SR	III	Unmod
Perez-Garcia, Maria	51017	12/29/12	SR	III	Unmod
Piper, Robert	36124	01/22/13	SR	SA	Unmod
Raymond, Carol	48145	12/28/12	SR	II & III	Unmod
Redd, Sandra	D9500	12/31/12	SR	III	Unmod
Rivera, Alfredo	44734	12/29/12	SR	II & III	Unmod
Saldivar, Carmen	52925	02/17/12	SR	II & III	Unmod
Simmons, Robert	D3483	02/01/13	SR	I	Option 2
Smith, Craig	37094	12/31/12	SR	II & III	Unmod
Trapp, Gordon	D3406	02/18/10	SR	I	Option 2
Trapp, Gordon	D3406	02/18/10	SCD	I	Unmod
Tse, Annie	60817	12/29/12	SR	III	Unmod
Tucker-Watt, Carol-Anne	43225	12/30/12	SR	III	Unmod
Villalobos, David	47934	12/29/12	SR	SA	Unmod
Weary, Pamela	54137	01/14/13	SR	II & III	Unmod
Whitford, Cindy	37507	12/29/12	SR	II & III	Unmod
Willis, Lloyd	46675	02/28/13	SR	II & III	Unmod
Willoit, John	55992	12/28/12	SR	III	Unmod
Wilmot, Jon	41616	12/13/12	SR	SA	Unmod
Yeung, Robert	42704	12/29/12	SR	II & III	Unmod
Zambrano, Rosemarie	38316	12/29/12	SR	II & III	Unmod

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>
Olveda, Graciela	32712	03/28/13	SCD

Deaths:

<u>Name</u>	<u>Date of Death</u>	<u>Employer</u>
Arnold, Genita	03/04/13	Contra Costa County
Austin, Jeanette	03/28/13	Contra Costa County
Berry, Tracy	03/18/13	Contra Costa County
Buderi, Emma	02/03/13	Contra Costa County
Delgado, Genevive	03/19/13	Beneficiary

KEY:

Group
 I = Tier I
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Option
 * = County Advance
 Selected w/option

Type
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CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

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April 10, 2013

Foster Jeanette	03/05/13	Contra Costa County
Johnson, George	03/12/13	Contra Costa County
Johnston, Inez	03/14/13	Contra Costa County
Louie, Barbara	03/14/13	Contra Costa County
Machado, Joseph	03/09/13	Contra Costa County
Meek, Butonne	01/31/13	Beneficiary
Rodrigues, Tony	03/04/13	Diablo Water District
St. John, Marshall	02/27/13	Contra Costa County
Wurzel, Lillian	03/06/13	Contra Costa County

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Option
* = County Advance
Selected w/option

Type
NSP = Non-Specified
SCD = Service Disability
SR = Service Retirement
NSD = Non-Service Disability

ASSET ALLOCATION

Current Assets (Market Value)

\$5,860,759,000

Reporting Month End: February 28, 2013

Prepared By: Chih-Chi Chu

Meeting Date
04/10/13
Agenda Item
#4

Robeco	
Delaware Investment Adv.	
Emerald Advisors	
Intech (Core)	
PIMCO Stock +	
Cere dex	
WHV Investment Management	
Total Domestic Equity	
GMO	
William Blair	
Total International Equity	
JPMorgan Global Opportunities	
First Eagle	
Artisan Global Opportunities	
Intech (Global Low Volatility)	
Total Global Equity	
Total Equity	
ARL-CIO Housing Investment Trust	
PIMCO	
GSAM "Park" Portfolio	
Goldman Sachs Asset Management	
Lord Abbett	
Torchlight Debt Opportunity Fund II	
Torchlight Debt Opportunity Fund III	
Torchlight Debt Opportunity Fund IV	
Total Domestic Fixed Income	
Lazard Asset Management	
Total Global Fixed Income	
Allianz Global Investors (Ika Nicholas Applegate)	
Total High Yield Fixed Income	
Wellington Real Total Return	
PIMCO All Asset	
Total Real Asset	
Total Real Estate	
Total Alternative Investments	
County Treasurer	
State Street Bank	
Total Cash & Equivalents	
Goldman Sachs Credit Opportunities	
Oaktree 2009	
Total Market Opportunities	
TOTAL ASSETS	

A	B	C	D	C-B	D-A	Range
% of Target	Target Assets	Market Value	Actual Assets	Over (Under)	Over (Under)	
4.5%	263,734,155	271,938,000	4.64%	8,203,845	0.14%	
4.5%	263,734,155	267,481,000	4.56%	3,746,845	0.06%	
3.0%	175,822,770	182,925,000	3.12%	7,102,230	0.12%	
2.8%	164,101,252	160,682,000	2.74%	(3,419,252)	(0.06%)	
2.9%	169,962,011	171,268,000	2.92%	1,305,989	0.02%	
3.0%	175,822,770	180,786,000	3.08%	4,963,230	0.08%	
3.0%	175,822,770	178,325,000	3.04%	2,502,230	0.04%	
23.7%	1,388,999,883	1,413,405,000	24.12%	24,405,117	0.42%	
5.3%	310,620,227	302,803,000	5.17%	(7,817,227)	(0.13%)	
5.3%	310,620,227	316,256,000	5.40%	5,635,773	0.10%	
10.6%	621,240,454	619,059,000	10.56%	(2,181,454)	(0.04%)	
4.0%	234,430,360	233,983,000	3.99%	(447,360)	(0.01%)	
4.0%	234,430,360	239,122,000	4.08%	4,691,640	0.08%	
4.0%	234,430,360	244,183,000	4.17%	9,752,640	0.17%	
0.3%	17,582,277	19,012,000	0.32%	1,429,723	0.02%	
12.3%	720,873,357	736,300,000	12.56%	15,426,643	0.26%	
46.6%	2,731,113,694	2,768,764,000	47.24%	37,650,306	0.64%	40% TO 55%
3.2%	187,544,288	181,286,000	3.09%	(6,258,288)	(0.11%)	
5.0%	293,037,950	307,244,000	5.24%	14,206,050	0.24%	
0.0%	0	8,371,000	0.14%	8,371,000	0.14%	
3.7%	216,848,083	239,818,000	4.09%	22,969,917	0.39%	
4.2%	246,151,878	240,844,000	4.11%	(5,307,878)	(0.09%)	
1.0%	58,607,590	64,920,000	1.11%	6,312,410	0.11%	
1.4%	82,050,626	62,455,000	1.07%	(19,595,626)	(0.33%)	
1.1%	64,468,349	17,962,000	0.31%	(46,506,349)	(0.79%)	
19.6%	1,148,708,764	1,122,900,000	19.16%	(25,808,764)	(0.44%)	
4.0%	234,430,360	223,041,000	3.81%	(11,389,360)	(0.19%)	
23.6%	1,383,139,124	1,345,941,000	22.97%	(37,198,124)	(0.63%)	20% TO 30%
5.0%	293,037,950	289,760,000	4.94%	(3,277,950)	(0.06%)	
5.0%	293,037,950	289,760,000	4.94%	(3,277,950)	(0.06%)	2% TO 9%
3.2%	187,544,288	186,222,000	3.18%	(1,322,288)	(0.02%)	
1.8%	105,493,662	100,552,000	1.72%	(4,941,662)	(0.08%)	
5.0%	293,037,950	286,774,000	4.89%	(6,263,950)	(0.11%)	0% TO 10%
12.5%	732,594,875	732,141,000	12.49%	(453,875)	(0.01%)	10% TO 16%
6.0%	351,645,540	375,805,000	6.41%	24,159,460	0.41%	5% TO 12%
		20,712,000	0.00%			
		20,712,000	0.35%			
0.5%	29,303,795	20,712,000	0.35%	(8,591,795)	(0.15%)	0% TO 1%
0.0%	0	1,525,000	0.03%	1,525,000	0.03%	
0.8%	46,886,072	39,337,000	0.67%	(7,549,072)	(0.13%)	
0.8%	46,886,072	40,862,000	0.70%	(6,024,072)	(0.10%)	0% TO 5%
100.00%	5,860,759,000	5,860,759,000	100%	0	0%	

UNDER REVIEW:

Long Wharf - Performance, Organization, Board Action 05/23/12

Invesco IREF - Performance, Board Action 02/24/10

GMO - Performance, Board Action 08/29/12

Nogales Investors - Performance, Board Action 05/28/08

INTECH (both Core and Global Low Vol.) - Organization, Board Action 12/12/12

Real Estate & Alternative Investments
As of February 28, 2013

REAL ESTATE INVESTMENTS	Inception Date	Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
DLJ Real Estate Capital Partners, L.P. II	04/00/99	7/14/2009	40,000,000	3,701,000	0.06%	
DLJ Real Estate Capital Partners, L.P. III	06/01/05	1/1/2014	75,000,000	38,956,000	0.66%	18,958,000
DLJ Real Estate Capital Partners, L.P. IV	12/26/07	1/1/2016	100,000,000	79,788,000	1.36%	19,476,000
Hearthstone Partners I	06/15/95	12/31/2003	3,750,000	117,000	0.00%	
Hearthstone Partners II	06/17/98	12/31/2009	6,250,000	(2,000)	0.00%	
Invesco IREF I	10/22/03	4/30/2011	50,000,000	27,349,000	0.47%	
Invesco IREF II	05/30/07	12/31/2015	85,000,000	77,913,000	1.33%	
Long Wharf FREG II	02/26/04	2/26/2012	50,000,000	12,951,000	0.22%	
Long Wharf FREG III	03/31/07	3/31/2015	75,000,000	51,791,000	0.88%	
Oaktree Real Estate Opportunities Fund V	12/15/11	12/31/2016	50,000,000	52,831,000	0.90%	27,768,000
Signler Gulf Distressed Real Estate Opportunities Fund	12/31/11	12/31/2016	75,000,000	46,342,000	0.79%	48,415,000
Angelo Gordon Realty Fund VIII	12/31/11	12/31/2018	80,000,000	27,443,000	0.47%	
LaSalle Income & Growth Fund VI	01/31/12	1/31/2019	75,000,000	0	0.00%	75,000,000
Adelante Capital Management (REIT)			0	222,430,000	3.80%	
INVESCO International REIT			0	82,531,000	1.41%	
Willows Office: \$10,774,100 ***			0	8,000,000	0.14%	
*** Purchase price \$10,600,000 plus acquisition cost and fees \$174,100.						
Outstanding Commitments			870,000,000	732,141,000	12.49%	189,617,000
Total				921,758,000		

ALTERNATIVE INVESTMENTS	Inception Date	Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
Adams Street Partners	12/22/95	INDEFINITE	180,000,000	90,771,000	1.55%	45,515,000
Adams Street Secondary II	12/31/08	12/31/2012	30,000,000	29,948,000	0.51%	13,852,000
Adams Street Secondary V	10/31/12	10/31/2016	40,000,000	2,600,000	0.04%	37,400,000
Pathway	11/09/98	11/9/2013	125,000,000	77,987,000	1.33%	18,249,000
Pathway 2008	07/31/09	12/31/2016	30,000,000	11,460,000	0.00%	19,057,000
Pathway 6	08/31/11	12/31/2018	40,000,000	3,146,000	0.00%	37,028,000
EIF USPF I	11/26/03	6/30/2011	30,000,000	1,848,000	0.03%	0
EIF USPF II	07/13/05	6/30/2015	50,000,000	40,564,000	0.69%	0
EIF USPF III	05/30/07	3/31/2017	65,000,000	46,636,000	0.80%	663,000
EIF USPF IV	08/31/10	9/1/2020	50,000,000	8,929,000	0.15%	39,494,000
Nogales Investment	02/15/04	2/15/2014	15,000,000	3,223,000	0.05%	1,651,000
Bay Area Equity Fund	06/14/04	12/31/2012	10,000,000	9,215,000	0.16%	0
Bay Area Equity Fund II	2/29/09	12/31/2017	10,000,000	5,217,000	0.09%	4,288,000
Paladin III	11/30/07	12/31/2017	25,000,000	13,166,000	0.22%	7,568,000
Carpenter Community BancFund	01/31/08	1/31/2016	30,000,000	31,095,000	0.53%	7,157,000
Outstanding Commitments			730,000,000	375,805,000	6.16%	231,922,000
Total				607,727,000		

Market value column is the latest ending quarter plus any additional capital calls after the ending quarter.
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.

Memorandum

MEETING DATE
APR 10 2013
AGENDA ITEM
#5

Date: April 10, 2013

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

From: Kurt Schneider, Retirement Deputy Chief Executive Officer
Karen Levy, General Counsel

Subject: Preliminary Results of Analysis of Whether Pay Items Meet The Statutory Requirements For "Pensionable Compensation" Under PEPRA
G.C. Section 7522.34 (eff. 1/1/13)

As directed by the CCCERA Board of Retirement, staff has compiled pay item information from all CCCERA participating employers and has conducted a preliminary analysis of whether each pay item meets the statutory requirements set forth in the California Public Employees' Pension Reform Act of 2013 ("PEPRA") to qualify as "pensionable compensation." Note that this analysis relates to the implementation of "pensionable compensation" under PEPRA for employees becoming new members on or after January 1, 2013. This memorandum does *not* address any changes to "legacy" or "classic" members of the CCCERA retirement system.¹

I. PEPRA Definition of "Pensionable Compensation"

In order to qualify as "pensionable compensation" under PEPRA, an item of compensation must meet the following four requirements as provided under Government Code Section 7522.34(a):

- (1) Pay must be part of the normal monthly rate of pay or base pay of the member.
- (2) Pay must be paid in cash to similarly situated members in the same grade or class of employment.
- (3) Pay must be for services rendered on a full-time basis during normal working hours.
- (4) Pay must be paid pursuant to publicly available pay schedules.

¹ Assembly Bill 197 contains amendments to what counts as compensation for retirement purposes for current members. CCCERA's implementation of AB 197 has been temporarily stayed pursuant to a court order entered on November 28, 2012 in the matter of *Contra Costa County Deputy Sheriffs Association, et al., v. CCCERA, et al.*, Contra Costa County Superior Court, Case No. N12-1870. The Court Order requires that CCCERA continue to follow its policy as to current, "classic" members, until after this matter is heard and decided.



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II. PEPRA Exclusions From “Pensionable Compensation”

PEPRA contains both *specific* and *general* exclusions from “Pensionable Compensation.”

The *specific* exclusions are items such as: termination or during-service payouts for unused vacation or sick leave; housing, automobile or uniform allowance; standby, on-call and call-back pay for services rendered outside of normal working hours; conversion of in-kind benefits into cash during the final compensation period; one-time or ad hoc payments, bonus payments, severance pay, and retirement incentive pay.

The *general* exclusions from “pensionable compensation” confer upon the CCCERA Board of Retirement broad authority to exclude any other form of compensation which the Board determines:

- Is paid to increase a member’s retirement benefit (G.C. § 7522.34(c)(1));
- Is “inconsistent” with the requirements of 7522.34(a) (which defines “pensionable compensation”) (G.C. § 7522.34(c)(11)); or
- Should not be pensionable compensation (G.C. § 7522.34(c)(12)).

For your convenience, we have included the complete list of PEPRA’s *specific* and *general* exclusions from “pensionable compensation” below:

- (1) *Any compensation determined by the retirement board to have been paid to increase a member’s retirement benefit under that system.*
- (2) *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. (E.g. automobile allowance paid to a member who previously was provided the use of an automobile.)*
- (3) *Any one-time or ad hoc payments made to a member.*
- (4) *Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.*
- (5) *Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.*
- (6) *Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise. (E.g., standby pay, on-call pay and call-back pay.)*
- (7) *Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.*
- (8) *Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code (FLSA time).*
- (9) *Employer contributions to deferred compensation or defined contribution plans.*



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- (10) *Any bonus paid in addition to the compensation described in Section 7522.34(a) (i.e., monthly rate of pay or base pay, etc.).*
- (11) *Any other form of compensation a public retirement board determines is inconsistent with the requirements of Section 7522.34(a) (i.e., monthly rate of pay or base pay, etc.).*
- (12) *Any other form of compensation a public retirement board determines should not be pensionable compensation.*

III. CCCERA’s Implementation of “Pensionable Compensation”

On December 11, 2012, the CCCERA Board took action to include only “base pay” in “pensionable compensation” for new PEPRA members, subject to staff monitoring developments in the law, and specifically, any clarification from CalPERS. On December 27, 2012, CalPERS published a circular letter to its participating employers, indicating that CalPERS intended to include certain “special compensation” pay items above base pay in calculating the pensionable compensation of its members under PEPRA, subject to regulations to be developed at a later time. In light of the Circular Letter, the CCCERA Board directed staff to analyze pay items from all employers and provide information to the board on whether the items meet the four requirements for “pensionable compensation” set forth in PEPRA and whether exclusions apply. As of the date of this writing, we understand that CalPERS continues to collect contributions on these pay items, but has yet to reach final conclusions or issue proposed regulations on these items.

IV. Methodology

CCCERA staff utilized the following methodology for each pay item:

Step 1: Does a *specific* exclusion apply to the pay item? If so, the item is not pensionable.

Step 2: Are each of the four requirements of “pensionable compensation” met?

- (i) Is the pay item part of the normal monthly rate of pay or base pay of the member? Is it paid on an ongoing and recurring basis? Is it permanent rather than temporary?
- (ii) Is the pay item paid in cash to similarly situated members in the same grade or class of employment? Is it required of all employees in the job classification rather than a select few? Is it required rather than voluntary? Is it pay for an essential skill or service of the job classification?
- (iii) Is the pay item paid for services rendered on a full-time basis during normal working hours?
- (iv) Is the pay item paid pursuant to publicly available pay schedules? While “publicly available pay schedule” is a term that is not defined under PEPRA, PERS has existing regulations that define “publicly available pay schedule” as a pay schedule that meets all of the following requirements:
 - (1) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
 - (2) Identifies the position title for every employee position;



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- (3) Shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
- (4) Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- (5) Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- (6) Indicates an effective date and date of any revisions;
- (7) Is retained by the employer and available for public inspection for not less than five years; and
- (8) Does not reference another document in lieu of disclosing the payrate.

(California Code of Regulations, Title 2 § 570.5.)

Step 3: Are there other *general* exclusions that might be applicable to the pay item? Is it paid to increase a member's retirement benefit? Is it "inconsistent" with the requirements of 7522.34(a) (which defines "pensionable compensation")? Is it pay that "should not be pensionable compensation"?

V. Results

Accompanying this Memorandum are the results the information collected regarding each pay item for each of CCCERA's participating employers. The information is contained in spreadsheets prepared by CCCERA for each employer pay item, based on documentation provided by employers to CCCERA such as: publicly available salary schedules, excerpts from memoranda of understanding ("MOUs"), employment contracts or resolutions addressing pay items and the circumstances under which they are agreed to be paid, and other records relevant to the analysis. As requested by the Board, for each pay item we have included whether it meets the four requirements set forth in Section 7522.34(a), and whether exclusions apply.

Here is the summary of the pay item analysis, *if* CCCERA were to adopt a "base pay plus" standard:

- Regular base pay is included in employers' pay schedules and included in pensionable compensation
- As to "special" compensation pay items (differentials) above base pay:
 - i. Longevity and bilingual pay do not appear to be pensionable compensation because they are not included in the publicly available pay schedules.
 - ii. Certain pay differentials appear to be permanent pay raises for everyone in the same job classification. However, they do not appear to be pensionable compensation because they are not included in the publicly available pay schedules. (Examples: D37, F77)
 - iii. Special education pay differentials do not appear to be pensionable compensation because they are either:



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1. Temporary, rather than ongoing and recurring monthly rate of pay,
or
 2. Not paid to everyone in the same job classification; not required of
everyone in the same job classification; rather, they are voluntary
- iv. Special shift (e.g. graveyard) and special location (e.g. certain facility) pay
differentials do not appear to be pensionable compensation because they
are either:
1. Temporary, rather than ongoing and recurring monthly rate of pay,
or
 2. Not paid to everyone in the same job classification; not required of
everyone in the same job classification; rather, they are voluntary

VI. Next Steps/Issues to Consider

If the Board determines that it wishes to reconsider whether “pensionable compensation” under PEPRA includes items of compensation above base pay, we would recommend that the Board review the accompanying spreadsheets and develop a formal policy for the inclusion or exclusion of all elements of pay currently in use by CCCERA’s participating employers; and also develop a methodology for assessing and determining additional elements of pay that may come into usage in the future.

Setting a policy at this time will enable CCCERA’s participating employers to know which pay differentials above base pay to collect retirement contributions on; it will also enable CCCERA’s staff to put the systems in place necessary to properly calculate future retirement allowances. The Retirement Board will always reserve the authority to reconsider its treatment of these elements of pay under future circumstances, in light of changes in the law and other events that may occur.



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Pensionable Compensation
Under Government Code Section 7522.34

Pay Code	Pay Code Name	GC 7522.34(a)				Comments
		(i)	(ii)	(iii)	(iv)	
REG	Regular Pay	Yes	Yes	Yes	Yes	This pay represents the monthly salary rate published in the County's salary schedule found at: http://www.cccounty.us/DocumentCenter/Home/View/1392 Thus, this pay code would be classified as INCLUDED in pensionable compensation.
B14	Bonus RN/CN Weekend Shift Pay	No	No	No	No	Excluded payment for compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "the normal monthly rate of pay or base pay" (i.e. pay is not necessarily ongoing and recurring), as well as NOT "paid to similarly situated members of the same grade or class of employment" (i.e. not required of all employees in the same job classification). Additionally, pay would be excluded to the extent it is for services rendered outside of normal working hours. Thus, these pay codes would be classified as EXCLUDED from pensionable compensation.
B15	Bonus Weekend Shift Pay					
B25	Bonus Weekend Shift \$25					
B31	Bonus FNP Weekend Assignment					
B34	Bonus Emerg Room Assignment					
B83	Bonus Weekend Clinics					
B84	Bonus Sat/Sun Assignment Pay					
AC3	Education Allow Annual 2.5%	No	No	Yes	No	Excluded payment for compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "the normal monthly rate of pay or base pay" (i.e. pay is not necessarily ongoing and recurring), as well as NOT "paid to similarly situated members of the same grade or class of employment" (i.e. not required of all employees in the same job classification). Thus, these pay codes would be classified as EXCLUDED from pensionable compensation.
B60	Bonus RN Special Assignment					
B73	Bonus ISW Cook Relief					
B95	Bonus Hazard Matl Response TM					
B96	Bonus Lead Counselor Duties					
B97	Bonus Inst Serv Wkr Relief Pay					
C28	Certificate Hazardous Materials					
D03	Differential BOMI Certificate					
D04	Differential RPA Sr Memb Cert					
D09	Differential Assessor Educ Ach					
D10	Differential Appr Standard Div					
D18	Differential Unit Leader 5%					
D20	Differential Weekend Rounds					
D22	Differential M S W II Lead					
D27	Differential Investigative Dut					
D29	Differential DSA Training 5%					
D40	Differential Recordble Docs Tech					
D43	Differential Charge Pay					
D44	Differential Charge Nurse					
D48	Differential Special Proj 5%					
D49	Differential Special Proj 10%					
D50	Differential Building Supv Pay					
D51	Differential Spec Procd \$500/					
D52	Differential Special Procedure					
D53	Differential Comp Ops Supv					
D54	Differential DA Office Mnger					
D58	Differential Search Wrt Occurs					
D61	Differential Police Svcs 10%					
D65	Differential Police Mgr 4.5%					
D66	Differential Police Manager 3%					
D68	Differential Police Manager 6%					
D69	Differential Police Manager 9%					
D72	Differential Police Mgr 15%					
D62	Differential FACS					
D67	Differential Hospital PSO					
D76	Differential EHSD Spec Proj					
D84	Differential Heavy Equip Op/In					
D85	Differential Bldg Management					
D86	Differential Mgmt Struct Eng					
D87	CNA Code Grey Team Assgn 10%					
D88	CNA Code Grey Team Assgn 5%					
D91	Differential Stat /Code Gr 10%					
D92	Differential Stat/Code Gry 5%					
E18	Differential MH Unit Leader					
E25	Differential Sterile Process					

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Only applies to PEPPA "New Members" who become members of CCCERA on or after January 1, 2013

Pensionable Compensation
Under Government Code Section 7522.34

Pay Code	Pay Code Name	GC 7522.34(a)				Comments
		(i)	(ii)	(iii)	(iv)	
E29	Differential Training Assignmt					
E31	Differential Prob WorkTraining					
E41	Differential HM Prog Coord					
E42	Differential HM Program Leader					
E70	Differential Tower Climbing					
E72	Differential Hazard Mat					
E76	Differential Supv Tele/Tele	No	No	Yes	No	(Continued) Excluded payment for compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "the normal monthly rate of pay or base pay" (i.e. pay is not necessarily ongoing and recurring), as well as NOT "paid to similarly situated members of the same grade or class of employment" (i.e. not required of all employees in the same job classification). Thus, these pay codes would be classified as EXCLUDED from pensionable compensation.
E78	Differential Code Gray Prem					
E80	Differential CNA Det Assignm					
E82	Differential CNA Emergency					
E85	Differential CNA Detent Fac'ty					
F05	Fire Mgmt Educ Incentive					
F06	Fire Mgmt Educ Incentive					
F07	Fire Mgmt Educ Incent Conting					
F27	Fire Differential ALSEC Param					
F33	Fire EMT Diff Rodeo Fire Only					
F35	Paramedic Differential Rodeo					
F47	Rodeo Fire Acting Pay					
HZ2	Hazard Duty Pay					
HZ5	Detention Division Diff NonSw					
HZD	CNA Detent Facility Assign					
HZE	CNA Emergency Dept Diff					
HZS	Detent Facility Clerical Supvr					
HZX	Detent Facilities Differential					
M19	CALWORKS Differential					
M43	In Lieu of Def Comp Bene-Elect					
M48	Performance Stipend					
M49	Annual Registrar Stipend					
REP	Additional Pay - Elections					
RSD	DSA School Security Detail					
RSF	Additional Pay County Fair					
SH2	Shift Pay @ 5%					
SH3	Shift Pay @ 7.5%					
SNS	Shift Pay - Night					
SH4	Shift Pay @ 10%					
SH5	Shift Pay @ 12%					
SH7	Shift Pay @ 15%					
SHC	Shift Loc 1 Double Premium					
SHD	Shift CNA Double Premium					
SHG	Shift Clerical Grave Yard Pay					
SWE	Differential Even Watch Shift					
SWM	Differential Morn Watch Shift					
D30	Differential DSA NonSworn Trng					
F78	Fire Temp Training Diff 40hr					
D39	Differential In House OB GYN					
D98	Differential Physican FallBack					
DK9	Differential K9 Premium					
E09	Differential Canine Team					
AC1	POST Cert Allow 2.5%	Yes	No	Yes	No	This pay is for certificates or assignments beyond the minimum requirements of the class. As such, it would be excluded as compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "paid to similarly situated members of the same grade or class of employment" (i.e. not required of all employees in the same job classification and not an essential part of the job function). Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
AC2	POST Cert Allow 5%					
C11	Certificate Agriculture Commn					
C12	Certificate Weights/Measurers					
C15	Certificate Prof Dev Tr/TaxCol					
C25	Certificate Ca Prof Engineer					
C39	Certificate Prof Accounting					
C73	Cert Elect/Regist Admin Diff					
E71	Differential GS Driver Clerk					

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Only applies to PEPPRA "New Members" who become members of CCCERA on or after January 1, 2013

Pensionable Compensation
Under Government Code Section 7522.34

Pay Code	Pay Code Name	GC 7522.34(a)				Comments
		(i)	(ii)	(iii)	(iv)	
M51	RDA Meeting Stipend	No	No	Yes	No	Excluded payment for compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "the normal monthly rate of pay or base pay" (i.e. only paid when meetings are attended), as well as NOT "paid to similarly situated members of the same grade or class of employment" (i.e. not required of employees in the same job classification). Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
M52	Assessmt Appeals Brd Stipend					
M55	LAFCO Meeting Stipend					
M58	Retirement Board Stipend					
M56	FCWCD Meetings Stipend	No	Yes	Yes	No	Excluded payment for compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "the normal monthly rate of pay or base pay" (i.e. only paid when meetings are attended). Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
VTW	Voluntary Temporary Waiver	Yes	Yes	No	No	This is a reduction in salary and therefore a reduction in pensionable compensation.
D37	Differential Word Processing	Yes	Yes	Yes	No	Excluded payments, since it does not appear on the County's publicly available salary schedule. Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
F77	Fire Traing/Prevnt Captains					
F20	Fire Scheduled FLSA Pay	Yes	Yes	Yes	No	Excluded payments, since it does not appear on the County's publicly available salary schedule. Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
F21	Fire Sched FLSA - Additional					
F22	Fire Dispatchers Schd FLSA Pay					
F29	Fire Schedule FLSA Adjustment					
D73	Differential Longevity Law Enf	Yes	Yes	Yes	No	Excluded payments, since it does not appear on the County's publicly available salary schedule. Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
D74	Diff Longevity Law Enf 7%					
F08	Fire Mgmt Longevity Pay					
F18	Fire Mgmt Longevity 15 years					
F34	Rodeo Fire Longevity					
L04	Longevity Pay @ 2.00%					
L05	Longevity Pay @ 2.5%					
L06	Longevity Pay @ 5%					
L07	Longevity Pay @ 7.00%					
L08	Longevity/Mgmt Inc Exempt @ 5%					
L09	Longevity Exempt @ 7.5 %					
L10	Longevity Pay @ 4.50%					
L11	Longevity Pay @ 6.50%					
L15	Longevity CNA 7 years					
L16	Longevity CNA 10 years					
L17	Longevity CNA 15 years					
L18	Longevity CNA 20 Years					
L25	Longevity Nurs Mgmt 7 yrs					
L26	Longevity Nurs Mgmt 10 yrs					
L27	Longevity Nurs Mgmt 15 yrs					
L28	Longevity Nurs Mgmt 20 yrs					
M57	Bi-Lingual Pay	Yes	Yes	Yes	No	Excluded payments, since it does not appear on the County's publicly available salary schedule. Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
M65	Bilingual Pay					
M80	Bi Lingual Pay \$80					
M85	Bi-Lingual Pay Safety					
HP1	Holiday Pay 1	Yes	Yes	Yes	No	Excluded payments, since it does not appear on the County's publicly available salary schedule. Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
HP2	Holiday Pay @ 1.50					
HP3	Holiday Pay @ 1.00					
HCE	Holiday Comp Excess Hours Pay					EXCLUDED payments for unused leave under 7522.34(c)(5).
HPR	Holiday Comp Hrs Pay Off - Ret					
PHP	Personal Holiday Hrs Pay Off					
PLP	PersHoliday Pay Off - L 2.5%					
PP1	Pers Hol Pay Off L 10%					
PP3	Pers Hol Pay Off L 7.0%					
PP4	Pers Holiday Pay Off L 4.50%					
PP5	Pers Hol Pay Off L 5%					
PP6	Pers Holiday Pay Off L 6.50%					

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Only applies to PEPPA "New Members" who become members of CCCERA on or after January 1, 2013

**Pensionable Compensation
Under Government Code Section 7522.34**

Pay Code	Pay Code Name	GC 7522.34(a)				Comments
		(i)	(ii)	(iii)	(iv)	
PP7	Pers Hol Pay Off L 7.5%					
S01	Sick Leave Hours Pay Off					
SBP	Sabbatical Hours Pay Off					
V01	Sale of Vacation					
V02	Vacation Hours Pay Off					
V11	Sale of Vacation L 2.5%					
V12	Vacation Pay Off L 2.5%					
V21	Sale of Vacation L 5.0%					
V22	Vacation Pay Off L 5.0%					
V31	Sale of Vacation L 7.5%					
V32	Vacation Pay Off L 7.5%					
V41	Sale of Vacation L10.0%					
V42	Vacation Pay Off L10.0%					
V52	Vacation Pay Off L 4.50%					
V62	Vacation Pay Off L 6.50%					
V72	Vacation Pay Off L 7.00%					
VAD	Adjustment Sale of Vacation					
D15	Differential Call Back					EXCLUDED payments for additional services rendered outside of normal working hours under 7522.34(c)(6).
D16	Differential Phys Call Back					
D19	Differential Call Back @ 1.5					
D21	Differential Phone Call Back					
D25	Differential Lieut On-Call					
D26	Differential On Call DSA/DAI					
D32	Differential On Call Pay @ 1.0					
D33	Differential On Call					
D36	Differential On Call Local 1					
D41	Differential Office of Emg Svc					
E39	Differential OBGYN On Call					
F62	Fire Recall/Standby ECCCFPD					
F67	Fire Recall & Standby @ 5%					
F68	Fire Investigation Standby					
F72	Fire Recall & Standby @ 2.5%					
F80	Differential Off Duty Standby					
A15	Allowance First 5 Cell Phone					EXCLUDED allowances under 7522.34(c)(7).
A58	Truck Allowance					
A64	Uniform Allowance \$25					
A75	Uniform Allowance East FD					
A76	Uniform Allowance Rodeo Fire					
A79	Uniform Allowance - Fire					
A80	Uniform Allowance					
A81	Uniform Allowance Sheriff					
A82	Uniform Allow Sher Mgmt					
A83	Uniform Allow - \$50					
A99	Adjustment Uniform Allowance					
AU1	Auto Allowance					
AU2	Auto Allowance 2					
AU3	Auto Allow Department Heads					
AUT	Auto Allow Elected Dept Head					
ORS	Overtime Normal Work Scheduled					EXCLUDED payment for overtime pay under 7522.34(c)(8).
B79	Bonus Special Pay					This bonus is a performance incentive awarded to those department heads as approved by the County administrator. This pay is an EXCLUDED bonus under 7522.34(c)(3) and (10).
LSP	Lump Sum Pay					This bonus is a negotiated lump sum payment. This pay is an EXCLUDED bonus under 7522.34(c)(3) and (10).
RPR	Lump Sum Pay					

Only applies to PEPPRA "New Members" who become members of CCCERA on or after January 1, 2013

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Byron-Brentwood-Knightsen Union Cemetery District**

Pay Type	Pay Code	Step 1	Step 2				Step 3
		Excluded under GC §7522.34(c) (2) through (10)	Conditions Satisfied under GC §7522.34(a)				Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary	REG		Yes	Yes	Yes	Yes	No
Vacation Payout	VAC	(5)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Rodeo Sanitary District**

Pay Type	Pay Code	Step 1	Step 2				Step 3
		Excluded under GC §7522.34(c) (2) through (10)	Conditions Satisfied under GC §7522.34(a)				Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary	REG		Yes	Yes	Yes	Yes	No
Vacation Payout	VAC	(5)					
On Call Pay	OC	(6)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Housing Authority of the County of Contra Costa**

Pay Type	Pay Code	Step 1	Step 2				Step 3
		Excluded under GC §7522.34(c) (2) through (10)	Conditions Satisfied under GC §7522.34(a)				Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary	REG		Yes	Yes	Yes	Yes	No
Pay for a Retroactive Pay Rate Increase	R		Yes	Yes	Yes	Yes	Yes
Longevity Pay	L		Yes	Yes	Yes	No	Yes
Bilingual Differential	D		Yes	Yes	Yes	No	Yes
Vacation Payout	P	(5)					
Sick Payout	S	(5)					
Termination Payout (of leave balances)	T	(5)					
On Call Pay	O	(6)					
Auto Allowance	N	(7)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Contra Costa County Superior Court**

Pay Type	Step 1	Step 2				Step 3
	Excluded under GC §7522.34(c) (2) through (10)	Conditions Satisfied under GC §7522.34(a)				Excludable under GC §7522.34(c) (1), (11), (12)
		(i)	(ii)	(iii)	(iv)	
Base Salary		Yes	Yes	Yes	Yes	No
Bilingual Pay		Yes	Yes	Yes	No	Yes
Certified Real Time Court Reporter Pay		Yes	No	Yes	No	Yes
Clerk in Courtroom		No	No	Yes	No	Yes
Court Clerk Trainer Differential		No	No	Yes	No	Yes
Court Reporting (Basic Readability 5%)		Yes	No	Yes	No	Yes
Custodian to Lead		No	No	Yes	No	Yes
Facilities to Clerk IV		No	No	Yes	No	Yes
Lead Court Rptr. Cert. Basic (first 6 mos.)		Yes	No	Yes	No	Yes
Lead Court Rptr. Cert. Basic (after 6 mos.)		Yes	No	Yes	No	Yes
Lead Court Rptr. Cert. CRR		Yes	No	Yes	No	Yes
Lead Court Rptr. (first 6 mos.)		No	Yes	Yes	No	Yes
Lead Court Reporter (after 6 mos.)		No	Yes	Yes	No	Yes
Lead Legal Research Atty Differential		No	No	Yes	No	Yes
Longevity		Yes	Yes	Yes	No	Yes
Lump Sum Pay	(3)(10)**					
Night Shift Differential		No	No	Yes	No	Yes
Flex Benefit	(2)*	No	No	No	No	Yes
Share the Savings	(2)*	No	No	No	No	Yes
Admin Payoff Longevity	(5)					
Admin Payoff Retire	(5)					
Holiday Comp Payout	(5)					
Holiday Excess Comp Hours	(5)					
Holiday Hours Retire	(5)					
Personal Holiday Longevity	(5)					
Personal Holiday Retire	(5)					
Vacation Payoff Hours Longevity	(5)					
Vacation Payoff Retire	(5)					
Vacation Sale	(5)					
Vacation Sale Longevity	(5)					
Auto Allowance	(7)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

* This pay item is excluded if the compensation was previously paid directly by the employer to a third party (e.g. health or life insurer) for the benefit of the member AND converted to and received by the member in form of a cash payment.

** Used for adjustments for prior periods. Depends on the nature of the adjustment.

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Contra Costa Mosquito & Vector Control District**

Pay Type	Pay Code	Step 1	Step 2				Step 3
		Excluded under GC §7522.34(c) (2) through (10)	Conditions Satisfied under GC §7522.34(a)				Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary	REG		Yes	Yes	Yes	Yes	No
Merit (Performance) Pay	LNG		Yes	No	Yes	No	Yes
Medical Waiver	MED	(2)*	No	No	No	No	Yes
Safety Award	SAF	(10)**	No	No	No	No	Yes
Vacation Cashout	VAC	(5)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

* This pay item is excluded if the compensation was previously paid directly by the employer to a third party (e.g. health insurer) for the benefit of the member AND converted to and received by the member in form of a cash payment.

** This pay item could be viewed as a bonus.

References from contracts and memoranda of understanding

	Local 1021 MOU	Employee Handbook
Merit Pay	Page 6	Page 100
Medical Waiver	Page 14	Page 50
Safety Award	Safety Incentive.doc	

Determination of "Pensionable Compensation" under Gov. Code §7522.34

For Moraga Orinda Fire District

Pay Type	Pay Code	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Conditions Satisfied under GC §7522.34(a)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary (Including FLSA, SDI, WC)	REG, 235-237, 333, 334		Yes	Yes	Yes	Yes	No
Fire Retirement Allowance	120	under review	Yes	Yes	Yes	Yes	Yes*
Holiday Pay	215		Yes	Yes**	Yes	Yes	Yes
Education incentive pay	110-112		Yes	No	Yes	No	Yes
Shift differential	115		No	No	Yes	No	Yes
Longevity Pay	113		Yes	Yes**	Yes	No	Yes
Ambulance stipend	124		No	No	Yes	No	Yes
Vacation buy-back	208	(5)					
Vacation payoff	206, 207	(5)					
Floating holiday payoff	217, 218	(5)					
Sick leave payoff	211	(5)					
Call back pay	114	(6)					
Uniform Allowance	180	(7)					
Overtime (Excluding FLSA)	OT, 137, 156	(8)					
Stipend in lieu of Medical	901, 902	(9)					
Deferred comp 457(b)	901, 902	(9)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

* The Fire Retirement Allotment is a 3.91% increase in base pay to help offset the cost of the retirement plan. The MOUs refer to this being an implementation of IRC Section 414(h)(2), however, this pay increase is paid to the employees, not to the retirement system.

** These items are generally available to everyone in the same grade, except for battalion chiefs

- Holiday Pay Only paid to battalion chiefs promoted after December 31, 2010
- Longevity Pay Only paid to battalion chiefs promoted on or before December 31, 2010
- Education incentive pay Different for battalion chiefs promoted before and after December 31, 2010

References from contracts and memoranda of understanding

	Local 1230	Battalion Chief Division Chief	Fire Chief	Local 2700	Admin. Services Director	Assistant Fire Marshall
Fire Retirement Allotment	Page 7	Page 11	Page 2	Page 7	Page 4	Page 5
Holiday Pay	Page 11	Page 6	N/A	N/A	N/A	N/A
Education incentive pay	N/A	Page 4	N/A	Page 7	1st AMD	Page 3
Shift differential	N/A	Page 11	N/A	N/A	N/A	N/A
Longevity Pay	N/A	Page 4	N/A	N/A	N/A	N/A
Ambulance stipend	Side Letter	N/A	N/A	N/A	N/A	N/A

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For San Ramon Valley Fire Protection District**

Pay Type	Pay Code	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Conditions Satisfied under GC §7522.34(a)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary (including FLSA)			Yes	Yes	Yes	Yes	No
Acting Pay			No	No	Yes	No	Yes
Permanent Acting Pay			Yes	No	Yes	No	Yes
Emrg. Medical Dispatch Pay			No	No	Yes	No*	Yes
Holiday Pay			Yes	Yes	Yes	No*	Yes
Longevity Pay			Yes	Yes	Yes	No*	Yes
Management Incentive Pay			Yes	Yes	Yes	No*	Yes
Rescue Team Diff.			No	No	Yes	No*	Yes
Haz. Mat. Team Diff.			No	No	Yes	No*	Yes
Haz. Mat. Non-entry Diff.			No	No	Yes	No*	Yes
Basic Life Support Diff.			Yes	Yes	Yes	No*	Yes
Advance Life Support Diff.			No	No	Yes	No*	Yes
Paramedic Preceptor Pay			No	No	Yes	No	Yes
Stand-by Pay		(6)					
Vehicle Allowance		(7)					
Contract Parity Differential		(7)					
Overtime (Excluding FLSA)		(8)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

* These items are on the pay schedule, but the association with specific job titles is not indicated.

References from contracts and memoranda of understanding

	Local 3546	Non-represented
Acting Pay	16, 26	4, 12
Permanent Acting Pay	16, 26	N/A
Emrg. Medical Dispatch Pay	16	N/A
Holiday Pay	10-11, 16	7, 12
Longevity Pay	16	7, 12
Management Incentive Pay	N/A	7
Rescue Team Diff.	10, 16	N/A
Haz. Mat. Team Diff.	10, 15	6, 12
Haz. Mat. Non-entry Diff.	10, 15	N/A
Basic Life Support Diff. (req'd)	9, 15	N/A
Advance Life Support Diff.	9, 15	7, 12
Paramedic Preceptor Pay	10, 16	N/A

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Central Contra Costa Sanitary District**

Pay Type	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Conditions Satisfied under GC §7522.34(a)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
		(i)	(ii)	(iii)	(iv)	
Base Salary		Yes	Yes	Yes	Yes	No
Provisional Appt		Yes	Yes	Yes	Yes	Yes
Out-Of-Class Pay		No	No	Yes	No	Yes
Swing Differential		No	No	Yes	No	Yes
Night Differential		No	No	Yes	No	Yes
Longevity Pay		Yes	Yes	Yes	No	Yes
Registration Differential		Yes	No	Yes	No	Yes
Medical Waiver	(2)*	No	No	No	No	Yes
Cafeteria Plan	(2)*	No	No	No	No	Yes
Class A/B License Pay		No	No	Yes	No	Yes
Annual Vacation Sell Back	(5)					
Terminal Pay - Sick Leave	(5)					
Stand By Pay	(6)					
Meal Allowance	(7)					
Scheduled Holiday Overtime	(8)					
Scheduled Holiday Swing Overtime	(8)					
Scheduled Holiday Night Overtime	(8)					
Scheduled Holiday Double-time	(8)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

* These pay items are excluded if the compensation was previously paid directly by the employer to a third party (e.g. health or life insurer) for the benefit of the member AND converted to and received by the member in form of a cash payment.

References from contracts and memoranda of understanding

	Local 1	Management	Mgmt Support/ Confidential Group
Provisional Appt	Not in MOU	Not in MOU	Not in MOU
Out-Of-Class Pay	Page 4	?	Page 5
Swing Differential	Page 5	N/A	Page 7
Night Differential	Page 5	N/A	Page 6
Longevity Pay	Page 4	Page 8	Page 4
Registration Differential	Page 34	Page 8	Page 6
Medical Waiver	Page 31	Page 4	Page 20
Cafeteria Plan	Page 35	Page 8	Page 17
Class A/B License Pay	Page 7	N/A	N/A

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Bethel Island Municipal Improvement District**

Pay Type	Pay Code	Step 1	Step 2				Step 3
		Excluded under GC §7522.34(c) (2) through (10)	Conditions Satisfied under GC §7522.34(a)				Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Pay	REG		Yes	Yes	Yes	Yes	No
Vacation Payout	VAC	(5)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

7522.34. (a) "Pensionable compensation" of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.

(b) Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid.

(c) "Pensionable compensation" does not include the following:

(1) Any compensation determined by the board to have been paid to increase a member's retirement benefit under that system.

(2) 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.

(3) Any one-time or ad hoc payments made to a member.

(4) Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

(5) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.

(6) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

(7) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.

(8) Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code.

(9) Employer contributions to deferred compensation or defined contribution plans.

(10) Any bonus paid in addition to the compensation described in subdivision (a).

(11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a).

(12) Any other form of compensation a public retirement board determines should not be pensionable compensation.

MEETING DATE

APR 10 2013

AGENDA ITEM

#7

**Legislative Changes to the
County Employees
Retirement Law of 1937**

(AB 197)

Presented by:

**Contra Costa County Employees'
Retirement Association**

Legislative Changes to the County Employees Retirement Law of 1937

Assembly Bill 197

In September 2012, the legislature passed and the Governor signed into law AB 197, legislation amending the County Employees Retirement Law of 1937 ("CERL") or ("37 Act") (Government Code Sections 31450, *et seq.*)

AB 197

Amended the CERL definition of
"compensation earnable."

(Government Code Section 31461)

Background (Leave cash outs)

- On October 30, 2012, the CCCERA Retirement Board determined that the inclusion of leave cash outs (payments for accrued unused leave, such as vacation, sick leave, etc.) in compensation for retirement purposes will be limited effective 1/1/2013 pursuant to AB 197.
- A lawsuit was filed and is currently pending regarding the constitutionality of AB 197.
- A stay order is in place, requiring CCCERA to hold off implementation of AB 197 until after the lawsuit is resolved.

Standby/On-Call Pay

- Meanwhile, the CCCERA Board of Retirement is continuing to study all aspects of implementation of AB 197
- The purpose: although implementation is stayed, CCCERA would like to provide its members and stakeholders ample information
- The key item at issue is: pay for “additional services rendered outside of normal working hours”
E.g.: Standby/on-call pay, call back pay

AB 197 amended Sec. 31461 of the Govt. Code by adding:

b) "Compensation earnable" does not include, in any case, the following:

. . . .

(3) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

c) The terms of subdivision (b) are intended to be consistent with and not in conflict with the holdings in *Salus v. San Diego County Employees Retirement Association* (2004) 117 Cal.App.4th 734 and *In re Retirement Cases* (2003) 110 Cal.App.4th 426.

Standby/On-Call Pay and AB 197

- Currently, CCCERA implements the Retirement Board's policy on "Determining Which Pay Items Are 'Compensation' For Retirement Purposes." Under the policy, "standby" pay is **included** in compensation for retirement purposes
- **Standby/On-call pay** is generally additional pay provided by the employer to employees who are off duty but "on call" and must stand ready to report for duty.
- Compensation for off-duty "on call" assignment varies from, for example, \$300 per week to a monthly pay differential of 5% of their base pay.
- **Call back pay** is generally additional pay provided by the employer to employees who are called back for work performed outside their regular work schedule.
- Compensation for call back work can be at the rate of 1.5 times the employee's regular hourly rate for time worked.

AB 197 – Effective 1/1/2013

- AB 197 amended the definition of “compensation earnable” to **exclude** “payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.” I.e., standby, on-call, and call back pay must be excluded. See *City of Pleasanton v. Board of Administration of CalPERS*, 211 Cal.App.4th 522 (2012) (holding that “standby pay” is pay for being available to work on a standby basis outside of normal working hours).
- AB 197 took effect on January 1, 2013
- Pending litigation in another ‘37 Act county calls into question the constitutionality of the exclusion of standby pay for “classic” members under AB 197 - *Marin Association of Public Employees, et al. v. Marin County Employees’ Retirement Association*
- **CCCERA will not be implementing any changes mandated by AB 197 so long as the stay order is in place in the pending lawsuit.**
- Note: The statutory changes to “compensation earnable” do not appear to apply to anyone **already in retirement status**

AB 197 – Next Steps

- Next steps:
- Retirement Board is to determine whether standby, on-call, and call back pay are to be **excluded** from compensation for retirement purposes for “classic” members
- Again, no changes mandated by AB 197 will be implemented so long as the stay order is in place in the pending lawsuit.
- **Important**: Notice to CCCERA “classic” members

AB 197 also added to GC Sec. 31461 :

b) "Compensation earnable" does not include, in any case, the following:

• • • • •

(1) Any compensation determined by the board to have been paid to enhance a member's retirement benefit under that system.

Examples include, but are not limited to:

- Auto allowance received during final average salary period but previously received in kind as use of automobile
- Cash for waiving health insurance during FAS period but previously received in kind as health coverage

Exclusion of Compensation Paid to Enhance Retirement Benefit

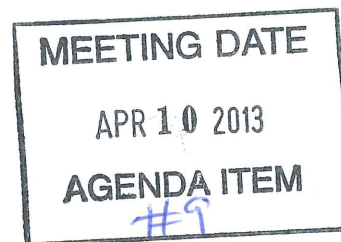
- There must be a determination made by the Board of Retirement that the item of compensation was paid to **enhance** the member's retirement benefit
- CCCERA Policy Regarding Assessment and Determination of Compensation Enhancements adopted on January 9, 2013 – mandates review of final compensation by staff, with possible pension "**enhancements**" to be brought before the Retirement Board for the Board's determination of whether the item was paid to **enhance** the member's retirement benefit and therefore should be **excluded**

Disclaimer

This presentation was developed as a discussion draft to communicate statutory changes to the County Employees Retirement Law of 1937 enacted as AB 197. Every effort has been made to ensure the accuracy of the information provided; however, the information may be updated as warranted. If there is any discrepancy between what is contained in this presentation and the law, the law will govern.

MEMO

Date: April 10, 2013
To: CCCERA Board of Retirement
From: Kurt Schneider, Deputy Chief Executive Officer
Subject: Assessment and Determination of Compensation Enhancements



At the January 9, 2013 meeting, the Retirement Board adopted a Policy Regarding Assessment and Determination of Compensation Enhancements. This policy was established to comply with new Gov. Code §31542, which requires the Board to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. Any compensation element which the Board determines was paid to enhance a member's benefit must be excluded from "pensionable compensation" under Gov. Code §7522.34 and "compensation earnable" under Gov. Code §31461 (as amended by AB 197).

The purpose of this memo is to summarize the implementation of staff's review and assessment of final compensation as directed by the Board. The assessment policy requires staff to take the following steps when reviewing compensation for this purpose.

1. Assess whether the item of compensation was earned within the period during which final compensation is to be calculated;
2. Assess whether the compensation exceeds a members' base pay, and if so, whether the earnings codes reported are retirement compensable;
3. Review any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member's retirement benefit; and
4. Review information and explanation provided by the member and the employer in response to CCCERA's request as to the facts and circumstances concerning an item of compensation that staff believes may have been paid to enhance the member's retirement benefit.

The first two steps have always been undertaken by CCCERA staff when calculating retirement benefits and are not new to this policy. The third step is now required for the first time by the new legislation, effective January 1, 2013. The Board has asked staff for an overview of the review process and what factors staff is considering in its determination.

As staff completes steps one and two above, the compensation during the final averaging period is broken out by pay item. The amounts during the final averaging period are then compared to recent periods both by individual pay item and in total. Any increase in compensation (for an individual pay item or in total) above a certain threshold is flagged for further review.

If further review is required, the member's pay history is reviewed as far back as possible to determine how the amount of the pay item varied over time. A statistical analysis is done to determine the likelihood that the increase witnessed in the final averaging period is due to chance alone. If that likelihood is below a certain threshold, the member and the employer are asked for an explanation of the increase. If the explanation provided is insufficient, a written report is prepared and presented to the Board for their determination.

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

**POLICY REGARDING ASSESSMENT AND DETERMINATION OF
COMPENSATION ENHANCEMENTS**

Adopted: 1/9/2013

PURPOSE:

The CCCERA Board of Retirement is required to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a CCCERA member's benefit. (Government Code Section 31542, eff. January 1, 2013.) In keeping with this requirement, the Retirement Board has set forth the following procedure.

LEGAL AUTHORITY:

Government Code Section 31542 provides:

- (a) The board shall establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. If the board determines that compensation was paid to enhance a member's benefit, the member or the employer may present evidence that the compensation was not paid for that purpose. Upon receipt of sufficient evidence to the contrary, a board may reverse its determination that compensation was paid to enhance a member's retirement benefits.
- (b) Upon a final determination by the board that compensation was paid to enhance a member's retirement benefit, the board shall provide notice of that determination to the member and employer. The member or employer may obtain judicial review of the board's action by filing a petition for writ of mandate within 30 days of the mailing of that notice.
- (c) Compensation that a member was entitled to receive pursuant to a collective bargaining agreement that was subsequently deferred or otherwise modified as a result of a negotiated amendment of that agreement shall be considered compensation earnable and shall not be deemed to have been paid to enhance a member's retirement benefit.

POLICY:

The following policies and procedures shall be effective as to the assessment and determination of whether an element of compensation was paid to enhance a member's retirement benefit.

I. STAFF REVIEW AND ASSESSMENT

With respect to all retirement applications with an effective date of retirement on or after January 1, 2013, the Board directs CCCERA staff to review all compensation included within the calculation of the member's final compensation within the meaning of California Government Code Sections 7522.32, 7522.34, 31461, 31462, 31462.1, 31462.11, and 31462.2, as applicable, for the purpose of making an initial assessment as to whether any item of compensation included in final compensation was paid to enhance a member's retirement benefit. In conducting such review and making such initial assessment, staff shall consider:

- a. Whether the item of compensation was earned within the period during which final compensation is to be calculated;
- b. Whether the compensation exceeds a members' base pay, and if so, whether the earnings codes reported are retirement compensable;
- c. Any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member's retirement benefit; and
- d. Information and explanation provided by the member and the employer in response to CCCERA's request as to the facts and circumstances concerning an item of compensation that staff believes may have been paid to enhance the member's retirement benefit.

A member and the employer shall be given no less than 15 days to respond to such a written request. Staff may conduct such written and oral follow-up communication as staff believes is appropriate in the exercise of reasonable diligence.

II. PREPARATION OF WRITTEN ADMINISTRATIVE RECOMMENDATION AND BOARD ACTION

- a. If after conducting the initial assessment described above, CCCERA staff believes that an item of compensation was paid to enhance a member's retirement benefit, staff shall prepare a written report to the Board of Retirement making an administrative recommendation to the Board that any item not be included in the calculation of the member's retirement benefit. The report shall contain a description of the reasons for staff's recommendation, including the specific facts and circumstances supporting staff's recommendation.
- b. The report shall be noticed and agendized for a regular meeting of the Board, at which time the Board will act upon staff's administrative recommendation.

Before the Board acts, CCCERA, the member, and the employer shall be given an opportunity to be heard by the Board.

- c. Written notice of the Board meeting and a copy of staff's report shall be provided to the member and the employer no later than 10 days before the recommendation is presented to the Board for action.
- d. At the meeting, the Board will make a decision as to whether the item of compensation was paid to enhance the member's retirement benefit.
- e. CCCERA will provide the member and the employer written notice of the Board's decision with 5 days, which will inform the member and the employer of their right to seek judicial review of the Board's action by filing a petition for writ of mandate within 30 days after the mailing of that notice.
- f. If the Board finds the item of compensation should be included, staff will adjust the member's benefit to include said item, retroactive to the effective date of retirement.
- g. If the payment of the member's benefit would be delayed by seeking resolution through the administrative processes set forth herein, CCCERA may process the benefit excluding the compensation in question. If it is later determined the compensation should be included, CCCERA will adjust the benefit retroactive to the effective retirement date.

MEETING DATE

April 10, 2013

AGENDA ITEM

#10

Disability Retirement Process

Contra Costa County Employees'
Retirement Association

Initial Contact

Initial Contact:

Member may call or drop-in, or
Employer may call CCCERA directly

- Disability process explained
- Disability packet mailed
- Counseling Appointment

Application Filed with CCCERA

- ▶ Applications must be filed with at least one medical report to support application.
- ▶ Applications filed without supporting medical evidence are returned to the member until this information is filed with CCCERA.
- ▶ Burden of proof of disability is on the applicant.

3

Eligibility to File for Disability Retirement

- ▶ Service Connected:
 - All Tiers: disability retirement may be filed at any time during your employment. (All Tiers) §31720 and 31720.1
- ▶ Non-Service:
 - Tier 1 and Safety: disability retirement after completing at least five (5) years of retirement service credit. §31720
 - Tier 3: disability retirement after completing at least ten (10) years of retirement service credit. §31720.1

4

Service Connected vs. Non-Service Connected Disability Retirement Tier 1 and Safety:

- ▶ Member must be “Permanently incapacitated for performance of duty”:

Service connected:

The incapacity is a result of injury or disease arising out of or in the course of employment and the member is unable to continue performing usual and customary duties of current position.

Non-Service connected:

The incapacity did not arise from his or her employment and the member is unable to continue performing usual and customary duties of current position.

5

Tier 1 and Safety Disability Allowance:

- ▶ Service Connected disability retirement:

50% of final one year average compensation, or the amount of the regular service retirement, whichever is greater.

- ▶ Non-Service Connected disability retirement:

Generally equal to 1/3 of your final one year average compensation, or regular service retirement, whichever is greater.

6

Service Connected vs. Non-Service Connected Disability Retirement Tier 3:

- ▶ Service Connected Disability: the incapacity is substantially caused by injury or disease arising out of or in the course of employment, and the member and is unable to engage in any gainful employment.
- ▶ Non-Service Connected disability: the incapacity was not caused by injury or disease arising out of or in the course of employment, and the member is unable to engage in any gainful employment.

7

Service Connected vs. Non-Service Connected Disability Retirement Tier 3:

- ▶ “Permanent incapacity” is defined as:
 - The member is unable permanently to engage in any “substantial gainful employment”.
 - “Substantial Gainful Employment”, as adopted by the Board in 1991, is the ability to earn either the amount the applicant would receive in the initial disability benefit or \$300, whichever is more.
 - “Permanent Inability” to work is determined by examination of a combination of many specific factors, such as age, experience, training, education and appropriate jobs available.

8

Tier 3 Disability Retirement Allowance:

- ▶ For both Service Connected and Non-Service Connected disability:
 - 40% of final three year average salary plus 10% of final three year average salary for each of your minor children (up to three children), or
 - The amount of the regular service retirement, whichever is greater.

9

37 Act Presumptions – Safety

- ▶ Heart Presumption §31720.5
- ▶ Cancer Presumption §31720.6
- ▶ Blood-Born Infectious Disease §31720.7
- ▶ Biochemical Substance §31720.9
- ▶ Effect: members with the above conditions are relieved of the burden of proving their illness arose out of and in the course of employment, but permanent incapacity must still be proved. Presumptions are rebuttable

10

Application and Medical Evidence Filed

- ▶ Application filed by Department:
 - Member notified
 - If member joins in filing, applicant has burden of proof of disability and department is notified.
 - If member does not join in filing, department has burden of proof of disability and is notified that member did not join in the filing.

- ▶ Application filed by Member:
 - Confirmation letter sent to member
 - Department is notified

11

Additional Records Requested by Staff:

- ▶ Risk Management:
 - Medical records

- ▶ Employer:
 - Job Description
 - Essential Job Duties
 - Request information on accommodations
 - Other records as available

- ▶ Occupational Health:
 - As available

12

Board's Medical Advisor

- ▶ CCCERA staff submits the following to medical advisor for review and recommendation:
 - All medical records received
 - Disability Application
 - Job Description and Completed Essential Functions and accommodation response from department
 - Occupational Health records

13

Board Medical Advisor May Recommend Any of the Following:

- ▶ Recommendation to grant application as filed.
- ▶ There is insufficient medical evidence to make recommendation.
- ▶ Recommendation to grant non-service connected disability when applicant filed for service connected disability retirement.

14

If the Medical Advisor Recommendation is to Grant:

- ▶ Applicant is notified.
- ▶ Department is notified.
- ▶ Employer Human Resources department is notified.
- ▶ The recommendation is placed on next available Retirement Board agenda.

15

If Medical Advisor Opines there is insufficient medical evidence for determination:

- ▶ Applicant, department, and employer Human Resources department are notified.
- ▶ Applicant advised they can file additional medical evidence to support claim for disability retirement, and/or request a hearing within six (6) months.

16

Recommendation to Grant NSCDR When Application is for SCDR

- ▶ Letter sent to Member regarding recommendation
- ▶ Member may accept the recommendation for NSCDR
- ▶ Member may object to recommendation and submit additional medical evidence to support claim for service connected disability and staff will resubmit additional evidence to Medical Advisor.
- ▶ If the Medical Advisor issues the same recommendation, then the member may accept the recommendation and request a hearing within six (6) months to determine causation (*may also supply additional medical evidence in support of claim for a service connected disability retirement*).

17

When a Disability Hearing is Requested by Applicant:

- ▶ CCCERA staff sends complete file to County Counsel.
- ▶ Vocational assessment conducted for Tier 3 applicants.
- ▶ County Counsel begins discovery process.
- ▶ Independent Medical Evaluation is requested on behalf of the Retirement Board.

18

If Applicant Does not Request a Hearing or Submit additional evidence:

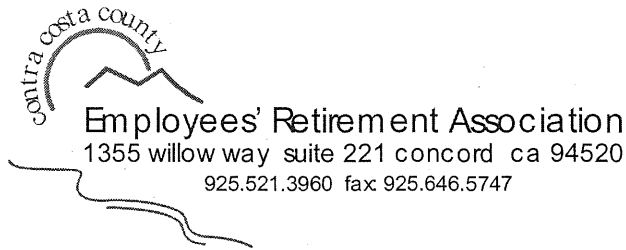
- ▶ File is closed.
- ▶ Confirming letter to applicant.
- ▶ Department and Employer HR are notified.

19

Questions???

???

20



APPLICATION OF "SUBSTANTIAL GAINFUL EMPLOYMENT" UNDER TIER III DISABILITY

For a member in Tier III to be found disabled, the member must be unable permanently to engage in any substantial gainful employment (Government Code Section 31720.1).

In making this determination, the following will apply:

- **"Substantial employment"** is work activity that involves physical or mental effort, regardless of the time spent.
- **"Gainful employment"** is work activity that is done for pay or profit, whether or not a profit is realized, including work as a self-employed individual.

In general, employment will be considered gainful if the monthly salary from that employment is equal to or exceeds the greater of either: (a) \$300 a month, or (b) the initial monthly disability retirement benefit which would otherwise be payable.

In general, self-employment will be considered gainful, without regard to income if the activity is comparable to that of unimpaired individuals who are in the same or similar business as their means of livelihood.

- Inability will be determined using the following factors:
 - a) Previous work experience.
 - b) Education or training whether formally obtained through schooling or informally obtained through work experience.
 - c) Transferability of knowledge, skills and abilities to other work.
 - d) The extent to which chronological age affects the ability to adapt to a new work setting.
 - e) The existence of jobs in one or more occupations, having requirements which the member is able to meet and which lie within a 100 mile radius of the member's residence, regardless of whether a specific job vacancy exists, or whether the member would be hired if he or she applied, or whether the member wishes to do a particular job.

Adopted 4/16/91



MEETING DATE
APR 10 2013
AGENDA ITEM
11

SACRS MEMORANDUM

April 1, 2013

Attn: SACRS Administrators
From: Raymond McCray, SACRS Nominating Committee Chair
SACRS Nominating Committee
Re: SACRS Board of Director Elections 2012-2013 – Final Ballot

Per SACRS Bylaws, Article VI ~ Section 2 – Election, Qualification and Term of Office

“The officers of SACRS shall be regular members of SACRS. The officers shall be elected by majority vote of the quorum of delegates and alternate delegates present at the first meeting in each calendar year and shall hold office for one (1) year and until a successor is elected.”

Per SACRS Bylaws, Article VI ~Section 4 - Officer Elections

“...The Board of any regular member County Retirement System may submit write-in candidates to be included in the Nominating Committee’s final ballot provided the Nominating Committee receives those write-in candidates prior to March 25th. The Nominating Committee will report a final ballot to each regular member County Retirement System prior to April 1.

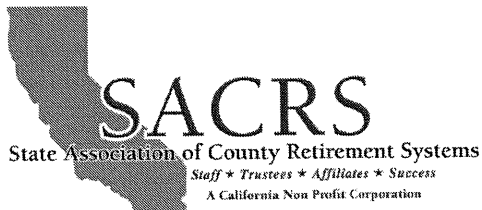
The Administrator of each regular member County Retirement System shall be responsible for communicating the Nominating Committee’s recommended ballot and final ballot to each trustee and placing the election of SACRS Officers on his or her Board agenda. The Administrator shall acknowledge the completion of these responsibilities with the Nominating Committee...”

Below is the final ballot/slate – As in the past, a voting delegate may entertain a motion to vote by individual officer positions or by complete ballot/slate. Please be sure to authorize your voting delegate to vote either way.

The elections will be held at the upcoming SACRS Spring Conference May 13 – 17, 2013 at the Napa Valley Marriott, Napa, CA. Elections will be held during the Annual Business meeting on Friday, May 17, 2013.

Please distribute the ballot/slate to all standing/eligible board members for approval and authorization for your voting delegate. As stated above, Administrators are required to send acknowledgement of completion to our office at sulema@sacrs.org.

Continued



SACRS Nominating Committee Recommended 2012-2013 Nominees/Candidates:

- | | |
|----------------|------------------------------|
| President | Doug Rose, San Diego CERA |
| Vice President | Yves Chery, Los Angeles CERA |
| Treasurer | Tom Ford, Sonoma CERA |
| Secretary | John Kelly, Sacramento CERS |

If you have any questions or require assistance, please contact me directly at 209-468-2163 or raym1@sbcglobal.net. Thank you for your prompt attention to this timely matter.

Sincerely,

Raymond McCray

Raymond McCray, San Joaquin County
SACRS Nominating Committee Chair

CC: SACRS Board of Directors
SACRS Nominating Committee Members
Sulema H. Peterson, SACRS Administrator

Attachment

RMC:shp



MEETING DATE
APR 10 2013
AGENDA ITEM
#12

SACRS VOTING PROXY FORM

The following are authorized by the _____ County Retirement Board to vote on behalf of the County Retirement System at the upcoming SACRS Conference (*if you have more than one alternate, please attach the list of alternates in priority order*):

_____ Voting Delegate

_____ Alternate Voting Delegate

These delegates were approved by the Retirement Board on ____ / ____ / ____.

The person authorized to fill out this form on behalf of the Retirement Board:

Signature: _____

Print Name: _____

Position: _____

Date: _____

Please send your system's voting proxy by **April 1, 2013** to:

SACRS
Attn: Sulema H. Peterson, SACRS Administrator
1415 L Street, Suite 1000
Sacramento, CA 95814
Tel: (916) 441-1850 / FAX: (916) 441-6178 / E-mail: sacrs@sacrs.org

Bay Area Equity Fund, I LP
DBL Equity Fund – BAEF II LP
2013 Annual Meeting
Wednesday, June 12, 2013
JPMorgan Conference Center - 20th Floor
560 Mission Street
San Francisco, CA

MEETING DATE
APR 10 2013
AGENDA ITEM
#15

Agenda
(subject to change)

- | | |
|----------------|--|
| 10-11AM | Fund I Update |
| 11AM-11:15AM | Break/Fund I Advisory Board Meeting |
| 11:15AM-12PM | Lunch served |
| 12PM-12:40PM | SolarCity – Lyndon Rive, CEO presents |
| 12:40PM-1:30PM | Labcyte – Mark Fischer-Colbrie, CEO Present |
| 1:30PM-1:40PM | Break |
| 2:30PM-3:40PM | Fund II Update |
| 2:40PM-3:20PM | View – Rao Mulpuri, CEO presents |
| 3:20PM-4:00PM | BrightSource Energy – John Woolard, CEO presents |
| 4:00PM-4:40PM | Ecocraps – Dan Blake, CEO presents |
| 4:40PM-5:00PM | Adjourn and Fund II Advisory Board Meeting |