

BOARD OF RETIREMENT MINUTES 6-9-11

PRESENT

- Simon S. Russin, Vice Chair
- Yves Chery, Secretary
- Sadonya Antebi
- Alan Bernstein
- William de la Garza
- Shawn R. Kehoe (Alternate Member)
- William R. Pryor
- Mark J. Saladino

ABSENT

- Les Robbins, Chair
- Marvin Adams
- Ed C. Morris (Alternate Retired)

STAFF ADVISORS AND PARTICIPANTS

- Gregg Rademacher, Chief Executive Officer
- Robert Hill, Assistant Executive Officer
- Janice Golden, Assistant Executive Officer
- Robb Van Der Volgen, Chief Counsel
- James J. Castranova, Senior Staff Counsel
- Fern M. Billings, Senior Staff Counsel
- Michael D. Herrera, Senior Staff Counsel
- Earl Buehner, Senior Staff Counsel
- Cynthia Lau, Legislative Affairs Officer

1. CALL TO ORDER

Vice Chair Russin, presiding in the absence of Chair Robbins, called the meeting to order at 9:00 a.m., in the Board Room of Gateway Plaza.

2. PLEDGE OF ALLEGIANCE

Mr. de la Garza led the Board Members and staff in reciting the Pledge of Allegiance.

3. OTHER COMMUNICATIONS

1. For Information

1. May 2011 All Stars

Mr. Hill announced the eight winners for the month of May; Debbie Semnanian, Roberta Vannortcik, Felise Valdepenas, Stephanie Kawai, Rubiel Mijares, Tina Davila, Sarah Marks, and Alex Yin for the Employee Recognition Program. Liz Gonzales was the winner of LACERA's Web Watcher Award. Robert Santos, Amit Aggarwal, Allen Molina and Anna Collyar were the winners of LACERA's RideShare Program.

2. Chief Executive Officer's Report (Memo dated June 2, 2011)

Mr. Rademacher provided a brief overview of his Chief Executive Officer's Report with emphasis on discussions with the Los Angeles County on prefunding a retiree health care program. Discussions are still continuing.

Mr. Rademacher reported that despite the recent May 11th decision of the Third District Court of Appeal in Sacramento County Employees Retirement System v. Superior Court et al., ect. in which the court ruled that SCERS must disclose the names and corresponding pension benefit amounts of its members, LACERA will not disclose such information. LACERA continues to believe that such information is confidential under Government Code Section 31532 and thus prohibited from disclosing it to anyone.

Mr. Rademacher reported on the State Association of County Retirement Systems (SACRS) Spring Conference. The Board's choice for the SACRS slate of officers was approved at the SACRS Spring Conference which includes LACERA Board Member Yves Chery as SACRS Board Secretary.

The Los Angeles County Board of Supervisors adopted, at their meeting of June 7th, new contribution rates. It is anticipated that these new rates will be implementation on July 1, 2011.

Lastly, Mr. Rademacher reported on his meeting with Governor Brown's Senior Consultant in San Francisco to discuss Pension Reform.

4. NON-CONSENT AGENDA

1. Recommendation as submitted by Gregg Rademacher, Chief Executive Director: That the Board adopt the LACERA Fiscal Year 2011-2012 Administrative and Retiree Health Care Benefits Budgets. (Memo dated June 1, 2011)

A motion was made by Mr. Kehoe, seconded by Mr. de la Garza, to approve the recommendation.

Mr. Rademacher provided a brief summary of the presentations made during the budget hearings and reported that there were no changes made to the spending plan as a result of the budget hearings. He thanked the Board for attending the budget hearings and reported that minutes of both budget hearings were distributed to the Board Members. The Board of Investments approved the budgets at its June 8th meeting. A brief discussion followed with the final vote being made:

The motion passed unanimously.

Mr. Rademacher thanked Shamila Freeman and Kaelyn Ung, LACERA's budget team, for their hard work and dedication in putting together the budgets. Additionally, Mr. Rademacher recognized and thanked LACERA's Management Team for all their help and input. Mr. Rademacher recognized and thanked Janice Golden and Robert Hill.

2. Recommendation as submitted by Yves Chery, Chair, Travel Policy Committee: That the Board adopt the changes as noted on the draft Education and Travel Policy. (Memo dated April 28, 2011.)

A motion was made by Mr. Chery, seconded by Mr. Bernstein, to approve the recommendation.

Mr. Buehner gave a brief presentation on the proposed change to the Education and Travel Policy that would allow LACERA to purchase travel insurance for Board Members and staff while traveling internationally on LACERA business. After a brief discussion the motion was voted on.

The motion passed unanimously.

3. Recommendation as submitted by Cynthia Lau, Legislative Affairs Officer: That the Board continue its "watch" position on Assembly Bill 375 which creates rebuttable presumptions for hospital employees. (Memo dated June 1, 2011.)

AB 375

Sponsored by the California Nurses Association, this bill is a reintroduction of similar bills, AB 664 from 2009 and AB 1994 from 2010.

As amended on May 27, 2011, it adds Section 3212.13 to the Labor Code relating to workers' compensation for hospital employees who provide direct patient care in an acute care hospital. It provides that the term "injury" includes a blood-borne infectious disease or methicillin-resistant Staphylococcus aureus (MRSA) that develops or manifests itself during the period of the person's employment with the hospital.

It also creates a rebuttable presumption for the above. For blood-borne infectious disease, the presumption is extended to a hospital employee following termination of service for a period of six calendar months, commencing with the last date actually worked. For MRSA, the presumption is extended for a period of 90 days (three months), commencing with the last day actually worked.

The introduced version of the bill also included a presumption for neck and back impairments. It has been removed with the May 27, 2011 amendment.

The bill does not relate to disability retirements under CERL at this time.

The Board of Retirement adopted a "Watch" position on AB 375 on May 5, 2011. A motion was made by Mr. Kehoe, seconded by Mr. Pryor, to continue the "watch" position on AB 375. The motion was voted on and passed with Ms. Antebi voting no.

4. Recommendation as submitted by Cynthia Lau, Legislative Affairs Officer: That the Board adopt a "watch" position on Assembly Bill 1212 which allows the South Coast Air Quality Management District to provide different retirement benefit formulas for new employees. (Memo dated May 25, 2011.)

AB 1212

This bill is sponsored by the South Coast Air Quality Management District (SCAQMD). It adds Government Code Section 31485.95 to allow the SCAQMD to provide different retirement benefit formulas for new employees by ordinance, contract, or contract amendment adopted by majority vote. It also specifies that it cannot be imposed by the employer absent an agreed-to collective bargaining agreement.

SCAQMD employees are general members of San Bernardino County Employees' Retirement Association (SBCERA), one of the 20 systems governed by the County Employees' Retirement Law. Current law requires that retirement benefit formulas be adopted by the County Board of Supervisors and that second tier retirement benefit formulas may be applied to all new hires after a certain date, but are not allowed for different subgroups of members within a membership classification.

According to the author, the bill amends current law to allow the District to provide different retirement benefit formulas for new employees, upon adoption by a majority vote of the District's governing board, pursuant to MOU. This will allow the district to better manage its retirement benefits, and associated costs, offered to the District's employees.

While this bill amends CERL, it applies to SCAQMD only. A motion was made by Mr. Saladino, seconded by Mr. de la Garza, to take a "watch" position on AB 1212. The motion passed unanimously.

5. Recommendation as submitted by Cynthia Lau, Legislative Affairs Officer: That the Board adopt a "watch" position on Assembly Bill 1248 which would require local public employers to provide coverage under Federal Social Security to all employees who are not covered under a defined benefit plan. (Memo dated May 24, 2011.)

AB 1248

As amended on May 23, 2011, Assembly Bill 1248 would require local public employers to provide coverage under the Federal Social Security system to all employees who are not covered under a defined benefit plan.

In the early '80's, the City of San Diego opted out of the Social Security program and its employees do not make contributions. The mayor of the City of San Diego has recently proposed a plan to have new employees participate in a defined-contribution 401(k)-style program instead of a defined benefit program.

According to the author of this bill, "allowing local governments to offer a 401(k) only retirement system will leave workers without a financial safety net in their retirement years and will shift the burden to the state in the long run."

Los Angeles County participated in the Social Security program from July 1, 1964 through December 31, 1982. Current members do not contribute to Social Security, and safety members never did participate.

Part-time, temporary and seasonal employees of Los Angeles County and Los Angeles Superior Courts who are not eligible for membership in LACERA or the Judges Retirement System are enrolled in the Los Angeles County

Pension Savings Plan (administered by Great West Retirement Services). Under this plan, the County contributes 3% of compensation, and the mandatory basic contribution by employees is 4.5%. This is a deferred compensation plan, and not a defined benefit plan. If this bill is passed, coverage under Social Security for these employees would be required.

The California Professional Firefighters is in support of AB 1248. There is no registered opposition on file.

Discussion ensued after which the Board directed staff to investigate that should AB 1248 pass would the employer be required to fully participate in Social Security for all of its employees, or if the employer could participate in Social Security for just the employees impacted by the Bill. If the employer is required to fully participate for all employees, then LACERA Board would adopt an "oppose unless amended" position to exclude the above employees from AB 1248. If the employer could participate in Social Security for just some of its employees, then LACERA Board would remain neutral and adopt a "watch" position. Therefore, the following motion was made:

A motion was made by Mr. Pryor, seconded by Mr. Saladino, that if AB 1248 is an all or nothing participation in social security then the Board would take an "oppose unless amended position" to exclude seasonal, part-time and temporary employees. If it's not an all or nothing participation then the Board would take a "watch position" and allow the L.A. County to weigh in on it. The motion passed unanimously.

6. Recommendation as submitted by Gregg Rademacher, Chief Executive Officer: Approve attendance of Board Members, and staff as designated by the Chief Executive Officer, at the Association of Government Accountants 60th Annual Professional Development Conference & Expo to be held in Atlanta, Georgia from July 10-13, 2011; and approve reimbursement of all travel costs incurred in accordance with LACERA's Education and Travel Policy. (Memo dated May 18, 2011.)

A motion was made by Mr. Kehoe, seconded by Mr. de la Garza, to approve the recommendation. The motion passed unanimously.

- 5. PUBLIC COMMENT
- 6. GOOD OF THE ORDER

(For discussion purposes only.)

7. EXECUTIVE SESSION

- 1. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Subdivision (c) of the California Government Code Section 54956.9)

- 1. Initiation of litigation pursuant to subdivision (c) of Section 54956.9: Two potential cases

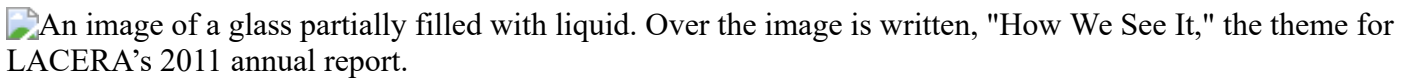
The Board met in Executive Session to discuss the above claims with its legal counsel. The Board reconvened in open session, at which time Mr. Herrera reported that the Board met in Executive Session on anticipated litigation matters pursuant to subdivision (c) of the California Government Code Section 54956.9 . In the claim of Carolyn Cobb regarding overpayment, the Board, on a motion of Mr. Saladino, seconded by Mr. Chery, unanimously gave direction to the Legal Office. In the matter of Michael Rooney, subrogation claim, the Board on a motion of Mr. Kehoe, seconded by Mr. Chery, gave direction to the Legal Office with Ms. Antebi voting no.

Green Folder Information

(Information distributed in each Board Member's Green Folder at the beginning of the meeting.)

- 1. LACERA Legislative Report—Bills Amending CERL. (Dated June 7, 2011.)
- 2. LACERA Legislative Report—Federal. (June 7, 2011.)
- 3. LACERA Legislative Report—Other. (June 7, 2011.)
- 4. Memo from Michael D. Herrera, Senior Staff Counsel regarding: Public Records Act Request by the Los Angeles Times for Disclosure of Member Records. (Dated June 1, 2011.)
- 5. Memo from Michael D. Herrera, Senior Staff Counsel regarding: Court of Appeal Decision in Sacramento County Employees Retirement System v. Superior Court, et al., etc. (Case No. C065730.)

8. ADJOURNMENT

An image of a glass partially filled with liquid. Over the image is written, "How We See It," the theme for LACERA's 2011 annual report.

5/13/11