

BOARD OF RETIREMENT AGENDA 8-11-11

LACERA

300 N. Lake Ave., Suite 810
Pasadena, CA 91101

9:00 AM

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JULY 14, 2011

IV. OTHER COMMUNICATIONS

- A. For Information
 - 1. July 2011 All Stars
 - 2. Service Award.
 - 3. Chief Executive Officer's Report (Memo dated August 4, 2011)

V. NON-CONSENT AGENDA

- A. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits and Legislative Committee: That the Board approve a legislative proposal for inclusion in the SACRS Legislative Platform regarding the correction of errors or omissions. (Memo dated July 20, 2011.)
- B. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits and Legislative Committee: That the Board approve the legislative proposal for inclusion in the SACRS Legislative Platform regarding the use and acceptance of electronic signatures by county retirement systems. (Memo dated July 21, 2011.)
- C. Information only as submitted by Robb Van Der Volgen, Chief Counsel regarding: Update on Public Record Act Responses. (Memo dated August 5, 2011.)
- D. Recommendation as submitted by Cynthia Lau, Legislative Affairs Officer: That the Board approve a legislative proposal for inclusion in the SACRS Legislative Platform relating to public record requests. (Memo dated July 29, 2011.)
- E. Recommendation as submitted by Simon S. Russin, Chair, Audit Committee: That the Board direct the Chief Executive Officer to respond to the Los Angeles County Court's Presiding Judge on the findings and recommendations in the Civil Grand Jury's 2010–2011 Civil Grand Jury report "Whoa! The State of Public Pensions in Los Angeles County." (Memo dated July 29, 2011.)
- F. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits and Legislative Committee: That the Board authorize the Retiree Healthcare Director to issue a Request for Proposal for the Retiree Healthcare Benefits Program consultant. (Memo dated July 28, 2011.)
- G. Recommendation as submitted by Performance Committee: That the Board amend the Chief Executive Officer's employment agreement to provide an assigned LACERA vehicle in lieu of a car allowance. (Memo dated July 29, 2011.)

VI. PUBLIC COMMENT

VII. GOOD OF THE ORDER

(For discussion purposes only.)

VIII. EXECUTIVE SESSION

- A. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION (Subdivision (a) of California Government Code Section 54956.9)
 - 1. Catherine Norman-Phillips vs. LACERA
L.A. Superior Court Case No. BS 127176

IX. ADJOURNMENT

BOARD OF RETIREMENT MINUTES 8-11-11

PRESENT

Les Robbins, Chair
Simon S. Russin, Vice Chair
Yves Chery, Secretary
Marvin Adams
Sadonya Antebi
Alan Bernstein
William de la Garza
Ed C. Morris (Alternate Retired)
William R. Pryor
Mark J. Saladino

ABSENT

Shawn R. Kehoe (Alternate Member)

STAFF ADVISORS AND PARTICIPANTS

Gregg Rademacher, Chief Executive Officer
Janice Golden, Assistant Executive Officer
Robb Van Der Volgen, Chief Counsel
Cynthia Lau, Legislative Affairs Officer
Cassandra Smith, Director, Retiree Healthcare Division
James J. Castranova, Senior Staff Counsel
Joseph Burton

I. CALL TO ORDER

The meeting was called to order by Chair Robbins at 9:00 a.m., in the Board Room of Gateway Plaza.

II. PLEDGE OF ALLEGIANCE

Mr. Russin led the Board Members and staff in reciting the Pledge of Allegiance.

III. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JULY 14, 2011

A motion was made by Mr. Morris, seconded by Mr. Chery, to approve the minutes of the regular meeting of July 14, 2011. The motion passed unanimously.

IV. OTHER COMMUNICATIONS

A. For Information

1. July 2011 All Stars

Ms. Golden announced the eight winners for the month of June; Pol Magsino, John Laraya, Tina Young, Ana Chang, Arlene Rieux, Mary Arena, Miriam De Leon, and Linda Martin for the Employee Recognition Program. Nora Jackson was the winner of LACERA's Web Watcher Award. Jan Tran, Penny Rodriguez, Remi Feliciano, and Gordon Pacana were the winners of LACERA's RideShare Program.

2. Service Award.

Mr. Rademacher presented a 30 year service award to Joe Burton. In recognition of his dedicated service to LACERA for over 30 years, Mr. Burton will have his name included on the LACERA honor roll plaque upon his retirement.

3. Chief Executive Officer's Report Memo dated August 4, 2011)

Mr. Rademacher provided a brief overview of his Chief Executive Officer's Report. He noted that LACERA filed an application with the Internal Revenue Service (IRS) for an updated Determination Letter. The Orange County Pension Plan filed its Determination Letter first and is presently being reviewed by the IRS. Additionally, Mr. Rademacher congratulated Mr. Chery on his election to the Board by general members, Messrs. de la Garza and Morris on their election to the Board by retired members.

V. NON-CONSENT AGENDA

A. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits and Legislative Committee: That the Board approve a legislative proposal for inclusion in the SACRS Legislative Platform regarding the correction of errors or omissions. (Memo dated July 20, 2011.)

There are existing code sections under the Public Employees Retirement Law (PERL) applicable to CalPERS which

provide the statutory framework and authority to correct errors and omissions, with specific statute of limitations defined. However, there is currently no such provision within CERL.

It is recommended that language be added to CERL to mirror that of PERL in order to provide county retirement systems the authority and consistent statutory limitations in which to correct these errors and omissions. As this will be applicable to all '37 Act retirement systems, it is recommended that the attached legislative proposal be submitted to SACRS for inclusion in their platform.

A motion was made by Mr. Chery, seconded by Mr. Russin, to approve the recommendation. The motion passed unanimously.

- B.** Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits and Legislative Committee: That the Board approve the legislative proposal for inclusion in the SACRS Legislative Platform regarding the use and acceptance of electronic signatures by county retirement systems. (Memo dated July 21, 2011.)

Ms. Lau explained that advances in technology and the need for costs savings and greater efficiency in service delivery have led county retirement systems to incorporate the use of paperless technology by allowing members to perform and execute various functions through their respective websites. However, many of these functions, such as beneficiary designations, retirement elections, and service purchases require the member's signature.

The County Employee's Retirement Law (CERL) does not currently contain a provision allowing (or disallowing) the use or acceptance of a member's electronic signature on documents submitted to a county retirement system. However, California law does provide that a public entity may use and accept a party's digital signature with the "same force and effect as a manual signature," but only if it meets the requirements of Section 16.5 of the Government Code and regulations adopted thereunder by the Secretary of State.

Staff has determined that complying with the requirements of Section 16.5, and regulations adopted by the Secretary of State, would prove so costly and burdensome as to render it impractical for use by the system and its members. The Franchise Tax Board has an exemption under California Revenue and Taxation Code Section 18621.5(c).

Staff and the Legal Office recommend amending CERL to allow county retirement systems to adopt, at their election, regulations allowing for the use and acceptance a member's electronic signature with the same force and effect as a manual signature, provided it meets the requirements of that system. Language which is similar to the Revenue and Taxation Code section has been drafted to be added to the relevant section of the CERL for application to all county retirement systems. Because more than one county would benefit from the added language, SACRS is the appropriate avenue for sponsorship of this legislation.

Mr. Pu was available for questions from the Board via telephone conference.

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

- C.** Information only as submitted by Robb Van Der Volgen, Chief Counsel regarding: Update on Public Record Act Responses. (Memo dated August 5, 2011.)

Mr. Van Der Volgen reported to the Board that Mr. Lin, staff writer with the Los Angeles Times, renewed his request pursuant to the Public Records Act for a list of retirees who receive money from LACERA, including their name; department retired from; last position held; date of retirement; years of service; gross amount received per month; base allowance; cost of living adjustment; total health allowance; and monthly benefit as well as each retiree's earnings in his and her last five years of service; identifying how much each retiree earned in base salary, overtime and other compensation, and the formula used to calculate the pension benefit. The Legal Office denied Mr. Lin's request noting that LACERA's interpretation and view of California Government Code Section 31532 has not changed since the recent appellate decision in San Diego on this issue and that member records are exempt from disclosure under the California Public Records Act. At the direction of the Board, LACERA will continue to follow this interpretation of California Government Code Section 31532 unless ordered to disclose the records by a court of competent jurisdiction, or upon written authorization by the member.

- D.** Recommendation as submitted by Cynthia Lau, Legislative Affairs Officer: That the Board approve a legislative proposal for inclusion in the SACRS Legislative Platform relating to public record requests. (Memo dated July 29, 2011.)

Ms. Lau addressed the Board noting that existing Government Code Section 31532, applicable to retirement systems operating under the County Employees Retirement Law (CERL), provides that sworn statements and individual records of members shall be confidential and shall not be disclosed to anyone except insofar as may be necessary for the administration of this chapter or upon order of a court of competent jurisdiction, or upon written authorization by the member.

Several CERL systems, including LACERA, have received requests under the California Public Records Act (PRA) for names of retirees and their corresponding pension benefit amounts. LACERA and other systems denied these requests arguing that retirement allowances and benefit payments of individual members are confidential member records under Section 31532, and thus are exempt from disclosure under the PRA.

Subsequent litigation and recent court decisions are requiring compliance with requests to release information on the pensions of retirees. These decisions have relied heavily on the language of the CalPERS statute, but the courts have actually ordered broader disclosure than that provided for by the CalPERS statute. Staff and the Legal Office recommend amending existing CERL Section 31532 to provide authority to CERL systems to respond to public records requests on member benefits with the same limitations provided in the CalPERS statute. It is proposed that similar language to existing Section 20230, which is applicable to CalPERS, be amended into the CERL section.

Due to the August 26, 2011 deadline for submitting legislative proposals to SACRS for inclusion in their 2012 legislative platform, staff was unable to present this first to the Insurance, Benefits and Legislative Committee and is presenting this recommendation directly to the Board for consideration.

A motion was made by Mr. Chery, seconded by Mr. Adams to approve the recommendation. The motion passed unanimously.

- E.** Recommendation as submitted by Simon S. Russin, Chair, Audit Committee: That the Board direct the Chief Executive Officer to respond to the Los Angeles County Court's Presiding Judge on the findings and recommendations in the Civil Grand Jury's 2010-2011 Civil Grand Jury report "Whoa! The State of Public Pensions in Los Angeles County." (Memo dated July 29, 2011.)

Mr. Rademacher addressed the Board stating that the Civil Grand Jury included a committee to assess the state of pension plans in Los Angeles County. LACERA was selected for an in-depth analysis. The Civil Grand Jury found LACERA to be a well run organization and found the pension system finances to be in good shape and without threat of default on its obligations.

The Civil Grand Jury's report requires that the Board of Retirement respond to report findings for which the Board has oversight responsibility. Staff reviewed those findings and recommended that the Board of Retirement respond by agreeing with six findings.

A motion was made by Mr. Pryor, seconded by Mr. Adams to agree with staff's recommendations.

After a discussion among the Board and staff, the Board determined that since LACERA is the administrator of the Plan, not the sponsor, a response to the Grand Jury report's findings on benefit plan design should come from the Board of Supervisors. Therefore, the following action was taken.

Messrs. Pryor and Adams withdrew their motion.

A motion was made by Mr. Saladino, seconded by Mr. Chery, to receive and file the document. The motion passed unanimously.

- F.** Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits and Legislative Committee: That the Board authorize the Retiree Healthcare Director to issue a Request for Proposal for the Retiree Healthcare Benefits Program consultant. (Memo dated July 28, 2011.)

A motion was made by Mr. de la Garza, seconded by Mr. Chery, to approve the recommendation. The motion passed with Mr. Pryor abstaining.

- G.** Recommendation as submitted by the Performance Committee: That the Board amend the Chief Executive Officer's employment agreement to provide an assigned LACERA vehicle in lieu of a car allowance. (Memo dated July 29, 2011.)

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

VI. PUBLIC COMMENT

VII. GOOD OF THE ORDER

(For discussion purposes only.)

VIII. EXECUTIVE SESSION

- A.** CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION (Subdivision (a) of California Government Code Section 54956.9)

- 1.** Catherine Norman-Phillips vs. LACERA
L.A. Superior Court Case No. BS 127176

The Board met in Executive Session to discuss the above claim with its legal counsel. The Board reconvened in open session, at which time Mr. Van Der Volgen reported that the Board met in Executive Session on an existing litigation matter pursuant to subdivision (a) of California Government Code Section 54956.9. In the claim of Catherine Norman-Phillips vs. LACERA the Board unanimously gave direction to the Legal Office.

Mr. Castranova noted that there was a typographical error on page 3 of his memo in the matter of Catherine Norman-Phillips vs. LACERA. The last sentence of the fourth paragraph should read "In short, the former situation would apply" and not "In short the latter situation would apply."

Green Folder Information

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

- A. LACERA Legislative Report — Bills Amending CERL. (Dated August 9, 2011.)
- B. LACERA Legislative Report — Other. (Dated August 9, 2011.)
- C. LACERA Legislative Report — Federal (Dated August 9, 2011.)
- D. Memo to Each Member, Board of Investments from Beulah S. Auten, Chief Financial Officer, regarding Semi-Annual Interest Crediting for Reserves as of June 30, 2011 (Unaudited). (Memo dated August 2, 2011.)
- E. Memo Each Member, Board of Retirement from Cynthia Lau, Legislative Affairs Officer, regarding SACRS Leg Proposal — Electronic Signatures. (Memo dated August 10, 2011.)

IX. ADJOURNMENT