

AGENDA

A REGULAR MEETING OF THE BOARD OF RETIREMENT

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 N. LAKE AVENUE, SUITE 810, PASADENA, CA

9:00 A.M.,* THURSDAY, OCTOBER 11, 2018

*The Board may take action on any item on the agenda,
and agenda items may be taken out of order.*

*Although the meeting is scheduled for 9:00 a.m., the meeting will start at the conclusion of the Joint Board Meeting scheduled for the same time.

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. APPROVAL OF MINUTES
 - A. Approval of the Minutes of the Regular Meeting of September 5, 2018
 - B. Approval of the Minutes of the Regular Meeting of September 13, 2018
- IV. OTHER COMMUNICATIONS
 - A. For Information
 - 1. August 2018 All Stars
 - 2. Interim Chief Executive Officer's Report
(Memo dated October 2, 2018)
- V. PUBLIC COMMENT
- VI. CONSENT ITEMS
 - A. Ratification of Service Retirement and Survivor Benefit Application Approvals.

VI. CONSENT ITEMS (Continued)

- B. Recommendation as submitted by Ricki Contreras, Division Manager, Disability Retirement Services: That the Board grant the appeal and request for an administrative hearing for applicants Angelina Love, Monica E. Jacobs, and Lauren J. Hoyt. (Memo dated September 26, 2018)
- C. Recommendation as submitted by the Disability Procedures & Services Committee: That the Board adopt the recommended procedures for members to apply for a correction appeal in regard to their effective date of disability retirement under Government Code Section 31541.1. (Memo dated September 27, 2018)
- D. Recommendation as submitted by Robert R. Hill, Interim Chief Executive Officer: That the Board approve attendance of Board members at the Harvard Business School – Executive Education: Women on Boards: Succeeding as a Corporate Director on November 26-30, 2018 in Boston, Massachusetts, and approve reimbursement of all travel costs incurred in accordance with LACERA’s Education and Travel Policy. (Memo dated September 13, 2018) (Placed on the agenda at the request of Ms. Gray)

VII. NON-CONSENT ITEMS

- A. Recommendation as submitted by Steven P. Rice, Chief Counsel: That the Board provide direction as to whether to take a position on Proposition 8 and, if so, what additional action should be taken. (Memo dated October 4, 2018)

VIII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

IX. REPORTS

- A. For Information Only as submitted by Ricki Contreras, Division Manager, Disability Retirement Services, regarding the Application Processing Time Snapshot Reports. (Memo dated September 14, 2018)
- B. For Information Only as submitted by Barry W. Lew, Legislative Affairs Officer, regarding the 2018 Year-End Legislative Report. (Memo dated October 1, 2018)

IX. REPORTS (Continued)

- C. For Information Only as submitted by Steven P. Rice, Chief Counsel, regarding the September 2018 Fiduciary Counsel Contact and Billing Report. (Memo dated October 1, 2018) (Privileged and Confidential Attorney-Client Communication/Attorney Work Product)

X. ITEMS FOR STAFF REVIEW

XI. GOOD OF THE ORDER
(For information purposes only)

XII. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

A. Applications for Disability

B. Staff Recommendations

1. Recommendation as submitted by Ricki Contreras, Division Manager, Disability Retirement Services: That the Board 1) Find that Steven E. Belanger's death occurred as the result of a gunshot wound injury caused by external violence or physical force in the performance of his duty as a Deputy Sheriff; and 2) Grant the special death benefit to Mr. Steven E. Belanger's survivor under Government Code Section 31787.6. (Memo dated September 26, 2018)
2. Recommendation as submitted by Eugenia W. Der, Senior Staff Counsel: That the Board find Olivia Shelmon permanently incapacitated from the performance of her duties for service-connected reasons, and grant her a service-connected disability retirement. (Memo dated September 21, 2018)
3. Recommendation as submitted by JJ Popowich, Assistant Executive Officer: That the Board approve the service provider invoices for Winet Patrick Gayer Creighton & Hanes. (Memo dated September 24, 2018)

XIII. EXECUTIVE SESSION

- A. Conference with Legal Counsel - Existing Litigation Significant Exposure to Litigation (Pursuant to Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9)

XIII. EXECUTIVE SESSION (Continued)

1. Winifred McCloud vs. LACERA
LASC. Case No. BS 170407
2. Tod Hipsher vs. LACERA, County of Los Angeles and State of California
LASC Case No. BS 153372; Court of Appeal No. B276486
(For Information Only)
3. LACERA's Amicus Brief – Alameda County Deputy Sheriff's Association, et al., v. Alameda County Employees Retirement Association et al., Case No. S247095
(For Information Only)

XIV. ADJOURNMENT

Documents subject to public disclosure that relate to an agenda item for an open session of the Board of Retirement that are distributed to members of the Board of Retirement less than 72 hours prior to the meeting will be available for public inspection at the time they are distributed to a majority of the Board of Retirement Members at LACERA's offices at 300 N. Lake Avenue, Suite 820, Pasadena, CA 91101, during normal business hours of 9:00 a.m. to 5:00 p.m. Monday through Friday.

Persons requiring an alternative format of this agenda pursuant to Section 202 of the Americans with Disabilities Act of 1990 may request one by calling Cynthia Guider at (626) 564-6000, from 8:30 a.m. to 5:00 p.m. Monday through Friday, but no later than 48 hours prior to the time the meeting is to commence. Assistive Listening Devices are available upon request. American Sign Language (ASL) Interpreters are available with at least three (3) business days notice before the meeting date.

MINUTES OF THE REGULAR MEETING OF THE BOARD OF RETIREMENT
LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 N. LAKE AVENUE, SUITE 810, PASADENA, CA

9:00 A.M., WEDNESDAY, SEPTEMBER 5, 2018

PRESENT: Vivian H. Gray, Chair
Herman Santos, Vice Chair
Marvin Adams, Secretary
Alan Bernstein
JP Harris (Alternate Retired)
Shawn R. Kehoe
Joseph Kelly (Left the meeting at 1:46 p.m.)
William Pryor (Alternate Member)
Thomas Walsh
Gina Zapanta-Murphy

ABSENT: Les Robbins

STAFF ADVISORS AND PARTICIPANTS

Robert R. Hill, Interim Chief Executive Officer

Steven P. Rice, Chief Counsel

Francis J. Boyd, Senior Staff Counsel

Ricki Contreras, Division Manager
Disability Retirement Services

Tamara Caldwell, Specialist Supervisor
Disability Retirement Services

STAFF ADVISORS AND PARTICIPANTS

Eugenia W. Der, Senior Staff Counsel

Thomas J. Wicke, Attorney

I. CALL TO ORDER

The meeting was called to order by Ms. Gray at 9:07 a.m., in the Board Room of Gateway Plaza.

II. PLEDGE OF ALLEGIANCE

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

III. APPROVAL OF MINUTES

A. Approval of the Minutes of the Regular Meeting of August 1, 2018

Mr. Santos made a motion, Mr. Harris seconded, to approve the minutes of the regular meeting of August 1, 2018 with the revision to the Pledge of Allegiance. The motion passed unanimously.

IV. PUBLIC COMMENT

There were no requests from the public to speak.

V. CONSENT ITEMS

Mr. Kehoe made a motion, Mr. Bernstein seconded, to approve the following agenda items. The motion passed unanimously.

A. Ratification of Service Retirement and Survivor Benefit Application Approvals.

V. CONSENT ITEMS (Continued)

- B. Request for an administrative hearing before a referee for applicants Dane J. Deboer and Hesham S. Ibrahim. (Memo dated August 23, 2018)
- C. Recommendation as submitted by the Disability Procedures & Services Committee: That the Board approve Neil S. Ghodadra, M.D. – Board Certified Orthopedist to the LACERA Panel of Physicians for the purpose of examining disability retirement applicants. (Memo dated August 2, 2018)
- D. Recommendation as submitted by the Disability Procedures & Services Committee: That the Board approve Robert A. Moore, M.D. – Board Certified Neurologist to the LACERA Panel of Physicians for the purpose of examining disability retirement applicants. (Memo dated August 2, 2018)
- E. Recommendation as submitted by the Disability Procedures & Services Committee: That the Board approve Katalin Bassett, M.D. – Board Certified Psychiatrist to the LACERA Panel of Physicians for the purpose of examining disability retirement applicants. (Memo dated August 2, 2018)
- F. Recommendation as submitted by the Disability Procedures & Services Committee: That the Board approve the professional investigation agencies, American Employer Defense and MV Investigations, to the LACERA Panel of Service Providers for the purpose of providing professional investigation services to LACERA's Disability Retirement Services and Disability Litigation Division. (Memo dated August 2, 2018)

VI. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Law Enforcement

Service-Connected Disability Applications

On a motion by Mr. Kehoe, seconded by Mr. Adams, the Board of Retirement approved a service-connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

VI. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Law Enforcement (Continued)

Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
871C	MICHAEL J. PRINCE
872C	DIANE SHORT
873C	ERIC M. BARTSCH
874C	LORENZO BRIGHT
875C	DAVIN D. EMMONS
876C	KELLY J. MCMICHAEL
877C	ROGER E. WALLACE
878C*	ANSELMO C. GONZALEZ
879C	ANTHONY C. CAMARGO
880C	BLENNER A. CALDEIRA, JR.
881C	CHARLES E. PRESCOTT
882C**	DOUGLAS D. GILLIES
883C*	JEFF DEL RIO
884C	KENNETH L. SYKES
885C	WILLIE D. ROBINSON
886C	ANDREW W. PARROTT

* Granted SCD – Employer Cannot Accommodate

** Granted SCD – Retroactive Since the Employer Cannot Accommodate

VI. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Law Enforcement (Continued)
Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
887C	ROBERT A. LOPEZ
888C	JAMES D. D'ANTONIO
890C	JOHNIE K. JONES
891C	PAUL C. MARELLA
892C	LAWRENCE R. GREGG

Safety Fire, Lifeguards
Service-Connected Disability Applications

On a motion by Mr. Bernstein, seconded by Mr. Adams, the Board of Retirement approved a service-connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

<u>APPLICATION NO.</u>	<u>NAME</u>
1009B	TERRY L. HARMON
1010B	ALBERT M. TRAXLER
1011B*	THOMAS D. HASAN
1012B	BRUNSON HAMPTON
1013B	MARK J. DELGADO

* Granted SCD – Employer Cannot Accommodate

VI. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Fire, Lifeguards (Continued)
Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
1014B*	MICHAEL P. CONTI, JR.
1015B	MARK S. COLLET
1016B	TIMOTHY M. WIEHE
1017B	ERNEST J. RAMIREZ
1018B*	RICHARD E. MORENO
1019B	GERARDO SILVA
1020B	RICHARD A. BRAMBILA

General Members
Service-Connected Disability Applications

On a motion by Mr. Adams, seconded by Mr. Bernstein, the Board of Retirement approved a service-connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

<u>APPLICATION NO.</u>	<u>NAME</u>
2874B	OLIVE V. RUSSELL
2875B**	SUSAN F. SHAFFER
2876B*	JOHN ORCASITAS

* Granted SCD – Employer Cannot Accommodate
** Granted SCD – Retroactive

VI. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

General Members (Continued)
Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
2877B*	VICTORIA POOLE
2878B*	SANDRA M. SANTANA
2879B**/**	CAROLYN L. BRIGGS
2880B****	ADRIAN M. MCEACHREN
2881B****	LEEANN L. JAEGER
2882B*	MARIA R. LEPE
2884B*/**	ARMENUI BAKHRDZHYAN
2885B****	TIMOTHY J. COKER

General Members
Non-Service-Connected Disability Applications

On a motion by Mr. Adams, seconded by Mr. Harris, the Board of Retirement approved a nonservice-connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

<u>APPLICATION NO.</u>	<u>NAME</u>
4376	GAIL M. CISNEROS

* Granted SCD – Retroactive Since Employer Cannot Accommodate

** Granted SCD – Retroactive

*** Applicant Present

**** Granted SCD – Employer Cannot Accommodate

VII. REPORTS

The following report was received and filed.

- A. For Information Only as submitted by Ricki Contreras, Division Manager, Disability Retirement Services, regarding the Application Processing Time Snapshot Reports. (Memo dated August 22, 2018)

VIII. REPORT ON STAFF ACTION ITEMS

There was nothing to report.

- IX. GOOD OF THE ORDER
(For information purposes only)

There was nothing to report during Good of the Order.

X. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

- A. Applications for Disability

APPLICATION NO. & NAME

BOARD ACTION

5028B – ROBERT J. RENKO

Mr. Kehoe made a motion, Ms. Gray seconded, to refer back to staff for further information. The motion passed unanimously.

5029B – ANGELINA LOVE*

Mr. Kehoe made a motion, Mr. Harris seconded, to deny a service-connected disability retirement and find the applicant not permanently incapacitated since the employer can accommodate. The motion passed unanimously.

* Applicant Present

X. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

A. Applications for Disability (Continued)

APPLICATION NO. & NAME

BOARD ACTION

5030B – MONICA E. JACOBS

Mr. Kehoe made a motion, Mr. Bernstein seconded, to grant a nonservice-connected disability retirement since the employer cannot accommodate pursuant to Government Code Sections 31720 and 31724. The motion passed unanimously.

5031B – LAUREN J. HOYT

Mr. Pryor made a motion, Mr. Harris seconded to grant a nonservice-connected disability pursuant to Government Code Section 31720. The motion passed with Ms. Gray voting no.

5032B – AMBER K. CLAYTON

Mr. Adams made a motion, Mr. Kehoe seconded to deny a service-connected disability retirement and find the applicant not permanently incapacitated.

Mr. Bernstein made a motion, Mr. Pryor seconded to deny a service-connected disability retirement without prejudice. The motion passed unanimously.

5033B – ELLEN FRIEDA RITTENBERG

Mr. Pryor made a motion, Mr. Adams seconded, to deny a service-connected disability retirement and find the applicant not permanently incapacitated. The motion passed unanimously.

X. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

A. Applications for Disability (Continued)

APPLICATION NO. & NAME

BOARD ACTION

5020B – JAKE L. JOHNSON

Mr. Santos made a motion, Mr. Bernstein seconded, to grant a service-connected disability retirement pursuant to Government Code Sections 31720, 31724, and 31720.5. The motion passed unanimously.

5021B – JUAN N. VARGAS (Deceased)

Mr. Santos made a motion, Mr. Adams seconded, to grant a service-connected disability retirement pursuant to Government Code Section 31720. The motion passed unanimously.

6776A – JESSICA D. REED

Mr. Bernstein made a motion, Mr. Santos seconded, to grant a service-connected disability retirement pursuant to Government Code Section 31720. The motion passed unanimously.

B. Referee Reports

APPLICATION NO. & NAME

BOARD ACTION

BONNIE B. PAYNE-HILL – Thomas Wicke for the applicant
Eugenia W. Der for the respondent

Mr. Kehoe made a motion, Mr. Adams seconded, to grant a service-connected disability retirement.

Mr. Bernstein made a substitute motion, Mr. Harris seconded, to refer back to staff for additional information. The motion passed (roll call) with Messrs. Bernstein, Harris, Walsh, Kehoe, and Mrs. Zapanta-

X. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

B. Referee Reports (Continued)

APPLICATION NO. & NAME

BOARD ACTION

BONNIE B. PAYNE-HILL (Continued)

Murphy voting yes; and Messrs. Adam, Santos, and Ms. Gray voting no.

RUSSELL A. REED – Michael Treger for the applicant
Allison E. Barrett for the respondent

Mr. Kehoe made a motion, Mr. Santos seconded, to grant a service-connected disability retirement. The motion passed unanimously.

IGNACIO P. SILVA – Thomas J. Wicke for the applicant
Jason E. Waller for the respondent

Mr. Santos made a motion, Mr. Adams seconded, to grant a service-connected disability retirement with the option for an earlier effective date. The motion passed unanimously.

XI. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 10:10 a.m.

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

1. Retirement Board Listing dated September 5, 2018
2. Disability Retirement Correction Memo – Ellen Freida Rittenberg #5033B

September 5, 2018

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MARVIN ADAMS, SECRETARY

VIVIAN H. GRAY, CHAIR

MINUTES OF THE REGULAR MEETING OF THE BOARD OF RETIREMENT

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 N. LAKE AVENUE, SUITE 810, PASADENA, CA

9:00 A.M., THURSDAY, SEPTEMBER 13, 2018

PRESENT: Vivian H. Gray, Chair
Marvin Adams, Secretary
Alan Bernstein
JP Harris (Alternate Retired)
Shawn R. Kehoe
Thomas Walsh
Gina Zapanta-Murphy

ABSENT: Joseph Kelly
William Pryor (Alternate Member)
Les Robbins
Herman Santos, Vice Chair

STAFF ADVISORS AND PARTICIPANTS

Robert R. Hill, Interim Chief Executive Officer
James Brekk, Interim Deputy Chief Executive Officer
Steven P. Rice, Chief Counsel
Andrew Erickson, State Update
Elaine Salon, Staff Counsel

STAFF ADVISORS AND PARTICIPANTS (Continued)

Andrew Erickson, State Street

I. CALL TO ORDER

The meeting was called to order by Ms. Gray at 9:06 a.m., in the Board Room of Gateway Plaza.

II. PLEDGE OF ALLEGIANCE

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

III. APPROVAL OF MINUTES

A. Approval of the Minutes of the Regular Meeting of August 9, 2018

Mr. Adams made a motion, Mr. Bernstein seconded, to approve the minutes of the regular meeting of August 9, 2018. The motion passed unanimously by all members present.

IV. OTHER COMMUNICATIONS

A. For Information

1. Awards

Mr. Hill recognized the graduating trainees of the Core Benefits Class. The graduates are Maria Calderon, Sydney Lam, Abigail Lomboy, Alejandro Ochoa, Aurelia Okafor-Smith, Maritza Perez, Christian Pieratt, Edwin Tom, and Ashley Tran.

IV. OTHER COMMUNICATIONS (Continued)

2. July 2018 All Stars

Mr. Brekk announced the eight winners for the month of July: Paola Villegas, Rosetta Chang, Ruben Puente, Debbie Goldasich, Regina Harris, Clarence Malone, Dmitriy Khaytovich and Allan Cochran for the Employee Recognition Program. Justin Chiu was the Web Watcher winner and Margaret Chwa, Diana Huang, Steven Alexander, and Melvia Tsao were the winners of LACERA's RideShare Program.

3. Interim Chief Executive Officer's Report
(Memo dated August 31, 2018)

Mr. Hill shared that staff has been working closely with the Chief Executive Officer at CALAPRS to make the retirement transfer process more effective. Furthermore, Barry Lew, James Brekk, and Joe Ackler visited State Legislators in Sacramento earlier this month. Lastly, Mr. Hill provided the Board with a timeline regarding the OPEB valuation.

V. PUBLIC COMMENT

There were no requests from the public to speak.

VI. CONSENT ITEMS

Mr. Bernstein made a motion, Mr. Adams seconded, to approve the following items. The motion passed unanimously by all members present.

- A. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits & Legislative Committee: That the Board adopt an "Oppose" position on H.R. 6290, which would enact the Public Employee Pension Transparency Act (PEPTA). (Memo dated August 28, 2018)

VI. CONSENT ITEMS (Continued)

- B. Recommendation as submitted by Robert R. Hill, Interim Chief Executive Officer: That the Board approve attendance of Board members at the 2018 Crypto Invest Summit on October 22-24, 2018 in Los Angeles, California and approve reimbursement of all travel costs incurred in accordance with LACERA's Educational and Travel Policy. (Placed on the agenda at the request of Mr. Kehoe)
(Memo dated September 4, 2018)

VII. REPORTS

- A. State Street Update
Andrew Erickson, Executive Vice President

(This Item was held after Item V. Public Comment)

Mr. Erickson provided an update to the Board.

- B. For Information Only as submitted by Beulah S. Auten, Chief Financial Officer regarding the 2019 STAR COLA Program.
(Memo dated August 28, 2018)

This Item was received and filed.

- C. For Information Only as submitted by Steven P. Rice, Chief Counsel, regarding the August 2018 Fiduciary Counsel Contact and Billing Report. (Memo dated September 4, 2018) (Privileged and Confidential Attorney-Client Communication/Attorney Work Product)

This Item was received and filed.

- D. For Information Only as submitted by the CEO Search Ad-Hoc Committee and Korn Ferry regarding the CEO Search Update.
(Memo dated September 5, 2018)

This Item was received and filed.

VIII. REPORT ON STAFF ACTION ITEMS

There was nothing to report.

IX. GOOD OF THE ORDER
(For information purposes only)

Mr. Kehoe recognized the Board members pursuing their NACD Board Leadership Fellowship.

X. EXECUTIVE SESSION

A. Conference with Legal Counsel - Anticipated Litigation
Significant Exposure to Litigation (Pursuant to Paragraph (2) of
Subdivision (d) of California Government Code Section 54956.9)

1. Suzanne Collins

The Board met in Executive Session with counsel, pursuant to Paragraph (2) of Subdivision (d) of California Government Code Section 54956.9. The Board unanimously voted by a motion made by Mr. Kehoe, seconded by Mr. Adams, to deny the administrative appeal but put her in the position she would have been in 2009 upon her payment of appropriate amounts.

B. Conference with Legal Counsel - Anticipated Litigation
Significant Exposure to Litigation (Pursuant to Paragraph (2) of
Subdivision (d) of California Government Code Section 54956.9)

Number of Potential Cases: One

The Board met in Executive Session with counsel, pursuant to Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9. There is nothing to report.

X. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 9:42 a.m.

September 13, 2018

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MARVIN ADAMS, SECRETARY

VIVIAN H. GRAY, CHAIR



October 2, 2018

TO: Each Member
Board of Retirement
Board of Investments

FROM: Robert R. Hill 
Interim Chief Executive Officer

SUBJECT: **CHIEF EXECUTIVE OFFICER'S REPORT**

I am pleased to present the Interim Chief Executive Officer's Report that highlights a few of the operational activities that have taken place during the past month, key business metrics to monitor how well we are meeting our performance objectives, and an educational calendar.

LACERA Wellness & Employee Benefits Workshops

LACERA's greatest assets are the over 400 staff members that work at LACERA. As we continue to support health and wellness through Wellness Fairs, Health Screenings, and Workshops, we recently celebrated LACERA's 20th Annual Wellness & Employee Benefits (WEB) Program. Human Resources successfully produced their annual 2-Day WEB Event.

Wellness & Employee Benefits Workshops – September 26, 2018

Day 1: Focused on a wide spectrum of wellness and benefits presentations on subjects including everything from health and fitness to personal finances. There were over 20 workshops held throughout LACERA offices. The most popular workshops with 25 to 50 attending staff members included Healthy Eating, Back Care, Stress Reduction, Meditation, Caring for Elderly Parents, and Wills and Living Trust.

Wellness & Employee Benefits Fair – September 27, 2018

Day 2: Focused on fitness, healthy living, and well-being. In celebration of our 20th anniversary, this year the Wellness & Employee Benefits Fair was held at Lake Avenue Church. Staff members were able to visit over 20 vendor booths including a wide variety of employee benefits and health screenings. All staff members were allowed to participate in one of three sessions with approximately 250 staff members taking advantage of the Fair.

Wellness and employee benefits fairs are a cost-effective way of providing valuable health information and screening services for all our staff members at a single event. When it comes to health and wellness, effective work-life balance and ongoing employee wellness education is our

mission in administering LACERA's Wellness & Employee Benefits Program. A successful wellness and benefits fair requires a good amount of planning, commitment, and dedication. In return, we provide staff members an opportunity to reevaluate their lifestyles. Human Resources works hard to make sure the entire life experience is taken into account, not just the physical and mental, but also the social, financial and community factors. Providing these Fairs is just one way of demonstrating we care about our staff members. I would like to thank the Human Resources Division and other staff members for all the hard work they put into this year's fair. It is a true reflection of LACERA's Values and Vision in action.

CEO Report Dashboard Update

In our continuing effort to provide the Boards with meaningful metrics we have updated the CEO Report Dashboard with two new graphs. We have added a "My LACERA Registrations" graph to the "Striving for Excellence in Service" section of the report. The graph will provide the Boards with annual registrations for My LACERA. As you can see we have had a steady growth in members registering for online access since 2013.

We have added a new "Average Monthly Benefit Allowance w/ COLA Distribution" graph to the "Member Snapshot" section of the report. This will provide the Boards with the number of members that fall into one of eight monthly allowance categories. It should come as no surprise that most members receive a very modest retirement benefit under \$4,000 a month. In fact, the average base benefit (without COLA) is a modest \$3,465.

We continue to look for meaningful metrics to share with the Boards and welcome your feedback on any metrics that you would like to see included in future versions of the CEO Report Dashboard.

RH: jp
CEO report Oct 2018.doc

Attachments

Striving for Excellence in Service



Outreach Attendance
3,145

5,660 Year-to-Date



Outreach Events
34

66 Year-to-Date



Outreach Satisfaction
96.0%

1.7% Change Since Last Mo.



Member Service Center
98.2%

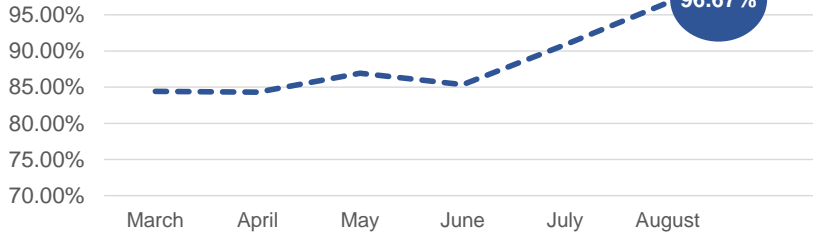
1.8% Change Since Last Mo.



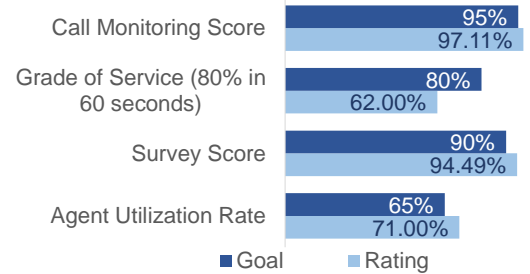
Member Services Calls
10,298

10,347 3 Mo. Avg.

Key Performance Indicator (Overall Performance)



Key Performance Indicator (Components)



Member Services



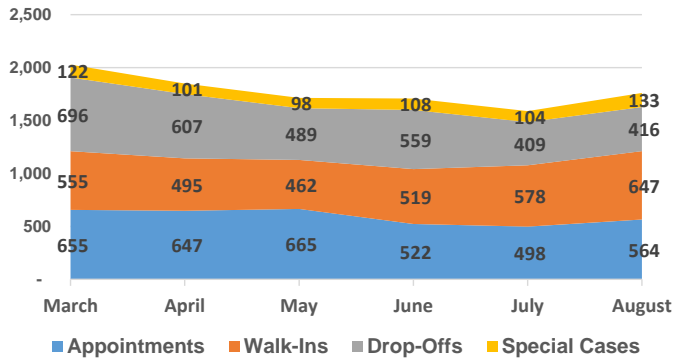
Top Calls

1. Workshop Info/Appointments Inquiry
2. Benefit Payments: Gen. Inquiry/Payday
3. Retirement Counseling: Estimates

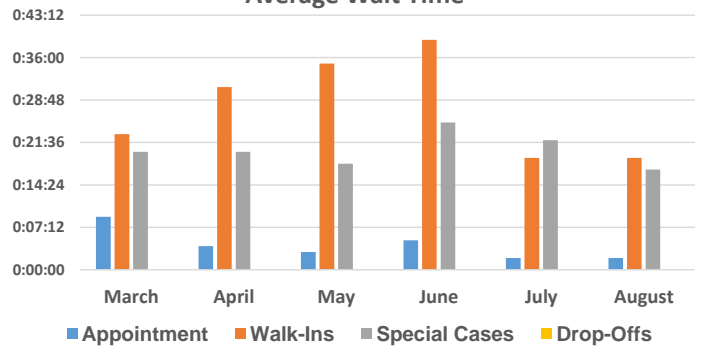


300 Emails
3:50 hours
Avg. Response Time (ART)

Member Service Center Visits



Member Service Center Average Wait Time



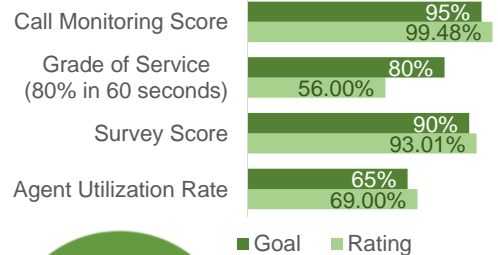
*Drop Off Wait Time: No Waiting

Retiree Healthcare



Top Calls

1. New Enrollment/Change/Cancel
2. Med. Benefits - General Inquiries (RHC)
3. Part B Premium Reimbursement



141 Emails
5 day
Avg. Response Time (ART)

Striving for Excellence in Service (Continued)

Applications

573

On Hand

- 39 Received
- 85 Year-to-Date
- 0 Re-opened
- 0 Year-to-Date
- 53 To Board - Initial
- 91 Year-to-Date
- 0 Closed
- 13 Year-to-Date
- 559 In Process
- 559 Year-to-Date

Appeals

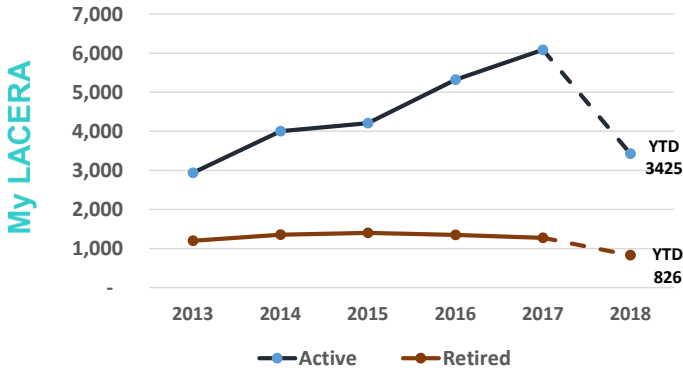
101

On Hand

- 2 Received
- 3 Year-to-Date
- 1 Admin Closed/Rule 32
- 5 Year-to-Date
- 2 Referee Recommended
- 3 Year-to-Date
- 1 Revised/Reconsidered for Granting
- 1 Year-to-Date
- 99 In Process
- 99 Year-to-Date

Disability

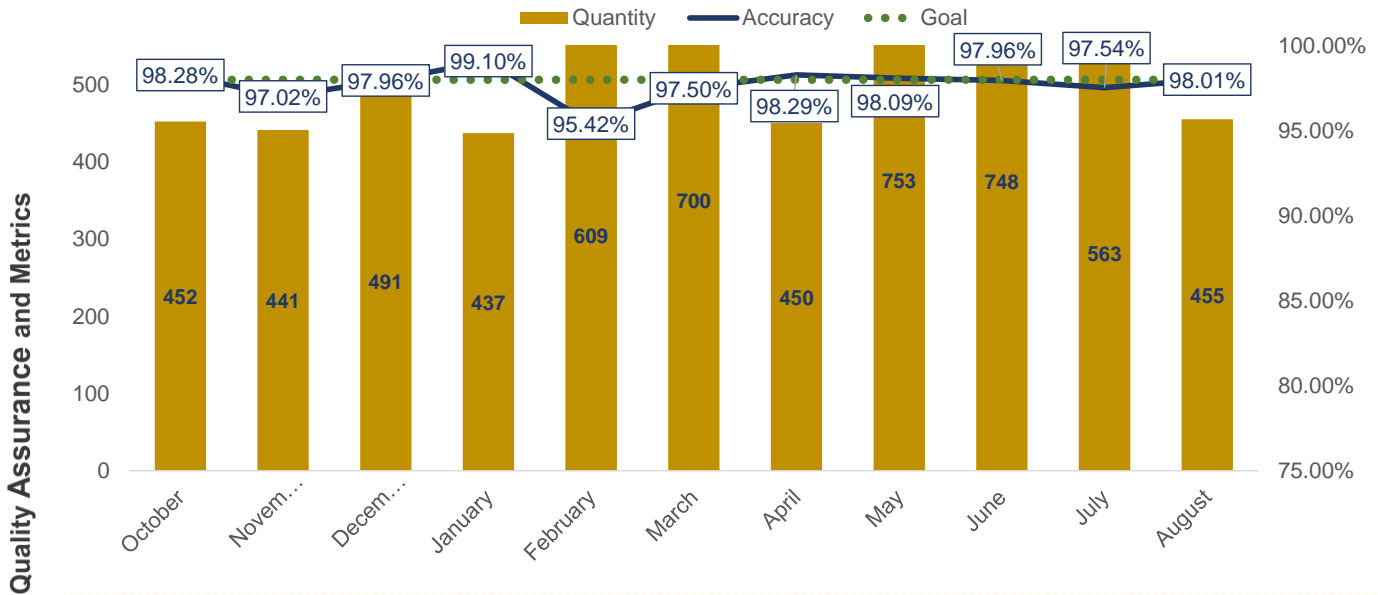
My LACERA Registrations



MORE COMING SOON!

Striving for Excellence in Quality

Audits of Retirement Elections, Payment Contracts, and Data Entry



Quality Assurance and Metrics

August 2018
98.01%



Retirement Elections

191 Samples
97.38% Accuracy

Payment Contracts

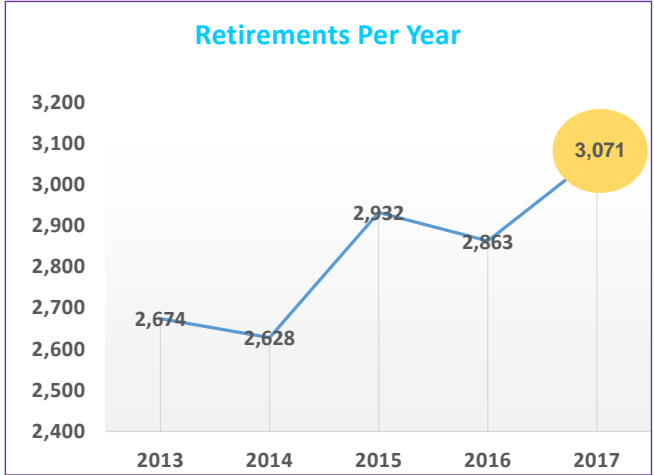
174 Samples
97.43% Accuracy

Data Entry

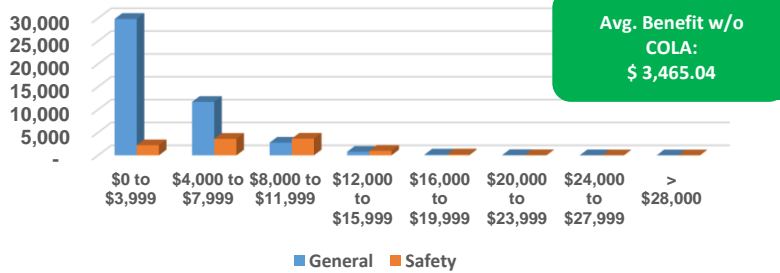
90 Samples
99.22% Accuracy

Member Snapshot

		Members as of 09/24/18				
		Plan	Active	Retired	Survivors	Total
General	Plan A		134	17,515	4,502	22,151
	Plan B		43	683	67	793
	Plan C		54	423	64	541
	Plan D		43,246	14,387	1,313	58,946
	Plan E		18,255	12,477	1,115	31,847
	Plan G		24,219	15	1	24,235
	Total General		85,951	45,500	7,062	138,513
Safety	Plan A		5	5,426	1,587	7,018
	Plan B		10,226	5,374	269	15,869
	Plan C		2,660	8	0	2,668
	Total Safety		12,891	10,808	1,856	25,555
TOTAL MEMBERS			98,842	56,308	8,918	164,068
% by Category			60%	34%	5%	100%

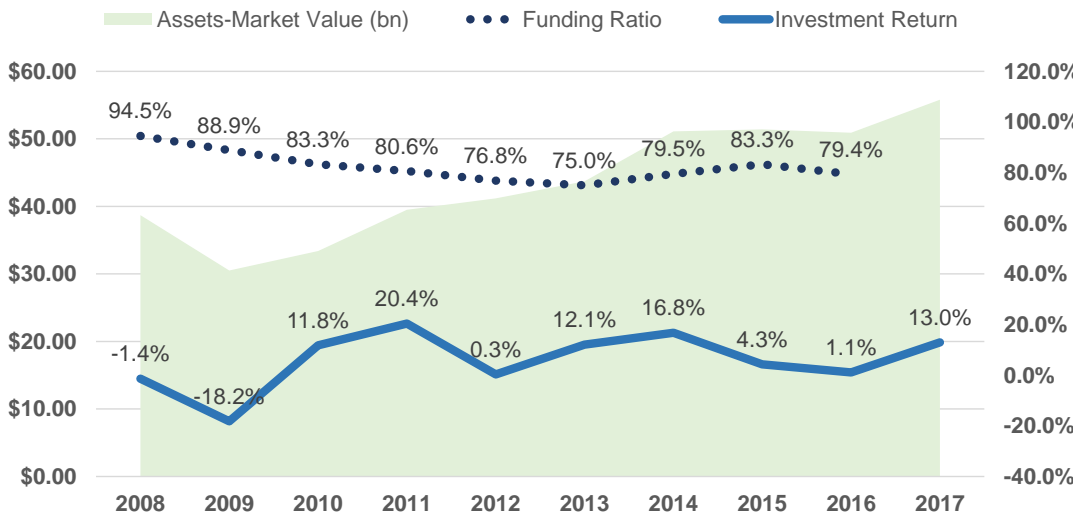


Average Monthly Benefit Allowance w/ COLA Distribution



Healthcare Program (YTD)		Healthcare Enrollments (Monthly)	
	Employer	Member	
Medical	\$85.2m	\$7.2m	Medical 50,058
Dental	\$7.2m	\$735,411	Dental 51,258
Part B	\$10.4m	xxxx	Part B 33,532
Total	\$102.8m	\$7.9m	LTC 674
			Total 135,522

Key Financial Metrics



Funding Metrics (as of 6/30/17)

Employer NC	9.97%*
UAAL	9.73%*
Assumed Rate	7.25%*
Star Reserve	\$614m*
Total Assets	\$52.7b*

Contributions (as of 6/30/17)

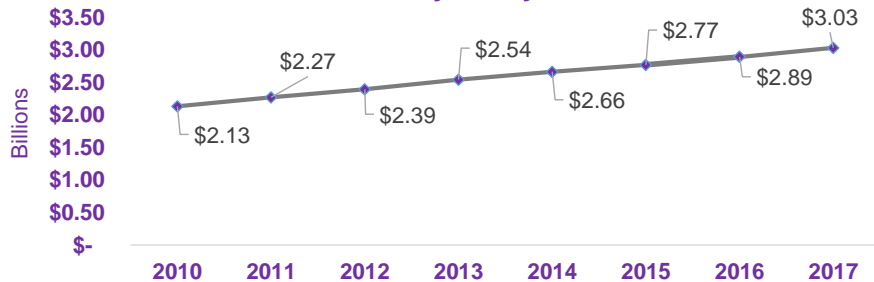
	Employer	Member
Annual Add	\$1,331.4m	\$526.6m
% of Payroll	19.7%*	6.65%*

*Effective July 1, 2017, as of 06/30/16 actuarial valuation

Retired Members Payroll

Monthly Payroll	\$283.43m
Payroll YTD	.6b
New Retired Payees Added	355
Seamless %	98.31%
New Seamless Payees Added	633
Seamless YTD	97.79%
By Check %	4.00%
By Direct Deposit %	96.00%

Retiree Payroll by Year

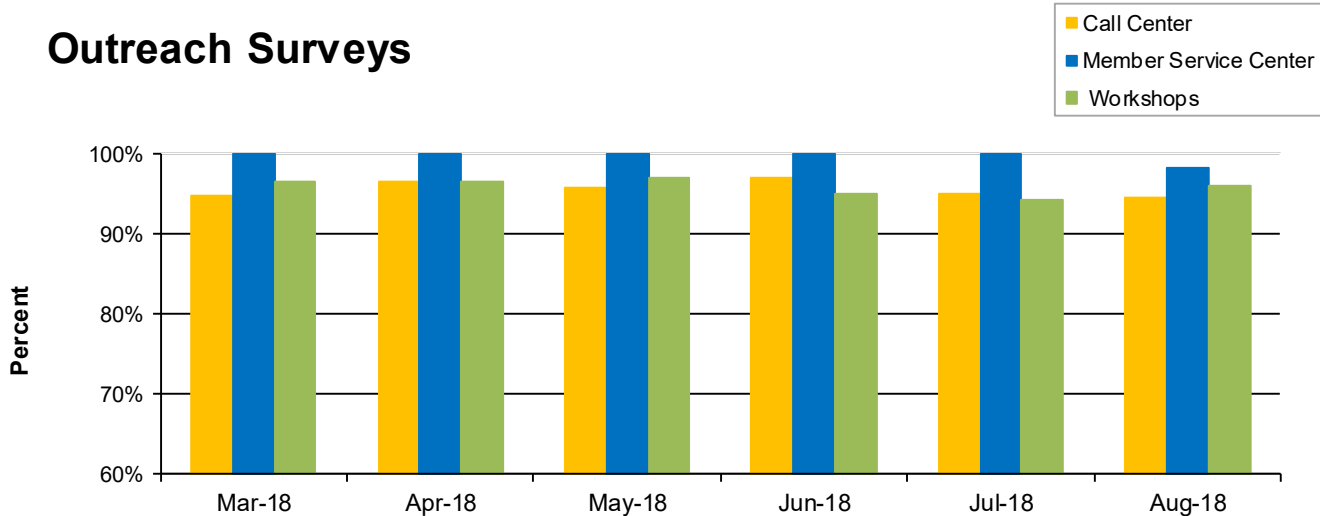


LACERA's KEY BUSINESS METRICS

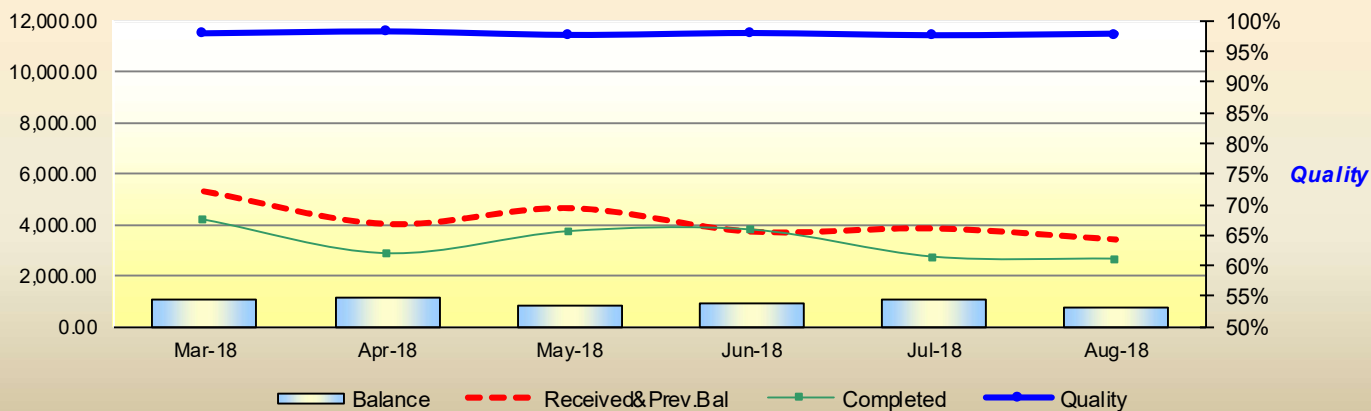
OUTREACH EVENTS AND ATTENDANCE

Type	# of WORKSHOPS		# of MEMBERS	
	Monthly	YTD	Monthly	YTD
Benefit Information	16	26	752	1,194
Mid Career	2	4	85	120
New Member	9	20	212	530
Pre-Retirement	4	9	84	200
General Information	3	7	252	267
Retiree Events	0	0	0	0
Member Service Center	Daily	Daily	1,760	3,349
TOTALS	34	66	3,145	5,660

Outreach Surveys



Benefits and Member Services Production and Quality Summary (Rolling 6 Months)



Member Services Contact Center			RHC Call Center	Top Calls
Overall Key Performance Indicator (KPI)		96.67%		
Category	Goal	Rating		
Call Center Monitoring Score	95%	97.11%	99.48%	<u>Member Services</u>
Grade of Service (80% in 60 seconds)	80%	62%	56%	1) Workshop Info./Appointments: Inquiry
Call Center Survey Score	90%	94.49%	93.01%	2) Benefit Pmts.: Gen. Inq./Payday Info
Agent Utilization Rate	65%	71%	69%	3) Retirement Counseling: Estimate
Number of Calls		10,298	4,254	<u>Retiree Health Care</u>
Number of Calls Answered		9,665	3,960	1) New Enrollment/Change/Cancel
Number of Calls Abandoned		633	283	2) Med. Benefits-General Inquiries (RHC)
Calls-Average Speed of Answer (hh:mm:ss)		00:02:10	00:02:12	3) Part B Premium Reimbursement
Number of Emails		300	141	
Emails-Average Response Time (hh:mm:ss)		03:50:24	(Days) 5	Adjusted for weekends

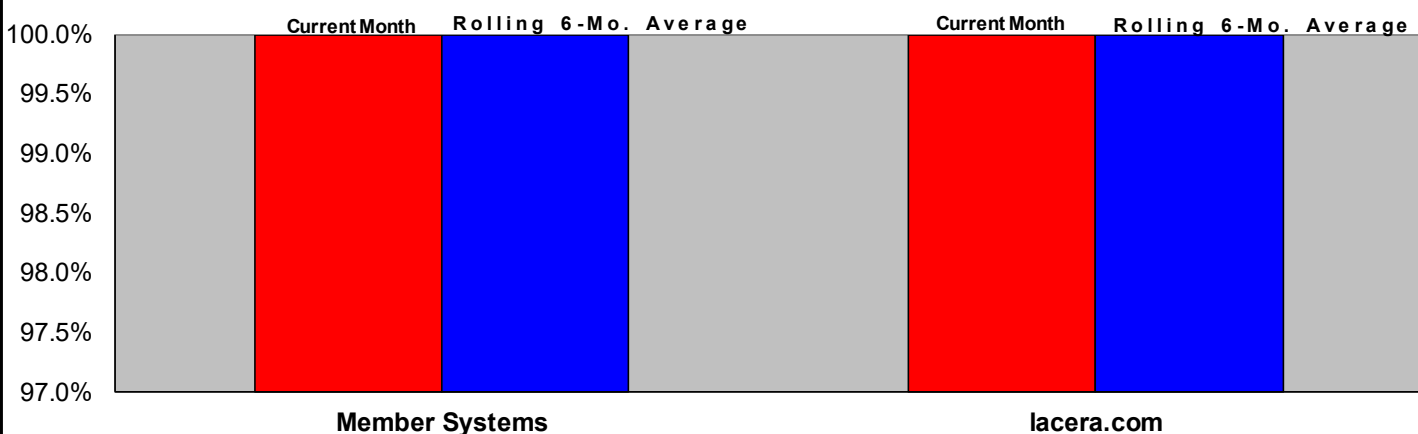
LACERA's KEY BUSINESS METRICS

Fiscal Years	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Assets-Market Value	\$38.7	\$30.5	\$33.4	\$39.5	\$41.2	\$43.7	\$51.1	\$51.4	\$50.9	\$55.8
Funding Ratio	94.5%	88.9%	83.3%	80.6%	76.8%	75.0%	79.5%	83.3%	79.4%	n/a
Investment Return	-1.4%	-18.2%	11.8%	20.4%	0.3%	12.1%	16.8%	4.3%	1.1%	13.0%

DISABILITY INVESTIGATIONS

APPLICATIONS	TOTAL	YTD		APPEALS	TOTAL	YTD
On Hand	573	xxxxxxx		On Hand	101	xxxxxxx
Received	39	85		Received	2	3
Re-opened	0	0		Administratively Closed/Rule 32	1	5
To Board – Initial	53	91		Referee Recommendation	2	3
Closed	0	13		Revised/Reconsidered for Granting	1	1
In Process	559	559		In Process	99	99

SYSTEMS AVAILABILITY - AUGUST 2018



Active Members as of 9/24/18		Retired Members/Survivors as of 9/24/18			Retired Members		
		Retirees	Survivors	Total			
General-Plan A	134	17,515	4,502	22,017	Monthly Payroll	283.43 Million	
General-Plan B	43	683	67	750	Payroll YTD	0.6 Billion	
General-Plan C	54	423	64	487	No. Monthly Added	355	
General-Plan D	43,246	14,387	1,313	15,700	Seamless %	98.31%	
General-Plan E	18,255	12,477	1,115	13,592	No. YTD Added	633	
General-Plan G	24,219	15	1	16	Seamless YTD %	97.79%	
Total General	85,951	Total General	45,500	7,062	52,562	Direct Deposit %	96.00%
Safety-Plan A	5	Safety-Plan A	5,426	1,587	7,013		
Safety-Plan B	10,226	Safety-Plan B	5,374	269	5,643		
Safety-Plan C	2,660	Safety-Plan C	8	0	8		
Total Safety	12,891	Total Safety	10,808	1,856	12,664		
TOTAL ACTIVE	98,842	TOTAL RETIRED	56,308	8,918	65,226		

Health Care Program (YTD Totals)

	Employer Amount	Member Amount
Medical	85,175,997	7,154,952
Dental	7,241,132	735,411
Med Part B	10,423,016	xxxxxxxxxx
Total Amount	\$102,840,145	\$7,890,363

Health Care Program Enrollments (Monthly)

Medical	50,058
Dental	51,258
Med Part B	33,532
Long Term Care (LTC)	674

Funding Metrics as of 6/30/17

Employer Normal Cost	9.97%*
UAAL	9.73%*
Assumed Rate	7.25%*
Star Reserve	\$614 million
Total Assets	\$52.7 billion

Member Contributions as of 6/30/17

Annual Additions	\$526.6 million
% of Payroll	6.65%*

Employer Contributions as of 6/30/17

Annual Addition	\$1,331.4 million
% of Payroll	19.70%*

*Effective July 1, 2017, as of 6/30/16 actuarial valuation.

Date	Conference
November, 2018	
7-8	Institutional Limited Partners Association (ILPA) Summit New York, NY
8	2018 USC Marshall Corporate Directors Symposium Los Angeles, CA
13-15	AVCJ's 31 st Annual Private Equity & Venture Forum Hong Kong, China
13-16	SACRS Indian Wells, CA
15-16	ChrysCapital Annual Investor Conference Hong Kong, China
26-30	Harvard Business School-Executive Education: Women on Boards – Succeeding as a Corporate Director Boston, MA
January, 2019	
27-29	NCPERS (National Conference on Public Employee Retirement Systems) Legislative Conference Washington D.C.
February, 2019	
5-6	IMN (Information Management Network) Annual Beneficial Owners' Intl. Securities Finance & Collateral Mgmt. Conference Fort Lauderdale, FL
27-March 1	Pacific Pension Institute (PPI) North American Winter Roundtable Los Angeles, CA
March, 2019	
2-5	CALAPRS (California Association of Public Retirement Systems) General Assembly Meeting Monterey, CA
4-6	Council of Institutional Investors (CII) Spring Conference Washington D.C.
13-14	AHIP (America's Health Insurance Plans) National Health Policy Conference Washington D.C.
14-15	PREA (Pension Real Estate Association) Spring Conference Dallas, TX
27-29	CALAPRS (California Association of Public Retirement Systems) Advanced Principles of Pension Management for Trustees at UCLA Los Angeles, CA



September 26, 2018

TO: Each Member
Board of Retirement

FROM: Ricki Contreras, Division Manager
Disability Retirement Services

SUBJECT: **APPEALS FOR THE BOARD OF RETIREMENT'S MEETING
OF OCTOBER 11, 2018**

IT IS RECOMMENDED that the Board of Retirement grant the appeal and request for administrative hearing received from the following applicant, and direct the Disability Retirement Services Manager to refer the case to a referee:

5029B	Angelina Love	In Pro Per	Deny SCD – Employer Can Accommodate
5030B	Monica E. Jacobs	In Pro Per	Grant NSCD – Deny SCD Option of Earlier Effective Date
5031B	Lauren J. Hoyt	Thomas Wicke	Grant NSCD – Deny SCD

RC:kw

Memo. New Appeals.docx



September 27, 2018

To: Each Board Member,
Board of Retirement

From: Disability Procedures & Services Committee
William R. Pryor, Chair
J.P. Harris, Vice Chair
Herman B. Santos
Gina Zapanta-Murphy
Marvin Adams, Alternate

For: October 11, 2018 Board of Retirement Meeting

Subject: **Government Code section 31541.1**
Effective Date of Disability Retirement

RECOMMENDATION

It is recommended that the Board of Retirement adopt the recommended procedures for members to apply for a correction appeal in regard to their effective date of disability retirement under Government Code section 31541.1.

INTRODUCTION

On July 13, 2017, the Board of Retirement approved sponsorship of legislation (AB 2076) by LACERA to provide statutory authority to the Board to correct its decisions made between 2013 and 2015 in the determination of the effective date of disability retirement because these decisions were based on an incorrect interpretation of Government Code section 31724.

On July 16, 2018, Governor Jerry Brown signed AB 2076 into law effective January 1, 2019. The law has been codified as Government Code section 31541.1. A copy of this code section is enclosed as Attachment 1. The law does not guarantee that members will be granted an earlier effective date; it only provides that members may file an application and that the Board may correct its prior effective date decision on such terms as it deems just.

After Governor Brown signed the bill into law, a cross-functional team of staff from Benefits, Member Services, Disability Retirement, Communications, Disability Litigation, and the Legal Office met and created procedures for members seeking correction of

their disability effective date. The team's goal was to create procedures that were fair, efficient, and utilized LACERA's existing processes.

LEGAL AUTHORITY

The Board of Retirement has the plenary authority and fiduciary responsibility to administer the retirement system, and it holds executive, legislative, and quasi-judicial powers. It has the sole authority to determine eligibility for a disability retirement. In administering its duties, the Board has the authority to promulgate rules, regulations, procedures, and policies.¹

BACKGROUND

Generally, the earliest date a disability retirement becomes effective is the date the application is filed. Exceptions to this general rule are set forth in the last paragraph of Government Code section 31724, which states:

When it has been demonstrated to the satisfaction of the board that the filing of the member's application was delayed by administrative oversight or by *inability to ascertain the permanency of the member's incapacity until after the date following the day for which the member last received regular compensation*, such date will be deemed to be the date the application was filed. (Emphasis added).

Historically, LACERA followed the plain language interpretation of the above paragraph in regard to the inability-to-ascertain exception—members had to demonstrate that they were unable to ascertain the permanency of their incapacity until after the date following their last day of regular compensation.

From 2013 to 2015, under prior counsel, a different approach was used in interpreting the statute—members had to prove that they were unable to ascertain the permanency of their incapacity during the entire period of the delay, not just until the date following their last day of regular compensation. This approach did not follow the plain language of the statute.

Beginning in approximately July 2015, LACERA returned to the plain language interpretation of the statute. A review of records reveals that from January 2013 to December 2015, 157 applications were granted a disability retirement but denied an earlier effective date under the incorrect interpretation of Section 31724.² Of those 157

¹ Cal. Const., art. XVI, § 17, subd. (a) and (b); Gov. Code Sec. 31725; *Preciado v. County of Ventura, et al.* (1982) 143 Cal.App.3d 783, 789.

² The number of affected members is higher than what staff previously advised the Board. In February 2018, staff performed a more comprehensive analysis of the disability-retirement applications granted during the relevant period and this analysis uncovered additional affected members.

applications, 43 members could potentially collect retroactive benefits if they prove that they were unable to ascertain the permanency of their incapacity until the date following their last day of regular compensation.

In order to fulfill our fiduciary duty to our members, LACERA sought legislation (AB 2076) that would allow members to have the Board reconsider their decisions on the effective date issue. Now that the bill has been signed into law, it is the Legal Office's recommendation that the Board adopt the following procedures for members to apply for a correction appeal in regard to their effective date of disability retirement.

RECOMMENDED PROCEDURES

Notice of Right to File an Application for Correction Appeal, Benefit Adjustment Worksheet, and Application for Correction Appeal.

Beginning in early December 2018, Disability Retirement Services will send a notice to all affected members, and the attorney of record, informing them of their right to submit an Application for Correction Appeal. The notice will contain an Application for Correction Appeal form, allowing the members to appeal the Board's initial decision in regard to the effective date. The notice letter informs members of the following:

- Their right to appeal only covers eligibility for an earlier effective date and no other issue.
- The deadline to file an appeal is December 31, 2019.
- Members are provided with their application date and current effective date of their disability retirement.
- Members are informed that it is their burden to prove that they were unable to ascertain the permanency of their incapacity until the date following their last day of regular compensation.
- The notice contains a Benefit Adjustment Worksheet that explains how their disability retirement allowance will be affected if they meet their burden of proof.
- Members are informed of potential consequences if their effective date is deemed earlier than the date of their application. The benefit worksheet specifically warns members that an earlier effective date could result in a disqualification of their LTD benefits if the effective date is within the six-month qualifying period for LTD benefits. The worksheet warns that such a disqualification would result in members having to pay back all of the LTD benefits paid to them. Members are advised to consult with Sedgwick to discuss the potential LTD-benefit consequences. Members are also advised to contact their counsel and personal financial advisor to discuss tax implications.

A copy of the Notice of Right to File an Application for Correction Appeal Pursuant to Government Code section 314541.1, a sample Benefit Adjustment Worksheet, and an Application for Correction Appeal form are enclosed as Attachment 2.

Acknowledgement of Receipt of Application for Correction Appeal

Once Disability Retirement Services receives the member's signed Application for Correction Appeal form, it will send a confirmation letter acknowledging receipt of the appeal. The appeal will be assigned to a neutral referee and the Disability Litigation Division will represent LACERA in the appeal. The member will also be sent a copy of the "Board Packet" with the acknowledgement letter and an automatic reassignment affidavit to be utilized if the member desires to have a different referee assigned to the appeal. Within 45 days of the date of the letter, Disability Retirement Services will send the member all of the available records staff obtained during the original investigation of the application.

A copy of the Acknowledgement of Receipt of Application for Correction Appeal is enclosed as Attachment 3.


Disability Litigation Division's Role

Upon assignment to the Disability Litigation Division, the LACERA attorney will review the records on a priority basis to determine whether or not there is substantial evidence to support a denial of the member's request for an earlier effective date. If the evidence demonstrates that the member was unable to ascertain the permanency of his or her incapacity until after the date following the last day of regular compensation, the LACERA attorney will prepare a recommendation to the Board of Retirement to grant the member's request for an earlier effective date. The LACERA attorney will decide whether or not to make such a recommendation within 30 days of the date the file is assigned to the Disability Litigation Division. If the evidence supports a denial of an earlier effective date, the member will have the burden of moving the appeal forward pursuant to LACERA's Procedures for Disability Retirement Hearings.

CONCLUSION

The Disability Procedures & Services Committee recommends that the Board of Retirement adopt the recommended procedures for members to apply for a correction appeal in regard to their effective date of disability retirement under Government Code section 31541.1.

Reviewed and approved.



Steven P. Rice, Chief Counsel

c:

ATTACHMENT 1



AB-2076 County employees' retirement: disability: date of retirement. (2017-2018)

SHARE THIS:



Date Published: 07/16/2018 09:00 PM

Assembly Bill No. 2076

CHAPTER 97

An act to add Section 31541.1 to the Government Code, relating to county employees' retirement.

[Approved by Governor July 16, 2018. Filed with Secretary of State July 16, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2076, Rodriguez. County employees' retirement: disability: date of retirement.

The County Employees Retirement Law of 1937 provides a comprehensive set of benefits for county and district employees who are members of a retirement system subject to that law and establishes county retirement boards for the administration of benefits authorized under that law. That law authorizes a county retirement system in Los Angeles County to adjust retirement payments due to errors or omissions, as specified. That law also permits a member permanently incapacitated for duty to retire for disability only if specified criteria are met and requires the board to determine the effective date of retirement in those cases, as specified.

This bill would authorize a county retirement system in Los Angeles County to correct a prior board decision determining the effective date of retirement for a member permanently incapacitated for disability that was made between January 1, 2013, and December 31, 2015, and was based upon an error of law existing at the time of the decision, as specified. The bill would authorize a member seeking correction under these provisions to file an application with the board no later than one year from the date these provisions become operative.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 31541.1 is added to the Government Code, to read:

31541.1. (a) Subject to subdivisions (c), (d), and (e) of Section 31541, the board, upon any terms it deems just, may correct prior board decisions made between January 1, 2013, and December 31, 2015, that were based upon an error of law existing at the time of the decision in the determination of the effective date of disability retirement pursuant to Section 31724. A member seeking correction of errors and omissions pursuant to this section may file an application for correction to the board no later than one year from the date this section becomes operative.

(b) This section shall apply to a county of the first class as described in Section 28020 and 28022.

ATTACHMENT 2



(Date)

**NOTICE OF RIGHT TO FILE AN
APPLICATION FOR CORRECTION APPEAL
Pursuant to Government Code § 31541.1**

Dear _____ :

Introduction

Our records show that the Board of Retirement granted your disability retirement between January 1, 2013 and December 31, 2015, but did not grant your request for an earlier effective date pursuant to Government Code § 31724.

On March 2, 2018, we mailed you a letter explaining that between 2013 and 2015, the Board of Retirement based its decisions to grant members an effective date earlier than their application date on an incorrect interpretation of § 31724. In order to fulfill our fiduciary duty to our members, we sought legislation (AB 2076) that would allow members to have the Board reconsider their decisions on the effective date issue. On July 16, 2018, Governor Jerry Brown signed AB 2076 into law which has been codified as Government Code § 31541.1. The new law is effective on January 1, 2019. A copy of this code section is enclosed. The law does not guarantee that you *will* be granted an earlier effective date; it only provides that you may file an application and that the Board may correct its prior effective date decision on such terms as it deems just.

Your Right to Appeal

You now have the right to file an Application for Correction Appeal under the authority of Government Code § 31541.1. This appeal will only apply to the effective date of your disability retirement. No other issue may be appealed because the Board's earlier decision remains final as to all other issues. An Application for Correction Appeal form is enclosed.

Deadline to File Appeal

Under the new law, your signed Application for Correction Appeal must be filed with LACERA no later than Tuesday, December 31, 2019. This means your application must be received by LACERA before the close of business (Monday through Friday, 5 PM) on or before that date. Applications for Correction Appeal filed and received after that date will not be considered.

Current Disability Retirement Effective Date Based on Your Application

According to our records, you filed your disability retirement application on [Date]_____, and your disability retirement became effective on [Date]_____.

Burden of Proof for Receiving an Effective Date Earlier Than Your Application Date

To be entitled to a disability retirement allowance effective date earlier than the date of your original application, you must demonstrate to the satisfaction of the Board of Retirement that the delay in filing your application was caused by your inability to ascertain the permanency of your incapacity until after the day following your last day of regular compensation or by administrative oversight.

Your Last Day of Regular Compensation

According to our records, your last day of regular compensation was [Date]_____.

Potential Change in Your Disability Allowance If You Are Successful in Your Appeal

If you are able to prove that you were unable to ascertain the permanency of your incapacity until after the day following your last day of regular compensation or by administrative oversight, the enclosed Benefit Adjustment Worksheet explains how your disability allowance will be affected.

Things to Consider When Filing an Appeal

It may or may not be in your interest to file an appeal. You should carefully consider the consequences before filing your application.

There may not be a retroactive tax benefit in pursuing an earlier effective date. LACERA cannot provide you with any tax advice; we recommend you speak with a tax specialist.

Any retroactive benefits granted to you may be subject to an offset if you received Long-Term Disability (LTD) benefits. Also, an earlier disability retirement effective date may affect your eligibility for LTD benefits. Please speak with a representative from Sedgwick, the County's LTD administrator.

A grant of an earlier effective date of your disability retirement may affect your disability retirement survivor benefits for your spouse. Please contact LACERA Member Services to discuss this issue.

What Happens After You Submit Your Application for Correction Appeal?

Once LACERA receives your signed Application for Correction Appeal, you will receive a confirmation letter from Disability Retirement Services acknowledging receipt of your appeal, and your appeal will be assigned to a neutral referee. Your appeal will be subject to LACERA's Procedures for Disability Retirement Hearings. We have enclosed a copy of the procedural pamphlet for your review.

Notice of Right to File an Application for Correction Appeal

[Date]

Pursuant to Government Code § 31541.1

Page 3

Questions Regarding Your Appeal Rights

If you have questions about this information or need assistance, please contact LACERA's Call Center at [800-786-6464](tel:800-786-6464) between 7:00 AM and 5:30 PM PT. You can also make an appointment to visit our Member Services Center in Pasadena by visiting lacera.com or email us at welcome@lacera.com. A Retirement Benefits Specialist will gladly assist you.

Sincerely,

LACERA Benefits Division

— SAMPLE —

**ESTIMATED POTENTIAL BENEFIT ADJUSTMENTS IF GRANTED AN EARLIER
DISABILITY EFFECTIVE DATE**

RE: **John Doe**

Employee ID# 000000

If you are able to prove to the Board of Retirement that you were unable to ascertain the permanency of your incapacity until after the date following the day you last received regular compensation, your LACERA retirement benefits would be recalculated as follows:

Old Disability Effective Date	New Disability Effective Date*
1/18/2012	11/24/2009

This table reflects the recalculated Unmodified monthly benefit effective November 30, 2018 payroll:

Old Monthly Benefit	New Monthly Benefit
\$2,946.32 Total \$2,629.03 Base + \$317.29 COLA	\$3,043.16 Total \$2,622.83 Base + 420.33 COLA

This table reflects the retroactive benefits from November 24, 2009 (the new disability effective date) to October 31, 2018:

Description	Amount
Total recalculated benefit (if appeal is granted):	\$303,785.80
Benefit Already Paid:	\$227,185.32
Estimated Retroactive Amount Due To Member (if appeal is granted):	\$76,600.48**

Based on the new disability effective date (if appeal granted), your Final Average Compensation has changed from \$7,887.10 to \$7,868.49.

IMPORTANT NOTES

*If your new disability effective date is within the six-month qualifying period for LTD benefits, you **will lose your qualification for LTD benefits and will have to pay back all the LTD benefits paid to you**, which could have a major impact on whether or not an effective date change is beneficial to you. LACERA cannot make any LTD calculations.

You **may have to reimburse Sedgwick, the LTD provider, from this retroactive amount during your new, earlier period of disability.

We **strongly recommend** that you contact Sedgwick at (800) 786-8600 before requesting an earlier effective date.

You may also wish to consult with your counsel, a personal financial advisor, or a tax professional as to whether a request for an earlier effective date is in your best interest. LACERA cannot offer any financial or tax advice and does not make representations that an earlier effective date is in your best interest.



APPLICATION FOR CORRECTION APPEAL Pursuant to Government Code § 31541.1

The Board of Retirement granted me a disability retirement between January 1, 2013 and December 31, 2015, but did not grant my request for an earlier effective date of my disability retirement pursuant to Government Code § 31724.

Under the authority of Government Code § 31541.1, I wish to appeal the Board of Retirement's disability decision on the limited issue of the effective date of my disability retirement.

I understand that I have the burden of proving to the satisfaction of the Board of Retirement that the delay in filing my disability retirement application was caused by my inability to ascertain the permanency of my incapacity until after the day following my last day of regular compensation or by administrative oversight. I further understand that this appeal only covers eligibility for an earlier effective date and no other issue.

Signature: _____ Date: _____

Name (Please Print): _____

ATTACHMENT 3



[DATE]

**ACKNOWLEDGEMENT OF RECEIPT OF
APPLICATION FOR CORRECTION APPEAL
AND ASSIGNMENT OF REFEREE
Pursuant to Government Code § 31541.1**

Dear [NAME]:

We have received your Application for Correction Appeal pursuant to Government Code § 31541.1. The following referee has been assigned to your case:

[REFEREE NAME]
[REFEREE ADDRESS]
[CITY, ST, ZIP]

Enclosed is an automatic reassignment affidavit. If you wish to request that a different referee be assigned to your case, you have one opportunity to do so. If you choose to exercise this option, you will need to fill out and return this affidavit to our office within 10 days from the date of this letter.

Also enclosed is the "Board packet" that was presented to the Board of Retirement at the time the original decision on your application was made. The "Board packet" contains your application, the Board's panel-physician report, the list of records reviewed by the panel physician, and the Disability Retirement Evaluation Report prepared by LACERA staff.

All of the available records obtained by LACERA staff during the investigation of your application will be forwarded to you and LACERA's Disability Litigation Division within 45 days from the date of this letter.

You will be notified when a LACERA attorney has been appointed to represent LACERA and that attorney will make arrangements with you to schedule a procedural conference that will be conducted at LACERA with you, your attorney (if you have one), the attorney for LACERA, and the referee. If you have any questions about the procedural conference, you can call the Disability Litigation Division at (626) 564-6000, Ext. 4381.

Sincerely,

Ricki Contreras, Manager
Disability Retirement Services Division

Enclosure

PETITION FOR AUTOMATIC REASSIGNMENT

Case Name

AFFIDAVIT

State of California)
) ss.
County of _____)

_____, declares under penalty of perjury:
(Name of Affiant)

1. That (s)he is (a party) (an attorney for a party) to the above-named case.
2. That affiant believes that (s)he cannot have a fair and impartial trial before the referee to whom the case is assigned.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.
(Date) (City)

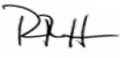
(Signature)

This declaration shall be filed not more than ten (10) days after the service of the notification of assignment of referee and shall be directed to the attention of the Board of Retirement.



September 13, 2018

TO: Each Member
Board of Investments

FROM: Robert R. Hill 
Interim Chief Executive Officer

FOR: Board of Retirement Meeting of October 11, 2018

SUBJECT: Harvard Business School – Executive Education: Women on Boards: Succeeding as a Corporate Director on November 26 – 30, 2018 in Boston, Massachusetts

The Harvard Business School – Executive Education: Women on Boards: Succeeding as a Corporate Director will be held on November 26 – 30, 2018 at the Harvard Business School in Boston, Massachusetts. This program will provide senior female executives with the opportunity to navigate the board selection process and to explore ways to effectively govern as a corporate director. Tailored to high-achieving women who seek to contribute to corporate governance at the highest level, this program will also serve as a valuable convening platform for women to explore topics of boardroom diversity among accomplished peers.

The main conference highlights include the following:

- Roles and Responsibilities of Board Members
- The Informal Dynamics that Drive How Boards Function
- How Legal and Regulatory Frameworks Affect Boards
- The Board's Role in Relation to Senior Management
- Successfully Communicating with Diverse Stakeholders

The conference meets LACERA's policy of an average of five (5) hours of substantive educational content per day. The registration fee to attend is \$12,250.00 and the fee covers tuition, books, case materials, accommodations, and most meals.

If the registration fee is insufficient to pay the cost of the meals provided by the conference sponsor, LACERA must reimburse the sponsor for the actual cost of the meals, less any registration fee paid. Otherwise, the attendee will be deemed to have received a gift equal to the value of the meals, less any registration fee paid, under California's Political Reform Act.

IT IS THEREFORE RECOMMENDED THAT YOUR BOARD:

Approve attendance of Board members at The Harvard Business School – Executive Education: Women on Boards: Succeeding as a Corporate Director on November 26 – 30, 2018 in Boston, Massachusetts, and approve reimbursement of all travel costs incurred in accordance with LACERA's Education and Travel Policy.



WOMEN ON BOARDS: SUCCEEDING AS A CORPORATE DIRECTOR

➔ WWW.EXED.HBS.EDU/PROGRAMS/WOB/

Program Objectives

This program provides high-achieving women with the opportunity to navigate the board selection process and to explore ways to effectively govern as a corporate director. Tailored to senior female professionals who seek to contribute to corporate governance at the highest level, this program will also serve as a valuable convening platform for women to explore topics of boardroom diversity among accomplished peers.

Curriculum

Through case study discussions, expert panel discussions, presentations, and individual coaching sessions, the program provides the deep background knowledge you need to become an effective board member. In addition, because all program participants are women in senior executive roles, you'll have a unique opportunity not only to network and share what's worked and what to avoid, but to make lasting connections. The program will provide ongoing resources for participants as they research and pursue board opportunities.

Curriculum topics include:

- Roles and responsibilities of board members
- The informal dynamics that drive how boards function
- How legal and regulatory frameworks affect boards
- The board's role in relation to senior management
- What the next generation of board members needs to know
- Successfully communicating with diverse stakeholders
- How you can prepare to respond effectively to risks and crises
- What you need to win the board appointment you seek
- How to raise your profile with elite search firms

To allow for productive discussion on day one, participants will receive case studies and other course materials in advance.

Participant Mix

Women on Boards is intended for senior female executives of large, publicly held companies who seek to better understand how boards work, prepare themselves for a board role, and meet and network with other senior women.

Anticipated Faculty

William W. George, Boris Groysberg (faculty cochair), Paul M. Healy, F. Warren McFarlan, Cynthia A. Montgomery, David A. Moss, Lynn S. Paine (faculty cochair), and Debora L. Spar



WHY HARVARD BUSINESS SCHOOL?

This is where world leaders convene. At Harvard Business School, you will do more than prepare for the next step in your career. You will develop the worldview, strategic skills, and leadership capacity to master the complex global challenges that face your company today.

The Case Method, pioneered by Harvard Business School, is a proven tool for expanding your leadership capability and expertise. No other program puts you face to face with the faculty who wrote the cases and experienced the outcomes.

Our Global Curriculum integrates the best practices and cultural insights of the world's top businesses. You will return with the latest strategies for achieving your company's goals—and your career objectives.

A Diverse Group of Accomplished Peers will share their unique perspectives and life experiences. You will leave with a business network that spans functions, industries, and the globe.

Full-Time Harvard Business School Faculty members teach every course. Drawing on proven business expertise and field-based research, they will engage you in an unparalleled learning experience.

Admissions

Application Process—Please visit www.exed.hbs.edu for complete admission requirements and to apply online. The Admissions Committee meets monthly, and admits qualified candidates on a rolling, space-available basis. Early application is strongly encouraged.

Admission Requirements—Admission is selective and based on professional achievement and organizational responsibility. No formal educational requirements apply; however, candidates will come recommended by a senior executive with corporate board experience. Executive Education programs enhance the leadership capacity of the managers enrolled as well as their organizations, and HBS expects full commitment from both.

Program Fee—The program fee covers tuition, books, case materials, accommodations, and most meals. Payment is due within 30 days of the invoice date. If admission is within 30 days prior to the start of the program, payment is due upon receipt of the invoice. Cancellation policies are outlined in the information provided to applicants upon admission. Scholarship assistance may be available to qualified candidates thanks to the generous support of Linda Rabbitt, CEO and Chairman of Rand Construction Corporation.

Connect With Us

For more information, please contact a Program Advisor at:

Executive Education Programs

Harvard Business School

Soldiers Field

Boston, Massachusetts 02163-9986 U.S.

Email: executive_education@hbs.edu

Telephone: 1-800-427-5577

(outside the U.S., +1-617-495-6555)

Fax: +1-617-495-6999

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October 4, 2018

TO: Each Member,
Board of Retirement

FROM: Steven P. Rice *SPR*
Chief Counsel

FOR: October 11, 2018 Board of Retirement Meeting

SUBJECT: Position on Proposition 8 regarding Cost Limits on Kidney Dialysis

Trustee Herman Santos requested that staff agendaize Proposition 8, which is on the November 6, 2018 ballot, for consideration by the Board of Retirement (Board). A copy of Mr. Santos's request, including background information he supplied, is attached as Attachment A.

Proposition 8, if approved by the voters, will regulate amounts outpatient kidney dialysis clinics charge for dialysis treatment. Official ballot pamphlet information, including the Title and Summary prepared by the Attorney General, Analysis by the Legislative Analyst, and Arguments in Favor of and Against Proposition 8, is attached as Attachment B. The full text of Proposition 8 is attached as Attachment C. Lists of those supporting and opposing Proposition 8 are attached as Attachment D.

RECOMMENDATION

Staff requests that the Board of Retirement provide direction as to whether to take a position on Proposition 8 and, if so, what additional action should be taken.

LEGAL AUTHORITY

LACERA's Legislative Policy (page 14) summarizes the applicable law with respect to the Board's legal authority to take action with respect to ballot measures, and the range of options available:

California law provides for citizens to use ballot measures to initiate a state statute or a constitutional amendment or to repeal legislation through a veto referendum. The California State Legislature may also use ballot measures to offer legislatively referred state statutes or constitutional amendments.

In general, a government agency may not spend public funds for a partisan campaign advocating the passage or defeat of a ballot measure.

It is, however, permissible for a government agency to engage in informational activities. What distinguishes informational activities from campaign activities depends on the style, tenor, and timing of the activity.

From time to time, ballot measures may be offered that are related to public retirement plans. The following guidelines are intended to provide guidance on actions that may be taken with respect to ballot measures on public retirement plans:

- Providing informational staff reports and analysis on the ballot measure's effect in a meeting open to the public.
- Providing a recommendation for the Board to take a position on the ballot measure in a meeting open to the public where all perspectives can be shared. (The Board may or may not take a position on any ballot measure. The Board may take a position when it determines it is necessary to publicly express its opinion for or against a matter on which it feels strongly with respect to its impact on LACERA.)
- Providing the Board's position and views on the ballot measure's merits and effects to interested stakeholders and organizations.
- Responding to inquiries from stakeholders and the public regarding the Board's position and views on the ballot measure.

The Fair Political Practices Commission (FPPC) was created by the Political Reform Act and requires government agencies to report expenses used to advocate or unambiguously urge the passage or defeat of a measure in an election. The FPPC also prohibits government agencies from paying for communication materials that advocate or unambiguously urge the passage or defeat of a measure in an election. LACERA must be cautious in not engaging in activities that can be characterized as campaign activities, which are prohibited and would be subject to campaign expenditure reporting requirements. Therefore, all activities related to ballot measures are subject to review by Chief Counsel.

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DISCUSSION

Because this matter was brought to staff's attention only very recently, staff has not had an opportunity to evaluate Proposition 8. However, prior to the Board meeting, staff, including the Legal Division, the Retiree Healthcare Division, and others, will consider the proposition and will be prepared to discuss the matter with the Board. Because the issue relates to the November 6, 2018 election and is time sensitive, it is presented directly to the Board rather than first to the Insurance, Benefits & Legislative Committee, as would be normal practice.

CONCLUSION

Based on the attached information as well as such additional information as staff may provide to the Board at the October 11, 2018 meeting, staff requests that the Board provide direction as to whether to take a position on Proposition 8 and, if so, what additional action should be taken.

Attachments

- c: Robert Hill
- James Brekk
- John Popowich
- Bernie Buenaflor
- Cassandra Smith
- Leilani Ignacio
- Johanna Fontenot
- Jill Rawal

ATTACHMENT A
Trustee Santos Agenda Request

Steven Rice

From: Herman Santos <hermansantos49@gmail.com>
Sent: Wednesday, October 3, 2018 12:42 PM
To: Barry Lew
Cc: Vito Triglia; David Green; Steven Rice; Vivian Gray
Subject: Fwd: Prop 8 Support
Attachments: Fact-Sheet_Yes-On-8_September.pdf

Hi Barry,
Please include this matter as an action item on the October 11 BOR meeting.

Thank you,

Herman B. Santos

Begin forwarded message:

From: Vito Triglia <Vito.Triglia@seiu721.org>
Date: October 3, 2018 at 3:29:50 PM EDT
To: "Herman Santos (hermansantos49@gmail.com)" <hermansantos49@gmail.com>
Subject: **Prop 8 Support**

Hello Herman!

Is the LACERA BOR taking a stance on Proposition 8? It seeks to reign in the costs of kidney dialysis. CalPERS has come out in support of it as one of the largest purchasers of dialysis care. See below and attached for more info.

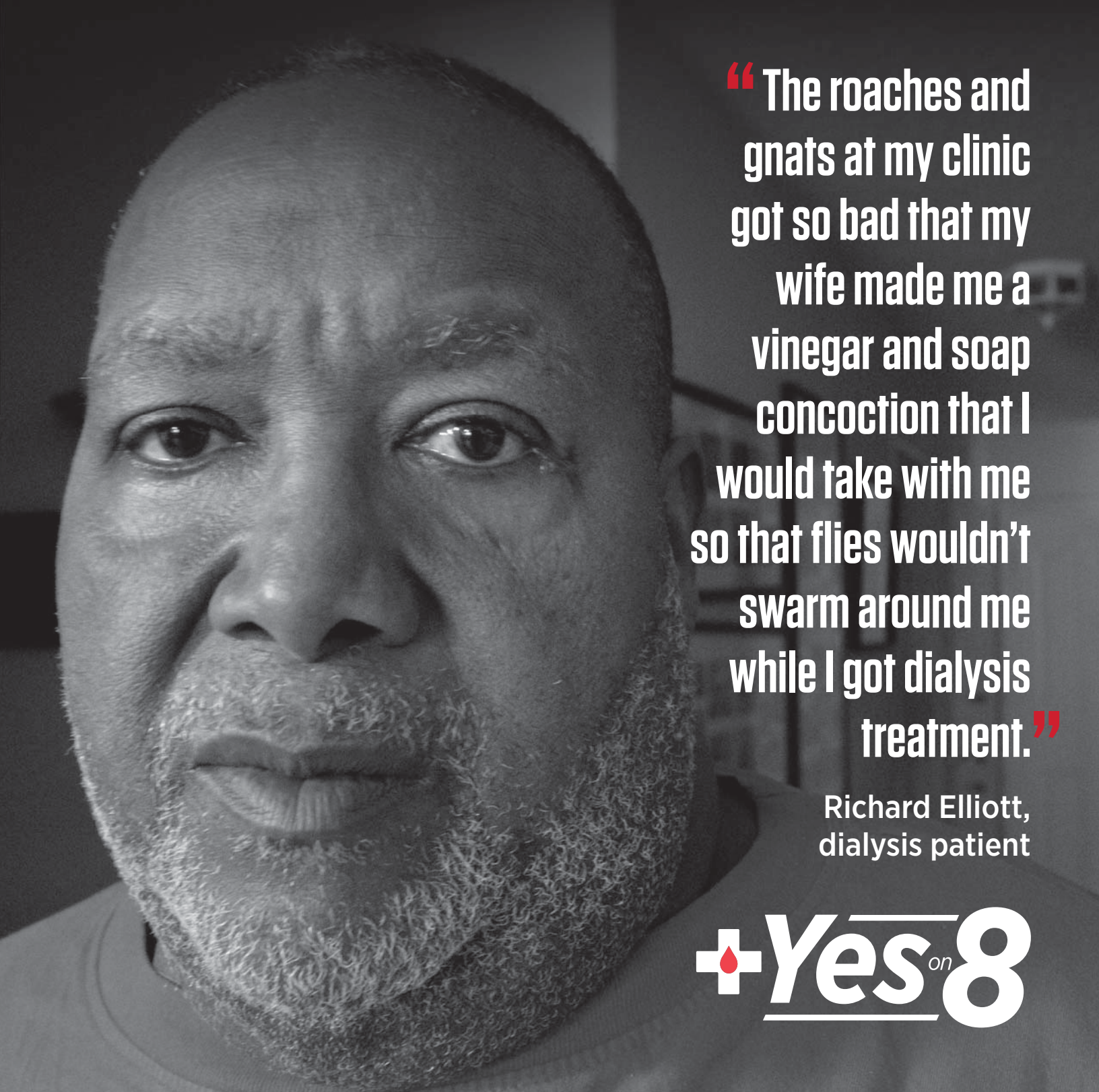
Prop 8: Fair Pricing for Dialysis Act

Proposition 8 will push for-profit dialysis corporations to spend more money on direct patient care. Dialysis corporation revenues will be limited to no more than 15% above the amount they spend on patient care. By linking revenue to care, dialysis corporations will have a greater incentive to invest in patient care. **Prop 8 protects workers, patients and stops dialysis companies from overcharging so we can bring down the cost of health care premiums for all of us.**

PROPONENTS: CalPERS, the California Labor Federation, SEIU California, California Professional Firefighters, the California Democratic Party

OPPONENTS: California Medical Association, National Kidney Foundation, Dialysis Companies

Vito Triglia
Political Coordinator
SEIU 721
(213) 309-1874



“The roaches and gnats at my clinic got so bad that my wife made me a vinegar and soap concoction that I would take with me so that flies wouldn’t swarm around me while I got dialysis treatment.”

Richard Elliott,
dialysis patient



What is dialysis? Dialysis keeps patients alive when their kidneys fail by taking out the patient’s blood, cleaning it, and putting it back in their body. In California, 66,000 people depend on dialysis, and two big corporations, Fresenius and DaVita, dominate the dialysis industry.

YesOn8.com



Dialysis patient care is in crisis and it's driving up costs for all Californians

Patient care is suffering

Patients and caregivers report bloodstains and cockroaches in dialysis clinics. The lack of sanitation and hygiene can contribute to high infection rates.

Overcharging drives up costs for all Californians

California dialysis companies charge patients with private insurance an average \$150,000 for a year of dialysis treatment — a 350% markup from the cost of providing care! Insurance companies are forced to pass the costs to all policyholders: Blue Shield of California reports that it takes 3,800 enrollees to offset the cost of one dialysis patient.

Dialysis corporation profits are out of control

Big dialysis corporations make \$4 billion annually from their US dialysis operations, spending lavishly on executive pay and perks like private airplanes. The average profit margin for dialysis clinics in California is 17% — nearly five times as high as an average hospital.

Some patients face additional hurdles

In low income communities and communities of color clinics are often in run-down strip malls with outdated equipment.



THE FAIR PRICING FOR DIALYSIS ACT

INVEST IN PATIENT CARE

Proposition 8 will push for-profit dialysis corporations to spend more money on direct patient care. Dialysis corporation revenues will be limited to no more than 15% above the amount they spend on patient care. By linking revenue to care, dialysis corporations will have a greater incentive to invest in patient care.

LOWER HEALTHCARE COSTS FOR ALL CALIFORNIANS

When we stop dialysis companies from overcharging we can bring down the cost of healthcare premiums for all of us.

Paid for by Yes on 8 - Californians for Kidney Dialysis Patient Protection, Sponsored by Service Employees International Union—United Healthcare Workers West.

Committee major funding from
Service Employees International Union—United Healthcare Workers West.
California State Council of Service Employees
777 S. Figueroa St., Ste. 4050, Los Angeles, CA 90017
Funding details at <http://www.fppc.ca.gov>

ATTACHMENT B

Proposition 8 Ballot Pamphlet Information

REGULATES AMOUNTS OUTPATIENT KIDNEY DIALYSIS CLINICS CHARGE FOR DIALYSIS TREATMENT. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

The text of this measure can be found on the Secretary of State's website at <http://voterguide.sos.ca.gov>.

- Limits the charges to 115 percent of the costs for direct patient care and quality improvement costs, including training, patient education, and technology support.
- Requires rebates and penalties if charges exceed the limit.
- Requires annual reporting to the state regarding clinic costs, patient charges, and revenue.
- Prohibits clinics from refusing to treat patients based on the source of payment for care.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Overall annual effect on state and local governments ranging from net positive impact in the low tens of millions of dollars to net negative impact in the tens of millions of dollars.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

DIALYSIS TREATMENT

Kidney Failure. Healthy kidneys filter a person's blood to remove waste and extra fluid. Kidney disease refers to when a person's kidneys do not function properly. Over time, a person may develop kidney failure, also known as "end-stage renal disease." This means that the kidneys no longer function well enough for the person to survive without a kidney transplant or ongoing treatment referred to as dialysis.

Dialysis Mimics Normal Kidney Functions.

Dialysis artificially mimics what healthy kidneys do. Most people on dialysis undergo hemodialysis, a form of dialysis in which blood is removed from the body, filtered through a machine to remove waste and extra fluid, and then returned to the body. A hemodialysis treatment lasts about four hours and typically occurs three times per week.

Most Dialysis Patients Receive Treatment in Clinics.

Individuals with kidney failure may

receive dialysis treatment at hospitals or in their own homes, but most receive treatment at chronic dialysis clinics (CDCs). As of May 2018, 588 licensed CDCs in California provided treatment to roughly 80,000 patients each month. Each CDC operates an average of 22 dialysis stations, with each station providing treatment to one patient at a time. The California Department of Public Health (CDPH) is responsible for licensing and inspecting CDCs. Various entities own and operate CDCs. As shown in Figure 1, two private for-profit entities operate and have at least partial ownership of the majority of CDCs in California.

PAYING FOR DIALYSIS TREATMENT

Payment for Dialysis Treatment Comes From a Few Main Sources.

We estimate that CDCs have total revenues of roughly \$3 billion annually from their operations in California. These revenues consist of payments for dialysis treatment from a few main sources, or "payers":

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Figure 1
Licensed Chronic Dialysis Clinics in California
 May 2018

Operating Entity	Number of Clinics	Percent of Clinics
DaVita, Inc. (for-profit)	292	50%
Fresenius Medical Care (for-profit)	129	22
Satellite Healthcare (nonprofit)	46	8
U.S. Renal Care (for-profit)	38	6
Other	83	14
Totals	588	100%

workers, and their families. Some people without group health insurance purchase health insurance individually. Group and individual health insurance coverage is often provided by a private insurer that receives a premium payment in exchange for covering the costs of an agreed-upon set of health care services.

- **Medicare.** This federally funded program provides health coverage to most people age 65 and older and certain younger people who have disabilities. Federal law generally makes people with kidney failure eligible for Medicare coverage regardless of age or disability status. Medicare pays for dialysis treatment for the majority of people on dialysis in California.
- **Medi-Cal.** The federal-state Medicaid program, known as Medi-Cal in California, provides health coverage to low-income people. The state and the federal government share the costs of Medi-Cal. Some people qualify for both Medicare and Medi-Cal. For these people, Medicare covers most of the payment for dialysis treatment as the primary payer and Medi-Cal covers the rest. For people enrolled only in Medi-Cal, the Medi-Cal program is solely responsible to pay for dialysis treatment.
- **Group and Individual Health Insurance.** Many people in the state have group health insurance coverage through an employer or another organization (such as a union). The California state government, the state’s two public university systems, and many local governments in California provide group health insurance coverage for their current workers, eligible retired

When an insured person develops kidney failure, that person can usually transition to Medicare coverage. Federal law requires that a group insurer remain the primary payer for dialysis treatment for a “coordination period” that lasts 30 months.

Group and Individual Health Insurers Typically Pay Higher Rates for Dialysis Than Government Programs.

The rates that Medicare and Medi-Cal pay for dialysis treatment are relatively close to the average cost for CDCs to provide a dialysis treatment and are largely determined by regulation. In contrast, group and individual health insurers establish their rates by negotiating with CDCs. The rates paid by these insurers depend on the relative bargaining power of insurers and the CDCs. On average, group and individual health insurers pay multiple times what government programs pay for dialysis treatment.

PROPOSAL

Requires Clinics to Pay Rebates When Total Revenues Exceed a Specified Cap. Beginning in 2019, the measure requires CDCs each year to calculate the amount by which their revenues exceed a specified cap. The measure then requires CDCs to pay rebates (that is, give money back) to payers, excluding Medicare and other government payers, in the amount that revenues exceed the cap. The more a

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

payer paid for treatment, the larger the rebate the payer would receive.

Revenue Cap Based on Specified CDC Costs.

The revenue cap established by the measure is equal to 115 percent of specified “direct patient care services costs” and “health care quality improvement costs.” These include the cost of such things as staff wages and benefits, staff training and development, drugs and medical supplies, facilities, and electronic health information systems. Hereafter, we refer to these costs as “allowable,” meaning they can be counted toward determining the revenue cap. Other costs, such as administrative overhead, would not be counted toward determining the revenue cap.

Interest and Penalties on Rebated Amounts. In addition to paying any rebates, CDCs would be required to pay interest on the rebate amounts, calculated from the date of payment for treatment. CDCs would also be required to pay a penalty to CDPH of 5 percent of the amount of any required rebates, up to a maximum penalty of \$100,000.

Rebates Calculated at Owner/Operator Level.

The measure specifies that rebates would be calculated at the level of a CDC’s “governing entity,” which refers to the entity that owns or operates the CDC (hereafter “owner/operator”). Some owner/operators have many CDCs in California, while others may own or operate a single CDC. For owner/operators with many CDCs, the measure requires them to add up their revenues and allowable costs across all of their CDCs in California. If the total revenues exceed 115 percent of total allowable costs across all of an owner/operator’s clinics, they would be required to pay rebates equal to the difference.

Legal Process to Raise Revenue Cap in Certain Situations. Both the California Constitution and the United States Constitution prohibit the government from taking private property (which includes the value of a business) without fair legal proceedings or fair compensation. A

CDC owner/operator might try to prove in court that, in their particular situation, the required rebates would amount to taking the value of the business and therefore violate the state or federal constitution. If a CDC owner/operator is able to prove this, the measure outlines a process where the court would reduce the required rebates by just enough to no longer violate the constitution. The measure places on the CDC owner/operator the burden of identifying the largest amount of rebates that would be legal. The measure specifies that any adjustment in the rebate amount would apply for only one year.

Other Requirements. The measure requires that CDC owner/operators submit annual reports to CDPH. These reports would list the number of dialysis treatments provided, the amount of allowable costs, the amount of the owner/operator’s revenue cap, the amount by which revenues exceed the cap, and the amount of rebates paid. The measure also prohibits CDCs from refusing to provide treatment to a person based on who is paying for the treatment.

CDPH Required to Issue Regulations. The measure requires CDPH to develop and issue regulations to implement the measure’s provisions within 180 days of the measure’s effective date. In particular, the measure allows CDPH to identify through regulation additional CDC costs that would count as allowable costs, which could serve to reduce the amount of any rebates otherwise owed by CDCs.

FISCAL EFFECTS

MEASURE WOULD REDUCE CDC PROFITABILITY

Currently, it appears that CDCs operating in California have revenues in excess of the revenue cap specified in the measure. Paying rebates in the amount of the excess would significantly reduce the revenues of CDC owner/operators. In the case of CDCs operated by for-profit entities (the majority of CDCs),

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

this means the CDCs would be less profitable or could even be unprofitable. This could lead to changes in how dialysis treatment is provided in the state. These changes could have various effects on state and local government finances. As described below, the impact of the measure on CDCs and on state and local government finances is uncertain. This is because the impact would depend on future actions of (1) state regulators and courts in interpreting the measure and (2) CDCs in response to the measure. These future actions are difficult to predict.

MAJOR SOURCES OF UNCERTAINTY

Uncertain Which Costs Are Allowable. The impact of the measure would depend on how allowable costs are defined. Including more costs as allowable would make revenue caps higher and allow CDCs to keep more of their revenues (by requiring smaller rebates). Including fewer costs as allowable would make revenue caps lower and allow clinics to keep less of their revenues (by requiring larger rebates). It is uncertain how CDPH (as the state regulator involved in implementing and enforcing the measure) and courts would interpret the measure’s provisions defining allowable costs. For example, the measure specifies that the costs of staff wages and benefits are only allowable for “non-managerial” staff that provide direct care to dialysis patients. Federal law requires CDCs to maintain certain staff positions as a condition of receiving Medicare reimbursement. Some of these required positions—including the medical director and nurse manager—perform managerial functions but are also involved in direct patient care. The costs of these positions might not be considered allowable because the positions have managerial functions. On the other hand, the costs of these positions might be considered allowable because the positions relate to direct patient care.

Uncertain How CDCs Would Respond to the Measure. CDC owner/operators would likely respond to the measure by adjusting their operations in ways that limit, to the extent possible, the effect of the rebate requirement. They could do any of the following:

- **Increase Allowable Costs.** CDC owner/operators might increase allowable costs, such as wages and benefits for non-managerial staff providing direct patient care. Increasing allowable costs would raise the revenue cap, reduce the amount of rebates owed, and potentially leave CDC owner/operators better off than if they were to leave allowable costs at current levels. This is because the amount of revenues that CDC owner/operators could retain would grow by more than the additional costs (the revenue cap would increase by 115 percent of additional allowable costs).
- **Reduce Other Costs.** CDC owner/operators might also reduce, where possible, other costs that do not count toward determining the revenue cap (such as administrative overhead). This would not change the amount of rebates owed, but it would improve the CDCs’ profitability.
- **Seek Adjustments to Revenue Cap.** If CDC owner/operators believe they cannot achieve a reasonable return on their operations even after making adjustments as described above, they might try to challenge the rebate provision in court to get a higher revenue cap as outlined in the measure. If such a challenge were successful, some CDC owner/operators might have a higher revenue cap and owe less in rebates in some years.
- **Scale Back Operations.** In some cases, owner/operators might decide to open fewer new CDCs or close some CDCs if the amount of required rebates is large and reduced revenues do not provide sufficient

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

return on investment to expand or remain in the market. If this takes place, other providers would eventually need to step in to meet the demand for dialysis. These other providers might operate less efficiently (have higher costs). Some other providers could potentially be exempt from the provisions of the measure if they do not operate under a CDC license (for example, hospitals). Such broader changes in the dialysis industry are difficult to predict.

IMPACT OF REBATE PROVISIONS ON STATE AND LOCAL FINANCES

We estimate that, without actions taken by CDCs in response to the measure, potential rebates owed could reach several hundred million dollars. Depending on the factors discussed above, the measure’s rebate provisions could have several types of effects on state and local finances.

Measure Could Generate State and Local Government Employee Health Care Savings . . .

To the extent that CDCs pay rebates, state and local government costs for employee health care could be reduced. As noted previously, the measure excludes government payers from receiving rebates. However, state and local governments often contract with private health insurers to provide coverage for their employees. As private entities, these insurers might be eligible for rebates under the measure. Even if they are not eligible for rebates, they would likely still be in a position to negotiate lower rates with CDC owner/operators. These insurers might pass some or all of these savings on to government employers in the form of reduced health insurance premiums.

. . . Or Costs. On the other hand, as described above, CDCs might respond to the measure by increasing allowable costs. If CDCs increase

allowable costs enough, rates that health insurers pay for dialysis treatment might increase above what they would have been in the absence of the measure. If this occurs, insurers might pass some or all of these higher costs on to government employers in the form of increased health insurance premiums.

State Medi-Cal Cost Pressures. The Medi-Cal program also contracts with private insurers to provide dialysis coverage for some of its enrollees. Similar to health insurers that provide coverage for government employees, private insurers that contract with Medi-Cal might also receive rebates (if they are determined to be eligible) or might be able to negotiate lower rates with CDC owner/operators. Some or all of these savings might be passed on to the state. However, because rates paid to CDCs by these insurers are relatively low, such savings would likely be limited. On the other hand, if CDCs respond to the measure by increasing allowable costs, the average cost of a dialysis treatment would increase. This would put upward pressure on Medi-Cal rates and could result in increased state costs.

Changes to State Tax Revenues. To the extent the measure’s rebate provisions operate to reduce the net income of CDC owner/operators, the measure would likely reduce the amount of income taxes that for-profit owner/operators are required to pay to the state. This reduced revenue could be offset, to an unknown extent, by various other changes to state revenues. For example, additional income tax revenue could be generated if CDCs respond to the measure by increasing spending on allowable staff wages.

In Light of Significant Uncertainty, Overall Effect on State and Local Finances Is Unclear. Different interpretations of the measure’s provisions and different CDC responses to the measure would lead to different impacts for state and local governments. In light of significant uncertainty

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

about how the measure may be interpreted and how CDCs may respond, a range of possible net impacts on state and local government finances is possible.

Overall Effect Could Range From Net Positive Impact in the Low Tens of Millions of Dollars . . . If the measure is ultimately interpreted to have a broader, more inclusive definition of allowable costs, such as by including costs for nurse managers and medical directors, the amount of rebates CDC owner/operators are required to pay would be smaller. Under this interpretation, it is more likely that CDC owner/operators would respond with relatively modest changes to their cost structures. In this scenario, state and local government costs for employee health benefits could be reduced. These savings would likely be partially offset by a net reduction in state tax revenues. Overall, we estimate the measure could have a net positive impact on state and local government finances reaching the low tens of millions of dollars annually in this scenario.

. . . To Net Negative Impact in the Tens of Millions of Dollars. If the measure is ultimately interpreted to have a narrower, more restrictive definition of allowable costs, the amount of rebates CDC owner/operators are required to pay would be greater. Under this interpretation, it is more likely that CDC owner/operators would respond with more significant changes to their cost structures, particularly by increasing allowable costs. CDC owner/operators would also be more likely to seek adjustments to the revenue cap or scale back operations in the state. In this scenario, state and local government costs for employee health benefits and state Medi-Cal costs could increase. State tax revenues could also be reduced. Overall, we estimate the measure could have a net negative impact reaching

the tens of millions of dollars annually in this scenario.

Other Potential Fiscal Impacts. The scenarios described above represent our best estimate of the range of the measure’s likely fiscal impacts. However, other fiscal impacts are possible. As an example, if CDCs respond to the measure by scaling back operations in the state, some dialysis patients’ access to dialysis treatment could be disrupted in the short run. This could lead to health complications that result in admission to a hospital. To the extent that dialysis patients are hospitalized more frequently because of the measure, state costs—particularly in Medi-Cal—could increase significantly in the short run.

ADMINISTRATIVE IMPACT

This measure imposes new responsibilities on CDPH. We estimate that the annual cost to fulfill these new responsibilities likely would not exceed the low millions of dollars annually. The measure requires CDPH to adjust the annual licensing fee paid by CDCs (currently set at about \$3,400 per facility) to cover these costs. Some of these administrative costs may also be offset by penalties paid by CDCs related to rebates or failure to comply with the measure’s reporting requirements. The amount of any offset is unknown.

Visit <http://www.sos.ca.gov/campaign-lobbying/cal-access-resources/measure-contributions/2018-ballot-measure-contribution-totals/> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-18-gen.html> to access the committee’s top 10 contributors.

If you desire a copy of the full text of the state measure, please call the Secretary of State at (800) 345-VOTE (8683) or you can email vigfeedback@sos.ca.gov and a copy will be mailed at no cost to you.

Official Voter Information Guide

PROP 8 REGULATES AMOUNTS OUTPATIENT KIDNEY DIALYSIS CLINICS CHARGE FOR DIALYSIS TREATMENT. INITIATIVE STATUTE.

ARGUMENT IN FAVOR OF PROPOSITION 8
VOTE YES ON PROPOSITION 8—THE FAIR PRICING FOR DIALYSIS ACT

Dialysis is a life-saving treatment for patients with kidney failure in which their blood is taken out, cleaned, and then put back in their body. Dialysis patients should have a clean, sterile environment during their treatments, but big, corporate dialysis providers, which make billions by charging these critically ill patients as much as \$150,000 a year, won't invest enough in basic sanitation.

Bloodstains, cockroaches, and dirty bathrooms have all been reported at dialysis clinics, and patients' lives have been put at risk from exposure to dangerous infections and diseases. These high prices drive up healthcare costs for all Californians. PROP. 8 will require the corporations to refund excessive profits that aren't spent on improving dialysis patient care.

STOP OVERCHARGING PATIENTS

California's largest dialysis company marks up its charges for some patients as much as 350% above the actual costs of providing care, or as much as \$150,000 per year. PROP. 8 will provide strong incentives for dialysis companies to lower costs and improve their quality of care, making patients the priority everywhere, which is especially important in low income and minority communities.

LOWER HEALTHCARE COSTS FOR EVERYONE

Because dialysis patients are often charged such huge sums of money for their life-saving treatment, insurance companies are forced to pass those costs on to policyholders, driving up healthcare costs for all Californians. One insurance provider, Blue Shield of California, reported that it takes 3,800 other policyholders to offset the cost of one dialysis patient. PROP. 8 will help lower the cost of healthcare for all Californians.

ARGUMENT AGAINST PROPOSITION 8
PROP. 8 PUTS VULNERABLE DIALYSIS PATIENT LIVES AT RISK

The American Nurses Association\California, California Medical Association, American College of Emergency Physicians, California Chapter and patient advocates all OPPOSE Prop. 8 because it jeopardizes access to care for 66,000 patients in California who need frequent dialysis treatments to stay alive.

"Patients on dialysis have kidney failure and are very sick. They require dialysis three days a week, four hours at a time to do the job of their kidneys to remove toxins from the body. These patients cannot survive without regular treatments. Prop. 8 dangerously reduces access to care and places vulnerable patients at serious risk."—Phillip Bautista, BSN, RN, PHN, President, American Nurses Association\California

PROP. 8 WILL FORCE COMMUNITY DIALYSIS CLINICS TO CUT SERVICES AND CLOSE

Proposition 8 severely limits what insurance companies are required to pay for dialysis care. These arbitrary limits will not cover the actual cost of providing care. In fact, an independent analysis conducted by California's former Legislative Analyst concluded Prop. 8 will result in 83% of dialysis clinics operating at a loss. That will force hundreds of clinics to reduce operations or close, endangering patients.

Without access to community clinics, patients will have to travel long distances, miss treatments or end up in the emergency room.

DOCTORS, NURSES, AND PATIENT ADVOCATES ALL OPPOSE PROP. 8

"Missing even one appointment can be fatal for dialysis patients. By limiting access to dialysis care, this proposition jeopardizes

SUPPORTED BY A BROAD COALITION
 Dialysis Advocates, LLC • Californians for Disability Rights • CalPERS • Congress of California Seniors • Service Employees International Union California • Minority Veterans Coalition of California • and many more . . . MAKE PATIENTS THE HIGHEST PRIORITY We should vote “YES” on Prop. 8 and tell dialysis companies to prioritize lifesaving treatment for patients over corporate profits.

VOTE YES ON PROPOSITION 8

Learn more about how PROP. 8 will help improve healthcare for Californians at **www.YESonProp8.com** (<https://www.yeson8.com/>)

TANGI FOSTER, Dialysis Patient

GARY PASSMORE, President

Congress of California Seniors

NANCY BRASMER, President

California Alliance for Retired Americans

REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 8

Proponents are trying to mislead voters. Their measure is flawed and dangerous. Here are the facts.

Proposition 8 is opposed by thousands of health care professionals and dialysis patients across California including the American Nurses Association\California, California Medical Association, and the American College of Emergency Physicians, California Chapter because it jeopardizes access to care for 66,000 patients who need dialysis to stay alive.

"Missing even one appointment can be fatal for dialysis patients. By limiting access to dialysis care, Proposition 8 jeopardizes patient lives."—Theodore M. Mazer, M.D., President, California Medical Association, representing 43,000 doctors

CALIFORNIA DIALYSIS CLINICS RANK AMONG THE HIGHEST IN THE NATION FOR QUALITY CARE

California dialysis clinics are highly regulated at both the state and federal level. According to federal regulators, California clinics outperform other states in clinical quality and patient satisfaction.

patient lives."—Dr. Theodore M. Mazer, President, California Medical Association, representing 43,000 doctors

"As emergency physicians, we regularly treat dialysis patients who end up in the ER due to missed appointments or complications from kidney failure. This proposition will increase the risk of life-threatening complications for these very vulnerable patients."— Dr. Aimee Moulin, President, American College of Emergency Physicians, California Chapter

PROP. 8 DISPROPORTIONATELY HURTS DISADVANTAGED COMMUNITIES

Prop. 8 is opposed by California NAACP and National Hispanic Medical Association because it will disproportionately impact patients in disadvantaged communities with higher risk of kidney failure.

PROP. 8 INCREASES COSTS FOR ALL CALIFORNIANS BY HUNDREDS OF MILLIONS ANNUALLY

When clinics close, dialysis patients end up in the ER where care is more expensive.

According to the former Legislative Analyst, this measure will increase taxpayer costs by nearly \$300 million annually.

CALIFORNIA DIALYSIS QUALITY RANKS AMONG THE HIGHEST IN THE NATION

California dialysis clinics are highly regulated by federal and state regulators that provide quality reports on every facility. According to the federal Centers for Medicare & Medicaid Services, California clinics outperform other states in clinical quality and patient satisfaction. This measure makes no sense when California dialysis care is highly regulated and saving lives.

PROP. 8 COMES BETWEEN DOCTORS AND PATIENTS

Vote NO on Prop. 8 and leave complicated medical decisions about dialysis in the hands of doctors and patients.

PROP. 8 IS DANGEROUS. VOTE NO.

Please join doctors, nurses and patient advocates and reject this dangerous proposition that puts vulnerable dialysis patients at risk. **www.NoProp8.com** (<https://noprop8.com/>)

PHILLIP BAUTISTA, RN, President

American Nurses Association\California

PROP. 8 WOULD FORCE COMMUNITY DIALYSIS CLINICS TO CUT SERVICES AND CLOSE—ENDANGERING PATIENTS

An independent analysis by California's former Legislative Analyst found that under Prop. 8, 83% of dialysis clinics would operate at a loss. That reality would force hundreds of clinics to reduce operations or close.

PROPOSITION 8 WOULD COST CONSUMERS AND TAXPAYERS HUNDREDS OF MILLIONS ANNUALLY

Prop. 8 limits what insurance companies pay for dialysis care. But NOTHING in Prop. 8 requires insurance companies to pass ANY savings to consumers. In fact, Prop. 8 would INCREASE COSTS for taxpayers by hundreds of millions annually by forcing dialysis patients into more costly hospitals and emergency rooms, further straining already overcrowded ERs.

Please join doctors, nurses and patients.

VOTE NO ON PROPOSITION 8. IT'S DANGEROUS.

[www.NoProp8.com](https://noprop8.com/) (<https://noprop8.com/>)

PHILLIP BAUTISTA, RN, President

American Nurses Association\California

TERRY RICO, Dialysis Patient

THEODORE M. MAZER, MD, President

California Medical Association

THEODORE M. MAZER, MD, President

California Medical Association

AIMEE MOULIN, MD, President

American College of Emergency Physicians,
California Chapter

REBUTTAL TO ARGUMENT AGAINST PROPOSITION 8

VOTE YES ON PROPOSITION 8 TO IMPROVE HEALTH CARE IN CALIFORNIA.

DIALYSIS CORPORATIONS CUT CORNERS AND ENDANGER PATIENTS

Patients with kidney failure generally undergo dialysis three times a week, where their blood is removed, cleaned and put back in their bodies. Patients and caregivers report unsafe conditions at dialysis clinics, including short-staffing and poor sanitation and hygiene, which puts them at risk of life-threatening infections.

"When I started dialysis, I didn't expect I'd have to worry about the clinic that's supposed to keep me healthy. I've seen bugs crawling in between the plastic that covers the light fixtures in the ceiling. I've had to call the health department many times to report roaches, bloodstains, and lack of adequate cleaning."—*Tangi Foster, Dialysis Patient*

Visit **www.YesOn8.com**

(<https://www.yeson8.com/>) to read firsthand accounts from Dialysis patients.

DIALYSIS CORPORATIONS MAKE HUGE PROFITS AT PATIENTS' EXPENSE

For-profit dialysis corporations make billions in profits while clinics in vulnerable communities are run-down, with no doctor on site at times.

PROP. 8 pushes dialysis corporations to invest some of those profits to improve patient care, which is especially needed in low-income communities.

OVERCHARGING DRIVES UP THE COST FOR ALL OF US

Dialysis corporations mark up the cost of care for some patients by 350%, an expense absorbed by insurance companies and passed on to policyholders throughout California.

Their high prices make healthcare more

expensive for all of us.

The California Democratic Party, veterans, healthcare advocates and religious leaders all support YES ON PROP. 8.

It's time Dialysis corporations prioritize patient care, not their profits.

GUADALUPE TELLEZ, Dialysis Registered Nurse

PASTOR WILLIAM D. SMART, JR.

Southern Christian Leadership Conference of Southern California

TANGI FOSTER, Dialysis Patient

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

ATTACHMENT C
Proposition 8 Text

accordance with Section 10 of Article II of the California Constitution.

This proposed law adds a section to the Government Code and repeals sections of the Daylight Saving Time Act; therefore, provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. If federal law authorizes the state to provide for the year-round application of daylight saving time and the Legislature considers the adoption of this application, it is the intent of this act to encourage the Legislature to consider the potential impacts of year-round daylight saving time on communities along the border between California and other states and between California and Mexico.

SEC. 2. Section 6808 is added to the Government Code, to read:

6808. (a) The standard time within the state is that of the fifth zone designated by federal law as Pacific standard time (15 U.S.C. Secs. 261 and 263).

(b) The standard time within the state shall advance by one hour during the daylight saving time period commencing at 2 a.m. on the second Sunday of March of each year and ending at 2 a.m. on the first Sunday of November of each year.

(c) Notwithstanding subdivision (b), the Legislature may amend this section by a two-thirds vote to change the dates and times of the daylight saving time period, consistent with federal law, and, if federal law authorizes the state to provide for the year-round application of daylight saving time, the Legislature may amend this section by a two-thirds vote to provide for that application.

SEC. 3. Section 1 of the Daylight Saving Time Act is repealed.

~~Section 1. This act shall be known and may be cited as the Daylight Saving Time Act.~~

SEC. 4. Section 2 of the Daylight Saving Time Act is repealed.

~~Section 2. The standard time within the State, except as hereinafter provided, is that of the One Hundred and Twentieth (120th) degree of longitude west from Greenwich and which is~~

~~now known, described and designated by Act of Congress as "United States Standard Pacific Time."~~

SEC. 5. Section 3 of the Daylight Saving Time Act is repealed.

~~Sec. 3. From 1 o'clock antemeridian on the last Sunday of April, until 2 o'clock antemeridian on the last Sunday of October, the standard time in this State so established shall be one hour in advance of the standard time now known as United States Standard Pacific time.~~

SEC. 6. Section 4 of the Daylight Saving Time Act is repealed.

~~Section 4. In all laws, statutes, orders, decrees, rules and regulations relating to the time of performance of any act by any officer or department of this State, or of any county, city and county, city, town or district thereof or relating to the time in which any rights shall accrue or determine, or within which any act shall or shall not be performed by any person subject to the jurisdiction of the State, and in all the public schools and in all other institutions of this State, or of any county, city and county, city, town or district thereof, and in all contracts or choses in actions made or to be performed in this State, the time shall be as set forth in this act and it shall be so understood and intended.~~

SEC. 7. Section 5 of the Daylight Saving Time Act is repealed.

~~SECTION 5. All acts in conflict herewith are hereby repealed.~~

PROPOSITION 8

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Name.

This act shall be known as the "Fair Pricing for Dialysis Act."

SEC. 2. Findings and Purposes.

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This act, adopted by the people of the State of California, makes the following findings and has the following purposes:

(a) The people make the following findings:

(1) Kidney dialysis is a process where blood is cleaned of waste and excess water, usually through a machine outside the patient's body, and then returned to the patient. If someone who needs dialysis cannot obtain or afford high quality care, toxins build up in the body, leading to death.

(2) In California, at least 66,000 Californians undergo dialysis treatment.

(3) Just two multinational, for-profit corporations operate or manage nearly three-quarters of dialysis clinics in California and treat almost 70 percent of dialysis patients in California. These two multinational corporations annually earn billions of dollars from their dialysis operations, including almost \$400 million each year in California alone.

(4) Because federal law mandates that private health insurance companies offer and pay for dialysis, private insurance companies have little ability to bargain with the two multinational dialysis corporations on behalf of their customers.

(5) Thus, for-profit dialysis corporations charge patients with private health insurance four times as much as they charge Medicare for the very same dialysis treatment, resulting in vast profits.

(6) In a market dominated by just two multinational corporations, California must ensure that dialysis is fairly priced and affordable.

(7) Other states have taken steps to protect these very vulnerable patients from these two multinational corporations.

(8) Efforts to enact protections for kidney dialysis patients in California have been stymied in Sacramento by the dialysis corporations, which spent over \$600,000 in just the first six months of 2017 to influence the California Legislature.

(b) Purposes:

(1) It is the purpose of this act to ensure that outpatient kidney dialysis clinics provide quality and affordable patient care to people suffering from end stage renal disease.

(2) This act is intended to be budget neutral for the state to implement and administer.

SEC. 3. Section 1226.7 is added to the Health and Safety Code, to read:

1226.7. (a) Reasonable limits on charges for patient care by chronic dialysis clinics; rebates of amounts charged in excess of fair treatment payment amount.

(1) For purposes of this section, the "fair treatment payment amount" shall be an amount equal to 115 percent of the sum of all direct patient care services costs and all health care quality improvement costs incurred by a governing entity and its chronic dialysis clinics.

(2) For each fiscal year starting on or after January 1, 2019, a governing entity or its chronic dialysis clinics shall annually issue rebates to payers as follows:

(A) The governing entity shall calculate the "unfair excess charged amount," which shall be the amount, if any, by which treatment revenue from treatments provided by all of the governing entity's chronic dialysis clinics exceeds the fair treatment payment amount.

(B) The governing entity or its chronic dialysis clinics shall, on a pro rata basis based on the amounts paid and reasonably estimated to be paid, as those amounts are included in treatment revenue, issue rebates to payers (other than Medicare or other federal, state, county, city, or local government payers) in amounts that total the unfair excess charged amount.

(C) The governing entity or chronic dialysis clinic shall issue any rebates required by this section no less than 90 days and no more than 210 days after the end of its fiscal year to which the rebate relates.

(D) If, in any fiscal year, the rebate the governing entity or chronic dialysis clinic must issue to a single payer is less than twenty dollars (\$20), the governing entity or chronic dialysis clinic shall not issue that rebate and shall provide to other payers in accordance with subparagraph (B) the total amount of rebates not issued pursuant to this subparagraph.

(E) For each fiscal year starting on or after January 1, 2020, any rebate issued to a payer shall be issued together with interest thereon at the rate of interest specified in subdivision (b)

of Section 3289 of the Civil Code, which shall accrue from the date of payment by the payer.

(3) For each fiscal year starting on or after January 1, 2019, a governing entity shall maintain and provide to the department, on a form and schedule prescribed by the department, a report of all rebates issued under paragraph (2), including a description of each instance during the period covered by the submission when the rebate required under paragraph (2) was not timely issued in full, and the reasons and circumstances therefor. The chief executive officer or principal officer of the governing entity shall certify under penalty of perjury that he or she is satisfied, after review, that all information submitted to the department under this paragraph is accurate and complete.

(4) In the event a governing entity or its chronic dialysis clinic is required to issue a rebate under this section, no later than 210 days after the end of its fiscal year the governing entity shall pay a penalty to the department in an amount equal to 5 percent of the unfair excess charged amount, provided that the penalty shall not exceed one hundred thousand dollars (\$100,000). Penalties collected pursuant to this paragraph shall be used by the department to implement and enforce laws governing chronic dialysis clinics.

(5) If a chronic dialysis clinic or governing entity disputes a determination by the department to assess a penalty pursuant to this subdivision or subdivision (b), or the amount of an administrative penalty, the chronic dialysis clinic or governing entity may, within 10 working days, request a hearing pursuant to Section 131071. A chronic dialysis clinic or governing entity shall pay all administrative penalties when all appeals have been exhausted and the department's position has been upheld.

(6) If a governing entity or chronic dialysis clinic proves in any court action that application of this section to the chronic dialysis clinic or governing entity will, in any particular fiscal year, violate due process or effect a taking of private property requiring just compensation under the Constitution of this state or the Constitution of the United States, the provision at issue shall apply to the governing entity or chronic dialysis clinic, except that as to the fiscal year in question the number "115" whenever it appears in the provision at issue

shall be replaced by the lowest possible whole number such that application of the provision to the governing entity or chronic dialysis clinic will not violate due process or effect a taking of private property requiring just compensation. In any civil action, the burden shall be on the governing entity or chronic dialysis clinic to propose a replacement number and to prove that replacing "115" with any whole number lower than the proposed replacement number would, for the fiscal year in question, violate due process or effect a taking of private property requiring just compensation.

(b) Compliance reporting by chronic dialysis clinics.

(1) For each fiscal year starting on or after January 1, 2019, a governing entity shall maintain and submit to the department a report concerning all of the following information for all of the chronic dialysis clinics the governing entity owns or operates in California:

- (A) The number of treatments performed.
- (B) Direct patient care services costs.
- (C) Health care quality improvement costs.
- (D) Treatment revenue, including the difference between amounts billed but not yet paid and estimated realizable revenue.
- (E) The fair treatment payment amount.
- (F) The unfair excess charged amount.
- (G) The amount, if any, of each payer's rebate, provided that any individual patient shall be identified using only a unique identifier that does not reveal the patient's name or identity.
- (H) A list of payers to whom no rebate was issued pursuant to subparagraph (D) of paragraph (2) of subdivision (a) and the amount not issued, provided that any individual patient shall be identified using only a unique identifier that does not reveal the patient's name or identity.

(2) The information required to be maintained and the report required to be submitted by this subdivision shall each be independently audited by a certified public accountant in accordance with the standards of the Auditing Standards Board of the American Institute of Certified Public Accountants and shall include the opinion of that certified public accountant as to whether the information contained in the report fully and accurately describes, in accordance

with generally accepted accounting principles in the United States, the information required to be reported under paragraph (1).

(3) The governing entity shall annually submit the report required by this subdivision to the department on a schedule, in a format, and on a form prescribed by the department, provided that the governing entity shall submit the information no later than 210 days after the end of its fiscal year. The chief executive officer or other principal officer of the governing entity shall certify under penalty of perjury that he or she is satisfied, after review, that the report submitted to the department under paragraph (1) is accurate and complete.

(4) In the event the department determines that a chronic dialysis clinic or governing entity failed to maintain the information or timely submit a report required under paragraph (1) of this subdivision or paragraph (3) of subdivision (a), that the amounts or percentages reported by the chronic dialysis clinic or governing entity under paragraph (1) of this subdivision were inaccurate or incomplete, or that any failure by a chronic dialysis clinic or governing entity to timely issue in full a rebate required by subdivision (a) was not substantially justified, the department shall assess a penalty against the chronic dialysis clinic or governing entity not to exceed one hundred thousand dollars (\$100,000). The department shall determine the amount of the penalty based on the severity of the violation, the materiality of the inaccuracy or omitted information, and the strength of the explanation, if any, for the violation. Penalties collected pursuant to this paragraph shall be used by the department to implement and enforce laws governing chronic dialysis clinics.

(c) Definitions. For purposes of this section:

(1) "Direct patient care services costs" means those costs directly associated with operating a chronic dialysis clinic in California and providing care to patients in California. Direct patient care services costs shall include, regardless of the location where each patient undergoes dialysis, only (i) salaries, wages, and benefits of nonmanagerial chronic dialysis clinic staff, including all clinic personnel who furnish direct care to dialysis patients, regardless of whether the salaries, wages, or benefits are paid directly by the chronic dialysis clinic or indirectly through an arrangement with an affiliated or

unaffiliated third party, including but not limited to a governing entity, an independent staffing agency, a physician group, or a joint venture between a chronic dialysis clinic and a physician group; (ii) staff training and development; (iii) pharmaceuticals and medical supplies; (iv) facility costs, including rent, maintenance, and utilities; (v) laboratory testing; and (vi) depreciation and amortization of buildings, leasehold improvements, patient supplies, equipment, and information systems. For purposes of this section, "nonmanagerial chronic dialysis clinic staff" includes all clinic personnel who furnish direct care to dialysis patients, including nurses, technicians and trainees, social workers, registered dietitians, and nonmanagerial administrative staff, but excludes managerial staff such as facility administrators. Categories of direct patient care services costs may be further prescribed by the department through regulation.

(2) "Governing entity" means a person, firm, association, partnership, corporation, or other entity that owns or operates a chronic dialysis clinic for which a license has been issued, without respect to whether the person or entity itself directly holds that license.

(3) "Health care quality improvement costs" means costs, other than direct patient care services costs, that are related to the provision of care to chronic dialysis patients and that are actually expended for goods or services in California that are required to maintain, access, or exchange electronic health information, to support health information technologies, to train nonmanagerial chronic dialysis clinic staff engaged in direct patient care, and to provide patient-centered education and counseling. Additional costs may be identified by the department through regulation, provided that such costs are actually spent on services offered at the chronic dialysis clinic to chronic dialysis patients and are spent on activities that are designed to improve health quality and to increase the likelihood of desired health outcomes in ways that are capable of being objectively measured and of producing verifiable results and achievements.

(4) "Payer" means the person or persons who paid or are financially responsible for payments for a treatment provided to a particular patient and may include the patient or other individuals, primary insurers, secondary insurers, and other

entities, including Medicare and any other federal, state, county, city, or other local government payer.

(5) “Treatment” means each instance when the chronic dialysis clinic provides services to a patient.

(6) “Treatment revenue” for a particular fiscal year means all amounts actually received and estimated realizable revenue for treatments provided in that fiscal year. Estimated realizable revenue shall be calculated in accordance with generally accepted accounting principles and shall be a reasonable estimate based on (i) contractual terms for patients covered under commercial healthcare plans with which the governing entity or clinics have formal agreements; (ii) revenue from Medicare, Medicaid, and Medi-Cal based on rates set by statute or regulation and estimates of amounts ultimately collectible from government payers, commercial healthcare plan secondary coverage, patients, and other payers; and (iii) historical collection experience.

SEC. 4. Section 1226.8 is added to the Health and Safety Code, to read:

1226.8. (a) A chronic dialysis clinic shall not discriminate with respect to offering or providing care, and shall not refuse to offer or provide care, to patients on the basis of the payer for treatment provided to a patient, including but not limited to on the basis that the payer is a patient, private payer or insurer, Medi-Cal, Medicaid, or Medicare.

(b) A chronic dialysis clinic shall not terminate, abridge, modify, or fail to perform under any agreement to provide services to patients covered by Medi-Cal, Medicaid, or Medicare on the basis of requirements imposed by this chapter.

SEC. 5. Section 1266.3 is added to the Health and Safety Code, to read:

1266.3. It is the intent of the people that California taxpayers not be financially responsible for implementation and enforcement of the Fair Pricing for Dialysis Act. In order to effectuate that intent, when calculating, assessing, and collecting fees imposed on chronic dialysis clinics pursuant to Section 1266, the department shall take into account all costs associated with implementing and enforcing Sections 1226.7 and 1226.8.

SEC. 6. Nothing in this act is intended to affect health facilities licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code.

SEC. 7. The State Department of Public Health shall issue regulations necessary to implement this act no later than 180 days following its effective date.

SEC. 8. Pursuant to subdivision (c) of Section 10 of Article II of the California Constitution, this act may be amended either by a subsequent measure submitted to a vote of the people at a statewide election, or by a statute validly passed by the Legislature and signed by the Governor, but only to further the purposes of the act.

SEC. 9. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

PROPOSITION 10

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure repeals and adds sections to the Civil Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The Affordable Housing Act

The people of the State of California do hereby ordain as follows:

SECTION 1. Title.

This act shall be known, and may be cited, as the “Affordable Housing Act.”

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare all of the following:

(a) Rents for housing have skyrocketed in recent years. Median rents are higher in California than any other state in the country, and among all 50 states, California has the fourth highest increase in rents.

ATTACHMENT D
Lists of Supporters and Opposition

Prop 8 Supporters

Statewide

California Democratic Party

California Alliance for Retired Americans

California Hispanic Commission on Alcohol & Drug Abuse

California LULAC (League of United Latin American Citizens)

California Professional Firefighters

California Teamsters Public Affairs Council

Californians for Disability Rights

CalPERS

Congress of California Seniors

Latino Coalition for a Healthy California

Mi Familia Vota

Minority Veterans Coalition of California

National Action Network

National Association of Social Workers – California

National Montford Point Marine Association Inc. – Western Region Public

Health Advocates

Service Employees International Union California

Southern Christian Leadership Conference of Southern California

Healthcare Advocacy

Asian American Donor Program
Black AIDS Institute
Black Community Health Taskforce
Black Women for Wellness
Building Healthy Communities Long Beach
California Hepatitis Alliance
Dialysis Advocates, LLC
Health Care for All – Sacramento
Latino Diabetes Association
National Asian Pacific American Families Against Substance Abuse
Project Inform

Labor

AFSCME Council 57
Alameda Firefighters Local 689
Asian Pacific American Labor Alliance – San Francisco Chapter
Asian Pacific American Labor Alliance – South Bay
Asian Pacific American Labor Alliance Alameda
Asian Pacific American Labor Alliance Los Angeles
Asian Pacific American Labor Alliance San Diego
Hayward Firefighters Local 1909
IAFF Local 1230 Contra Costa Firefighters
IAFF Local 55 Alameda County Firefighters
IAFF Local 55 Oakland Firefighters
IATSE Local 80
IBEW Local 428
Laborers Local 270
Marin Professional Firefighters
Monterey Bay Central Labor Council, AFL-CIO
Monterey / Santa Cruz Counties Building & Construction Trades Council
NAGE EMS 510
North Bay Labor Council, AFL-CIO
OPEIU Local 30
Orange County Employees Association

Plumbers & Pipefitters Local 442
San Francisco Labor Council
Santa Clara and San Benito Counties Building & Construction Trades Council
SF Firefighters Local 798
South Bay AFL-CIO Labor Council
UA Local 393
Unite Here Local 2
Warehouse Workers Resource Center

Democratic Party

Alameda County Democratic Party Central Committee
Chicano Latino Caucus of the California Democratic Party
Democratic Party of Contra Costa County
Democratic Party of Lake County
Democratic Party of Orange County
Democratic Party of Sacramento County
East Contra Costa Democratic Club
El Dorado County Democratic Central Committee
Fresno County Democratic Party
Labor Democrats of Sacramento County
Marin County Democratic Central Committee
Mendocino County Democratic Central Committee
Monterey County Democratic Central Committee
Napa County Democratic Central Committee
San Benito Democratic Central Committee
San Diego County Democratic Party
San Francisco Democratic County Central Committee
Santa Clara County Democratic Central Committee
Santa Cruz County Democratic Central Committee
Solano County Democratic Party
Sonoma County Democratic Central Committee
Ventura County Democrats
Yolo County Democratic Party Central Committee
Yuba County Democratic Central Committee

Community Organizations

Asian Pacific Policy & Planning Council (A3PCON)

BA Huggins Ministry & Outreach

Barrios Unidos Fresno

Bay Rising

Black Business Association of Los Angeles

Black Community, Clergy, and Labor Alliance

Black Women Organized for Political Action

Catalina's List

CAUSE (Central Coast Alliance United for a Sustainable Economy)

CBDIO Centro Binacional para el Desarrollo Indígena Oaxaqueño

Center for Community Action and Environmental Justice

Centro La Familia

City of Refuge

Community Advocacy Coalition of Ventura County

Cultiva La Salud

Diversity Collective Ventura County

Dolores Huerta Foundation

EBASE East Bay Alliance for a Sustainable Economy

El Concilio of Fresno

Filipino Advocates for Justice

First AME Church of Los Angeles

Fresno Center for New Americans

Fresno Immigration Coalition

Fresno Interdenominational Refugee Ministry (FIRM)

Fresno NAACP Branch

Gardena Valley Chamber of Commerce

Gray Panthers

Greater Sacramento NAACP Branch

Holman United Methodist Church

IE United

Inland Empowerment

LA Voice

LAANE (LA Alliance for a New Economy)

Latino Equality Alliance
Livermore Indivisible
Long Beach Coalition for Good Jobs and Healthy Community
LULAC Ventura County/District 17
McCarty Memorial Christian Church
Officers for Justice
Older Women's League (OWL) Sacramento-Capitol
Orange County Congregation Community Organization
Organize Sacramento
Pacifica Progressive Alliance
Pacifica Social Justice
Peace & Justice Center of Sonoma County
Peace & Justice Network of San Joaquin County
Peace Project Coalition
Sacramento ACT
San Francisco Black Community Matters
San Francisco Living Wage Coalition
San Francisco Veterans for Peace Chapter 69
Stockton NAACP Branch
The Latina Center
The LGBTQ Center Long Beach
The Lillian Mobley Center
Ventura County Veterans for Peace
Veterans Forever
Watts Century Latino Organization
Watts Labor Community Action Committee
Working Partnerships
Working Partnerships



Coalition List

Patient Advocacy

Renal Support Network
Dialysis Patient Citizens
Chronic Disease Coalition
California Hepatitis C Task
Force

Health

California Medical
Association
California Hospital
Association
American Nurses

Veterans

California State
Commanders Veterans
Council
American Legion,
Department of California
American GI Forum of
California
AMVETS Department of
California
Veterans of Foreign Wars,
Department of California

Association\California	California Association of
American College of	County Veterans Services
Emergency Physicians-	Officers
California Chapter	Women Veterans Alliance
Network of Ethnic Physician	Military Officers Association
Organizations (NEPO)	of America, California
Renal Physicians Association	Military Order of the Purple
Association of California	Heart Department of
Nurse Leaders	California
Association of California	National Guard Association
Healthcare Disctricts	of California
California Association of	Reserve Officers
Nurse Anesthetists	Association-Department of
National Hispanic Medical	the Golden West
Association	Scottish American Military
National Medical Association	Society
Global Healthy Living	Jewish War Veterans,
Foundation	Department of California
California Dialysis Council	National Veterans
Minority Health Institute	Foundation
Lupus LA	
Northern California Chapter	Community Health Care
of the American College of	Clinics
Surgeons	Grupo Medico Del Carmen
San Diego-Imperial Chapter	Rita Medical Clinic
of the American College of	Centro De Medicina
Surgeons	Alternativa San Ignacio
Southern California Chapter	Fontana Clinica America

of the American College of Surgeons	Familiar
California Academy of Eye Physicians and Surgeons	Llamas Clinica Medica
California Urological Association	Familiar
National Renal Administrators Association	La Libertad Medical Clinic
San Diego County Medical Society	Trinity Medical Clinic
Orange County Medical Society	Life Point Medical Group and Urgent Care
Riverside County Medical Association	Clinica Medica Centro
San Bernardino County Medical Society	Hispano
Alameda-Contra Costa Medical Association	Clinica Medica San Miguel
Fresno Madera Medical Society	A Tu Salud A Medical Corporation
Sierra Sacramento Valley Medical Society	Clinica Medica
San Mateo County Medical Association	Familiar de Montclair
Santa Clara County Medical Association	Los Niños Children's Medical Clinic
Sonoma County Medical Association	Valley Medical Clinic
	La Puente Family Medical Clinic
	Muñoz Healthcare Inc.
	Anaheim Cardiology Medical Group
	Dynamic Medical Imaging
	Caduceus for Women
	Lucero Dental Group
	Clinica Medica Central
	Clinica Medica Del Sagrado
	Corazon
	Pueblo Medical Associates

Monterey County Medical Society	Urban Medical Clinic
San Joaquin Medical Society	West Covina Family Medical Center
Kern County Medical Society	Hope Healthcare
Stanislaus Medical Society	Patient Choice Medical Group
Merced-Mariposa County Medical Society	Clinica De La Mujer
San Francisco Marin Medical Society	Dental Clinic Sheila Therese Amisola DDS, Inc.
Imperial County Medical Society	Clinica Santa Theresa
Mendocino-Lake County Medical Society	Community
Inyo-Mono County Medical Society	California State Conference NAACP
Placer-Nevada County Medical Society	Latino Diabetes Association
Yuba Sutter Colusa Medical Society	California Black Chamber of Commerce
Tuolumne County Medical Society	California Hispanic Chamber of Commerce
Solano County Medical Society	California Asian Pacific Chamber of Commerce
Napa County Medical Society	Latin Business Association
Los Angeles Wellness Station	Desert AIDS Project
Community Health Action Network	Mental Health America of Los Angeles
Community Health	Meet Each Need with Dignity (MEND)
	Sacramento Latino

Improvement Partners (CHIP) Public Policy Committee	Community Roundtable Federacion De Clubes De Michoacan
Merit Medi-Trans Best Ride Inc.	Sacramento Black Chamber of Commerce
Indian Physicians Association of Central California	Sacramento Asian Pacific Chamber of Commerce
Satellite Healthcare Dialysis Clinic, Inc.	Filipino American Chamber of Commerce San Diego
U.S. Renal Care American Renal Associates	Antelope Valley Hispanic Chamber of Commerce
Kidney Care Partners DaVita Kidney Care	Sacramento Valley Section- National Council of Negro Women, Inc.
Fresenius Medical Care (FMC)	Silicon Valley Black Chamber of Commerce
	Kern County Hispanic Chamber of Commerce
	Black Chamber of Commerce of Orange County
	Riverside County Black Chamber of Commerce

Seniors

National Association for
Hispanic Elderly
California Senior Advocates
League

Taxpayer

California Taxpayer
Protection Committee
Sacramento Taxpayers
Association
Kern County Taxpayers
Association
Placer County Taxpayers
Association
Contra Costa Taxpayers
Association
Fullerton Association of
Concerned Taxpayers
SoCal Tax Revolt Coalition
Inc.
Coalition for Policy Reform

Business

California Chamber of
Commerce
Los Angeles Area Chamber
of Commerce
National Association of

Manufacturers
Los Angeles County
Business Federation (BizFed)
Valley Industry and
Commerce Association
(VICA)
California Farm Bureau
Federation
Orange County Business
Council (OCBC)
Inland Empire Economic
Partnership (IEEP)
United Chambers of
Commerce of the San
Fernando Valley and Region
Gateway Chambers Alliance
Santa Monica Chamber of
Commerce
Chambers of Commerce
Alliance of Ventura
and Santa Barbara Counties
Anaheim Chamber of
Commerce
Fresno Chamber of
Commerce
Elk Grove Chamber of
Commerce
Oxnard Chamber of

Commerce
Greater Riverside Chambers
of Commerce
North Orange County
Chamber of Commerce
Greater Coachella Valley
Chamber of Commerce
Cerritos Chamber of
Commerce
Pomona Chamber of
Commerce
Norwalk Chamber of
Commerce




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Attention: Public Records Act Requests
300 N. Lake Ave., Suite 620
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September 14, 2018

TO: Each Member
Board of Retirement

FROM: Ricki Contreras, Division Manager 
Disability Retirement Services

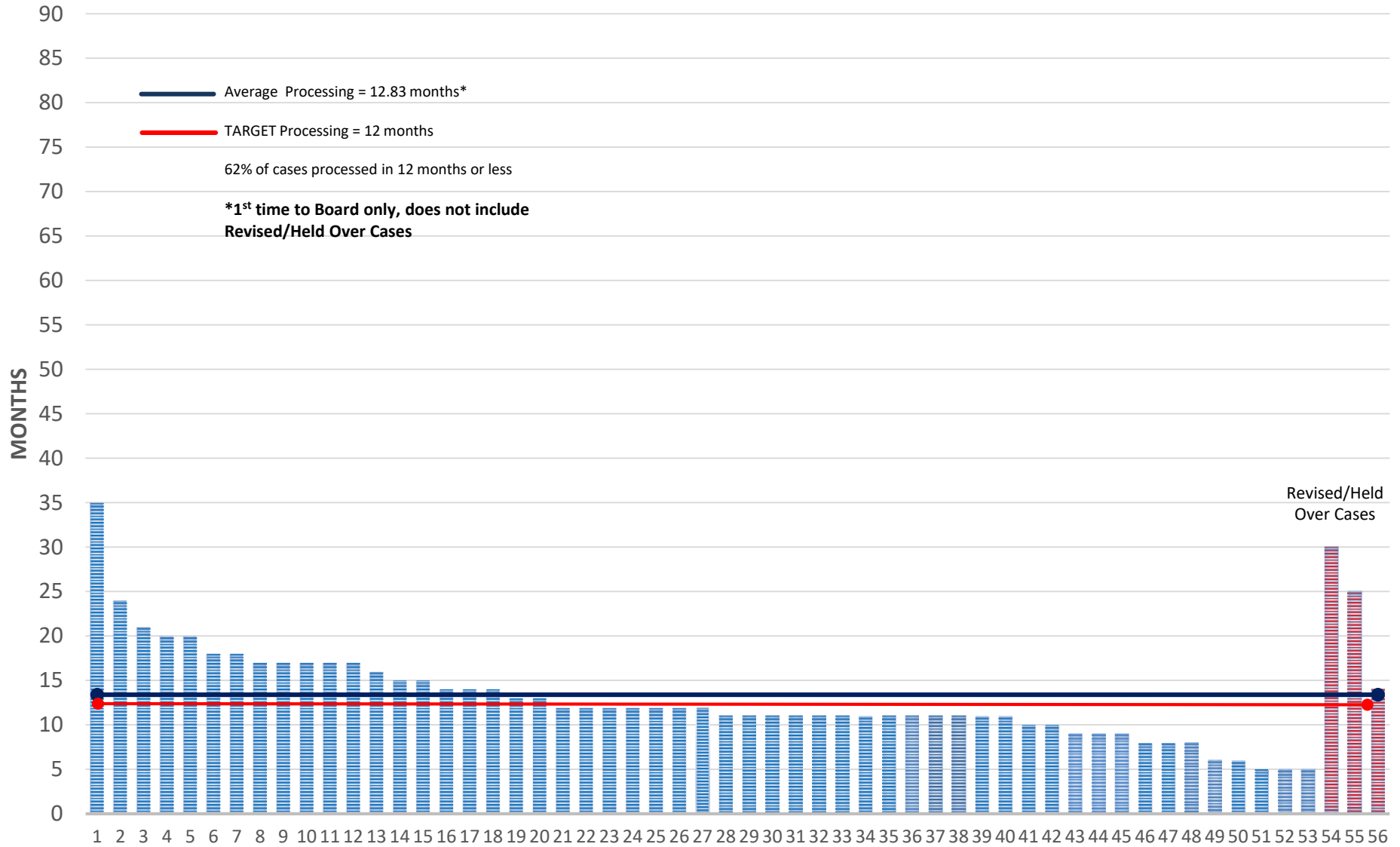
FOR: October 11, 2018 Board of Retirement Meeting

SUBJECT: **Application Processing Time Snapshot Reports**

The following chart shows the total processing time from receipt of the application to the first Board action for all cases on the October 11, 2018 Disability Retirement Applications Agenda.

Consent & Non-Consent Calendar	
Number of Applications	45
Average Processing Time (in Months)	11.56
Revised/Held Over Calendar	
Number of Applications	NA
Processing Time Per Case (in Months)	NA
Total Average Processing Time Revised/Held Over Calendar	NA
Total Average Processing Time All 45 Cases on Agenda	11.56

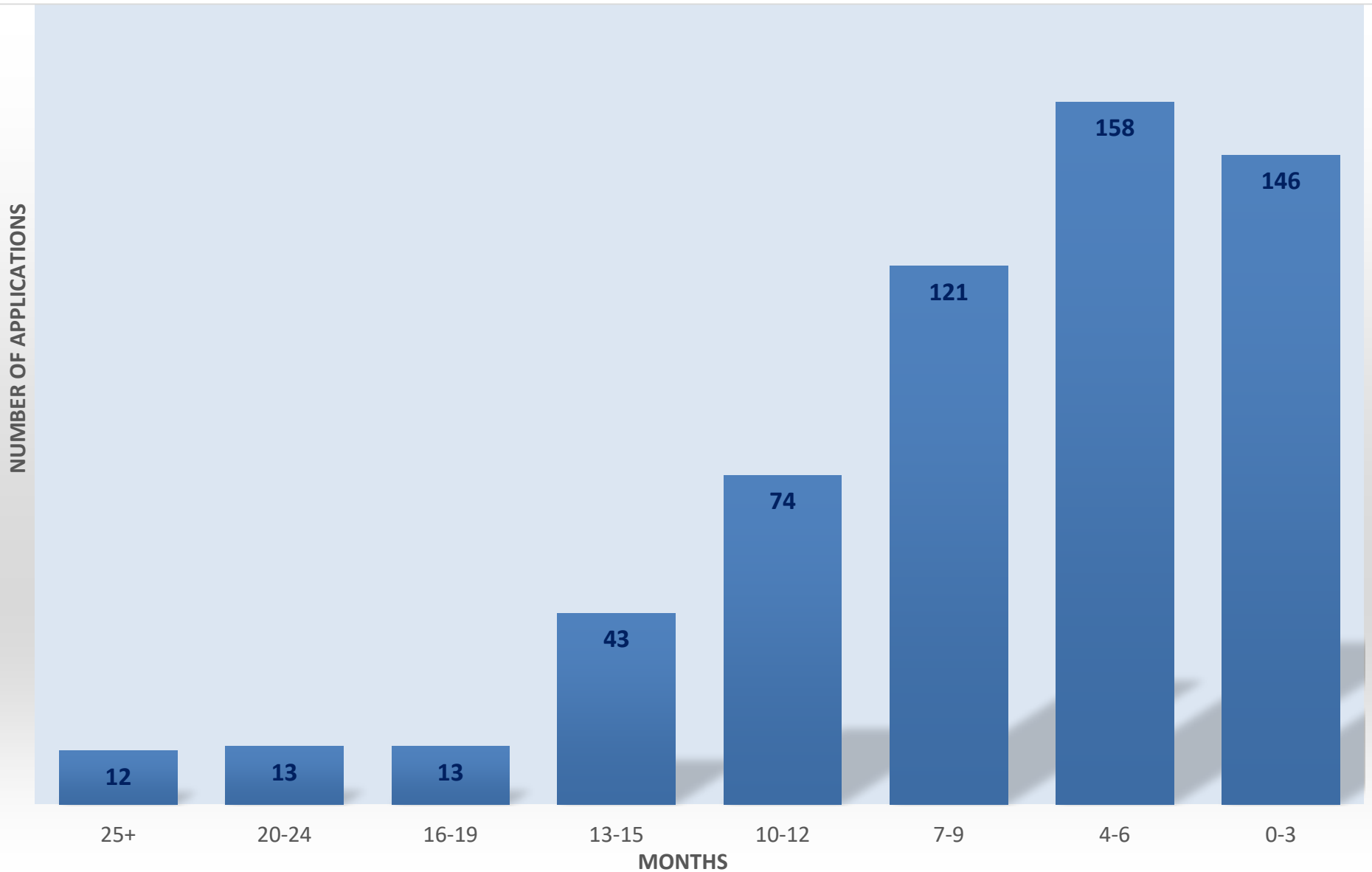
CASE PROCESSING TIME



As of 9/27/2018

October 11, 2018 AGENDA

PENDING APPLICATIONS/TIME INTERVALS



As of 9/27/2018

October 1, 2018

FOR INFORMATION ONLY

TO: Each Member
Board of Investments
Board of Retirement

FROM: Barry W. Lew *BW*
Legislative Affairs Officer

FOR: October 10, 2018 Board of Investments Meeting
October 11, 2018 Board of Retirement Meeting

SUBJECT: **2018 Year-End Legislative Report**

This report summarizes the bills on which the Board of Retirement or the Board of Investments had taken a position during the 2018 legislative year. It also includes bills on which the Boards had taken a position during the 2017 legislative year that carried over into the 2018 legislative year.

Section I lists the bills amending the County Employees Retirement Law of 1937 (CERL) and the California Public Employees' Pension Reform Act of 2013 (PEPRA). Section II lists California legislation other than those bills related to CERL or PEPRA. Section III lists federal legislation.

The last day for the California Legislature to pass any bills was August 31, 2018. Any bills that were not passed by the Senate and Assembly before that date are dead and will not carry over to the next legislative year since 2018 is the second year of the 2017-2018 two-year session. September 30, 2018 was the last day for the Governor to sign or veto bills. Unless otherwise noted, the bills signed into law become effective January 1, 2019.

The 2nd session of the 115th Congress is expected to adjourn on December 14, 2018. Staff will continue monitoring the federal legislation in this report and will report any changes in status when Congress adjourns.

I. BILLS AMENDING THE COUNTY EMPLOYEES RETIREMENT LAW OF 1937 (CERL) OR THE CALIFORNIA PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013 (PEPRA)

AB 2004 (Obernalte): Big Bear Fire Agencies Pension Consolidation Act of 2018

Summary: Authorizes the Board of Retirement of the San Bernardino County Employees' Retirement Association (SBCERA) to consent to membership of the Big Bear Fire Authority, a joint powers authority, in the retirement association.

Status: Signed into law.

Board of Retirement Position: Watch.

AB 2076 (Rodriguez): Effective Date of Disability Retirement

Summary: Authorizes the Los Angeles County Employees Retirement Association to correct prior board decisions determining the effective date of disability retirement that were made between 2013-2105 and were based upon an error of law existing at the time of the decision.

Status: Enacted.

Board of Retirement Position: Sponsor.

AB 2085 (Cooley): Surviving Spouse

Summary: Defines surviving spouse, for purposes of the County Employees Retirement Law of 1937, as a person legally married to the member, who is neither divorced nor legally separated at the time of the member's death, and who meets other requirements relating to length of marriage and the person's age at the time of the member's death.

Status: In ASSEMBLY Committee on PUBLIC EMPLOYEES, RETIREMENT & SOCIAL SECURITY. Set, first hearing. Hearing canceled at the request of the author.

Board of Retirement Position: Oppose.

SB 1270 (Vidak): Assistant Administrators and Chief Investment Officers

Summary: Authorizes county retirement boards to appoint assistant administrators and chief investment officers outside of county charter, civil service, or merit system rules, who serve at the pleasure of the appointing boards and may be dismissed without

cause. Provisions are applicable if the board of supervisors of that county makes those provisions applicable by resolution adopted by majority vote.

Status: Enacted.

Board of Retirement Position: Watch.

CARRIED OVER FROM 2017

AB 283 (Cooper): County Employees Retirement: Permanent Incapacity

Summary: Relates to county employee retirement and permanent incapacity. Requires, for purposes of determining permanent incapacity of members employed as peace officers, that those members be evaluated by the retirement system to determine if they can perform all of the usual and customary duties of a peace officer as described under the Penal Code.

Status: In SENATE Committee on PUBLIC EMPLOYMENT & RETIREMENT: Set, second hearing. Hearing canceled at the request of the author.

Board of Retirement Position: Neutral.

AB 526 (Cooper): County Employees Retirement: Districts: Retirement System Governance

Summary: Defines the Sacramento County retirement system as a district under the County Employees Retirement Law. Authorizes the county board of retirement to adopt provisions to classify personnel as employees of the retirement system rather than the county. Establishes notification requirements for the use of this authority. Grants rights to elect to be employees of the retirement system. Provides for benefits for retirement system employees. Prescribes requirements for labor agreements.

Status: In SENATE Committee on PUBLIC EMPLOYMENT & RETIREMENT: Set, first hearing. Hearing canceled at the request of the author.

Board of Retirement Position: Watch.

II. OTHER CALIFORNIA LEGISLATION

AB 2571 (Gonzalez Fletcher): Race and Gender Pay Equity

Summary: Requires a public investment fund to require an alternative investment vehicle to report at least annually certain information regarding hospitality employers relating to race and gender pay equity and sexual harassment. Requires public investment fund to disclose race and gender equity and sexual harassment information provided to it in a report presented at a meeting open to the public.

Status: In ASSEMBLY Committee on PUBLIC EMPLOYEES, RETIREMENT & SOCIAL SECURITY. Set, first hearing. Hearing canceled at request of author.

Board of Investments Position: Watch.

SB 1031 (Moorlach): Cost-of-Living Adjustments

Summary: Prohibits a public retirement system from making a cost-of-living adjustment to any allowance payable to a retired person who becomes a member on or after January 1, 2019, or to any survivor or beneficiary of that member, for any year in which the unfunded actuarial liability of the system is greater than 20 percent.

Status: In SENATE Committee on PUBLIC EMPLOYMENT AND RETIREMENT. Failed passage. Reconsideration granted.

Board of Retirement Position: Oppose.

CARRIED OVER FROM 2017

ACA 15 (Brough): Protecting Schools and Keeping Pension Promises Act of 2018

Summary: Prohibits a government employer from enhancing employee benefits without approval by the voters of the jurisdiction and prohibits a government employer from enrolling a new government employee in a defined benefit pension plan without approval by the voters of the jurisdiction.

Status: Introduced.

Board of Retirement Position: Oppose.

SB 562 (Lara): The Healthy California Act

Summary: Creates the Healthy California program to provide comprehensive universal single-payer health care coverage and a health care cost control system for the benefit of all residents of the state. Provides that the program incorporates benefits from existing programs. Provides for the participation of health care providers in the program. Creates the Healthy California Trust Fund for financing of the program. Authorizes providers to collectively negotiate rates of payment.

Status: In ASSEMBLY. Read first time. Held at desk.

Board of Retirement Position: Watch.

SCA 8 (Moorlach): Reduction of Public Employee Retirement Benefits

Summary: Permits a government employer to reduce retirement benefits that are based on work not yet performed by an employee regardless of the date that the employee was first hired, notwithstanding other provisions of the constitution. Prohibits it from being interpreted to permit the reduction of benefits that a public employee has earned based on work that has been performed, as specified. Defines government employer and retirement benefits for these purposes.

Status: In SENATE Committee on PUBLIC EMPLOYMENT & RETIREMENT. Failed passage. Reconsideration granted.

Board of Retirement Position: Oppose.

SCA 10 (Moorlach): Voter Approval of Benefit Increases

Summary: Prohibits a government employer from providing public employees any retirement benefit increase until it is approved by a vote of the electorate of the applicable jurisdiction and that vote is certified. Defines retirement benefit to mean any postemployment benefit and a benefit increase as any change that increases the value of an employee's retirement benefit. Defines government employer to include the state and its subdivisions, cities, counties, school districts special districts and universities.

Status: In SENATE Committee on PUBLIC EMPLOYMENT & RETIREMENT. Failed passage. Reconsideration granted.

Board of Retirement Position: Oppose.

III. FEDERAL LEGISLATION

HR 6290 (Nunes): Public Employee Pension Transparency Act

Summary: Amends the Internal Revenue Code of 1986 to provide for reporting an disclosure by state and local public employee retirement pension plans.

Status: Referred to HOUSE Committee on WAYS AND MEANS.

Board of Retirement Position: Oppose.

CARRIED OVER FROM 2017

HR 1205 (Davis): Social Security Fairness Act of 2017

Summary: Amends title II of the Social Security Act to repeal the government pension offset and the windfall elimination provisions.

Status: In HOUSE Committee on WAYS AND MEANS: referred to Subcommittee on SOCIAL SECURITY.

Board of Retirement Position: Support.

S 915 (Brown): Social Security Fairness Act of 2017

Summary: Amends title II of the Social Security Act to repeal the government pension offset and the windfall elimination provisions.

Status: Referred to SENATE Committee on FINANCE.

Board of Retirement Position: Support.

Reviewed and Approved:



Steven P. Rice, Chief Counsel

cc: LACERA Executive Office
LACERA Division Managers
Anthony J. Roda, Williams & Jensen
Joe Ackler, Ackler & Associates



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