

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
BOARD OF RETIREMENT
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CALIFORNIA**

**AMENDED
REGULAR MEETING
Monday, May 17, 2021
9:30 A.M.**

Pursuant to Executive Order N-29-20, certain provisions of the Brown Act are suspended due to a State of Emergency in response to the COVID-19 pandemic. Consistent with the Executive Order, this meeting will be conducted by video/teleconference only. None of the locations from which the Board members will participate will be open to the public.

Members of the public who wish to observe and/or participate in the meeting may do so via the Zoom app or via telephone. Members of the public who wish to provide comment during the meeting may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9 on your telephone keypad.

OCERS Zoom Video/Teleconference information	
<p>Join Using Zoom App (Video & Audio)</p> <p>https://ocers.zoom.us/j/92913883451</p> <p>Meeting ID: 929 1388 3451 Password: 221592</p> <p>Go to https://www.zoom.us/download to download Zoom app before meeting Go to https://zoom.us to connect online using any browser.</p>	<p>Join by Telephone (Audio Only)</p> <p>Dial by your location</p> <ul style="list-style-type: none"> +1 669 900 6833 US (San Jose) +1 346 248 7799 US (Houston) +1 253 215 8782 US +1 301 715 8592 US +1 312 626 6799 US (Chicago) +1 929 436 2866 US (New York) <p>Meeting ID: 929 1388 3451 Password: 221592</p>
<p>A Zoom Meeting Participant Guide is available on OCERS website Board & Committee meetings page</p>	

AGENDA (AMENDED)

The Orange County Board of Retirement welcomes you to this meeting. This agenda contains a brief general description of each item to be considered. The Board of Retirement may take action on any item included in the following agenda; however, except as otherwise provided by law, no action shall be taken on any item not appearing on the agenda. The Board of Retirement may consider matters included on the agenda in any order, and not necessarily in the order listed.

CALL MEETING TO ORDER AND ROLL CALL

PUBLIC COMMENTS

At this time, members of the public may comment on (1) matters not included on the agenda, provided that the matter is within the subject matter jurisdiction of the Board; and (2) any matter appearing on the Consent Agenda. Members of the public who wish to provide comment at this time may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9 on your telephone keypad. When addressing the Board, please state your name for the record prior to providing your comments. Speakers will be limited to three (3) minutes.

In addition, public comment on matters listed on this agenda will be taken at the time the item is addressed.

CONSENT AGENDA

All matters on the Consent Agenda are to be approved by one action unless a Board Member requests separate action on a specific item.

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

Recommendation: Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

- Salvador Gutierrez
- Forrest C. De Spain
- James R. Johnston
- Donald Sharps

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

April 19, 2021

Recommendation: Approve minutes.

C-3 18TH ANNUAL GLOBAL ARC BOSTON

Recommendation: Approve Trustee Freidenrich’s attendance and related expenses including overnight accommodations for the “18th Annual Global Arc Boston” Conference, October 25-October 27, 2021, at the InterContinental Boston, USA.

DISABILITY/MEMBER BENEFITS AGENDA

9:30 AM

NOTE: WHEN CONSIDERING DISABILITY RETIREMENT APPLICATIONS OR MEMBER APPEALS OF BENEFIT OR DISABILITY RETIREMENT DETERMINATIONS, THE BOARD MAY ADJOURN TO CLOSED SESSION TO DISCUSS MATTERS RELATING TO THE MEMBER'S APPLICATION OR APPEAL, PURSUANT TO GOVERNMENT CODE SECTIONS 54957 OR 54956.9. IF THE MATTER IS A DISABILITY APPLICATION UNDER SECTION 54957, THE MEMBER MAY REQUEST THAT THE DISCUSSION BE IN PUBLIC.

OPEN SESSION

CONSENT ITEMS

All matters on the Consent Agenda are to be approved by one action unless a Board member requires separate action on a specific item. If separate action is requested, the item will be discussed in closed session during agenda item DA-1.

DC-1: CHRISTINE ALFORD

Attorney IV, Orange County Public Defender's Office (General Member)

Recommendation: The Disability recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as November 23, 2018.

DC-2: VICTOR CURIEL

Coach Operator, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 15, 2019.

DC-3: DANIEL DESLAURIERS

Fire Apparatus Engineer, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as December 18, 2009.

DC-4: DEWAYNE FOWLKES

Weapons Instructor, Orange County Sheriff's Department (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as June 5, 2020.

DC-5: NOEMI GONZALEZ

Senior Administrative Analyst/Officer, Orange County Superior Court (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 29, 2019.

DC-6: JOHN HAMILTON

Firefighter/Paramedic, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as September 28, 2018.

DC-7: EDNA HERNANDEZ

Coach Operator Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board

- Grant non-service connected disability retirement.
- Set the effective date as August 19, 2018.

DC-8: ISELA NAVARRO-SANDOVAL

Warehouse Worker IV, Orange County Sheriff's Department (General Member)

Recommendation: The Disability Committee recommends that the Board

- Grant service connected disability retirement.
- Set the effective date as December 21, 2018.
- Require the member to undergo the reexamination process in two years' time per Government Code Section 31729.

DC-9: MARK NORTHART

Sergeant, Orange County Sheriff's Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as September 27, 2019

DC-10: SOU PHOMMASA

Office Technician, Orange County Community Resources/Housing Authority (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Deny service connected disability due to insufficient evidence of job causation.

DC-11: JACK SONGER

Sergeant, Orange County Sheriff's Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.

- Set the effective date as March 13, 2020.

DC-12: ROBERT SWANSON

Deputy Sheriff I, Orange County Sheriff's Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as April 10, 2020.

DC-13: RODOLFO TOBIAS

Coach Operator, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board

- Grant service connected disability retirement.
- Set the effective date as March 16, 2020.

DC-14: KENDALL WHALEY

Deputy Juvenile Correctional Officer II, Orange County Probation Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as August 17, 2020.

DC-15: MATTHEW WHITE

Firefighter, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as July 3, 2020.

CLOSED SESSION

Government Code section 54957

Adjourn to Closed Session under Government Code section 54957 to consider member disability applications and to discuss member medical records submitted in connection therewith. The applicant may waive confidentiality and request his or her disability application to be considered in Open Session.

DA-1: INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE DISABILITY/MEMBER BENEFITS CONSENT AGENDA

OPEN SESSION

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

ACTION ITEMS

NOTE: Public comment on matters listed in this agenda will be taken at the time the item is addressed, prior to the Board’s discussion of the item. **Members of the public who wish to provide comment in connection with any matter listed in this agenda may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9, at the time the item is called.**

A-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA

**A-2 FIRST READING ONLY; SECOND READING AND ACTION AT JUNE 21, 2021 MEETING OF THE BOARD
Alameda County Deputy Sheriff’s Assoc. et al., v. Alameda County Employees’ Retirement Assn., et al – Staff Recommendations Regarding Resolution and Implementation of the Alameda Decision**

Presentation by Suzanne Jenike, Assistant CEO of External Operations and Steve Delaney, Chief Executive Officer, OCERS

Recommendation:

- 1. STAFF RECOMMENDS THE BOARD APPROVE THE UPDATED PENSIONABLE DESIGNATION OF THE FOLLOWING PAY ITEMS AS A RESULT OF STAFF’S APPLICATION OF THE TEST AND DEFINITION OF NORMAL WORKING HOURS, AND FIND THESE PAY ITEMS ARE NOT PENSIONABLE:**
 - a. County of Orange: Attorney Special Duty Pay, Sheriffs Canine Pay and On Call Pay
 - b. Orange County Fire Authority: On Call Pay
 - c. Transportation Corridor Agencies: Stand-By Statistical
 - d. City of San Juan Capistrano: On Call Pay
 - e. Sanitation District: On Call Pay
 - f. Superior Court: On Call Pay

- 2. THE GOVERNANCE COMMITTEE RECOMMENDS THE BOARD APPROVE REVISIONS TO THE FOLLOWING POLICIES, PROCEDURES, PAY ITEM REQUEST FORM AND ADMINISTRATIVE PROCEDURES (OAP) REGARDING COMPENSATION EARNABLE TO REFLECT THE APPROVED TEST AND DEFINITION OF NORMAL WORKING HOURS:**
 - a. Compensation Earnable Policy
 - b. Pensionable Compensation Policy
 - c. Pay Item Request and Approval Procedures for Employers
 - d. Employer Pay Item Request Form
 - e. Compensation Earnable and Pensionable Compensation Determination OAP
 - f. Final Average Salary Calculation OAP

- 3. STAFF RECOMMENDS THE BOARD DIRECT STAFF TO:**
 - a. Recalculate retirement allowances prospectively excluding the pay items listed in Recommendation #1, above, from compensation earnable for any payee with a benefit effective date of January 1, 2013 through October 1, 2020,

- b. Recover overpayments made to such payees between January 1, 2013 and October 1, 2020 by offsetting the overpayments against any over-collected employee contributions during that period. Any remaining overpayments made between January 1, 2013 and October 1, 2020 will be recovered via the actuarial valuation process;
- c. Credit/refund overpaid employee contributions that are remaining after being offset against the overpayments in 3.b above to the payees, if applicable;
- d. Credit/refund any overpaid employee contributions made between January 1, 2013 and October 1, 2020 to the non-payees (i.e., active and deferred members) as of October 1, 2020; and
- e. Collect overpayments made between October 1, 2020 and the date of the benefit recalculation in 3.a., above from the payee in accordance with the Overpayment/Underpayment of Plan Benefits Policy.

A-3 BOARD INTERVIEWS OF NOSSAMAN LLP AND REED SMITH LLP AND AWARD OF CONTRACT FOR FIDUCIARY COUNSEL SERVICES

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: Staff recommends (1) the Board interview the two finalists, Nossaman LLP and Reed Smith LLP, selected by the Board at its April 19, 2021 meeting, to serve as the Board’s fiduciary counsel; and (2) after conducting such interviews, that the Board award a Contract for Fiduciary Counsel Services to one of the two firms, subject to satisfactory negotiation of terms.

INFORMATION ITEMS

Each of the following informational items will be presented to the Board for discussion.

Presentations

I-1 PRELIMINARY DECEMBER 31, 2020 ACTUARIAL VALUATION

Presentation by Paul Angelo, Senior Vice President, Actuary, Segal Consulting

I-2 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

WRITTEN REPORTS

The following are written reports that will not be discussed unless a member of the Board requests discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices
Death Notices

May 17, 2021
May 17, 2021

Orange County Employees Retirement System
May 17, 2021
Regular Board Meeting – **AMENDED Agenda**

- R-2 COMMITTEE MEETING MINUTES**
- 01-25-2021 Audit Committee Minutes
- R-3 CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN**
Written Report
- R-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS**
Written Report
- R-5 BOARD COMMUNICATIONS**
Written Report
- R-6 LEGISLATIVE UPDATE**
Written Report
- R-7 SAFETY ELECTION UPDATE**
Written Report
- R-8 FIRST QUARTER 2021 BUDGET TO ACTUALS REPORT**
Written Report
- R-9 FIRST QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THREE MONTHS ENDED MARCH 31, 2021**
Written Report

CLOSED SESSION ITEMS

- E-1 CONFERENCE REGARDING SIGNIFICANT EXPOSURE TO LITIGATION (ONE MATTER)
(GOVERNMENT CODE SECTION 54956.9)**
Adjourn pursuant to Government Code section 54956.9(d)(2)

Recommendation: Take appropriate action.

BOARD MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

ADJOURNMENT: (IN MEMORY OF THE ACTIVE MEMBERS, RETIRED MEMBERS, AND SURVIVING SPOUSES WHO PASSED AWAY THIS PAST MONTH)

NOTICE OF NEXT MEETINGS

PERSONNEL COMMITTEE MEETING

**May 20, 2021
9:00 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CA 92701**

INVESTMENT COMMITTEE MEETING

**May 26, 2021
9:30 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CA 92701**

AUDIT COMMITTEE MEETING

**June 4, 2021
1:30 P.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CA 92701**

GOVERNANCE COMMITTEE MEETING

**June 10, 2021
2:00 P.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CA 92701**

DISABILITY COMMITTEE MEETING

**June 21, 2021
8:30 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CA 92701**

REGULAR BOARD MEETING

**June 21, 2021
9:30 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CA 92701**

AVAILABILITY OF AGENDA MATERIALS - Documents and other materials that are non-exempt public records distributed to all or a majority of the members of the OCERS Board or Committee of the Board in connection with a matter subject to discussion or consideration at an open meeting of the Board or Committee of the Board are available at the OCERS' website: <https://www.ocers.org/board-committee-meetings>. If such materials are distributed to members of the Board or Committee of the Board less than 72 hours prior to the meeting, they will be made available on the OCERS' website at the same time as they are distributed to the Board or Committee members. Non-exempt materials distributed during an open meeting of the Board or Committee of the Board will be made available on the OCERS' website as soon as practicable and will be available promptly upon request.

It is OCERS' intention to comply with the Americans with Disabilities Act ("ADA") in all respects. If, as an attendee or participant at this meeting, you will need any special assistance beyond that normally provided, OCERS will attempt to accommodate your needs in a reasonable manner. Please contact OCERS via email at adminsupport@ocers.org or call 714-558-6200 as soon as possible prior to the meeting to tell us about your needs and to determine if accommodation is feasible. We would appreciate at least 48 hours' notice, if possible. Please also advise us if you plan to attend meetings on a regular basis.



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – SALVADOR GUTIERREZ**

Recommendation

Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

Background/Discussion

This member elected Option 4 as the benefit payment option for his service retirement allowance as required by his Domestic Relations Order (DRO), effective August 14, 2020. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member’s monthly allowance as indicated in the attached letter, as well as the allowance payable to the member’s ex-spouse.

Submitted by:



A. B. – APPROVED

Adina Bercaru
Member Services Manager



Molly Calcagno, ASA, MAAA, EA
Actuary
T 415.263.8254
mcalcagno@segalco.com

180 Howard Street, Suite 1100
San Francisco, CA 94105-6147
segalco.com

Personal and Confidential

May 4, 2021

Ms. Adina Bercaru
Member Services Manager
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)
Option 4 Calculation for Salvador Gutierrez**

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Salvador Gutierrez and his ex-spouse based on the unmodified benefit and other information provided in the System's request dated April 21, 2021.

The monthly benefits payable to the member and the ex-spouse and the data we used for our calculations are as follows:

Member's Date of Birth	
Ex-Spouse's Date of Birth	
Date of Retirement	August 14, 2020
Plan of Membership	General Plan J
Monthly Unmodified Benefit	\$7,061.29
Ex-Spouse's Share of Monthly Unmodified Benefit	4.44%
Retirement Type	Service Retirement

Ms. Adina Bercaru
 May 4, 2021
 Page 2

We calculated the adjustment to the member's unmodified benefit to provide a 4.44% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$2,057.19	
Pension:	<u>4,690.58</u>	
Total:	\$6,747.77	\$0.00
Monthly benefit payable to ex-spouse ¹	\$276.18	\$276.18

ACTUARIAL ASSUMPTIONS

Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 40% male and 60% female for members.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 60% male and 40% female for beneficiaries.

The actuarial calculations contained in this letter were prepared under my supervision. I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

¹ This is equal to 4.44% of the member's unmodified benefit (i.e., 4.44% * \$7,061.29 or \$313.52) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

Ms. Adina Bercaru
May 4, 2021
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Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan's Legal Counsel.

Sincerely,



Molly Calcagno, ASA, MAAA, EA
Actuary

JY/hy



May 5, 2021

Salvador F. Gutierrez

Re: Retirement Election Confirmation – Option 4

Dear Mr. GUTIERREZ:

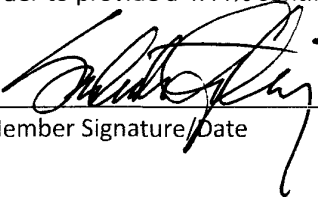
You have elected Option 4 as your retirement option. This option will provide a 4.44% of your monthly benefit, for the life of the benefit, to:

PEIZHI DONG

This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiary.

Please complete this form and return to OCERS as soon as possible.

I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 4.44% continuance to PEIZHI DONG.


Member Signature/Date

RECEIVED
By abercaru at 9:45 am, May 05, 2021

Sincerely,


Adina Bercaru
Member Services Manager



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – FORREST DE SPAIN**

Recommendation

Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

Background/Discussion

This member elected Option 4 as the benefit payment option for his service retirement allowance as required by his Domestic Relations Order (DRO), effective February 26, 2021. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member’s monthly allowance as indicated in the attached letter, as well as the allowance payable to the member’s ex-spouse.

Submitted by:



A. B. – APPROVED

Adina Bercaru
Member Services Manager



Molly Calcagno, ASA, MAAA, EA
Actuary
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mcalcagno@segalco.com

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Personal and Confidential

May 4, 2021

Ms. Adina Bercaru
Member Services Manager
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)
Option 4 Calculation for Forrest C. De Spain**

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Forrest C. De Spain, his ex-spouse and his daughter based on the unmodified benefit and other information provided in the System's request dated April 28, 2021.

The monthly benefits payable to the member, the ex-spouse and the member's daughter and the data we used for our calculations are as follows:

Member's Date of Birth	August 31, 1956
Ex-Spouse's Date of Birth	
Date of Retirement	
Plan of Membership	General Plan J
Monthly Unmodified Benefit	\$5,682.57
Ex-Spouse's Share of Monthly Unmodified Benefit	45.89%
Retirement Type	Service Retirement
Daughter's Date of Birth	
Continuance Payable to Member's Daughter	100%

Ms. Adina Bercaru
 May 4, 2021
 Page 2

We have determined the Option 4 benefits using a two-part process. In Part One, we first calculated the adjustment to the member's unmodified benefit to provide a 45.89% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

Part One – Before Adjustment for Continuance to Daughter

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$1,351.06	
Pension:	<u>1,723.78</u>	
Total:	\$3,074.84	\$0.00
Monthly benefit payable to ex-spouse ¹	\$2,045.50	\$2,045.50

In Part Two, we further adjusted the member's benefit in Part One so that a continuance benefit of 100% can be paid to the member's daughter. In addition, the cost to provide this continuance benefit would be paid for entirely by the member.

It is our understanding that pursuant to Regulation §1.401(a)(9)-6, the maximum percentage continuance benefit that can be provided to a non-spouse beneficiary may be limited if the difference in the member's age and the non-spouse beneficiary's age is greater than ten years. Consistent with calculations previously performed for OCERS, we have used the Member's age and the non-spouse beneficiary's age in determining such age difference. The actual calculation is as follows:

- Step 1:** Calculate the difference in age between the member and the beneficiary based on their ages on their birthdays during the calendar year of retirement (65-28=37).
- Step 2:** If the member is retiring before age 70, the age difference determined in Step 1 is reduced by the number of years that the member is retiring before age 70 (37-(70-65)=32).
- Step 3:** The maximum percentage continuance benefit can be found in the table provided in §1.401(a)(9)-6 which for an adjusted age difference of 32 years is 59%.

Therefore, for the purposes of this calculation, we have determined the maximum continuance to be 59% payable to the member's daughter.

¹ This is equal to 45.89% of the member's unmodified benefit (i.e., 45.89% * \$5,682.57 or \$2,607.73) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

Ms. Adina Bercaru
 May 4, 2021
 Page 3

Part Two - After Adjustment for Continuance Benefit Payable to Daughter

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$1,025.50	
Pension:	<u>1,308.42</u>	
Total:	\$2,333.92	\$0.00
Monthly benefit payable to daughter	\$0.00	\$1,377.01
Monthly benefit payable to ex-spouse ²	\$2,045.50	\$2,045.50

ACTUARIAL ASSUMPTIONS

Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 40% male and 60% female for members.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 60% male and 40% female for beneficiaries.

² This is equal to 45.89% of the member's unmodified benefit (i.e., 45.89% * \$5,682.57 or \$2,607.73) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

Ms. Adina Bercaru
May 4, 2021
Page 4

The actuarial calculations contained in this letter were prepared under my supervision. I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan's Legal Counsel.

Sincerely,



Molly Calcagno, ASA, MAAA, EA
Actuary

JY/hy



May 5, 2021

Forrest C. De Spain
(removed address for email purposes)

Re: Retirement Election Confirmation – Option 4

Dear Mr. DE SPAIN:

As required by your DRO, you have elected Option 4 as your retirement option. This option will provide a 45.89% of your monthly benefit, for the life of the benefit, to:

KRISTI JEAN DE SPAIN

This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiary.

Please complete this form and return to OCERS as soon as possible.

I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 45.89% continuance to KRISTI DE SPAIN.

Forrest C. De Spain
 Member Signature / Date MAY 5, 2021

Sincerely,

A handwritten signature in cursive script, appearing to read "Zaida Miramontes".

Zaida Miramontes
Retirement Program Specialist



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – JAMES JOHNSTON**

Recommendation

Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

Background/Discussion

This member elected Option 4 as the benefit payment option for his service retirement allowance as required by his Domestic Relations Order (DRO), effective March 12, 2021. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member’s monthly allowance as indicated in the attached letter, as well as the allowance payable to the member’s ex-spouse.

Submitted by:



A. B. – APPROVED

Adina Bercaru
Member Services Manager



Molly Calcagno, ASA, MAAA, EA
Actuary
T 415.263.8254
mcalcagno@segalco.com

180 Howard Street, Suite 1100
San Francisco, CA 94105-6147
segalco.com

Personal and Confidential

May 4, 2021

Ms. Adina Bercaru
Member Services Manager
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)
Option 4 Calculation for James R. Johnston**

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to James R. Johnston and his ex-spouse based on the unmodified benefit and other information provided in the System's request dated April 29, 2021.

The monthly benefits payable to the member and the ex-spouse and the data we used for our calculations are as follows:

Member's Date of Birth	
Ex-Spouse's Date of Birth	
Date of Retirement	March 12, 2021
Plan of Membership	General Plan B and Safety Plan F
Monthly Unmodified Benefit	Plan B: \$70.83 Plan F: <u>10,557.98</u> Total: \$10,628.81
Ex-Spouse's Share of Monthly Unmodified Benefit	29.38%
Retirement Type	Service Retirement

Ms. Adina Bercaru
 May 4, 2021
 Page 2

We calculated the adjustment to the member's unmodified benefit to provide a 29.38% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Plan B Annuity:	\$12.97	
Plan B Pension:	37.05	
Plan F Annuity:	1,463.97	
Plan F Pension:	<u>5,992.08</u>	
Total	\$7,506.07	\$0.00
Monthly benefit payable to ex-spouse ¹	\$2,756.22	\$2,756.22

ACTUARIAL ASSUMPTIONS

Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016 set back four years, weighted 80% male and 20% female for members.²

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 20% male and 80% female for beneficiaries.²

¹ This is equal to 29.38% of the member's unmodified benefit (i.e., 29.38% * \$10,628.81 or \$3,122.74) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

² Since the member last worked as a Safety member, we used Safety assumptions in determining optional benefits even for benefits paid from the General Plan.

Ms. Adina Bercaru
May 4, 2021
Page 3

The actuarial calculations contained in this letter were prepared under my supervision. I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan's Legal Counsel.

Sincerely,



Molly Calcagno, ASA, MAAA, EA
Actuary

JY/bbf



May 5, 2021

James R. Johnston

Re: Retirement Election Confirmation – Option 4

Dear Mr. JOHNSTON:

You have elected Option 4 as your retirement option. This option will provide a 29.38% of your monthly benefit, for the life of the benefit, to:

PATRICIA JOHNSTON

This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiary.

Please complete this form and return to OCERS as soon as possible.

I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 29.38% continuance to PATRICIA JOHNSTON.


 Member Signature/Date

Sincerely,


 Ricardo Serrano
 Retirement Program Specialist



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – DONALD SHARPS**

Recommendation

Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

Background/Discussion

This member elected Option 4 as the benefit payment option for his service retirement allowance as required by his Domestic Relations Order (DRO), effective March 27, 2021. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member’s monthly allowance as indicated in the attached letter, as well as the allowance payable to the member’s ex-spouse.

Submitted by:



A. B. – APPROVED

Adina Bercaru
Member Services Manager



Molly Calcagno, ASA, MAAA, EA
Actuary
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mcalcagno@segalco.com

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segalco.com

Personal and Confidential

May 10, 2021

Ms. Adina Bercaru
Member Services Manager
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)
Option 4 Calculation for Donald Sharps**

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Donald Sharps and his ex-spouse based on the unmodified benefit and other information provided in the System's request dated May 6, 2021.

The monthly benefits payable to the member and the ex-spouse and the data we used for our calculations are as follows:

Member's Date of Birth	
Ex-Spouse's Date of Birth	
Date of Retirement	March 27, 2021
Plan of Membership	General Plan J
Monthly Unmodified Benefit	\$12,662.73
Ex-Spouse's Share of Monthly Unmodified Benefit	33.60%
Retirement Type	Service Retirement

Ms. Adina Bercaru
 May 10, 2021
 Page 2

We calculated the adjustment to the member's unmodified benefit to provide a 33.60% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

	Payable while the Member is Alive	Payable after the Member's Death
Monthly benefit payable to member		
Annuity:	\$3,617.16	
Pension:	<u>4,790.89</u>	
Total:	\$8,408.05	\$0.00
Monthly benefit payable to ex-spouse ¹	\$3,563.40	\$3,563.40

ACTUARIAL ASSUMPTIONS

Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 40% male and 60% female for members.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 60% male and 40% female for beneficiaries.

The actuarial calculations contained in this letter were prepared under my supervision. I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

¹ This is equal to 33.60% of the member's unmodified benefit (i.e., 33.60% * \$12,662.73 or \$4,254.68) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

Ms. Adina Bercaru
May 10, 2021
Page 3

Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan's Legal Counsel.

Sincerely,



Molly Calcagno, ASA, MAAA, EA
Actuary

JY/bbf



May 12, 2021

Donald L. Sharps

Re: Retirement Election Confirmation – Option 4

Dear Mr. SHARPS:

You have elected Option 4 as your retirement option. This option will provide a 33.60% of your monthly benefit, for the life of the benefit, to:

FABIOLA SHARPS

This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiary.

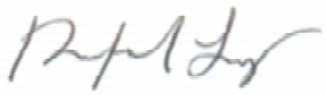
Please complete this form and return to OCERS as soon as possible.

I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 33.60% continuance to FABIOLA SHARPS.

 5-12-2021

Member Signature/Date

Sincerely,



Rafael Lopez
Retirement Program Specialist

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
BOARD OF RETIREMENT
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CALIFORNIA**

**REGULAR MEETING
Monday, April 19, 2021
9:30 a.m.**

MINUTES

Chair Dewane called the meeting to order at 9:33 a.m.

Cammy Torres administered the Roll Call attendance.

Attendance was as follows:

Present via Zoom video teleconference pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020:

Shawn Dewane, Chair; Frank Eley, Vice-Chair, Shari Freidenrich, Adele Tagaloa, Charles Packard, Chris Prevatt, Arthur Hidalgo, Jeremy Vallone, Wayne Lindholm; and Roger Hilton

Also Present via Zoom:

Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Jenny Sadoski, Director of Information Technology, Javier Lara, Visual Technician; Cammy Torres; Recording Secretary

Guests via Zoom:

Harvey Leiderman, ReedSmith

Mr. Delaney informed the public that item A-2 will be informational only and no action will be taken on this item.

CONSENT AGENDA

MOTION by Packard, **seconded** by Lindholm, to approve recommendations on all of the following items on the Consent Agenda:

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

Recommendation: Grant election of retirement benefit payment, Option 4, based on Segal Consulting's actuarial report.

- Chad Baker

- Anthony Ferrentino
- Paul McBride

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

March 15, 2021

Recommendation: Approve minutes.

C-3 GOVERNANCE COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON MARCH 5, 2020

Recommendation: The Governance Committee recommends the Board adopt revisions to the following policies as presented:

- (1) Cost Impacting Policy
- (2) Disposition of Surplus Property Policy
- (3) Extraordinary Expense Recovery Policy
- (4) Legislative Policy

C-4 18TH ANNUAL GLOBAL ARC BOSTON

Recommendation: Approve Trustees Packard and Tagaloa, together with CEO Delaney’s attendance and related expenses including overnight accommodations for the “18th Annual Global Arc Boston” Conference, October 25-October 27, 2021, at the InterContinental Boston, USA.

C-5 DISABILITY COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON MARCH 15, 2021

Recommendation: The Disability Committee recommends that the Board:

- (1) Adopt revisions to the Disability Reemployment Policy, including changing the name to the Disability Reassignment Policy, as approved by the Disability Committee; and
- (2) Adopt revisions to the Hearing Officer Selection and Retention Policy as approved by the Disability Committee.

The motion passed **unanimously**.

CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

MOTION by Hilton, **seconded** by Packard, to approve staff’s recommendation on all of the following items on the Disability/Member Benefits Consent Agenda:

DC-1: MARY NEGRON
Office Technician, Orange County Social Services Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant non-service connected disability retirement.
- Set the effective date as June 7, 2019.

DC-1 was **pulled** from the Agenda.

DC-2: MARTIN NEAL
Coach Operator, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Deny service connected disability retirement due to insufficient evidence of job causation.

DC-2 was **pulled** from the Agenda.

DC-3: TAMARA JIMENEZ
Group Counselor II, Orange County Social Services Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as May 10, 2019, the day after the last day of regular compensation for the Group Counselor II position.
- Find the Applicant is capable of performing other duties in the service of the County of Orange pursuant to Government Code Section 31725.65.
- Grant a supplemental disability retirement payment allowance in the amount of the salary difference between the higher and lower paying positions effective May 10, 2019, the date of the position change until the day Ms. Jimenez wishes to retire from the new position.

DC-4: REBECCA CONTRERAS
Supervising Peace Officer Sergeant, Orange County Sheriff's Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Deny service connected disability retirement due to insufficient evidence of job causation.

DC-5: JUAN OCEGUEDA
Senior Institutional Cook, Orange County Sheriff's Department (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as March 29, 2019.

DC-6: RANDY RIPKEN
Firefighter, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as March 27, 2020.

DC-7: RICARDO ZAMORA

Sheriff's Special Officer II, Orange County Sheriff's Department (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as September 25, 2020.

The motion passed **unanimously**.

OPEN SESSION

**DA-1: INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE DISABILITY/MEMBER BENEFITS
CONSENT AGENDA**

N/A

**DA-2: AGENDA ITEM DA-2: MCDONALD, KEVIN – REQUEST FOR ADMINISTRATIVE REVIEW OF CEO
DETERMINATION**

Recommendation:

1. Staff recommends that the Board review and determine the Request for Administrative Review of CEO Determination filed by OCERS member, Kevin McDonald (Applicant), at the Board's meeting on April 19, 2021; and
2. The Board affirm that OCERS' Staff correctly calculated the Applicant's final average salary in accordance with the law, OCERS' policies and procedures, and the applicable Memorandum of Understanding (MOU).

MOTION by Eley, **seconded** by Prevatt, to approve staff's recommendation on DA-2.

Ms. Jenike presented Mr. McDonald's item to the Board.

Mr. McDonald addressed the Board and expressed his concerns regarding timesheet calculation of hours and asked for this item to be continued to a later date in order to receive documentation from the County regarding his case.

Ms. Jenike indicated the members account could be recalculated if additional information was received by the County after the Board decision.

After Board discussion, a Substitute **MOTION** by Hilton, **seconded** by Hidalgo was made to defer item DA-2 to the June Regular Board meeting.

The motion passed **unanimously**.

The Board adjourned into closed session at 8:58 a.m.

CLOSED SESSION ITEMS

**E-1 CONFERENCE REGARDING SIGNIFICANT EXPOSURE TO LITIGATION (ONE MATTER)
(GOVERNMENT CODE SECTION 54956.9)**

Adjourn pursuant to Government Code section 54956.9(d)(2)

Recommendation: Take appropriate action.

OPEN SESSION

The Board reconvened into open session at 10:17 a.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

On behalf of Chair Dewane, Ms. Ratto stated that there is no reportable action taken in closed session.

ACTION ITEMS:

A-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA

N/A

A-2 *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al* – Staff Recommendations Regarding Resolution and Implementation of the Alameda Decision

Presentation by Suzanne Jenike, Assistant CEO of External Operations and Steve Delaney, Chief Executive Officer, OCERS

Recommendation:

1. STAFF RECOMMENDS THE BOARD APPROVE THE UPDATED PENSIONABLE DESIGNATION OF THE FOLLOWING PAY ITEMS AS A RESULT OF STAFF'S APPLICATION OF THE TEST AND DEFINITION OF NORMAL WORKING HOURS, AND FIND THESE PAY ITEMS ARE NOT PENSIONABLE:

- a. County of Orange: Attorney Special Duty Pay, Sheriffs Canine Pay and On Call Pay
- b. Orange County Fire Authority: On Call Pay
- c. Transportation Corridor Agencies: Stand-By Statistical
- d. City of San Juan Capistrano: On Call Pay
- e. Sanitation District: On Call Pay
- f. Superior Court: On Call Pay

2. THE GOVERNANCE COMMITTEE RECOMMENDS THE BOARD APPROVE REVISIONS TO THE FOLLOWING POLICIES, PROCEDURES, PAY ITEM REQUEST FORM AND ADMINISTRATIVE PROCEDURES (OAP) REGARDING COMPENSATION EARNABLE TO REFLECT THE APPROVED TEST AND DEFINITION OF NORMAL WORKING HOURS:

- a. Compensation Earnable Policy

- b. Pensionable Compensation Policy
- c. Pay Item Request and Approval Procedures for Employers
- d. Employer Pay Item Request Form
- e. Compensation Earnable and Pensionable Compensation Determination OAP
- f. Final Average Salary Calculation OAP

3. STAFF RECOMMENDS THE BOARD DIRECT STAFF TO:

- a. Recalculate retirement allowances prospectively excluding the aforementioned pay items from compensation earnable for any payee with a benefit effective date of January 1, 2013 through October 1, 2020
- b. Recover overpayments made to such payees between January 1, 2013 and October 1, 2020 by offsetting them against any over-collected employee contributions during that period. Any remaining overpayments made between January 1, 2013 and October 1, 2020 will be recovered via the actuarial valuation process (see f below);
- c. Credit/refund overpaid employee contributions that are remaining after being offset against the overpayments in 3.b above to the payees, if applicable;
- d. Credit/refund any overpaid employee contributions made between January 1, 2013 and October 1, 2020 to non-payees as of October 1, 2020; and
- e. Collect overpayments made between October 1, 2020 and the date of the benefit recalculation in 3.a. above from the payee in accordance with the Overpayment/Underpayment of Plan Benefits Policy.
- f. Actuarial valuation process for recovering overpayments – Any remaining overpayments from 3.b above to be recovered from the employers by continuing to recognize the overpayments as part of the employers' unfunded actuarial accrued liability (UAAL).

Mr. Delaney presented item A-2 and outlined that this item was informational only and that action will take place at the May Regular Board Meeting.

A-3 FIDUCIARY COUNSEL RFP – SELECTION OF FINALISTS FOR INTERVIEW BY THE BOARD

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: Select the candidates for Fiduciary Counsel who will be interviewed by the Board; establish the interview panel consisting of the full Board; and determine the interviews will be conducted at the Board meeting on May 17, 2021.

Ms. Ratto presented the Fiduciary Counsel RFP item and stated that the two final candidates that will be interviewed at the May Regular Board Meeting to serve as the Board's fiduciary counsel are Nossaman LLP and Reed Smith LLP.

MOTION by Eley, **seconded** by Packard to approve Nossaman LLP and Reed Smith LLP as the two candidates for Fiduciary Counsel who will be interviewed by the Board at the May 17, 2021 Regular Board Meeting.

The motion passed **unanimously**.

A-4 SACRS BOARD OF DIRECTORS ELECTION 2021-2022 – DIRECTION TO OCERS’ VOTING DELEGATE

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: Consider the SACRS Nominating Committee’s recommended slate of candidates and the list of additional candidates interested in running for the election of SACRS Directors; and give direction to OCERS’ Voting Delegate and Alternate Delegates for the SACRS Board of Directors election to be held at the SACRS Spring Conference to take place on May 14, 2021.

Ms. Ratto presented the SACRS Board of Directors Election item and outlined the recommended ballot.

SACRS Nominating Committee Final Ballot:

- Vivian Gray, Los Angeles CERA President
- Kathryn Cavness, Mendocino CERA Vice President
- Harry Hagen, Santa Barbara, CERS Treasurer
- Thomas Garcia, Imperial CERS Secretary
- David MacDonald, MD, Contra Costa CERA Regular Member
- Vere Williams, San Bernardino CERA Regular Member

Mr. Prevatt thanked the Board for their support in previously submitting his name to the SACRS Nominating Committee. He stated that as he had not been recommended by the Nominating Committee there was no chance he could succeed at the May SACRS conference. He recommended the Board approve the Nominating Committee’s slate of candidates.

MOTION by Hilton, **seconded** by Packard to move the recommended slate.

The motion passed **unanimously**.

A-5 SACRS LEGISLATIVE COMMITTEE RECOMMENDED LEGISLATION FOR SACRS SPONSORSHIP – DIRECTION TO OCERS’ VOTING DELEGATE

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: Direct the SACRS voting delegate and alternate delegates to vote to approve SACRS’ formal sponsorship of SB 634, an omnibus bill to provide technical and clarifying changes to the CERL, when such matter is presented to the SACRS membership for a vote at the SACRS business meeting on May 14, 2021.

MOTION by Hilton, **seconded** by Packard to direct the SACRS voting delegate and alternate delegates to vote to approve SACRS’ formal sponsorship of SB 634, an omnibus bill to provide technical and clarifying changes to the CERL, when such matter is presented to the SACRS membership for a vote at the SACRS business meeting on May 14, 2021.

The motion passed **unanimously**.

The Board adjourned to break at 10:40 a.m.

The Board reconvened from break at 10:57 a.m.

Ms. Torres administered the Roll Call attendance.

INFORMATION ITEMS

Each of the following informational items will be presented to the Board for discussion.

Presentations

I-1 ANNUAL FIDUCIARY EDUCATION

Presentation by Harvey Leiderman, ReedSmith, LLP

Mr. Leiderman conducted the annual fiduciary education.

I-2 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney presented the COVID-19 update for the month of April. He informed the Board that while OCERS staff continue to work remotely until the end of May, in line with current County Health Department advice emphasizing telework wherever possible, that decision is revisited by himself and the Crisis Management Team (CMT) every month. Mr. Delaney further stated that while he is sure OCERS will be continuing mandatory telework through the end of April, he would not be surprised if OCERS much like other pension plans such as CalPERS remains out into the summer.

WRITTEN REPORTS

No written reports were pulled for discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices

April 19, 2021

Death Notices

April 19, 2021

R-2 COMMITTEE MEETING MINUTES

- None

R-3 CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN

Written Report

R-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report

R-5 BOARD COMMUNICATIONS

Written Report

R-6 LEGISLATIVE UPDATE

Written Report

Orange County Employees Retirement System
April 19, 2021
Regular Board Meeting – Minutes

R-7 UPDATE TO BOARD ELECTION, SAFETY MEMBER AND ALTERNATE SAFETY MEMBER
Written Report

R-8 GOVERNMENT FINANCE OFFICERS ASSOCIATION (GFOA) CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING
Written Report

R-9 FIRST QUARTER 2021 TRAVEL AND TRAINING EXPENSE REPORT
Written Report

R-10 2021 AMERICAN ADVERTISING BRONZE AWARD FOR THE 2019 COMPREHENSIVE ANNUAL FINANCIAL REPORT
Written Report

BOARD MEMBER COMMENTS
N/A

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS
N/A

COUNSEL COMMENTS
N/A

Chair Dewane adjourned in memory of the active members, retired members, and surviving spouses who passed away during the past month. The meeting **ADJOURNED** at 11:35 a.m.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

Shawn Dewane
Chairman



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: 18TH ANNUAL GLOBAL ARC BOSTON

Recommendation

Approve Trustee Freidenrich’s attendance and related expenses including overnight accommodations for the “18th Annual Global Arc Boston” Conference, October 25-October 27, 2021, at the InterContinental Boston, USA.

Background/Discussion

Founded in 2002, Global ARC Boston convenes a network of the world’s largest sovereign wealth funds, foundations and pension funds to discuss urgent macroeconomic, finance, geopolitical, ethical and institutional investment issues. It is wholly owned by its founder David Stewart and is not affiliated with any media company or individual supplier of services to the investment industry. (An announcement flyer is attached. Note that the registration fee for our system is only \$300 per individual.)

The “18th Annual Global Arc Boston” conference is planned to be in-person, and is not a pre-approved educational event as identified in the OCERS Board’s Education & Travel policy. Approval of conference related expenses therefore requires OCERS Board action.

The cost for individual attendance includes lodging (\$1095) and airfare (\$300) and registration (\$350) for an approximate total of \$1745 per person.

Submitted by:

A handwritten signature in blue ink that reads "Steve Delaney". The signature is written in a cursive style and is positioned above a horizontal line.

Steve Delaney
Chief Executive Officer

Early Bird Rate: USD 8,950 if you register before April 16th: a saving of over 30% off the full price.



18th Annual Global ARC Boston

Where the Global Institutional Investor and Alternative Investment Communities Meet

Over 60 institutional investor speakers already confirmed, including:

- Leslie Lenzo, CIO, **Advocate Aurora Health** (USA)
- Ingrid Albinsson, CIO, **AP7 Pension Fund / Sjunde AP-fonden** (Sweden)
- Lan Kollengode, CIO, **Azim Premji Foundation** (India)
- Nico Aspinall, CIO, **B&CE Pension / The People's Pension** (U.K.)
- Ricardo Martinelli, Head of Investments, **Banco Central do Brasil** (Brazil)
- Elena Manola-Bonthond, CIO, **CERN Pension Fund** (Switzerland)
- Raivo Vanags, Head of Market Operations, **Central Bank of Latvia** (Latvia)
- Michael Dittrich, CFO, **DBU / Deutsche Bundesstiftung Umwelt** (Germany)
- Truls Tollefsen, CFO and CIO, **DNB Skadeforsikring AS** (Norway)
- Valerie Sill, President and CEO, **DuPont Capital** (USA)
- Biswajit Dasgupta, CIO, **Emirates Investment Bank** (U.A.E.)
- Katherine Molnar, CIO, **Fairfax County Police Officers Retirement System** (USA)
- Vinicius Barreto de Alencar, Federal Auditor of Brazilian Pension Funds, **Federal Court of Accounts** (Brazil)
- Dan Slack, CEO, **Fire & Police Pension Association of Colorado** (USA)
- Rafael Judar Vicchini, CFO, **Fundação Eletrosul Pension / ELOS** (Brazil)
- Stephen Thompson, Executive Director, **Government of Alberta** (Canada)
- Srikanya Yathip, Secretary General, **Government Pension Fund** (Thailand)
- Rodrigo Garcia, CIO and Deputy Treasurer, **Illinois State Treasury** (USA)
- Martin Rodríguez, CIO, **Integracion AFAP Pension Fund** (Uruguay)
- Eric Nierenberg Ph.D., Chief Strategy Officer, **MassPRIM** (USA)
- Kenichi Ota, CIO, **Mitsui & Co Pension Fund** (Japan)
- Anders Lundgren, Head of Public Markets and Chief Strategy Officer, **NEST** (U.K.)
- Luiz Claudio Levy Cardoso, CIO, **Nucleos-Instituto de Seguridad Pension** (Brazil)
- Arjen Pasma, Chief Risk Officer, **PGGM Investments** (The Netherlands)
- Dominic Garcia, CIO, **Public Employees Retirement Association of New Mexico** (USA)
- Martin Larzabal, CIO, **República AFAP Pension Fund** (Uruguay)
- Jean-Christophe Van Tilborgh, CIO, **Retraites Populaires** (Switzerland)
- Steve Davis, CIO, **Sacramento County Employees' Retirement System** (USA)
- Farouki Majeed, CIO, **School Employees Retirement System of Ohio** (USA)
- Curtis M. Loftis Jr., Treasurer, **South Carolina State Treasurer's Office** (USA)
- Mark Cagwin, Managing Director, Investments, **SSM Health** (USA)
- Andrew Junkin, CIO, **State of Rhode Island Office of the General Treasurer** (USA)
- Patrick Fleming, CIO, **State of Wyoming Treasurer's Office** (USA)
- Steve Algert, Managing Director, Investments, **The J Paul Getty Trust** (USA)
- Elmer Huh, CIO, **The M.J. Murdock Charitable Trust** (USA)
- Andy Greene, Managing Director, Investments, **Toronto Transit Commission Pension** (Canada)
- Mateo Fernandez, CIO, **UniónCapital AFAP Pension Fund** (Uruguay)
- Brian Neale, CIO, **University of Nebraska Foundation** (USA)
- Bruce Cundick, CIO, **Utah Retirement System** (USA)
- Shawn Bengtson, CIO, **Woodmen Life Insurance** (USA)
- Andreas Grünbichler, CFO, **Wüstenrot Insurance** (Austria)



Monday October 25th to Wednesday October 27th 2021 • The InterContinental Boston, USA

Overview Global ARC 2021

Background

Founded in 2002, Global ARC Boston convenes a network of the world's largest sovereign wealth funds, foundations and pension funds to discuss urgent macroeconomic, finance, geopolitical, ethical and institutional investment issues.

It is wholly owned by its founder David Stewart and is not affiliated with any media company or individual supplier of services to the investment industry.

Venue

The InterContinental Boston hotel offers the city's most captivating 4 Diamond AAA rated hotel experience and has been named one of the 'Best Hotels in the World' by Conde Nast Traveler magazine.

Located in the heart of Boston - surrounded by the Fort Point Channel and Rose Kennedy Greenway - The InterContinental Boston hotel is just steps from Faneuil Hall/Quincy Market, Boston Convention and Exhibition Center, North End, Chinatown and a plethora of historical attractions such as the Boston Tea Party Museum and Freedom Trail.

In addition to being flooded in natural light and overlooking the historic Fort Point Channel, at 10,300 Square Feet, The InterContinental Boston's Rose Kennedy Ballroom is much more spacious than Global ARC's previous meeting space, ensuring a more comfortable experience for our delegates.



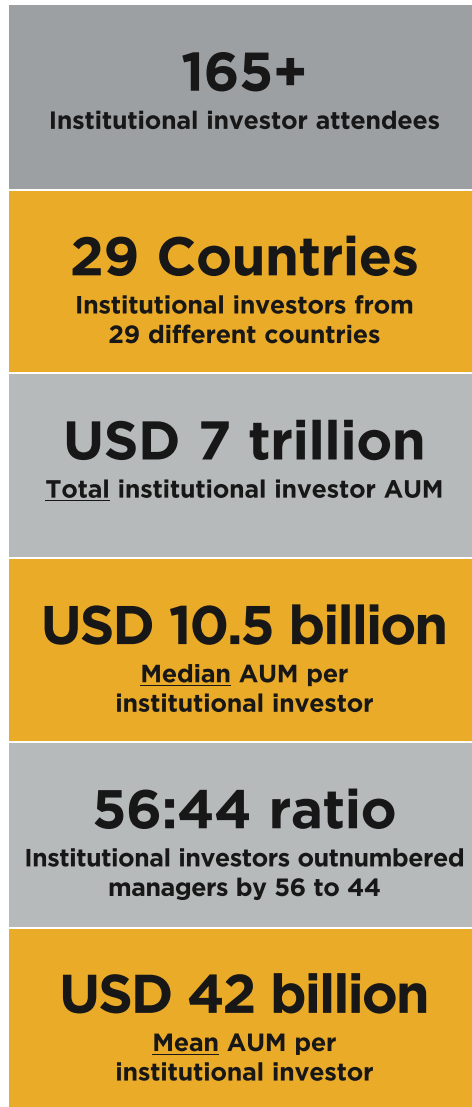
The Global ARC Difference

Tired of investment gatherings with only a handful of institutional investor attendees, where criticisms of alpha-driven products are muted and where the same old hackneyed ideas are constantly recirculated?

For 18 years, Global ARC has been providing institutional investors and alternatives managers with the antidote to such gatherings:

1. Global ARC **always attracts a large number of institutional investor delegates.** Creating a uniquely convivial atmosphere, which puts institutional investors at ease and, in so doing, dramatically improves the quality and number of manager investor interactions.
2. Global ARC draws a truly global range of institutional investors: with **institutional investors from over 25 different countries**, Global ARC exposes alternatives managers to new investor perspectives and client opportunities, outside their standard investor 'gene-pool'.
3. Global ARC **definition of 'institutional investor' is very strict:** limiting it to full-time employees of major, not-for-profit, sovereign wealth funds, central banks, pension funds, endowments and foundations.
4. Global ARC provides access to the **latest cutting-edge research:** Global ARC consistently attracts the world's foremost academics and researchers as speakers.
5. Global ARC provides an objective forum for the discussion of alpha-driven investing, strategies, providing institutional investors with **frank critiques of the active management and alternatives industries** products and strategies
6. Global ARC adheres to a **transparent pricing policy:** over the last 19 years Global ARC has earned a hard-won reputation for ensuring that all of our delegates and sponsors are treated equally and that our pricing is transparent.
7. Global ARC **excludes all media or press** from its gatherings; enabling our attendees to speak freely without fear of their frank exchange of views being subsequently misrepresented in the press.

Key Statistics: 17th Annual Global ARC Boston



Institutional Investor Organizations @ 17th Annual Global ARC Boston

Advocate Health Care (USA)	EPO Pension (Germany)	Pepperdine University Endowment (USA)
AFAP SURA Pension (Uruguay)	Fairfax County Employees' Retirement System (USA)	PGGM Investments (Netherlands)
Airbus Corporation (France)	Fairfax County Teachers (USA)	PKA Pension (Denmark)
Alaska Permanent Fund Corp (USA)	Farmers Group, Inc (USA)	Pontificia Universidad Javeriana Endowment (Colombia)
Alberta Investment Management Corp (Canada)	FCA Pension (Brazil)	Public Institution for Social Security (Kuwait)
Alberta Teachers' Retirement Fund (Canada)	Fonds de Réserve pour les Retraites (France)	PZU Insurance Group (Poland)
Al-Dar Holdings (United Arab Emirates)	FWD Insurance Group (China)	QSuper (Australia)
Alfred P. Sloan Foundation (USA)	Government of Alberta (Canada)	Real Grandeza Pension (Brazil)
Allied World Assurance Co. (USA)	Government Pension Fund of Thailand (Thailand)	República AFAP Pension (Uruguay)
Amana Global Partners (United Arab Emirates)	Gruppo Cattolica Assicurazioni (Italy)	Retraites Populaires Pension (Switzerland)
APG Asset Management (Netherlands)	Guardian Life Insurance Company of America (USA)	RGA Reinsurance Co (USA)
Ascension Investment Management (USA)	Hartford HealthCare (USA)	RLI Insurance (USA)
ATP Pension (Denmark)	Harvard Management Co (USA)	Robert Wood Johnson Foundation (USA)
Azim Premji Foundation (India)	Hydro-Quebec Pension Plan (Canada)	School Employees Retirement System of Ohio (USA)
B&CE/The People's Pension (U.K.)	IMF (USA)	Shell Asset Management Co (The Netherlands)
Bahrain Mumtalakat Holding Co (Bahrain)	IndiaFirst Life Insurance (India)	South Carolina Treasurer's Office (USA)
Banco Central do Brasil (Brazil)	IAPF (Ireland)	Sparda-Bank Muenchen eG (Germany)
Bank of Canada (Canada)	Kern County Employees' Retirement Association (USA)	State Board of Administration of Florida (USA)
Bank of Hawaii (USA)	Kruger Inc Pension (Canada)	State Pension Fund of Finland (Finland)
Beaumont Health (USA)	Kuwait International Bank (Kuwait)	State of Wyoming State Treasurer (USA)
Beth Israel Lahey Health Investment Office (USA)	London Borough of Islington Pension (U.K.)	Statewide Super (Australia)
Border to Coast Pensions Partnership (U.K.)	London Borough of Lambeth Pension (U.K.)	Sunshine Insurance Group (China)
Boston Children's Hospital (USA)	MacArthur Foundation (USA)	Teacher Retirement System of Texas (USA)
Caisse de dépôt et placement du Québec (Canada)	Maine Public Employees Retirement System (USA)	Texas Christian University Endowment (USA)
California State Teachers' Retirement System (USA)	Maryland State Retirement and Pension System (USA)	Texas Treasury Safekeeping Trust Co. (USA)
Caltech Investment Office (USA)	MassPRIM (USA)	The Boston Foundation Inc (USA)
Cambiata Schweiz AG (Switzerland)	Medical Defence Union (U.K.)	The Broadway League (USA)
CAA Club Group (Canada)	Mercy Health (USA)	The Central Bank of Colombia (Colombia)
CareGroup Healthcare System (USA)	Merrimac Corp (USA)	The Grosvenor Estate (U.K.)
Central Bank of Latvia (Latvia)	MIT Investment Management Co. (USA)	The J Paul Getty Trust (USA)
Central Bank of the Philippines (The Philippines)	Mitsubishi Corporation Pension (Japan)	The M.J. Murdock Charitable Trust (USA)
Children's Minnesota (USA)	Mitsui & Co. Pension (Japan)	UK Local Government Pension Scheme (U.K.)
City of Austin Employees' Retirement System (USA)	Municipal ERS of Michigan (USA)	UNC Management Company (USA)
Cleveland Clinic Investment Office (USA)	Mutual of Omaha (USA)	UniónCapital AFAP Pension (Uruguay)
CN Investment Division (Canada)	National Employment Savings Trust (U.K.)	United Technologies Pension (USA)
Contra Costa County ERS (USA)	New Holland Capital (USA/The Netherlands)	University of Alberta Endowment (Canada)
CPPIB / Canada Pension Plan Investment Board (Canada)	New Jersey Division of Investment (USA)	University of Minnesota Endowment (USA)
Dar Group (Saudi Arabia)	Nissan Motor Co., Pension (Japan)	University of Nebraska Foundation (USA)
DuPont Pension (USA)	Nokia Pension (Finland)	University of Texas Investment Management Co (USA)
Electricity Supply Board Pension (Ireland)	North Carolina Retirement Systems (USA)	Utah Retirement Systems (USA)
Eli Lilly and Co Pension (USA)	Northeastern University Endowment (USA)	Virginia Retirement System (USA)
ELOS Pension (Brazil)	Nucleos-Instituto de Seguridade Social (Brazil)	Woodmen Life Insurance (USA)
Emirates Investment Bank (United Arab Emirates)	NYSNA Pension Plan (USA)	World Trade Organization Pension (Switzerland)
Employees' Retirement Fund of the City of Dallas (USA)	Ohio Public Employees Retirement System (USA)	Wüstenrot Insurance (Austria)
Employees Retirement System of Texas (USA)	Osool Asset Management Co (Bahrain)	

Entire program updated on March 8th-2021 • Additional speakers are being added to the panels every week • Go to www.garcoboston.com for the latest program

Institutional Investor Speakers 2021

Institutional investor speakers are sorted alphabetically by organization.

This brochure and investor list were updated on **March 8th 2021.**

Additional Global ARC 2021 institutional investor speakers and academic speakers are being confirmed every month.

Please visit our website www.garcboston.com for the updated institutional investor and academic speakers list.



Leslie Lenzo, Chief Investment Officer
Advocate Aurora Health - USA

Leslie Lenzo is Chief Investment Officer at Advocate Aurora Health where she oversees the investment of USD 12 billion in corporate and pension assets, and the investment options in the organization's USD 7 billion DC plans. Previously Leslie worked at Northwestern Memorial Healthcare and Partners Health Care. Leslie holds a BA in Economics and Government from Georgetown University and a MBA in Finance from Boston University. She is also a CFA charterholder.



Ingrid Albinsson, Chief Investment Officer
AP7 Pension Fund (7th Swedish National Pension) - Sweden

AP7 (the Seventh National Pension Fund) acts within the DC system in Sweden which is part of the national government pension plan. Its default product "Såfa" has approximately SEK 430 billion (USD 54 billion) under management and is a global diversified life cycle product. Ingrid Albinsson is the Chief Investment Officer and Executive Vice President of AP7. Ingrid joined AP7 in 2011 as Head of Strategy. Prior to joining AP7 she spent 10 years with Swedbank Robur.



Lan Kollengode, Chief Endowment Officer
Azim Premji Foundation - India

Lan Kollengode is the Chief Endowment Officer of the Azim Premji Endowment Fund, a 15billion USD fund set up by businessman Azim Premji for philanthropy focused on improving India's education system. The Azim Premji Endowment Fund is the first professional investment vehicle set up in India with a mandate to manage investments on behalf of a foundation and is one of the world's largest foundations. Lan is a graduate of the Indian Institute of Management, Lucknow.



Nico Aspinall, Chief Investment Officer
B&CE / The People's Pension - UK

B&CE/The Peoples Pension ('B&CE') is a not-for-profit provider of pension, employee accident and life cover to those working in the construction industry and workplace pensions for UK employers from all sectors. B&CE currently manages USD 6 Billion in assets on behalf of over three million members. Prior to serving as CIO at B&CE, Nico Aspinall was Head of D.C. Investment at Towers Watson, and Head of DC for the Barclays staff pension scheme.



Ricardo da Costa Martinelli, Head of Investment Division
Banco Central do Brasil - Brazil

Banco Central do Brasil (The Central Bank of Brazil) operates as a federal agency that integrates the national financial system in Brazil. It performs various functions of the government bank, including controlling foreign trade operations; receiving deposits from commercial banks; executing foreign exchange trades; and acting on behalf of public enterprises and the National Treasury. It was founded in 1964 and is headquartered in Brasília.



Veronica Wong, Vice President and Senior Portfolio Manager
Bank of Hawaii Investment Management Services - USA

As vice president and senior portfolio manager at Bank of Hawaii Investment Management Services, Veronica Wong is responsible for managing the investment assets of the bank's trust and private clients. Prior to this, she served as director and associate general counsel for Moon Capital and vice president in international equities for Deutsche Bank. She holds a Bachelors in Economics from Harvard University a JD from Columbia Law School and an MBA from INSEAD.



Elena Manola-Bonthond Ph.D., Chief Investment Officer
CERN Pension Fund - Switzerland

Elena Manola-Bonthond Ph.D. is Chief Investment Officer, at the 4.75 billion CHF (USD 4.75 Billion) pension fund of CERN, the European Organization for Nuclear Research. Elena played an instrumental role in creating the investment governance framework optimized for dynamic risk management, now popularly known as the 'CERN model'. Elena holds a Ph.D. in particle physics from University of Savoie and CERN, and an MBA from University of Geneva.



Alex Ambroz, Director of Investments
Cleveland Clinic Investment Office - USA

Alex Ambroz is a Director in the investment office of the Cleveland Clinic Foundation which manages over USD 13 Billion in foundation and pension assets. Prior to joining the Cleveland Clinic, Alex worked for the Chief Investment Officer of J.P. Morgan. He also served in the U.S. Army, with multiple overseas deployments. He holds an undergraduate degree from the University of Massachusetts and an MBA from Duke University.



Michael Dittrich, Chief Financial Officer
Deutsche Bundesstiftung Umwelt (DBU) - Germany

Deutsche Bundesstiftung Umwelt (German Federal Environmental Foundation) was established in 1990 and is one of Europe's largest foundations. Deutsche Bundesstiftung Umwelt's promotional and philanthropic activities concentrate on funding and supporting innovative environmental technology, education and cultural assets. Since 1991, approximately nine thousand projects have received financial backing from Deutsche Bundesstiftung Umwelt.



Truls Tollefsen, Chief Financial Officer and Chief Investment Officer
DNB Skadeforsikring - Norway

Founded in 1822 DNB Group is Norway's largest financial services group and DNB Livsforsikring is Norway's largest life insurance and pension insurance company. DNB Livsforsikring currently has over 1.1 million life and pension insurance customers in Norway. Truls Cook Tollefsen has been Chief Investment Officer of DNB Skadeforsikring AS since 2010 and CFO and Executive Head of Investments at DNB Livsforsikring since 2009.



Valerie Sill, President and Chief Executive Officer
DuPont Capital Management - USA

Valerie Sill is President and Chief Executive Officer of DuPont Capital Management and serves as its Chief Investment Officer. She is responsible for overseeing the investment of approximately USD 28 billion in assets held by DuPont Company plans and external clients. Prior to joining DuPont Valerie was Executive Vice President at The Boston Company Asset Management. Valerie holds a Master's in Business Administration from Harvard Business School.

Institutional Investor Speakers 2021



Biswajit Dasgupta, Chief Investment Officer
Emirates Investment Bank - United Arab Emirates

Biswajit Dasgupta is Chief Investment Officer - Treasury, at Emirates Investment Bank, overseeing all of the Emirates Investment Bank's proprietary investments. Prior to this, Biswajit Dasgupta was Executive Director at the Abu Dhabi Investment Council-owned Invest AD, where he led Invest AD's treasury and capital market activities and before that served as a senior executive in the Treasury department at Al Khalij Commercial Bank in Doha, Qatar.



Howard Hodel, Senior Investment Officer - Risk Management
Employees' Retirement System of the State of Hawaii - USA

The Employees' Retirement System of the State of Hawaii is a public pension fund with approximately USD 17 billion in assets under management. The Employees' Retirement System of the State of Hawaii engages in a range of alternative investment strategies including buyouts, distressed debt, real estate, timber and venture capital. Howard Hodel holds an MBA in Finance from University of Chicago's Booth School of Business.



Alexander Neszvecsko, Portfolio Manager
European Patent Organisation Pension - Germany

The European Patent Office is an intergovernmental organisation with 38 member states and about seven thousand employees. Its Reserve Funds manages about USD 10 billion in assets. With 19 years of industry experience, Alex Neszvecsko is responsible for two asset class portfolios. Prior to joining the Reserve Funds, he worked in asset management functions at Siemens. He graduated in Business Administration and is a CFA charterholder.



Katherine Molnar, Chief Investment Officer
Fairfax County Police Officers Retirement System - USA

Katherine Molnar is responsible for managing the Fairfax County Police Officers Retirement System, a USD 1.5 billion plan. In addition, she is a member of small investment team providing direction and oversight, including strategic and tactical asset and risk allocation, selection and supervision of external investment managers for the portfolios of three defined benefit systems with assets totaling a further USD 7 billion. Katherine is a Chartered Financial Analyst designation holder.



Vinicius Barreto de Alencar, Federal Auditor of Brazilian Pension Funds
Federal Court of Accounts - Brazil

Vinicius Barreto de Alencar is a federal auditor of the Federal Court of Accounts, serving on the external control secretariat of the national financial system and pension funds, a department responsible for overseeing about USD 100 billion in assets under management of 38 federally sponsored pension funds. He holds a degree in accounting from the University of Brasilia and a law degree from Processos College.



Dan Slack, Chief Executive Officer
Fire & Police Pension Association of Colorado - USA

As head of the Fire and Police Pension Association of Colorado Dan Slack is responsible for the management of more than 200 Colorado pension plans totaling over USD 4 billion in assets. Prior to this, Dan served as Executive Director of the State Universities Retirement System of Illinois Assistant and as a lawyer at Thomas, Mamer & Haughey and as Assistant Attorney General at the Office of the Illinois Attorney General.



Rafael Judar Vicchini, Chief Financial Officer
Fundação Eletrosul Pension / ELOS - Brazil

Rafael Vicchini is the Chief Financial Officer at the multi-billion dollar pension fund unit of the state-owned power company Eletrosul (ELOS). His responsibilities include the management of the pensions investment portfolio and information technology. Rafael previously held roles at ELETROSUL Centrais Elétricas and CELESC Distribuição. He holds a degrees from the University of Sao Paulo - USP and Universidade Federal de Santa Catarina.



Stephen Thompson, Executive Director, Capital Markets
Government of Alberta - Canada

Steve Thompson is the Executive Director of Capital Markets for the Government of Alberta. Steve is responsible for the borrowing and debt management strategy and the development of investment strategy and policy for the Province's CAD 20 billion (USD 16 Billion) Heritage Fund and other provincial endowments. Prior to this, Steve worked for the Province of Nova Scotia and with the Bank of Nova Scotia. Steve is a CFA charterholder.



Srikanya Yathip, Ph.D., Secretary General
Government Pension Fund of Thailand - Thailand

Srikanya Yathip, Ph.D., joined the USD 22 billion Government Pension Fund of Thailand in 2010. Prior to joining the Government Pension Fund of Thailand, she spent more than ten years studying and working first in Japan and later in the United Kingdom. Her responsibilities at the Government Pension Fund of Thailand include assessing investment choices, pension research and making pension policy reform recommendations.



Jean-François Pépin, Senior Director - Financing, Treasury and Pension Fund
Hydro-Québec Pension Fund - Canada

Hydro-Québec manages the generation, transmission and distribution of electricity in the Province of Quebec. Hydro-Québec Pension Fund manages the multi-billion dollar retirement assets of Hydro-Québec's nineteen thousand employees. Jean-François Pépin is Senior Director of Financing, Treasury and the Pension Fund and holds a bachelor's and master's degree in business administration - finance from the Université de Sherbrooke.



Rodrigo Garcia, Chief Investment Officer and Deputy Treasurer
Illinois State Treasury - USA

Rodrigo Garcia directs Illinois State Treasury's combined USD 35 billion investment portfolio, USD 300 billion in related banking operations and financial services. From impact investments to sustainability and diversity and inclusion, he aims to maximize portfolio returns and bolster the Illinois macro and micro economy. He holds two post-graduate degrees, one in finance from the University of Illinois and one in public policy from Northwestern University.



Martin Rodriguez, Chief Investment Officer
Integracion AFAP Pension - Uruguay

Integración AFAP is a pension fund and development bank from Uruguay. Integración AFAP offers services in investment strategies and its main activity is to manage pension savings funds. Martin Rodriguez works for Integración AFAP as Chief Investment Officer with the principal responsibility for the administration and profitability of the investment portfolio. Martin is a qualified Certified Public Accountant (CPA) and also holds an MBA.

Institutional Investor Speakers 2021



Jerry Moriarty, Chief Executive Officer
Irish Association of Pension Funds - Ireland

IAPF's members are responsible for some €147.6 billion (USD 165 billion) in retirement savings and IAPF aims to ensure people in Ireland can have pensions that are secure, fair and simple. Jerry Moriarty is Vice-Chair of PensionsEurope and chairs its DC Committee and Brexit Working Group. In 2018, he was appointed to the European Insurance and Occupational Pensions Authority's Occupational Pensions Stakeholder Group.



Greg Doyle, Vice President, Pension Fund Investments
Kruger Inc. - Canada

Greg Doyle is the Vice President of Pension Fund Investments at Kruger Inc. in charge of all pension investment related activity. Prior to Kruger Inc, Greg was at Caisse de Dépôt et Placement du Québec. He began his career in the United Kingdom, where he worked at various investment banks. Greg is a graduate of City University, London and holds a Diplôme International de Management from the Institut commercial de Nancy, France.



Raivo Vanags, Head of Market Operations Department and Member of the Board
Latvijas Banka (Central Bank of Latvia) - Latvia

Raivo Vanags is a Member of the Board and the Head of Market Operations Department at Latvijas Banka, the central bank of Latvia. In this role Raivo Vanags is responsible for the management of Latvijas Banka's foreign reserves. He also serves as Latvijas Banka's representative on the European Central Bank's Market Operations Committee. Raivo Vanags holds a B.Sc. from the Stockholm School of Economics and an M.Sc. from the University of Latvia.



Joana Marfoh, Head of Treasury and Pension Fund Management
London Borough of Islington - United Kingdom

Joana Marfoh is Head of Treasury and Pension Fund Management for the London Borough of Islington. Joana joined Islington Council in 2006, which is responsible for the administration of the council pension fund under the Local Government Pension Scheme (LGPS). The Islington Council pension fund has assets of over USD 1.5 billion, and allocates diversified portfolio across Equities, Bonds, Infrastructure, Private Equity and other Diversified Growth opportunities.



Mike Fang, Senior, Portfolio Manager
Maryland State Retirement and Pension System - USA

Based in Baltimore, Maryland, the Maryland State Retirement and Pension System manages approximately USD 55 Billion in assets on behalf of over four hundred thousand pension system members and retirees. Mike Fang is Senior Portfolio Manager at Maryland State Retirement and Pension System. He holds an MBA from Yale School of Management and an MS in Financial Mathematics from University of Chicago.



Phillip Titolo, Head of Direct Private Investments; Portfolio Manager, Alternatives
MassMutual - USA

Phillip Titolo is Head of Direct Private Investments and Portfolio Manager, Alternatives for MassMutual's GIA portfolio, focusing on strategic asset allocation and external investment relationships. Previously, Phillip was at Hartford Investment Management, Credit Suisse Asset Management and United Technologies. Education: Boston College (BS), University of Connecticut (JD & MBA). Phillip is a CFA charter holder.



Eric Nierenberg Ph.D., Chief Strategy Officer
MassPRIM - USA

Eric Nierenberg Ph.D. has worked at the USD 60 billion Massachusetts Pension Reserves Investment Management ('MassPRIM') since 2013. In addition to his work at MassPRIM, Eric also teaches graduate courses in investments and international portfolio management at Brandeis University. Prior to joining MassPRIM in 2013, he was a Vice President at Independence Investments. Eric Nierenberg holds a Ph.D. in Business Economics from Harvard University.



Clark Cheng, Chief Investment Officer
Merrimac Corp - USA

Merrimac is a large single family office with investments in hedge funds, private equity, real estate and mutual funds. Prior to Merrimac, Clark was responsible for managing the hedge fund due diligence process in the Americas for HSBC's Alternative Investment Group which had USD 39 billion in hedge fund investments. He holds an MBA from Duke University and a Bachelors of Arts Degree from UCLA. Clark holds the CFA, FRM and CAIA designations.



Kenichi Ota, Chief Investment Officer
Mitsui & Co., Pension Fund - Japan

Ken Ota was appointed CIO for Mitsui & Co. Pension Fund in 2014. He joined Mitsui & Co. in 1987. He was the head of Trading Dept. with nearly 20 years' experience of currency, fixed income, equity, and derivatives trading at Mitsui's Tokyo HQ and London office. After that, he assumed the position of CFO for Mitsui & Co. Australia as well as Auditor for the several subsidiaries of Mitsui. Prior to this, he was the portfolio manager at the investment company affiliated with Mitsui.



Anders Lundgren, Head of Public Markets and Chief Strategy Officer
NEST (The National Employment Savings Trust) - United Kingdom

Anders Lundgren is responsible for the investment strategy and manager selection at NEST, the auto enrolment defined contribution scheme of the United Kingdom. Nest has 9 million members, £12 billion (USD 17 Billion) AUM and is growing by over £400 Million (USD 550 Million) a month. Anders holds a Master of Science in Theoretical Physics from Chalmers University Sweden and an MBA from Imperial College London.



Craig Grenier, Director of Investments
Northeastern University Endowment - USA

Craig Grenier is the Director of Investments for Northeastern University, where he provides strategic direction for the management of over USD 1.5 billion in endowment and operating assets across both public and private markets. Prior to NE, Craig worked at Blue Cross Blue Shield of Massachusetts and GMO. Craig holds an MBA and a BS in Management from Northeastern University, and has both the CFA and CAIA designations.



Luiz Claudio Levy Cardoso, Chief Investment Officer
Nucleos-Instituto de Seguridade Social Pension - Brazil

Luiz Claudio Levy Cardoso is the Chief Investment Officer of Nucleos Instituto de Seguridade Social. Nucleos Instituto de Seguridade Social is the multi-billion USD pension fund for employees of the Brazilian nuclear industry. Before joining Nucleos Instituto de Seguridade Social he served as commercial manager of INB, the Brazilian nuclear fuel cycle company and before that as head of equities and fixed income of Aerus pension fund.

Institutional Investor Speakers 2021



Arjen Pasma, Chief Risk Officer
PGGM Investments - The Netherlands

PGGM Investments manages approximately EUR 190 billion (USD 210 billion) in investment assets from five Dutch Pension Funds in a worldwide diversified portfolio of both public and private investments. Arjen Pasma is the Chief Risk Officer at PGGM Investments and a board member of the investment committee, allocation committee, asset liability management committee and investment policy committees of PGGM Investments.



Mauricio Guzman, Chief Investment Officer
Pontificia Universidad Javeriana - Colombia

Mauricio Guzmán is Chief Investment Officer at Pontificia Universidad Javeriana, one Colombia's largest private universities, primarily responsible for the investment and risk management process, across local and global equity and fixed income assets, as well as alternative investments in hedge funds, private equity and real state. He holds an MBA from Universidad de Los Andes and is a Chartered Financial Analyst charter holder.



Dominic Garcia, Chief Investment Officer
Public Employees Retirement Association of New Mexico - USA

Dominic Garcia serves as Chief Investment Officer for the New Mexico PERA, a USD 16 billion pension system that serves over 90,000 members and provides over USD 1.2 billion in annual benefits. At New Mexico PERA, Dominic has led the effort to integrate a risk-based approach, separating Alpha and Beta in its investment philosophy. Prior to this Dominic served on the Investment Committee and as a Senior Alpha Manager at the State of Wisconsin Investment Board (SWIB).



Martin Larzabal, Chief Investment Officer
Republica AFAP Pension - Uruguay

Martin Larzabal is Chief Investment Officer of Republica AFAP the largest pension fund and investor in Uruguay. Martin Larzabal has served as member of the Investment Committee of the International Federation of Pension Fund Managers and the International Association of Social Security and as Visiting Professor at ORT University. His educational background includes an Economics degree from UDELAR, a Charter in Infrastructure, and a LDP from IEEM.



Jean-Christophe Van Tilborgh, Chief Investment Officer
Retraites Populaires - Switzerland

With CHF24 Billion in assets (USD 25 Billion) Retraites Populaires is one of Switzerland's largest public pension funds. It is a not-for-profit organisation that return all excess revenues to our clients has served as Chief Investment Officer since March 2015, prior to which he was Retraites Populaires Head of Investment managers and before that Head of Alternative Investments. He holds a Master in Finance from the HEC Lausanne School of Business.



Steve Davis, Chief Investment Officer
Sacramento County Employees' Retirement System - USA

The Sacramento County Employees' Retirement System (SCERS) is a USD 9 billion public pension plan. Steve Davis has been with SCERS since 2010, and as Chief Investment Officer is responsible for the oversight and implementation of SCERS' investment program. Steve holds a BA from the University of Arizona and an MBA from the University of Southern California's Marshall School of Business, and is a CFA and CAIA charterholder.



Mateja Zivec, Director of Asset Management
Sava Re Group - Slovenia

Sava Re Group provides reinsurance services to over 200 partners worldwide and forms one of the largest insurance groups in Southeast Europe. Prior to joining Sava Re Group, Mateja Zivec was Chief Investment Officer at Triglav Insurance and responsible for managing the reserve funds of Triglav and its subsidiaries. Mateja holds a Master's degree in Accounting and Finance from the London School of Economics and Political Science.



Farouki Majeed, Chief Investment Officer
School Employees Retirement System of Ohio - USA

Founded in 1937, the Ohio School Employees Retirement System currently manages USD 14 billion in assets on behalf of 121,000 active, contributing members and 72,000 benefit recipients. Farouki Majeed has served as Chief Investment Officer of the Ohio School Employees Retirement System since 2012. Prior to this he worked as Senior Investment Officer at CalPERS. Farouki holds an MBA from Rutgers University and is a Chartered Financial Analyst.



Curtis M. Loftis Jr., State Treasurer
State of South Carolina Treasurer's Office - USA

Curtis M. Loftis, Jr. is the State of South Carolina's "private banker," managing and investing the state's funds. He is the custodian of approximately USD 50 Billion in State funds, including the State of South Carolina's pension funds. Curtis was elected State Treasurer in 2010 and was re-elected in 2014. He owns several businesses, is the founder and sole benefactor of the Saluda Charitable Foundation and is graduate of the University of South Carolina.



Mark Cagwin, Managing Director, Investments
SSM Health - USA

SSM Health is a Catholic, not-for-profit health system serving the comprehensive health needs of communities across the U.S. Midwest. SSM Health has 23 hospitals and 40,000 employees. Mark Cagwin oversees day-to-day management of the SSM Health Care Portfolio Management Co. and is responsible for strategic asset allocation, manager selection and diligence and risk management. Mark obtained his CFA designation and is a CPA.



Andrew Junkin, Chief Investment Officer
State of Rhode Island Office of the General Treasurer - USA

Andrew Junkin is Chief Investment Officer of Rhode Island, which oversees the State Investment Commission that includes the USD 9 billion Rhode Island Employees' Retirement System. Prior to joining the State of Rhode Island, he was President of Wilshire Consulting, where he led a team of more than eighty investment professionals and over USD 1 trillion of pension, endowment and foundation AUA. Andrew holds an MBA from the Wharton School.



Patrick Fleming, Chief Investment Officer
State of Wyoming Treasurer's Office - USA

Patrick Fleming is the CIO for the Wyoming State Treasurer's Office and is responsible for managing the State's USD 20 Billion in non-pension assets. Before this he spent 30 years working primarily in Tokyo, Hong Kong, London and New York specializing in domestic and global bond markets, equities and commodities. He also taught corporate finance, investment management and energy trading and hedging to students at the University of Wyoming.

Institutional Investor Speakers 2021



Christopher Brockmeyer, Director of Employee Benefit Funds
The Broadway League - USA

Christopher Brockmeyer has been the Director of Employee Benefit Funds for the Broadway League, the national trade association for the Broadway theatre industry, since 2007. This includes 11 multi-employer pension funds, 7 health funds and 4 annuity/401(k) funds with nearly USD 7 Billion in assets, covering 120,000 current or future retirees and providing health care coverage for 24,000 employees (plus their dependents) in the entertainment industry.



Jorge Hernán Toro Córdoba, Ph.D., Advisor to the Governor
The Central Bank of Colombia - Colombia

Jorge Toro, Ph.D., heads the Economic and Investment Research division of Banco la Republica de Colombia, Colombia's central bank. Before Banco la Republica de Colombia, Jorge worked as Principal Economist at the International Monetary Fund in Washington DC. Jorge Toro holds a Master's in Economics from University of Los Andes, Bogotá, as well a Master's in Economics and a Ph.D. in Economics from the University of Oxford.



Ian Prideaux, Chief Investment Officer
The Grosvenor Estate - United Kingdom

The Grosvenor Estate is a multi-billion dollar single-family office. Ian Prideaux manages the Grosvenor Estate's non-property investment portfolio. This includes long equity and bond portfolios, commodity, hedge fund and private equity investments. He is responsible for asset allocation and manager selection, investments being managed externally. Ian has been with The Grosvenor Estate since 2006, and was previously at HSBC, SG Warburg and Price Waterhouse.



Steve Algert, Managing Director, Investments
The John Paul Getty Trust - USA

The J. Paul Getty Trust is the world's wealthiest art institution with an endowment of approximately USD 7 billion. Based in Los Angeles, it operates the J. Paul Getty Museum. Steve Algert serves as Managing Director of Investments and Assistant Treasurer at The J.Paul Getty Trust. Steve holds a Masters in Public and Private Management from the Yale School of Management and a B.S. from the University of California at Berkeley. He is a CFA and CAIA charter holder.



Elmer Huh, Chief Investment Officer
The M.J. Murdock Charitable Trust - USA

The M.J. Murdock Charitable Trust is a private, non-profit foundation based in Vancouver, Washington. The trust funds projects that serve four primary areas: scientific research, arts and culture, education and health and human services. Elmer Huh has more than 20 years' experience in public/private equity and alternative investing, most recently at Ernst & Young Capital Advisors, as senior vice president of investment banking and alternative asset managers.



Andy Greene, Managing Director, Investments
Toronto Transit Commission Pension Fund Society - Canada

Andy Greene serves as Managing Director, Investments, overseeing the investments for the Toronto Transit Commission (TTC) Pension Fund Society, a CAD 8 billion (USD 6.5 billion) defined benefit plan. Prior to TTC, Andy was at OPTrust as Director, Public Markets. Previously he was at Northern Trust, the University of Wisconsin Foundation and Willis Towers Watson. Andy is also on the Investment Committees for the United Church of Canada and York University Pension Plans.



Bridget Uku, Investment Manager
UK Local Government Pension Scheme - United Kingdom

Bridget Uku is Group Investments Manager at the United Kingdom's Local Government Pension Scheme. She holds a law degree and is a Chartered PF Accountant with seventeen years of experience managing Treasury and Pension Fund investments within the United Kingdom's Local Government sector. Bridget Uku also currently serves as a member of the FTSE Europe, Middle East and Africa advisory committee.



Mateo Fernández, Head of Investments
UnionCapital AFAP Pension - Uruguay

Mateo Fernández is Head of Investments at UnionCapital AFAP. UnionCapital AFAP is one of the four pension funds in Uruguay. UnionCapital AFAP has over two hundred thousand members. Mateo Fernández has more than ten years of experience in financial markets. He graduated with a degree in economics from Universidad de Montevideo, Uruguay and has been a Chartered Financial Analyst charterholder since 2015.



Brian Neale, Chief Investment Officer and Vice President of Investments
University of Nebraska Foundation - USA

Brian Neale has nearly 20 years of institutional investment experience and currently is responsible for more than USD 2.4 billion of investable assets on behalf of the University of Nebraska Foundation. In this role, his principal duties include establishing long-term asset allocation policies and short-term tactical tilts, manager research and selection, portfolio construction, compliance and oversight. Brian holds an MBA from The College of William & Mary.



Bruce Cundick, Chief Investment Officer
Utah Retirement Systems - USA

Bruce H. Cundick is Chief Investment Officer at Utah Retirement Systems, where he is responsible for directing the Investment Department and managing all investment functions of the USD 30 billion state pension fund. Bruce currently sits on the Pension Board for Intermountain Healthcare, the Investment Advisory Committee for the University of Utah, and is a Trustee of the London-based Hedge Funds Standards Board.



Shawn Bengtson, Ph.D., (Chief Investment Officer) Vice President - Investment
Woodmen Life Insurance - USA

Shawn Bengtson, Ph.D., is Chief Investment Officer and Vice President, Investment for Woodmen Life, an USD 11 Billion fraternal insurance organization. With a focus on integrating enterprise risk management into investing, her 2010 paper "Insurance in a World with Climate Change" discusses the role of due diligence in asset management. She holds a Doctorate in Business from University of NE-Lincoln and a master's degree in Actuarial Science.



Andreas Grünbichler, Ph.D., Chief Financial Officer
Wüstenrot Insurance - Austria

Wüstenrot Insurance is one of the largest Austrian insurance companies with more than one million customers. In addition to being Wüstenrot Insurance Chief Financial Officer, Andreas has also served as a professor in the finance departments of UCLA, University of St. Gallen and University of Vienna. His research interests include risk management, regulation and asset management. He earned his doctorate at the University of Graz.

Topics 2021

IMPORTANT:

This is a draft listing of the topics to be addressed at Global ARC 2021.

In response to financial market changes in the coming months, some of these topics may be merged whilst other new topics may be introduced.

Please note that the order in which the draft topics are presented below is not intended to indicate the order in which they will appear on the final program.

Post-COVID Skillsets

"COVID-19 has not just pummeled the global economy. It has changed the trajectory of the three big forces that are shaping the modern world. Globalization has been truncated. The digital revolution has been radically accelerated. And the geopolitical rivalry between America and China has intensified."

The Economist, November 20th 2020

What skillsets will investment managers need to thrive in financial markets so drastically reshaped by COVID?

- COVID Implications for Investments - which sectors will outperform? • Will the technology sector continue to outperform?
- Will this further lengthen the advantages of trend following vs value investing? • How will the growth in protectionism impact upon the supply chains and profitability and share price of businesses?

Resurgent Inflation?

"Signs that inflation is making a comeback are unsettling big investors.... asset managers are now facing a barrage of questions from clients over the risks of inflation and are rushing to shore up portfolios from inflationary risks, fearing that a resurgence threatens to spoil the party."

The Financial Times, February 20th 2021

Protecting your portfolio against inflation risk,

- To avoid a COVID driven economic slowdown governments have released unprecedented levels of spending. • Does this COVID debt spigot threaten a return to inflation? • Which investment strategies currently offer the best inflation hedge?

ESG Investing

"Corporate ESG initiatives have an additional, unintended consequence: such forensic audits give companies the intimate information and supplier relationships needed to better survive shocks like Covid-19"

The Financial Times, July 9th 2020

"Choosing ESG-compliant financial products increases your portfolio's resilience to external shocks." Discuss.

SPACs

"More than 200 special purpose acquisition companies ("SPACs") came to market in 2020, raising USD 34 billion, more than quintuple the amount in 2019."

The Wall Street Journal, January 1st 2021

Where are the most compelling investment opportunities for SPACs?

Private Credit

"U.S. institutional investors are betting big that private credit will provide much-needed yield. Private credit assets of the largest two-hundred U.S. retirement plan nearly doubled, up 93.1% to USD 50 billion in the year ended September 30th 2020."

Pensions & Investments, February 8th 2021

Will we see a post-COVID shake-out in the private credit market?

- Which segments of the private credit market are likely to best weather the long-term economic consequences of COVID?
- How can institutional investors distinguish private credit managers who possess the necessary skills to thrive once the current extraordinary government support measures have been removed and lending rates return to a more longterm norm?

Correlations

How do you create an investment portfolio that delivers low correlations in the age of the 'everything rallies' and its potential counterpart, the 'everything corrects'?

- The recent surge in prices across virtually all asset classes has been labelled the 'everything rally'. • However shrewder institutional investors recognize that the same tectonic forces that lead to lockstep asset class growth can reverse and lead to a lockstep decline in values across asset classes. • Into which strategies and with which type of manager should investors be placing their assets to protect against such an 'everything crash'?

Quant Strategies

The future of quant investing.

- Examining recent developments in quant strategies and technologies and what they portend for the future of the quant industry. • Sorting the quant wheat from the chaff: what metrics should institutional investors use to separate intellectually robust quant managers from the merely lucky?

Real Estate

"After a three-to six-month coronavirus-induced pause, investor interest in real estate is ramping up as a source of yield in a low-interest-rate world... Industry insiders anticipate growing rents in niche sectors, including data centers, medical offices, cold storage and single-family homes for rent."

Pensions & Investments, January 11th 2021

Which real estate sectors and sub-sectors are currently oversold and now offer long-term value?

- COVID has shaken up the real estate sector and propelled a bifurcation of returns between office, retail, hospitality and residential real estate. • How long is this return dispersion between the various real estate sectors likely to persist? • Which of these sectors currently represent the best long-term buy opportunity and how are these opportunities best accessed?

Topics 2021

Equities Strategies

“The adoption of new technological behaviors in response to the pandemic, means usage has already reached levels that were not expected for many years... Recent data shows that we have vaulted five years forward in consumer and business digital adoption in a matter of weeks.”

The Economist January 1st 2021

“Contrary to popular opinion, tech sector is not currently overvalued. In fact, their valuations fairly reflect fundamental and lasting changes to the shape of the global economy.” Discuss.

Will the return of equity dispersion herald the return to popularity of long-short strategies?

Capturing Illiquidity Premiums

Which strategies currently offer institutional investors the best risk-adjusted illiquidity premium?

Credit Markets

“Strong demand from investors for riskier debt can create a positive feedback loop for companies. Struggling ones can refinance their debt, holding down the overall corporate default rate. That then further boosts investor demand.”

The Wall Street Journal, February 9th 2021

Where to now for public credit strategies?

Cryptocurrencies

“The truly big question is what does it mean for bitcoin now that institutional names are dipping their toes in the asset class and potentially bringing major money inflows with them”

The Financial Times, February 19th 2022

Has cryptocurrency finally become “institutionalized” enough to justify institutional investor interest?

Outperforming Strategies in 2022

“Investors are returning to hedge funds after the sector posted its biggest gains in a decade in a topsy-turvy 2020. But picking which managers will do well this year will not be straightforward.... The problem, comes when investors have to decide which funds to put their money in. Far more than in most years, being in the right place at exactly the right time in 2020 really determined a manager’s fortunes, rather than an ability to dissect a balance sheet and build a pricing model.”

The Financial Times, January 23rd 2021

Which hedge fund strategies are likely to outperform in 2022 and why?

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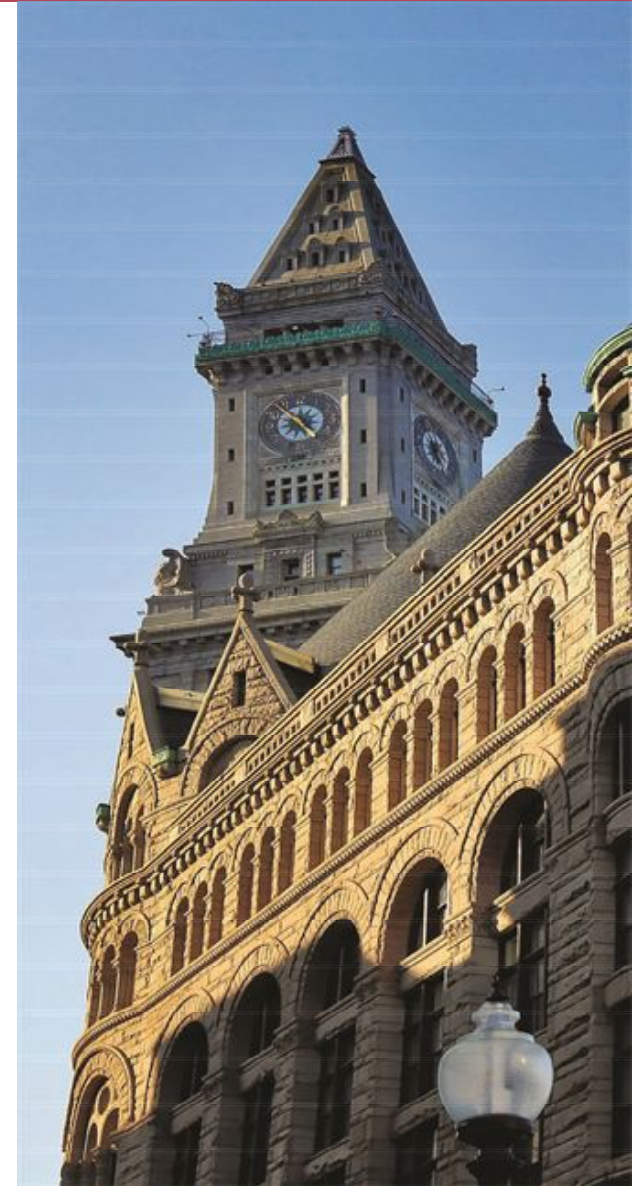
Contacts

If you have any questions about registration please email Samantha Allwork at:

- samantha@global-arc.net

If you have any questions about the program content or sponsorship, please email either David Stewart or Robert Bennett-Lovsey at:

- david@global-arc.net
- robert@global-arc.net



Photos: 17th Annual Global ARC Boston



Leslie Lenzo
Chief Investment Officer
Advocate Aurora Health
- USA



Tom Tull
Chief Investment Officer
Employees Retirement System of Texas - USA



Charles Woodhouse
Chief Investment Officer
QSuper - Australia



Gzregorz Gut,
Chief Investment Officer,
Shell Asset Management
- The Netherlands



Angela Rodell
Chief Executive Officer
Alaska Permanent Fund Corporation - USA



Paul Carrett
Group Chief Investment Officer
FWD Insurance Group
- Hong Kong



Susan Slocum
Chief Investment Officer
Children's Minnesota - USA



Sami Lahtinen
Chief Investment Officer
Valtion Eläkerahasto (The State Pension Fund of Finland) - Finland



Arjen Pasma, Chief Risk Officer
PGGM - The Netherlands

Photos: 17th Annual Global ARC Boston



Why the future of science will determine the future of humanity

Professor Lord Martin John Rees, Baron of Ludlow
The Astronomer-Royal
Author 'On the Future: Prospects for Humanity'
Co-Founder, The Centre for the Study of Existential Risk
University of Cambridge - United Kingdom



"China's politico-economic system would likely cope with an extended economic slowdown better than that of the United States." Discuss.

Professor Rana Mitter
Director of the University of Oxford China Centre
University of Oxford - United Kingdom

Professor Yasheng Huang
Author 'Capitalism with Chinese Characteristics'
Epoch Foundation Professor of International Management
MIT Sloan School of Management - USA



Voters tend to be so irrational and ignorant about politics that we need to consider restricting voting rights to only the most educated and knowledgeable citizens

Professor Jason Brennan
Author 'Against Democracy'
Robert J. and Elizabeth Flanagan Family
Professor of Strategy,
Economics, Ethics, and Public Policy
Georgetown University - USA



The art of statistics: learning from data.

Professor Sir David Spiegelhalter
Author 'The Art of Statistics: Learning from Data'
Chair of the Winton Centre for Risk and Evidence Communication
Winton Professor of the Public Understanding of Risk
University of Cambridge - United Kingdom



'Economics research can change the world for the better.' Discuss.

(Chair) **Professor Mark Blyth**
Author: 'Austerity: The History of A Dangerous Idea'
The William R. Rhodes '57 Professor of International Economics
Brown University - USA

Professor Melissa Dell, Professor of Economics
2018 Winner of The Elaine Bennett Research Prize
2018 Winner of The Calvó-Armengol International Prize
Harvard University - USA

Professor Stefania Stantcheva, Professor of Economics
Member of The Prime Minister of France's Council of Economic Advisers
Harvard University - USA

Professor Nathaniel Hendren, Professor of Economics
Co-Director of the Harvard Equality of Opportunity Project
Harvard University - USA

Entire program updated on March 8th-2021 • Additional speakers are being added to the panels every week • Go to www.garcboston.com for the latest program

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Leucadia Asset Management ("LAM") is a diversified alternative asset management platform offering institutional investors a wide range of innovative investment strategies through its leading boutiques. LAM includes thirteen affiliated alternative asset management businesses. Leucadia Asset Management LLC, is a subsidiary of Jefferies Financial Group Inc. (NYSE ticker: JEF), a global financial services company with USD 13 billion of permanent capital and a nearly 40-year track record of being one of the world's leading longterm investors. Significant balance sheet investments create a strategic alignment across the LAM platform, affiliated asset managers and institutional investors. www.leucadia-am.com



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Monroe Capital LLC ("Monroe") is a private credit asset management firm specializing in direct lending and opportunistic private credit investing. Since 2004, the firm has provided private credit solutions to borrowers in the U.S. and Canada. Monroe's middle market lending platform provides debt financing to businesses, special situation borrowers, and private equity sponsors. Investment types include cash flow, enterprise value and asset-based loans; unitranche financings; and equity co-investments. Monroe is committed to being a value-added and user-friendly partner to business owners, senior management, and private equity and independent sponsors. The firm is headquartered in Chicago, with offices in Atlanta, Boston, Los Angeles, New York, and San Francisco. www.monroecap.com



Founded in 1988, Campbell Lutyens is a global and independent private capital advisor, focused on fund placement and secondary advisory services. Its fund placement practice advises and raises capital globally for private equity, infrastructure and private credit managers. Its secondary advisory practice advises across a wide range of transactions, including the sale or restructuring of portfolios of funds or direct investments and GP-led liquidity and fund restructuring transactions. The firm has a team of more than 160 operating from offices in London, New York, Hong Kong, Singapore, Paris, Chicago, Los Angeles and Charlotte. www.campbell-lutyens.com



One William Street Capital Management is an alternative investment platform focused primarily on actively managed portfolios of Asset-Based and Structured Credits. Investment strategies deploy capital across diversified opportunities consisting of Structured Credit and Structured Finance securities as well other Financial (Consumer loan) and Real asset (Residential and Commercial Real Estate) debt investments. One William Street Capital Management has over USD 5 billion of assets under management serving a global institutional investor base. The firm was founded by David Sherr in 2008 and is 100% employee-owned. www.onewilliamstreet.com



Founded by Kenneth G. Tropin in 1994, Graham Capital Management, L.P. ("GCM") is an alternative investment manager with approximately \$16.5 billion in AUM as of March 1, 2021 and a diverse roster of global institutional and private client investors. The firm emphasizes directional trading across liquid global markets, and GCM's strategies tend to have low correlation to traditional and other alternative investments. GCM has three main pillars of its business, comprised of systematic trend-following, quantitative macro, and discretionary macro trading strategies. GCM differentiates itself with an established, long-term track record, a rigorous and comprehensive risk management process, a substantial investment in operational infrastructure, and significant proprietary capital to attract and retain talented investment professionals and develop new investment strategies. www.grahamcapital.com



Founded in 1995, P/E Investments serves Institutional and qualified individual investors, worldwide. Our team of investment professionals brings to our clients' extensive experience in fundamental and quantitative analysis applied to asset allocation, portfolio construction, and risk management. Utilizing an adaptive proprietary investment process, P/E Investments offers a suite of absolute return strategies in foreign exchange, global macro, and alternative return capture. www.peinvestments.com

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PGIM Fixed Income is a global asset manager offering active solutions across all fixed income markets. The company has offices in Newark, N.J., London,

Amsterdam, Zurich, Munich, Singapore, Hong Kong, and Tokyo. As of December 31, 2020, the firm has \$968 billion of assets under management including \$415 billion in institutional assets, \$197 billion in retail assets, and \$356 billion in proprietary assets. Over 900 institutional asset owners have entrusted PGIM Fixed Income with their assets. www.pgimfixedincome.com



The World Gold Council is the market development organisation for the gold industry. Our purpose is to stimulate and sustain demand for gold, provide industry leadership and be the global authority on the gold market. We provide insights into the international gold markets, helping people to understand the wealth preservation qualities of gold and its role in meeting the social and environmental needs of society. The membership of the World Gold Council includes the world's leading and most forward-thinking gold mining companies. www.gold.org



Pretium is a specialized alternative investment management firm focused on U.S. residential real estate, residential credit, and corporate credit. Pretium was founded in 2012 to capitalize on secular investment and lending opportunities arising as a result of structural changes, disruptions, and inefficiencies within

the economy. Pretium has built an integrated analytical and operational ecosystem within the U.S. housing, residential credit, and corporate credit markets, and believes that its insight and experience within these markets create a strategic advantage over other investment managers. Pretium's platform has more than \$20 billion of assets under management. www.pretium.com



QMA Wadhvani LLP (QMAW) is a London-based asset management company founded in October 2002 as Wadhvani Asset Management by Dr. Sushil Wadhvani, CBE. It was acquired by PGIM in January 2019 and is now a

part of the QMA business. QMAW's investment team specializes in systematic/quantitative macro investing and operates independently. www.qmaw.com



Sightway Capital, Two Sigma's private investment unit, focuses on building platform companies in financial services and real assets. The company employs a principal mindset and flexible capital approach with the goal of building successful business platforms with experienced

operators and strategic partners. The team at Sightway Capital thinks long-term, targeting business opportunities that afford both asymmetric risk rewards and enterprise value creation over time. Sightway looks for opportunities in and around several industries where the team has significant experience and a network of long-standing relationships, and works to capitalize on Two Sigma's strengths in data science and technology to help our portfolio companies, enhance our investment processes, and develop data-driven investment opportunities. For more information, please visit www.sightwaycapital.com

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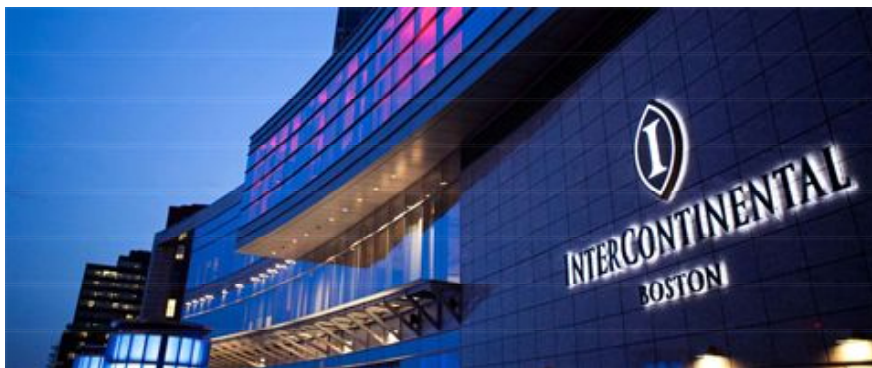
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Standard registration	USD 8,950	USD 9,450
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The official hotel for Global ARC 2021 is The InterContinental Boston. Delegates staying at The InterContinental Boston are entitled to a special rate. For further details or to reserve your room please contact samantha@global-arc.net

The InterContinental Boston: 510 Atlantic Avenue, Boston, Massachusetts. www.intercontinentalboston.com



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For **program or sponsorship queries contact:** David Stewart at david@global-arc.net or Robert Bennett-Lovsey at robert@global-arc.net

For **registration queries** contact Samantha Allwork at samantha@global-arc.net

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Memorandum

DATE: May 17, 2021
TO: Members of the Board
FROM: Steve Delaney, Chief Executive Officer
 Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: IMPLEMENTATION OF ALAMEDA DECISION

Background/Discussion

On July 30, 2020, the California Supreme Court issued a unanimous decision in *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al*, (Alameda). The decision resolved a series of legal challenges which sought to prevent county retirement boards' implementation of amendments, commonly known as PEPRAs, to the County Employees Retirement Law of 1937 ("CERL"), Govt. Code §31450 *et seq.* that went into effect on January 1, 2013.

The decision of the Court in Alameda placed a number of obligations on the OCERS Board of Retirement:

1. PEPRAs, having been found constitutional by the Court, must be applied to legacy (pre January 1, 2013) members as of the date PEPRAs became effective, January 1, 2013;
2. County retirement boards were obligated to follow PEPRAs as written. While the boards have discretion to interpret their governing law consistent with its terms, they have no authority to include as "compensation earnable" amounts that are expressly excluded by the law; and
3. Among the express exclusions from "compensation earnable" under PEPRAs is pay received for additional services rendered outside of normal working hours, based on the same number of hours of work in a year for all employees in the same grade or class; and the OCERS Board must exclude such pay from compensation earnable.

On August 17, 2020, based on the Supreme Court's ruling in Alameda, OCERS administrative staff informed the OCERS Board that beginning October 1, 2020, OCERS would no longer collect pension contributions on the excluded pay items, nor would OCERS include the pay items in new benefit calculations until such time as the OCERS Board made a determination as to how best to implement the Court's findings.

In the ensuing months OCERS administrative staff held numerous meetings with both employer and labor representatives to better understand the nature and usage of the pay items in question, and reported on these meetings to the OCERS Board at each monthly Board meeting.

Board Actions at March 15, 2021 Meeting

On March 15, 2021, OCERS administrative staff made the first of two series of recommendations to the OCERS Board of Retirement: 1) adopt a test for the purpose of determining whether certain items of pay can be included in compensation earnable under the terms of the OCERS' plan document, and 2) adopt a definition of normal working hours.

The test and definition, as approved by the Board on March 15, 2021, are:

Basic Test: Pay for services rendered outside normal working hours is excluded from compensation earnable. Conversely, pay for services rendered during normal working hours is included in compensation earnable (unless the Board otherwise determines the pay was given in order to enhance a member's retirement allowance).

Definition of Normal Working Hours: "Normal working hours" are hours that (1) are required to be worked as part of the employee's regular duties; (2) are ordinarily worked by all other members in the same grade/class/rate of pay as the employee; and (3) are not and cannot be voluntarily worked by the employee. Ordinarily worked does not include time served on a temporary or emergency basis.

On March 15, 2021, the Board also referred proposed revisions to several policies and administrative procedures associated with the calculation of compensation earnable to the Governance Committee for review, approval and recommendation. On March 19, 2021, the Governance Committee met and reviewed the proposed revisions to the policies and administrative procedures and requested several additional revisions. The Governance Committee now recommends the Board approve the policies and administrative procedures, as revised by the committee, that accompany this memorandum.

Staff's Application of the Test and Definition of Normal Working Hours

Staff has applied the Board approved test and definition of normal working to the master list of pay items and has determined that the designation of the following pay items should be modified from "pensionable" to "non-pensionable" and employers should no longer deduct employee contributions on these pay items.

Specific Pay Items Excluded from Compensation Earnable:

- County of Orange
 - Attorney Special Duty Pay¹ - AS

¹ OCERS staff believes that the Attorney Special Duty Pay received by County of Orange attorneys associated with preparation for conducting parole hearings may be pensionable as skills-based services performed during normal working hours. However, in order to be recognized as pensionable, OCERS requires that the pay be reported to OCERS as a separate and distinct pay item. The items of pay other than pay for preparation for conducting parole hearings that are currently included in Attorney Special Duty Pay, including Search Warrant Duty Pay, Parole Hearing Travel Time, Juvenile Hotline Assignment Pay, County Counsel Juvenile Warrant and Emergency Petition Assignment Pay, are pay for additional services rendered outside of normal working hours and are therefore non-pensionable, and should no longer be reported under the Special Duty Pay code.

- Sheriffs Canine Pay² - K9PAY
- On Call Pay - OC
- Orange County Fire Authority
 - On Call Pay - OC
- Transportation Corridor Agencies
 - Stand-By Statistical - SB
- City of San Juan Capistrano
 - On Call Pay - OC
- Sanitation District
 - On Call Pay - OC
- Superior Court
 - On Call Pay - OC

Recommendations:

- 1. STAFF RECOMMENDS THE BOARD APPROVE THE UPDATED PENSIONABLE DESIGNATION OF THE FOLLOWING PAY ITEMS AS A RESULT OF STAFF’S APPLICATION OF THE TEST AND DEFINITION OF NORMAL WORKING HOURS, AND FIND THESE PAY ITEMS ARE NOT PENSIONABLE:**
 - a. County of Orange: Attorney Special Duty Pay³, Sheriffs Canine Pay and On Call Pay
 - b. Orange County Fire Authority: On Call Pay
 - c. Transportation Corridor Agencies: Stand-By Statistical
 - d. City of San Juan Capistrano: On Call Pay
 - e. Sanitation District: On Call Pay
 - f. Superior Court: On Call Pay

- 2. THE GOVERNANCE COMMITTEE RECOMMENDS THE BOARD APPROVE REVISIONS TO THE FOLLOWING POLICIES, PROCEDURES, PAY ITEM REQUEST FORM AND ADMINISTRATIVE PROCEDURES (OAP) REGARDING COMPENSATION EARNABLE TO REFLECT THE APPROVED TEST AND DEFINITION OF NORMAL WORKING HOURS:**
 - a. Compensation Earnable Policy
 - b. Pensionable Compensation Policy
 - c. Pay Item Request and Approval Procedures for Employers
 - d. Employer Pay Item Request Form
 - e. Compensation Earnable and Pensionable Compensation Determination OAP
 - f. Final Average Salary Calculation OAP

² This is compensation for canine maintenance at one and one-half times the regular rate of pay for 30 minutes per day, seven days a week, whenever the police service dog is kenneled at the handler’s residence.

³ With the exception of pay for preparation for conducting parole hearings, provided the County reports this pay to OCERS as a separate and distinct item of pay. See footnote 1, above.

3. STAFF RECOMMENDS THE BOARD DIRECT STAFF TO:

- a. Recalculate retirement allowances prospectively excluding the pay items listed in Recommendation #1, above, from compensation earnable for any payee with a benefit effective date of January 1, 2013 through October 1, 2020^{4,5}
- b. Recover overpayments made to such payees between January 1, 2013 and October 1, 2020 by offsetting the overpayments against any over-collected employee contributions during that period.⁶ Any remaining overpayments made between January 1, 2013 and October 1, 2020 will be recovered via the actuarial valuation process⁷;
- c. Credit/refund overpaid employee contributions that are remaining after being offset against the overpayments in 3.b., above, to the payees, if applicable;
- d. Credit/refund any overpaid employee contributions made between January 1, 2013 and October 1, 2020 to non-payees (i.e., active and deferred members) as of October 1, 2020; and
- e. Collect overpayments made between October 1, 2020 and the date of the benefit recalculation in 3.a., above, from the payee in accordance with OCERS' Overpayment/Underpayment of Plan Benefits Policy.

Submitted by:



SD - APPROVED

Steve Delaney
Chief Executive Officer

⁴ These pay items were excluded from compensation earnable for payees whose benefits commenced on and after October 1, 2020 pursuant to the Board's discussion on August 17, 2020.

⁵ Once the excluded pay items are removed from the calculation of final average salary, staff will determine for each payee whether there is a different period of earnings that is higher; and if so, staff will make an adjustment to the payee's measuring period.

⁶ Interest will not be added to overpayments made from January 1, 2013 through October 1, 2020.

⁷ The actuarial valuation process for recovering overpayments means that any remaining overpayments from 3.b., above, will be recovered from the employers by continuing to recognize the overpayments as part of the employers' unfunded actuarial accrued liability (UAAL).

Submitted by:



SJ - APPROVED

Suzanne Jenike
Assistant CEO, External Operations

Attachments:

A-2ab Compensation Earnable Policy clean

A-2ab Compensation Earnable Policy redline

A-2bb Pensionable Compensation Policy v2 clean

A-2bb Pensionable Compensation Policy v2 redline

A-2cb Pay Item Request and Approval Procedures for Employers v2 clean

A-2cb Pay Item Request and Approval Procedures for Employers v2 redline

A-2db Employer Pay Item Request Form v2 clean

A-2db Employer Pay Item Request Form v2 redline

A-2eb Compensation Earnable Pensionable Compensation Determination OAP v2 clean

A-2eb Compensation Earnable Pensionable Compensation Determination OAP v2 redline

A-2fb Final Average Salary Calculation Procedure OAP v2 clean

A-2fb Final Average Salary Calculation Procedure OAP v2 redline

A-2g Proposed OCERS Action in Response to Alameda County Employees' Retirement Association

A-2h LTR - OCERS Special Duty Pay 4.13.21

A-2i Letter from Larry Brennler



OCERS Board Policy

Compensation Earnable Policy

Purpose and Background

1. The purpose of this policy is to affirm OCERS' interpretation of the term Compensation Earnable as set forth in California Government Code section 31461 (Section 31461) and OCERS Board of Retirement Resolution 98-001 (Resolution 98-001).
2. Resolution 98-001 was adopted by the OCERS Board of Retirement (Board) on February 6, 1998, in order to implement the decision of the California Supreme Court (Supreme Court) in the case *Ventura County Deputy Sheriffs' Association vs. Board of Retirement of Ventura County Employees Retirement Association* (1997) 16 Cal.4th 483 (Ventura Decision). The Supreme Court in the Ventura Decision interpreted Section 31461 and the term Compensation Earnable and mandated a change in the method for calculating pension benefits for members and their beneficiaries by retirement systems governed by the County Employees Retirement Law of 1937 (CERL).
3. Resolution 98-001, among other things, reflects the Board's interpretation of the Ventura Decision as it applies to various types or categories of speciality or premium pay received by OCERS members from their employers, and delineates those items of pay that are to be included in and those that are to be excluded from Compensation Earnable.
4. On May 4, 1998, Resolution 98-001 was amended by Board Resolution 98-009 in response to litigation brought by the County of Orange and others challenging the legality of Resolution 98-001. Resolution 98-009 deleted Sections 6, 8 and a portion of Section 9 of Resolution 98-001 related to the imposition of contributions in arrears stemming from the change in contribution rates that resulted from the implementation of Resolution 98-001. Additionally on December 18, 2000, Resolution 98-001 was further amended by Resolution 00-003 to address the treatment of certain automobile allowances. For purposes of this policy, any reference to Resolution 98-001 will be as Resolution 98-001 was amended by Resolutions 98-009 and 00-003.
5. OCERS was a party to several litigation matters that arose subsequent to the Ventura Decision and adoption of Resolution 98-001. These cases were coordinated as class actions in San Francisco Superior Court with other litigation involving other county retirement systems involving the interpretation and implementation of the Ventura Decision (Coordinated Cases).
6. On November 1, 2002, the San Francisco Court entered a judgment (Judgment) approving a settlement agreement of the Coordinated Cases that, among other things, included an agreement that all parties would "... accept as final and binding the inclusions and exclusions from compensation, compensation earnable and final compensation ..." as set forth in Resolution 98-001.
7. In 2012, the California Legislature adopted AB 197 and the Public Employees Pension Reform Act of 2012 (PEPRA), which among other things, effective January 1, 2013, amended Section 31461 to add subdivision (b), a list of items of compensation that are expressly excluded from Compensation Earnable. Among the items of compensation excluded from Compensation Earnable by subdivision (b) of Section 31461 are (1) compensation determined by the board to have been paid to enhance a member's retirement allowance, (2) payments for unused vacation, annual leave, etc., in an amount that exceeds what is earned and payable in each 12-month period during the Final



OCERS Board Policy

Compensation Earnable Policy

Compensation Period, (3) payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise, and (4) payments made at termination of employment, except those that do not exceed what is earned and payable in each 12-month period during the Final Compensation Period. PEPRRA also added a new term – Pensionable Compensation – to define the items of compensation that are permitted to be included in the calculation of the retirement allowances of OCERS members enrolled in the pension system on or after January 1, 2013. OCERS members who were members of the system prior to January 1, 2013 are referred to as Legacy members in this policy.

8. A number of lawsuits were filed shortly after PEPRRA became effective. One of these lawsuits was appealed to the Supreme Court, and on July 30, 2020, resulted in a decision of the court upholding as constitutional AB 197 and PEPRRA, including the amendments to Section 31461. (*Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association* 9 Cal.5th1032; the Alameda Decision.) The Board has amended Paragraph 10 below to reflect the holding of the Supreme Court in the Alameda Decision.

Policy Objectives

9. The objectives of this policy are to ensure that OCERS fully complies with applicable law including the Alameda Decision when calculating Compensation Earnable and Legacy members' retirement benefits, and to reaffirm the continued applicability of Resolution 98-001 as upheld by the Judgment in the Coordinated Cases.

Policy Guidelines

10. **Compensation Earnable.** Compensation Earnable for Legacy members will be calculated by OCERS in accordance with the following guidelines.

(a) **Pay Items Included in Compensation Earnable.**

In accordance with Resolution 98-001 and subdivisions (a) and (b) of Section 31461, remuneration that is (i) earned and receivable in cash (under the applicable MOU) by the retiring employee, (ii) during the final compensation period (as defined by Sections 31462 and 31482.1 of the Government Code; hereafter Final Compensation Period), and (iii) for services performed during Normal Working Hours (defined below) will be included in Compensation Earnable, including but not limited to the following items of compensation, and others substantially similar to them:

- Base Salary and Wages
- Bilingual Premium Pay
- Educational Incentive ("POST") Pay
- Aircraft Rescue Firefighting
- Paramedic Pay
- Motorcycle Bonus



OCERS Board Policy

Compensation Earnable Policy

- Emergency Dispatch Pay
- Field Training Officer Bonus
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive
- Automobile Allowance, if paid in cash; and for members whose Final Compensation Period includes time before January 1, 2001, also to the extent that the automobile was provided for personal use and declared as income
- Uniform Allowance
- Uniform Maintenance Allowance
- Payoffs of Vacation, Sick and Holiday leave time to the extent it was (i) earned in each 12-month period of the Final Compensation Period (pro-rated on a monthly basis); (ii) not taken as time off; and (iii) permitted to be cashed-out during the Final Compensation Period (pro-rated on a monthly basis) under the applicable MOU, regardless of when actually paid or cashed out
- Employee Contributions to a Deferred Compensation Plan [already included in Base Wages and Salary, above]
- "Mandatory or Scheduled Overtime" (including pay items such as On-Call and Standby) provided that it is pay for services rendered during the employee's Normal Working Hours (defined below).
- Compensatory Time (excluding "True Overtime" as defined in Section 10(b) below) in excess of minimum required reserve
- "Madera" Pay (see, *Madera Police Officers Association v. City Of Madera* 36 Cal.3d 403)
- Additional Compensation for Scheduled Meal Periods
- Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring before January 1, 1991

(b) **Pay Items Excluded from Compensation Earnable.**

In accordance with Resolution 98-001 and subdivisions (a) and (b) of Section 31461, remuneration or other value to the employee that (i) is neither earned nor payable in cash to the employee during the Final Compensation Period; and (ii) is not for services rendered during the employee's Normal Working Hours (defined below) will be excluded from Compensation Earnable, including but not limited to the following items, and others substantially similar to them:

- "True Overtime", including but not limited to On-Call, Standby and similar pay, for additional services rendered outside of Normal Working Hours (as defined below), whether paid in a lump sum or otherwise



OCERS Board Policy

Compensation Earnable Policy

- Employer Contributions to a Deferred Compensation Plan
 - Employer Contributions to the Retirement System
 - Employer "pick up" of Employee Contributions to the Retirement System
 - Payoffs or cash outs of Vacation and Sick Leave and Holiday Pay, to the extent neither earned nor permitted to be cashed out under the applicable MOU, during each 12-month period of the Final Compensation Period, regardless of when actually paid or cashed out
 - Flexible Benefits ("Cafeteria Plan") provided in-kind
 - Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring on and after January 1, 1991
 - Terminal ("Final") Pay, unless included in Compensation Earnable under Section 10(a), above
 - Expense Reimbursements
 - In-Kind Advantages (e.g. food, lodging, board, laundry, fuel)
 - Fees, Licenses, Memberships provided to the member by the employer
 - Automobile Allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation Periods **do not** include time before January 1, 2001.
- (c) **Definition of Normal Working Hours.**
- Normal Working Hours are hours that (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked during the period in question by all other members in the same grade/class/rate of pay as the employee; **and** (iii) are not and cannot be voluntarily worked by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.
- (d) **Calculation of Compensation Earnable.**
- The retiring employee's compensation will be "regularized" to what would have been received had the employee been paid for a normal work schedule during the Final Compensation Period. OCERS Staff will calculate Compensation Earnable (Earnable Salary) by creating a fraction, the numerator of which is the amount of the employee's qualifying compensation and the denominator of which is the number of ordinary work hours for which the employee was actually paid. Staff will then multiply that fraction by the number of paid hours ordinarily required to be worked by all other members in the same grade/class as the retiring employee. The result will be the retiring employee's Compensation Earnable for the Final Compensation Period.



OCERS Board Policy

Compensation Earnable Policy

Policy Review

- 11. The Board of Retirement will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

- 12. The Board of Retirement adopted this policy on March 18, 2019, and this policy was amended by the Board on _____, 2021.

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

Steve Delaney
Secretary of the Board

Date



OCERS Board Policy

Compensation Earnable Policy

Purpose and Background

1. The purpose of this policy is to affirm OCERS' interpretation of the term Compensation Earnable as set forth in California Government Code section 31461 (Section 31461) and OCERS Board of Retirement Resolution 98-001 (Resolution 98-001).
2. Resolution 98-001 was adopted by the OCERS Board of Retirement (Board) on February 6, 1998, in order to implement the decision of the California Supreme Court (Supreme Court) in the case *Ventura County Deputy Sheriffs' Association vs. Board of Retirement of Ventura County Employees Retirement Association* (1997) 16 Cal.4th 483 (Ventura Decision). The Supreme Court in the Ventura Decision interpreted Section 31461 and the term Compensation Earnable and mandated a change in the method for calculating pension benefits for members and their beneficiaries by retirement systems governed by the County Employees Retirement Law of 1937 (CERL).
3. Resolution 98-001, among other things, reflects the Board's interpretation of the Ventura Decision as it applies to various types or categories of speciality or premium pay received by OCERS members from their employers, and delineates those items of pay that are to be included in and those that are to be excluded from Compensation Earnable.
4. On May 4, 1998, Resolution 98-001 was amended by Board Resolution 98-009 in response to litigation brought by the County of Orange and others challenging the legality of Resolution 98-001. Resolution 98-009 deleted Sections 6, 8 and a portion of Section 9 of Resolution 98-001 related to the imposition of contributions in arrears stemming from the change in contribution rates that resulted from the implementation of Resolution 98-001. Additionally on December 18, 2000, Resolution 98-001 was further amended by Resolution 00-003 to address the treatment of certain automobile allowances. For purposes of this policy, any reference to Resolution 98-001 will be as Resolution 98-001 was amended by Resolutions 98-009 and 00-003.
5. OCERS was a party to several litigation matters that arose subsequent to the Ventura Decision and adoption of Resolution 98-001. These cases were coordinated as class actions in San Francisco Superior Court with other litigation involving other county retirement systems involving the interpretation and implementation of the Ventura Decision (Coordinated Cases).
6. On November 1, 2002, the San Francisco Court entered a judgment (Judgment) approving a settlement agreement of the Coordinated Cases that, among other things, included an agreement that all parties would "... accept as final and binding the inclusions and exclusions from compensation, compensation earnable and final compensation ..." as set forth in Resolution 98-001.
7. In 2012, the California Legislature adopted AB 197 and the Public Employees Pension Reform Act of 2012 ("PEPRA"), which among other things, effective January 1, 2013, amended Section ~~31641-31461~~ [31461](#) to add subdivision (b), a list of items of compensation that are expressly excluded from Compensation Earnable. Among the items of compensation excluded from Compensation Earnable by subdivision (b) of Section ~~31641-31461~~ [31461](#) are [\(1\) compensation determined by the board to have been paid to enhance a member's retirement allowance, \(2\) payments for-of unused vacation, annual leave, etc., in an amount that exceeds what is that which may be earned and payable in each](#)



OCERS Board Policy

Compensation Earnable Policy

12-month period during the Final Compensation Period, (3) -payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise, and (4) payments made at termination of employment, except those that do not exceed what is earned and payable in each 12-month period during the Final Compensation Period. PEPRA also added a new term – Pensionable Compensation – to define the items of compensation that are permitted to be included in the calculation of the retirement allowances of OCERS members enrolled in the pension system on or after January 1, 2013. OCERS members who were members of the system prior to January 1, 2013 are referred to as Legacy members in this policy.

8. A number of lawsuits were filed shortly after PEPRA became effective. One of these lawsuits was appealed to the Supreme Court, and on July 30, 2020, resulted in a decision of the court upholding as constitutional AB 197 and PEPRA, including the amendments to Section ~~31641~~31461. (*Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association* 9 Cal.5th1032; the Alameda Decision.) The Board has amended Paragraph 10 below to reflect the holding of the Supreme Court in the Alameda Decision.

Policy Objectives

9. The objectives of this policy are to ensure that OCERS fully complies with applicable law including the Alameda Decision when calculating Compensation Earnable and Legacy members' retirement benefits, and to reaffirm the continued applicability of Resolution 98-001 as upheld by the Judgment in the Coordinated Cases.

Policy Guidelines

10. **Compensation Earnable.** Compensation Earnable for Legacy members will be calculated by OCERS in accordance with the following guidelines.

(a) **Pay Items Included in Compensation Earnable.**

In accordance with Resolution 98-001 and subdivisions (a) and (b) of Section 31461, remuneration that is (i) earned and receivable in cash (under the applicable MOU) by the retiring employee, (ii) during the final compensation period (as defined by Sections 31462 and 31482.1 of the Government Code; hereafter Final Compensation Period), and (iii) for services performed during Normal Working Hours (defined below) will be included in Compensation Earnable, including but not limited to the following items of compensation, and others substantially similar to them:

- Base Salary and Wages
- Bilingual Premium Pay
- Educational Incentive ("POST") Pay
- Aircraft Rescue Firefighting
- Paramedic Pay
- Motorcycle Bonus



OCERS Board Policy

Compensation Earnable Policy

- Emergency Dispatch Pay
- Field Training Officer Bonus
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive
- Automobile Allowance, if paid in cash; and for members whose Final Compensation Period includes time before January 1, 2001, also to the extent that the automobile was provided for personal use and declared as income
- Uniform Allowance
- Uniform Maintenance Allowance
- Payoffs of Vacation, Sick and Holiday leave time to the extent it was (i) earned in each of the 12-month period of the Final Compensation Period ~~(s)~~ (pro-rated on a monthly basis); (ii) not taken as time off; and (iii) permitted to be cashed-out during the Final Compensation Period (pro-rated on a monthly basis) under the applicable MOU, regardless of when actually paid or cashed out
- Employee Contributions to a Deferred Compensation Plan [already included in Base Wages and Salary, above]
- "Mandatory or Scheduled Overtime" (including pay items such as On-Call and Standby) provided that it is pay for services rendered during the employee's Normal Working Hours (defined below).
- Compensatory Time (excluding "True Overtime" as defined in Section 10(b) below) in excess of minimum required reserve
- "Madera" Pay (see, *Madera Police Officers Association v. City Of Madera* 36 Cal.3d 403)
- Additional Compensation for Scheduled Meal Periods
- Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring before January 1, 1991

(b) **Pay Items Excluded from Compensation Earnable.**

In accordance with Resolution 98-001 and subdivisions (a) and (b) of Section 31461, remuneration or other value to the employee that (i) is neither earned nor payable in cash to the employee during the Final Compensation Period; and (ii) is not for services rendered during the employee's Normal Working Hours (defined below) will be excluded from Compensation Earnable, including but not limited to the following items, and others substantially similar to them:

- "True Overtime", including but not limited to On-Call, Standby and similar pay, for additional services rendered outside of Normal Working Hours (as defined below), whether paid in a lump sum or otherwise



OCERS Board Policy

Compensation Earnable Policy

- Employer Contributions to a Deferred Compensation Plan
- Employer Contributions to the Retirement System
- Employer "pick up" of Employee Contributions to the Retirement System
- Payoffs or cash outs of Vacation and Sick Leave and Holiday Pay, to the extent neither earned nor permitted to be cashed out under the applicable MOU, during each of the 12-month period of the Final Compensation Period (Ss), regardless of when actually paid or cashed out
- Flexible Benefits ("Cafeteria Plan") provided in-kind
- Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring on and after January 1, 1991
- Terminal ("Final") Pay, unless included in Compensation Earnable under Section 10(a), above
- Expense Reimbursements
- In-Kind Advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, Licenses, Memberships provided to the member by the employer
- Automobile Allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation Periods **do not** include time before January 1, 2001.

(c) **Definition of Normal Working Hours.**

Normal Working Hours are hours that (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked during the period in question by all other members in the same grade/class/rate of pay as the employee; **and** (iii) are not and cannot be voluntarily worked by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.

(d) **Calculation of Compensation Earnable.**

The retiring employee's compensation will be "regularized" to what would have been received had the employee been paid for a normal work schedule during the Final Compensation Period. OCERS Staff will calculate Compensation Earnable (Earnable Salary) by creating a fraction, the numerator of which is the amount of the employee's qualifying compensation and the denominator of which is the number of ordinary work hours for which the employee was actually paid. Staff will then multiply that fraction by the number of paid hours ordinarily required to be worked by all other members in the same grade/class as the retiring employee. The result will be the retiring employee's Compensation Earnable for the Final Compensation Period.



OCERS Board Policy

Compensation Earnable Policy

Policy Review

- 11. The Board of Retirement will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

- 12. The Board of Retirement adopted this policy on March 18, 2019, and this policy was amended by the Board on _____, 2021.

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

Steve Delaney
Secretary of the Board

Date



OCERS Board Policy

Pensionable Compensation Policy

Purpose and Background

1. Effective January 1, 2013, the State of California enacted the Public Employees Pension Reform Act of 2012, Government Code sections 7522, *et seq.* (PEPRA). PEPRA created a new class of pension plan members composed of members enrolled in the pension plan on or after January 1, 2013 (PEPRA Members).
2. Under Government Code section 7522.34 (Section 7522.34), the items of compensation that are to be included in a retiring PEPRA Member's final compensation are defined as "Pensionable Compensation."
3. The purpose of this policy is to set forth OCERS' interpretation of the term "Pensionable Compensation" as defined in Section 7522.34, in the context of the specific pay items utilized by OCERS' employers.

Policy Objectives

4. The objective of this policy is to ensure that OCERS fully complies with applicable law when calculating a PEPRA Member's retirement benefit.

Policy Guidelines

5. **Pensionable Compensation.** OCERS will calculate Pensionable Compensation for PEPRA Members in accordance with the following guidelines.

(a) Pay Items Included in Pensionable Compensation.

Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same group or class of employment; (iv) for services rendered on a full-time basis; (v) during Normal Working Hours (defined below); (vi) pursuant to Publicly Available Pay Schedules (defined below); and (vi) subject to the limitations of Section 5(b), below.

Subject to the requirements set forth in the preceding paragraph above, Pensionable Compensation includes the following items of compensation:

Base Salary and Wages (gross of any employee contributions to deferred compensation plans) and includes additional compensation for scheduled meal periods, plus the following skill-based or shift-based premium pay items (Premium Pay), and others substantially similar to them:

- Bilingual Pay
- Educational Pay
- Aircraft Rescue Firefighting Pay
- Paramedic Pay
- Motorcycle Pay
- Emergency Dispatch Pay
- Field Training Officer Pay



OCERS Board Policy

Pensionable Compensation Policy

- Shift Differential Pay
- Confined Space Pay

(b) Pay Items Excluded From Pensionable Compensation.

The following items of compensation will be excluded from Pensionable Compensation:

- Any compensation determined by the Board (i) to have been paid to increase a member's retirement benefit or (ii) to be inconsistent with the requirements of subsection (a) above
- Overtime, other than as defined in Section 207(k) of Title 29 of the United States Code.
- Payments for additional services rendered outside of Normal Working Hours, whether paid in a lump sum or otherwise
- Employer contributions to deferred compensation plan or retirement system
- Flexible benefits ("Cafeteria Plan") provided in-kind or paid in cash
- Automobile, uniform or other allowances
- Payments for unused vacation, annual leave, personal leave, sick leave, holiday pay or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid
- Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, licenses, or memberships provided to or for a member by employer
- Any bonus paid in addition to the compensation defined in (a) above
- Any ad hoc or one-time pay of any sort
- Longevity Incentive Pay
- Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
- Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

(c) Definition of Normal Working Hours.

- Normal Working Hours are hours that (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked during the period in question by all other members in the same grade/class/rate of pay as the employee; **and** (iii) are not and cannot be served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.



OCERS Board Policy

Pensionable Compensation Policy

6. **Publicly Available Pay Schedule.** In accordance with Section 7522.34, OCERS will exclude from Pensionable Compensation any pay code or item of compensation that is not included in a Publicly Available Pay Schedule. Publicly Available Pay Schedule means a document or documents that reflect the amount or category of pay and that meets all of the following requirements:
- (a) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
 - (b) Identifies the position title for every employee position;
 - (c) Shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
 - (d) Is posted on the employer's internet website. If not on the website it will be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours; and
 - (e) Does not reference a document which is not available in accordance with (d), above in lieu of disclosing the payrate.

The requirement for a Publicly Available Pay Schedule can be met by posting on the employer's internet website the applicable labor memoranda of understanding, compensation resolutions or ordinances and all salary schedules or matrices, so long as taken together the documents contain all required information. The employer need not create a new document to comply with this requirement.

If an employer fails to meet the requirements of Paragraph 6(a) above, the Board, in its sole discretion, may determine an amount that will be considered to be the applicable payrate, taking into consideration all information the Board deems relevant including, but not limited to, the following:

- a) Documents approved by the employer's governing body in accordance with the requirements of public meetings laws and maintained by the employer;
- b) The last payrate listed on a conforming pay schedule with the same employer for the position at issue;
- c) The last payrate for the member that is listed on a conforming pay schedule with the same employer for a different position.

Policy Review

7. The Board of Retirement will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

8. The Board of Retirement adopted this policy on March 18, 2019, and this policy was amended on _____, 2021.



OCERS Board Policy

Pensionable Compensation Policy

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

A handwritten signature in blue ink that reads "Steve Delaney".

Steve Delaney
Secretary of the Board

Date



OCERS Board Policy

Pensionable Compensation Policy

Purpose and Background

1. Effective January 1, 2013, the State of California enacted the Public Employees Pension Reform Act of 2012, Government Code section 7522, *et seq.* (PEPRA). PEPRA created a new class of pension plan members composed of ~~those~~ members enrolled in the pension plan on or after January 1, 2013 ("PEPRA Members").
2. Under Government Code section 7522.34 (Section 7522.34), the ~~items of compensation~~ ~~earnings~~ that are to be included in a retiring PEPRA Member's final compensation are defined as "Pensionable Compensation."
3. The purpose of this policy is to set forth OCERS' interpretation of the term "Pensionable Compensation" as defined in Section 7522.34, in the context of the specific pay items utilized by OCERS' ~~plan~~ ~~sponsor~~ ~~employers~~.

Policy Objectives

4. The objective of this policy is to ensure that OCERS fully complies with applicable law when calculating a PEPRA Member's retirement benefit.

Policy Guidelines

5. **Pensionable Compensation.** OCERS ~~shall~~ ~~will~~ calculate Pensionable Compensation for PEPRA Members in accordance with the following guidelines.

(a) Pay Items Included in Pensionable Compensation.

Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same group or class of employment; (iv) for services rendered on a full-time basis; (v) during Normal Working Hours (~~defined below~~); (vi) pursuant to ~~publicly available~~ ~~pay~~ ~~schedules~~ (~~defined below~~); and (vi) subject to the limitations of Section 5(b), below. ~~Normal Working Hours are those that (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked during the period in question by all other members in the same grade/class/rate of pay as the employee; and (iii) are not and cannot be served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.~~

Subject to the requirements set forth in the preceding paragraph above, Pensionable Compensation includes the following items of compensation:

Base Salary and Wages (gross of any employee contributions to deferred compensation plans) and includes additional compensation for scheduled meal periods, plus the following skill-based or shift-based premium pay items (Premium Pay), and others substantially similar to them:

- Bilingual Pay
- Educational Pay
- Aircraft Rescue Firefighting Pay



OCERS Board Policy

Pensionable Compensation Policy

- Paramedic Pay
- Motorcycle Pay
- Emergency Dispatch Pay
- Field Training Officer Pay
- Shift Differential Pay
- Confined Space Pay

Premium Pay will be included only if the assignment, certification or license:

- Is part of a member's regularly assigned responsibilities,
- is an essential, normal or traditional function of the job,
- is part of the regular assignment of all other members in the same grade or class, and,
- is not for work performed or received solely during the final average compensation period.

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(b) Pay Items Excluded From Pensionable Compensation.

The following ~~item~~categories of compensation ~~shall~~will be excluded from "Pensionable Compensation":

- Any compensation determined by the Board ~~(i)~~ to have been paid to increase a member's retirement benefit or ~~(ii) to be~~ inconsistent with the requirements of subsection (a) above
- Overtime, other than as defined in Section 207(k) of Title 29 of the United States Code, ~~that is not performed during Normal Working Hours~~
- Payments for additional services rendered outside of Normal Working Hours, whether paid in a lump sum or otherwise
- Employer contributions to deferred compensation plan or retirement system
- Flexible benefits ("Cafeteria Plan") provided in-kind or paid in cash
- Automobile, uniform or other allowances
- Payments for unused vacation, annual leave, personal leave, sick leave, holiday pay or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid
- Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, licenses, or memberships provided to or for a member by employer
- Any bonus paid in addition to the compensation defined in (a) above
- Any ad hoc or one-time pay of any sort
- Longevity Incentive Pay
- Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit



OCERS Board Policy

Pensionable Compensation Policy

of the member and which was converted to and received by the member in the form of a cash payment.

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

- (c) Definition of Normal Working Hours.

- Normal Working Hours are hours that (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked during the period in question by all other members in the same grade/class/rate of pay as the employee; and (iii) are not and cannot be served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.

6. **Publicly Available Pay Schedule.** In accordance with Section 7522.34, OCERS will ~~exclude from~~~~not recognize as~~ Pensionable Compensation any pay code or item of compensation that is not included in a Publicly Available Pay Schedule. ~~For purposes of this policy, "Publicly Available Pay Schedule"~~ means a document or documents that reflect the amount or category of pay and that meets all of the following requirements:

- (a) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- (b) Identifies the position title for every employee position;
- (c) Shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
- (d) Is posted on the employer's internet website. If not on the website it ~~shall~~will be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours; and
- (e) Does not reference a document which is not available in accordance with (d), above in lieu of disclosing the payrate.

The requirement for a Publicly Available Pay Schedule can be met by posting on the employer's internet website the applicable labor memoranda of understanding, compensation resolutions or ordinances and all salary schedules or matrices, so long as taken together the documents contain all required information. The employer need not create a new document to comply with this requirement.

If an employer fails to meet the requirements of Paragraph 6(a) above, the Board, in its sole discretion, may determine an amount that will be considered to be the applicable payrate, taking into consideration all information the Board deems relevant including, but not limited to, the following:

- a) Documents approved by the employer's governing body in accordance with the requirements of public meetings laws and maintained by the employer;
- b) The last payrate listed on a conforming pay schedule with the same employer for the position at issue;



OCERS Board Policy

Pensionable Compensation Policy

- c) The last payrate for the member that is listed on a conforming pay schedule with the same employer for a different position.

Policy Review

- 7. The Board of Retirement will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

- 8. The Board of Retirement adopted this policy on March 18, 2019, and this policy was amended on _____, 2021.

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

Steve Delaney
Secretary of the Board

Date



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

I. Purpose

This document explains the process for requesting OCERS' review and approval of new pay items or changes to existing pay items. In accordance with OCERS Board Policy - Pay Item Review, employers must submit a new pay item request for approval to OCERS 30-days before implementation of the pay item so that OCERS can make a determination as to whether the requested pay item is pensionable and can be included in the final average salary. This analysis will help ensure proper, timely, and accurate reporting of pay on transmittal files, collection of contributions and calculation of members' pension benefits. It is part of the overall compensation review process.

II. Process Summary

When an employer has a new pay item and is requesting a new pay code for the transmittal file, the employer must submit a Pay Item Request describing the pay item including details regarding how, to whom and when it is paid. OCERS will analyze the pay item and make a determination as to whether the pay item is pensionable or non-pensionable under the County Employees Retirement Law ("CERL") or Public Employees' Pension Reform Act ("PEPRA"). OCERS will notify the employer of the determination of the pay item to implement. The pay item and status will then be added to the system and the Pay Item Master List. If the employer disagrees with the determination, it will have 30 days from the date of OCERS' notice of determination to request review of the determination by the Board. Upon receipt of a timely request for review, the Board will consider the request and make a decision on whether or not the pay item is pensionable.

III. Critical Aspects of Procedures

For this process, the most important elements are the following:

- **Timing:** Request must be submitted 30-days prior to the implementation of the pay item to provide sufficient time for OCERS to analyze the pay item and set up the code in OCERS' system. **The pay item must be properly reviewed, approved and set up in the system, or else exceptions will be created when validating the payroll transmittal and calculation of contributions and member retirement benefits may be miscalculated.**
- **Publicly Available Pay Schedule:** PEPRA requires that in order for a pay item to be included in a PEPRA member's final average salary, it must be included in a "publicly available pay schedule." In accordance with PEPRA, the pay item must be included in a pay schedule that:
 - Was duly approved by the employer's governing body;
 - Identifies the position title for every employee position along with the applicable elements of compensation;
 - Is posted or immediately accessible and available for public review at the office of the employer or posted on the employer's internet website; and



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

-
- Does not reference an unavailable document in lieu of disclosing the element of compensation.

- **OCERS' Approval:** OCERS must approve the pay item for it to be pensionable.
- **Accuracy:** The pay item must be coded and reported correctly to prevent under or overpayment of contributions and/or a member's pension.
- **Implementation:** Employers must transmit the pay item in accordance with OCERS' determination. Failure to do may result in OCERS imposing administrative costs on the employer. Employers also will be required to prepare appropriate adjustments and calculate any refunds that may be due to an employee.

IV. Required Documents

The following documentation will be required to process new pay item requests:

1. Copies of the applicable sections of the Memorandum of Understanding (MOU), contract and/or compensation resolution in which the terms of the particular pay code are established.
2. Copies of any other official employer documents such as personnel rules or departmental procedures that evidence the conditions under which the pay item may or may not be pensionable, if not clearly determinable from the MOU.
3. Completed Pay Item Request Form, which includes:
 - General information
 - Pay item
 - Description of the pay item
 - List of job classification(s) of employees eligible for the pay item
 - Type of payment
 - Basis for eligibility

A separate Pay Item Request is required for each new or changed pay item
4. Access to the publicly available pay schedule as described in section IV.

V. Preceding Step (Prerequisites)

To the extent possible, OCERS should be notified of pending negotiations that may result in new items of compensation or modifications to current pay items, so that OCERS can assist the bargaining parties in determining whether the pay item(s) will be considered pensionable. OCERS must approve the pay item for it to be pensionable. Advance notice will also allow OCERS staff to be prepared for the new pay item request and minimize the review time.



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

VI. Procedure Detail for Submitting Pay Item Request for Review and Approval

As new pay items are approved by the employer's governing body, the employer must submit each item for review and approval by OCERS to determine if it is pensionable or non-pensionable.

The following describes the steps for submitting your request:

1. Gather required documentation listed in Section IV.
2. Refer to OCERS policy documents including, but not limited to, the Compensation Earnable Policy and the Pensionable Compensation Policy for guidance on pensionability of various forms of compensation.
3. Download the Pay Item Request Form from the Employer Section of the OCERS website at www.ocers.org.
4. Fill in and complete the Pay Item Request Form (see attached form)
5. Send the completed form and required documentation to:
OCERS Employer Payroll Unit
 By Email: Employerpayroll@ocers.org

VII. Subsequent Steps for Approval and Implementation

Once the request for new pay item has been received:

1. The pay item will be reviewed by OCERS staff for compliance with the OCERS Pay Item Review Policy.
2. OCERS staff will evaluate the pay item to determine whether it is pensionable by using the applicable criteria for Compensation Earnable for Legacy members and Pensionable Compensation for PEPRA members. Legacy members refer to existing OCERS members as of January 1, 2013. PEPRA members refer to OCERS members hired on or after January 1, 2013. For more information on Compensation Earnable or Pensionable Compensation, please refer to the Compensation Earnable Policy and Pensionable Compensation Policy at www.ocers.org.
3. After completing the review, staff will send the employer a written notification of its determination, including the reasons for its determination and supporting facts and analyses.
4. If staff determines that the pay item meets the criteria for either Compensation Earnable or Pensionable Compensation but not both, a separate pay code will be required; the employer must submit a separate Pay Item Request for the non-pensionable component.
5. Employer will implement the pay item with the approved pay item status (pensionable or non-pensionable) as determined by OCERS.
6. OCERS will set up the pay code in the pension administration system and add the pay item to the approved Pay Item Master List.



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

VIII. Review Process

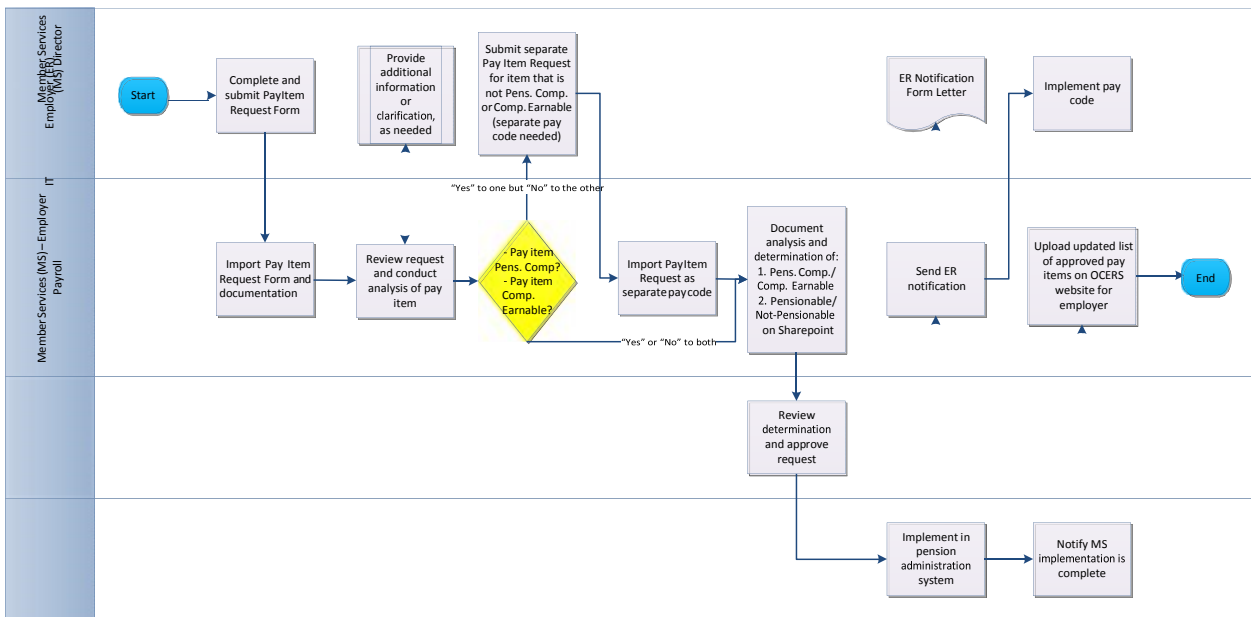
If the employer disagrees with OCERS determination, the employer will have 30 calendar days from the date of the notice of determination to file a request for review of the determination by the Board. The employer must send a letter including the reasons for the request for review and specific supporting facts and documentation to the CEO or his/her designee.

Upon receipt of a timely request, OCERS staff will schedule the review for a future Board meeting and will prepare a written report with its recommendation on the pay item in question. OCERS will provide the employer with advance notice of the Board meeting and a copy of staff's report and all materials to be considered by the Board.

At the meeting, the Board will consider the written materials and any arguments provided by the employer. The Board will then make a determination as to whether the pay item qualifies as Compensation Earnable, Pensionable Compensation or both. The Board's decision will be final.

IX. Overall Process Flow

The following process flowchart is an overview of the pay item request and approval process.





PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

ATTACHMENT --FORM



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

I. Purpose

This document explains the process for requesting OCERS' review and approval of new pay items or changes to existing pay items. In accordance with OCERS Board Policy - Pay Item Review, employers must submit a new pay item request for approval to OCERS 30-days before implementation of the pay item so that OCERS can make a determination as to whether the requested pay item is pensionable and can be included in the final average salary. This analysis will help ensure proper, timely, and accurate reporting of pay on transmittal files, collection of contributions and calculation of members' pension benefits. It is part of the overall compensation review process.

II. Process Summary

When an employer has a new pay item and is requesting a new pay code for the transmittal file, the employer must submit a Pay Item Request describing the pay item including details regarding how, to whom and when it is paid. OCERS will analyze the pay item and make a determination as to whether the pay item is pensionable or non-pensionable under the County Employees Retirement Law ("CERL") or Public Employees' Pension Reform Act ("PEPRA"). OCERS will notify the employer of the determination of the pay item to implement. The pay item and status will then be added to the system and the ~~Pay Item Master List of pay items~~. If the employer disagrees with the determination, it will have 30 days from the date of OCERS' notice of determination to ~~appeal request review of~~ the determination ~~to by~~ the Board. Upon receipt of a timely ~~appeal request for review~~, the Board will consider the ~~appeal request~~ and make a decision on whether or not the pay item is pensionable.

III. Critical Aspects of Procedures

For this process, the most important elements are the following:

- **Timing:** Request must be submitted 30-days prior to the implementation of the pay item to provide sufficient time for OCERS to analyze the pay item and set up the code in OCERS' system. **The pay item must be properly reviewed, approved and set up in the system, or else exceptions will be created when validating the payroll transmittal and calculation of contributions and member retirement benefits may be miscalculated.**
- **Publicly Available Pay Schedule:** PEPRA requires that in order for a pay item to be included in a PEPRA member's final average salary, it must be included in a "publicly available pay schedule." In accordance with PEPRA, the pay item must be included in a pay schedule that:
 - Was duly approved by the employer's governing body;
 - Identifies the position title for every employee position along with the applicable elements of compensation;
 - Is posted or immediately accessible and available for public review at the office of the employer or posted on the employer's internet website; and



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

-
- Does not reference an unavailable document in lieu of disclosing the element of compensation.

- **OCERS' Approval:** OCERS must approve the pay item for it to be pensionable.
- **Accuracy:** The pay item must be coded and reported correctly to prevent under or overpayment of contributions and/or a member's pension.
- **Implementation:** Employers must transmit the pay item in accordance with OCERS' determination. Failure to do may result in OCERS imposing administrative costs on the employer. Employers also will be required to prepare appropriate adjustments and calculate any refunds that may be due to an employee.

IV. Required Documents

The following documentation will be required to process new pay item requests:

1. Copies of the applicable sections of the Memorandum of Understanding (MOU), -contract and/or compensation resolution in which the terms of the particular pay code are established.
2. Copies of any other official employer documents such as personnel rules or departmental procedures that evidence the conditions under which the pay item may or may not be pensionable, if not clearly determinable from the MOU.
3. Completed Pay Item Request Form, which includes:
 - General information
 - Pay item
 - Description of the pay item
 - List of job classification(s) of employees eligible for the pay item
 - Type of payment
 - Basis for eligibility

A separate Pay Item Request is required for each new or changed pay item
4. Access to the publicly available pay schedule as described in section IV.

V. Preceding Step (Prerequisites)

To the extent possible, OCERS should be notified of pending negotiations that may result in new items of compensation or modifications to current pay items, so that OCERS can assist the bargaining parties in determining whether the pay item(s) will be considered pensionable. OCERS must approve the pay item for it to be pensionable. Advance notice will also allow OCERS staff to be prepared for the new pay item request and minimize the review time.



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

VI. Procedure Detail for Submitting Pay Item Request for Review and Approval

As new pay items are approved by the employer's governing body, the employer must submit each item for review and approval by OCERS to determine if it is pensionable or non-pensionable.

The following describes the steps for submitting your request:

1. Gather required documentation listed in Section IV.
2. Refer to OCERS policy documents including, but not limited to, the Compensation Earnable ~~Board~~ Policy and the Pensionable Compensation ~~Board~~ Policy for guidance on pensionability of various forms of compensation.
3. Download the Pay Item Request Form from the Employer Section of the OCERS website at www.ocers.org.
4. Fill in and complete the Pay Item Request Form (see attached form)
5. Send the completed form and required documentation to:
OCERS Employer Payroll Unit
 By Email: Employerpayroll@ocers.org

VII. Subsequent Steps for Approval and Implementation

Once the request for new pay item has been received:

1. The pay item will be reviewed by OCERS staff for compliance with the OCERS Pay Item Review Policy.
2. OCERS staff will evaluate the pay item to determine whether it is pensionable by using the applicable criteria for Compensation Earnable for Legacy members and Pensionable Compensation for PEPRA members. Legacy members refer to existing OCERS members as of January 1, 2013. PEPRA members refer to OCERS members hired on or after January 1, 2013. For more information on Compensation Earnable or Pensionable Compensation, please refer to the Compensation Earnable Policy and Pensionable Compensation Policy at www.ocers.org.
3. After completing the review, staff will send the employer a written notification of its determination, including the reasons for its determination and supporting facts and analyses.
4. If staff determines that the pay item meets the criteria for either Compensation Earnable or Pensionable Compensation but not both, a separate pay code will be required; the employer must submit a separate Pay Item Request for the non-pensionable component.
5. Employer will implement the pay item with the approved pay item status (pensionable or non-pensionable) as determined by OCERS.
6. OCERS will set up the pay code in the pension administration system and add the pay item to the approved Pay Item Master List.



PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

VIII. Appeal/Review Process

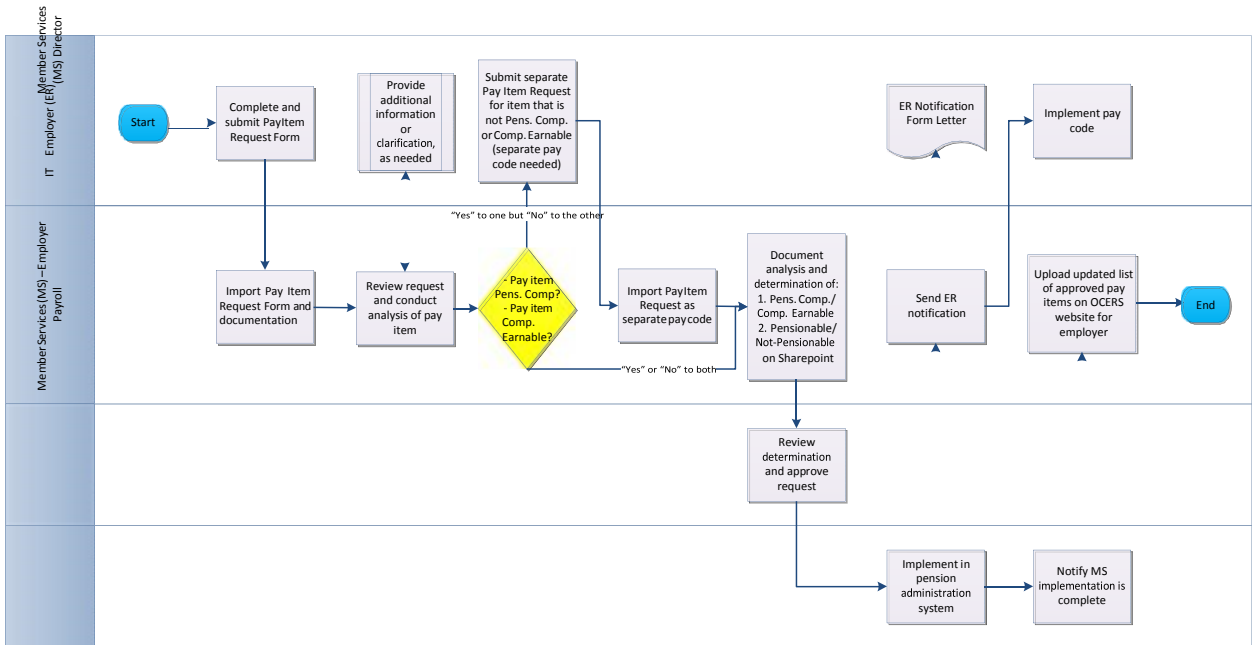
If the employer disagrees with OCERS determination, the employer will have 30 calendar days from the date of the final notice of determination to file a request for review of the determination by the Board. The eEmployer must send a letter including the reasons for the request for review and specific supporting facts and documentation to the CEO or his/her designee.

Upon receipt of a timely request, OCERS staff will schedule the review for a future Board meeting and will prepare a written report with its recommendation on the pay item in question. OCERS will provide the employer with advance notice of the Board meeting and a copy of staff's report and all materials to be considered by the Board.

At the meeting, the Board will consider the written materials and any arguments provided by the employer. The Board will then make a determination as to whether the pay item qualifies as for either or both Compensation Earnable, or Pensionable Compensation or both. The Board's decision will be final.

IX. Overall Process Flow

The following process flowchart is an overview of the pay item request and approval process.





PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

ATTACHMENT --FORM



OCERS Pay Item Request Form

2223 E. Wellington Ave Suite 1100 Santa Ana, CA 92701 | Office: 714.558.6200 | FAX: 714.558.6234 | www.ocers.org

IMPORTANT INFORMATION REGARDING PAY CODES:

Please complete and submit this request form for review and approval of new codes or changes to existing pay codes. New or changed **Pay Items must be submitted 30-days prior to the time of implementation of the code.** Once the code has been approved and entered into the pension system the pay code can be sent on the transmittal. **The pay code must be set up in the system or exceptions are created when validating the file.**

Return completed form and required documentation to Employer Payroll Unit by **Email:** Employerpayroll@ocers.org or **Fax:** 714-558-6234

Use only one form per code

SECTION 1: GENERAL INFORMATION				
Employer Name	Employer Representative	Contact Number	Date	
SECTION 2: PAY CODE & EFFECTIVE DATES				
Pay Code ID	Pay Code Description (Title)	Pay Period Effective	Pay Period Begin Date	Pay Period End Date
SECTION 3: PAY ITEM MOU REFERENCE MATERIAL & INFORMATION				
Name of the governing MOU/Contract:		Term of MOU/Contract:	Date of Adoption:	MOU Page Number(s)
NOTE: Please attach a copy of the applicable MOU article, section, and page(s), amendment "side letter" and/or other official documents establishing the compensation underlying the pay code and which support your answers, below. (Do not provide copy of entire MOU)				
Please provide a full description of the pay item:				
1. List all job classification(s) of employees are eligible for this pay item? (Please list job classifications)				
2. Indicate if all members or employees in the job classification(s) listed above are eligible to receive this pay item.			YES <input type="checkbox"/>	NO <input type="checkbox"/>
			YES <input type="checkbox"/>	NO <input type="checkbox"/>
3. Indicate how this Pay Item is calculated.			Fixed Amount <input type="checkbox"/>	% of Base Pay <input type="checkbox"/>
			N/A <input type="checkbox"/>	N/A <input type="checkbox"/>



OCERS Pay Item Request Form

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4. Is the pay item for work performed outside of Normal Working Hours? If the answer is No, but served at times other than during a traditional 8, 10 or 12 hour shifts or 40-hour work week, please include supporting official documentation for that conclusion.	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
5. Is the pay item a bonus?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
6. Is the pay item paid one-time or ad hoc?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
7. Is the pay item an allowance (i.e. car allowance, uniform allowance, cell phone allowance)?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
8. Is the pay item a reimbursement?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
9. Is the pay item for deferred compensation?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
10. Is the payment for accrued unused Leave/Vacation Payout, earned and payable within 12-month period?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
11. Is the payment for compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member or employee?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
12. Is the payment severance or other payment in connection with or in anticipation of a separation or termination from employment?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
13. If terminal pay, pay is both earned and payable within 12-month period?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
14. What is the basis of eligibility for the pay item in the case of premium pay or special pay (i.e. certification, degree, shift, assignment)?			
15. Is the pay item included in publicly available pay schedule as defined in the OCERS Pensionable Compensation Board Policy? If so in what publicly available salary schedule is the pay item listed or described? (Please provide the title and location of the document)			



OCERS Pay Item Request Form

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PEPRA PENSIONABLE COMPENSATION CRITERIA –		SECTION BELOW RESERVED FOR OCERS STAFF			Qualifier	YES	NO	N/A
1.	Normal Monthly Rate of Pay or Base Pay:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
2.	Payable to Similarly Situated:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
3.	In Public Pay Schedule:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
4.	Basis of eligibility for the pay item in the case of premium pay or special pay (i.e. certification, degree, shift, assignment)	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
5.	Earned for Normal Working Hrs. If yes and the Normal Working Hours are other than a traditional 8, 10, or 12 hour shift and/or 40 hour work week, please explain in detail:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
6.	Allowance, Reimbursement or Previously Paid In-Kind:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
7.	Bonus, one-time ad hoc payment:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
8.	Severance or Terminal Pay:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
9.	Overtime other than Section 207(k) time:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
10.	Payment for any Unused Leave:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
11.	Employer contribution to deferred comp:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
PEPRA Pensionable?								
Notes & Comments Regarding Decisions								

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461					Qualifier	YES	NO	N/A
1.	Compensation at Same Pay Rate as Persons in Same Grade or Class				<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	One-Time or Ad Hoc Payment Paid to All Similarly Situated				<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Leave/Vacation Payout Earned & Payable in 12 Month Period				<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Terminal Pay Earned & Payable in 12 Month Period				<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Compensation Previously Paid In Kind & Now as Cash				<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Payment for Services Rendered During Normal Working Hours. If yes and the Normal Working Hours are other than a traditional 8, 10, or 12 hour shift and/or 40 hour work week, please explain in detail :				<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comp Earnable?								
Notes & Comments Regarding Decisions								
Applicable Plans		Pensionable	Used in FAS	Prorated in FAS	Additional Notes:			
<input type="checkbox"/>	PEPRA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
<input type="checkbox"/>	LEGACY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
<input type="checkbox"/>	BOTH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
APPROVED BY _____					DATE _____			



OCERS Pay Item Request Form ~~1-16-19~~

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IMPORTANT INFORMATION REGARDING PAY CODES:

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Return completed form and required documentation to Employer Payroll Unit by **Email:** Employerpayroll@ocers.org or **Fax:** 714-558-6234

Use only one form per code

SECTION 1: GENERAL INFORMATION				
Employer Name	Employer Representative	Contact Number	Date	
SECTION 2: PAY CODE & EFFECTIVE DATES				
Pay Code ID	Pay Code Description (Title)	Pay Period Effective	Pay Period Begin Date	Pay Period End Date
SECTION 3: PAY ITEM MOU REFERENCE MATERIAL & INFORMATION				
Name of the governing MOU/Contract:	Term of MOU/Contract:	Date of Adoption:	MOU Page Number(s)	
NOTE: Please attach a copy of the applicable MOU article, section, and page(s), amendment "side letter" and/or other official documents establishing the compensation underlying the pay code and which support your answers, below. (Do not provide copy of entire MOU)				
Please provide a full description of the pay item:				
1. List all job classification(s) of employees are eligible for this pay item? (Please list job classifications)				
2. Indicate if all members or employees in the job classification(s) listed above are eligible to receive this pay item.			YES <input type="checkbox"/>	NO <input type="checkbox"/>
3. If the pay item is a type of premium pay or special pay, indicate if the pay assignment, certificate or license:			YES <input type="checkbox"/>	NO <input type="checkbox"/>
i. Is required to be worked as part of a member's regularly assigned responsibilities,			<input type="checkbox"/>	<input type="checkbox"/>
ii. is an essential, normal or traditional function of the job, and			<input type="checkbox"/>	<input type="checkbox"/>
iii. is part of the regular assignment of all other members in the same grade or class			<input type="checkbox"/>	<input type="checkbox"/>
4.3. Indicate how this Pay Item is calculated.			Fixed Amount <input type="checkbox"/>	% of Base Pay <input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>



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<p>5-4. Is the pay item for work performed outside of Normal Working Hours? If the answer is No, but served at times other than during a traditional 8, 10 or 12 hour shifts or 40-hour work week, please include supporting official documentation for that conclusion.</p>	<p><u>YES</u></p> <input type="checkbox"/>	<p><u>NO</u></p> <input type="checkbox"/>	<p><u>N/A</u></p> <input type="checkbox"/>
<p>6-5. Is the pay item a bonus?</p>	<p><u>YES</u></p> <input type="checkbox"/>	<p><u>NO</u></p> <input type="checkbox"/>	<p><u>N/A</u></p> <input type="checkbox"/>
<p>7-6. Is the pay item paid one-time or ad hoc?</p>	<p><u>YES</u></p> <input type="checkbox"/>	<p><u>NO</u></p> <input type="checkbox"/>	<p><u>N/A</u></p> <input type="checkbox"/>
<p>8-7. Is the pay item an allowance (i.e. car allowance, uniform allowance, cell phone allowance)?</p>	<p><u>YES</u></p> <input type="checkbox"/>	<p><u>NO</u></p> <input type="checkbox"/>	<p><u>N/A</u></p> <input type="checkbox"/>
<p>9-8. Is the pay item a reimbursement?</p>	<p><u>YES</u></p> <input type="checkbox"/>	<p><u>NO</u></p> <input type="checkbox"/>	<p><u>N/A</u></p> <input type="checkbox"/>
<p>10-9. Is the pay item for deferred compensation?</p>	<p><u>YES</u></p> <input type="checkbox"/>	<p><u>NO</u></p> <input type="checkbox"/>	<p><u>N/A</u></p> <input type="checkbox"/>
<p>11-10. _____ Is the payment for accrued unused Leave/Vacation Payout, earned and payable within 12-month period?</p>	<p><u>YES</u></p> <input type="checkbox"/>	<p><u>NO</u></p> <input type="checkbox"/>	<p><u>N/A</u></p> <input type="checkbox"/>
<p>12-11. _____ Is the payment for compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member or employee?</p>	<p><u>YES</u></p> <input type="checkbox"/>	<p><u>NO</u></p> <input type="checkbox"/>	<p><u>N/A</u></p> <input type="checkbox"/>
<p>13-12. _____ Is the payment severance or other payment in connection with or in anticipation of a separation or termination from employment?</p>	<p><u>YES</u></p> <input type="checkbox"/>	<p><u>NO</u></p> <input type="checkbox"/>	<p><u>N/A</u></p> <input type="checkbox"/>
<p>14-13. _____ If terminal pay, pay is both earned and payable within 12-month period?</p>	<p><u>YES</u></p> <input type="checkbox"/>	<p><u>NO</u></p> <input type="checkbox"/>	<p><u>N/A</u></p> <input type="checkbox"/>
<p>15-14. _____ What is the basis of eligibility for the pay item in the case of premium pay or special pay (i.e. certification, degree, shift, assignment)?</p>			
<p>16-15. _____ Is the pay item included in publicly available pay schedule as defined in the OCERS Pensionable Compensation Board Policy? If so in what publicly available salary schedule is the pay item listed or described? (Please provide the title and location of the document)</p>			



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PEPRA PENSIONABLE COMPENSATION CRITERIA		SECTION BELOW RESERVED FOR OCERS STAFF			
		Qualifier	YES	NO	N/A
1.	Normal Monthly Rate of Pay or Base Pay:	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Payable to Similarly Situated:	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	In Public Pay Schedule:	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	<u>Basis of eligibility for the pay item in the case of premium pay or special pay (i.e. certification, degree, shift, assignment)</u> If Premium Pay or Special Pay, is the assignment, certification or license: i. part of a member's regularly assigned responsibilities, ii. an essential, normal or traditional function of the job, and iii. part of the regular assignment of all other members in the same grade or class	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Earned for Normal Working Hrs. If yes and the Normal Working Hours are other than a traditional 8, 10, or 12 hour shift and/or 40 hour work week, please explain in detail:	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Allowance, Reimbursement or Previously Paid In-Kind:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	Bonus, one-time ad hoc payment:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Severance or Terminal Pay:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	Overtime other than Section 207(k) time:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Payment for any Unused Leave:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	Employer contribution to deferred comp:	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		PEPRA Pensionable?			
Notes & Comments Regarding Decisions					

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		Qualifier	YES	NO	N/A
1.	Compensation at Same Pay Rate as Persons in Same Grade or Class	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	One-Time or Ad Hoc Payment Paid to All Similarly Situated	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Leave/Vacation Payout Earned & Payable in 12 Month Period	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Terminal Pay Earned & Payable in 12 Month Period	YES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Compensation Previously Paid In Kind & Now as Cash	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Payment for Services Rendered During Normal Working Hours. If yes and the Normal Working Hours are other than a traditional 8, 10, or 12 hour shift and/or 40 hour work week, please explain in detail :	NO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Comp Earnable?			

Notes & Comments Regarding Decisions

Applicable Plans	Pensionable	Used in FAS	Prorated in FAS	Additional Notes:
<input type="checkbox"/> PEPRA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> LEGACY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> BOTH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

APPROVED BY

DATE



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Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

I. Purpose

The purpose of this OAP is to describe the procedure for determining whether an element of pay is pensionable and can be included as Compensation Earnable and/or Pensionable Compensation for inclusion in the Final Average Salary that is used to calculate a member's pension benefit.

II. Authority

This OAP is established pursuant to OCERS Board Policies: Compensation Earnable Policy, Pensionable Compensation Policy, Retirement Enhancement Review Policy and Pay Item Review Policy.

OCERS Board Resolution 98-001 and OCERS Compensation Earnable Policy affirm the OCERS interpretation of the term Compensation Earnable as defined in California Government Code Section 31461.

The Public Employees' Pension Reform Act of 2012 (PEPRA) and AB 197 amended Section 31461 and created the term Pensionable Compensation for members hired on or after January 1, 2013. OCERS Pensionable Compensation Policy explains OCERS interpretation of the term Pensionable Compensation as defined in California Government Code Section 7522.34.

A number of lawsuits were filed shortly after PEPRA became effective. One of these lawsuits was appealed to the Supreme Court, and on July 30, 2020 resulted in a decision of the Court upholding as constitutional AB 197 and PEPRA, including the amendments to Section 31461. (*Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association* 9 Cal.5th 1032; the Alameda Decision.) The Board has amended this OAP to reflect the holding of the Court in the Alameda Decision.

California Government Code Section 31542 requires the OCERS Board to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. In keeping with this requirement, the Board adopted the Retirement Enhancement Review Policy and the Pay Item Review Policy, which include policy guidelines for assessing compensation included in the calculation of the member's final average salary to ensure that an element of pay was not paid to enhance a member's retirement benefit.

III. Definitions

Following are definitions of terms that are used throughout this OAP.

Compensation Earnable: See Section V.

Final Average Salary: One of the factors used to calculate a member's monthly retirement allowance. It is a measure of a member's level of earnings based on the member's average salary for a specified period of time (e.g. one-year of 12 consecutive months or three-years of 36 consecutive months). It includes base salary and may also include other pay items that the OCERS Board of Retirement has defined as Compensation Earnable or Pensionable Compensation.



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

Legacy member: Member hired before January 1, 2013.

Non-pensionable: Pay item is not included in Final Average Salary and not subject to pension contributions; no pension contributions are collected from the employee or employer.

Normal Working Hours: Hours that: (i) are required to be worked as part of the employee’s regular duties; (ii) are ordinarily worked during the period in question by all other members in same grade/class/rate of pay as the employee; and (iii) are not and cannot be served voluntarily by the employee. “Ordinarily worked” does not include time served on a temporary or emergency basis. Normal Working Hours will be established by the employer, but must meet OCERS and CERL requirements. OCERS will rely upon official County or District approved documentation establishing grades/classes/rates of pay.

Pay Item: Element of compensation.

Pensionable Compensation: See Section V.

Pensionable: Pay item is included in the Final Average Salary and subject to pension contributions; pension contributions are collected from the employee and employer.

PEPRA member: Member hired on or after January 1, 2013.

Publicly Available Pay Schedule: A document that:

- a) Has been duly approved and adopted by the employer’s governing body in accordance with requirements of applicable public meetings laws;
- b) Identifies the position title for every employee position;
- c) Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
- d) Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer’s internet website;
- e) Does not reference an unavailable document in lieu of disclosing pay rate.

IV. Limitations

This administrative procedure shall be construed consistently with the requirements of the California Government Code Sections 31460, 31461 and 31462 (Compensation Earnable), 7522.32 and 7522.34 (Pensionable Compensation), 31542, and the Ventura Decision, the Alameda Decision, and other interpretations issued thereunder.

V. Compensation Earnable and Pensionable Compensation

Compensation Earnable

Compensation Earnable applies to Legacy members.



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

ITEMS INCLUDED IN COMPENSATION EARNABLE

As set out in Resolution 98-001 and subdivisions (a) and (b) of Section 31461, and further clarified in OCERS' Compensation Earnable Policy, elements included in Compensation Earnable are remuneration that is (i) earned and receivable in cash (under the applicable MOU) by the retiring member, (ii) during the final compensation period (as defined by Sections 31462 and 31482.1 of the Government Code; hereafter Final Compensation Period), and (iii) for services performed during Normal Working Hours including but not limited to the following items of compensation, and others substantially similar to them:

- Base Salary and Wages
- Bilingual Premium Pay
- Educational Incentive ("POST") Pay
- Aircraft Rescue Firefighting
- Paramedic Pay
- Motorcycle Bonus
- Emergency Dispatch Pay
- Field Training Officer Bonus
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive
- Automobile Allowance, if paid in cash; and for members whose Final Compensation period includes time before January 1, 2001, also to the extent that the automobile was provided for personal use and declared as income
- Uniform Allowance
- Uniform Maintenance Allowance
- Payoffs of Vacation, Sick and Holiday leave to the extent (i) was earned in each 12-month period of the Final Compensation Period (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed out during each 12-month period of the Final Compensation Period (prorated on a monthly basis) under the applicable MOU regardless of when actually paid or cashed out
- Employee Contributions to Deferred Compensation Plan (already included in Base Salary and Wages, above)
- "Mandatory or Scheduled Overtime" (including pay items such as On-Call, and Standby) provided that the pay is for services rendered during the employee's Normal Working Hours.



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

- Compensatory Time (excluding "True Overtime" in excess of minimum required reserve)
- "Madera" Pay (see, *Madera Police Officers Association v. City Of Madera* 36 Cal.3d 403)
- Additional Compensation for Scheduled Meal Periods
- Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring before January 1, 1991

ITEMS EXCLUDED FROM COMPENSATION EARNABLE

As further set out in Resolution 98-001 and subdivisions (a) and (b) of Section 31461, and clarified in the Compensation Earnable Policy, remuneration or other value to the employee that (i) is neither earned nor payable in cash to the employee during the final compensation period; and (ii) is not for services rendered during the employee's Normal Working Hours will be excluded from Compensation Earnable, including but not limited to the following items, and others substantially similar to them:

- "True Overtime", including but not limited to On-Call, Standby and similar pay, for additional services rendered outside of Normal Working Hours, whether paid in a lump sum or otherwise.
- Employer Contributions for Deferred Compensation plan or to Retirement System
- Employer "pick up" of Employee Contributions to Retirement System
- Payoffs or cash outs of Vacation and Sick Leave and Holiday Pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, during each 12-month period of the Final Compensation Period, regardless of when actually cashed out.
- Flexible Benefits ("Cafeteria Plan") provided in-kind
- Flexible Benefits paid in cash to the extent paid to members retiring on or after January 1, 1991
- Terminal ("Final") Pay, unless included in Compensation Earnable under the section above
- Expense Reimbursements
- In-Kind Advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, Licenses, Memberships provided to member by employers
- Automobile Allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation periods **do not** include time before January 1, 2001.

Pensionable Compensation

Pensionable Compensation applies to PEPRA members.



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

ITEMS INCLUDED IN PENSIONABLE COMPENSATION

For PEPRAs members, Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same group or class of employment; (iv) for services rendered on a full-time basis; (v) during Normal Working Hours; pursuant to Publicly Available Pay Schedules; and (vi) subject to limitations set forth below.

Pensionable Compensation includes the following items of compensation:

Base Salary and Wages, (which includes any employee contributions to deferred compensation plans) and additional compensation for scheduled meal periods, plus the following skill-based or shift-based premium pay categories, and others substantially similar to them:

- Bilingual Pay
- Educational Pay
- Aircraft Rescue Firefighting Pay
- Paramedic Pay
- Motorcycle Pay
- Emergency Dispatch Pay
- Field Training Officer Pay
- Shift Differential Pay
- Confined Space Pay

ITEMS EXCLUDED FROM PENSIONABLE COMPENSATION

As described in OCERS Board Policy Pensionable Compensation, Pensionable Compensation does not include items explicitly excluded from Pensionable Compensation under Government Code Section 7522.34, including the following items and others substantially similar to them:

- Any item of compensation determined by the Board (i) to have been paid in order to increase a member's retirement benefit (pension spiking) or (ii) to be inconsistent with the requirements of the Pensionable Compensation Policy.
- Overtime other than as defined in Section 207(k) of the Title 29 of the United States Code
- Payments for additional services rendered outside of Normal Working Hours, whether paid in a lump sum or otherwise
- Employer Contribution to deferred compensation plan or retirement system
- Flexible benefits ("Cafeteria Plan") provided in-kind or paid in cash
- Automobile, uniform or other allowances



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

- Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
- Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, licenses, or memberships provided to or for a member by employer
- Any bonus paid in addition to the compensation defined as Pensionable Compensation above
- Any ad hoc or one-time pay of any sort including one-time longevity pay
- Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
- Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

VI. Process

As pay items are requested, each item must be evaluated by OCERS to determine whether it is Compensation Earnable and/or Pensionable Compensation. Employers are required to submit a request for a new pay item or changes to a pay item for OCERS review and approval in compliance with the Pay Item Request and Approval Procedures for Employers.

The following describes the process of analyzing and determining if a pay item is Compensation Earnable and/or Pensionable Compensation.

1. Upon receiving a pay item request, OCERS staff reviews and analyses the following:
 - a. Pay item description;
 - b. Relevant MOU/contract/side letter or other employer document that establishes the terms or requirements of the pay item;
 - c. Specific provision(s)/section(s) of the MOU/contract, and
 - d. Any other relevant policy or governing code.

Staff will ask the employer for clarification if the descriptions of the pay item or requirements are unclear.
2. OCERS staff reviews the information provided by the employer to determine:
 - a. What job classifications are eligible to receive the pay item
 - b. Whether all members in the same grade/class are eligible for the payment



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

- c. How the pay item is calculated – fixed amount or % of pay
 - d. Type of pay – allowance, reimbursement, bonus, cash-out, etc.
 - e. Frequency of payment – recurring, ad-hoc, one time
 - f. If payment is for work performed during Normal Working Hours
3. Then the following criteria and guidelines are applied to determine if the pay item qualifies for inclusion in Compensation Earnable and/or Pensionable Compensation:

For Legacy members, if the answer to questions 1-4 below is “Yes” and “NO” to questions 5 and 6, the pay item is Compensation Earnable. If the answers to questions 1-4 are “NO” and “Yes” to questions 5 and 6, the pay item is **not** Compensation Earnable.

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		Qualifier	YES	NO	N/A
1.	Compensation at same pay rate as persons in same grade/class	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	
2.	One-time or ad hoc payment paid to all similarly situated	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Leave/vacation payout earned & payable in 12-month period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Terminal pay earned & payable in 12-month period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Compensation previously paid in-kind & now in cash	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Payment for services rendered outside Normal Working Hours	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compensation Earnable?					

For PEPRAs members, Pensionable Compensation must meet the following qualifying criteria pursuant to Government Code Section 7522.34 If the answers are “YES” to questions 1-4 below, the pay item is determined Pensionable Compensation. If the answer is “NO” to questions 1-4 and/or “YES” to questions 5-10, the pay item is **not** Pensionable Compensation.

PENSIONABLE COMPENSATION CRITERIA – PER GC SECTION 7522.34(a)		Qualifier	YES	NO	N/A
1.	Normal rate of pay or base pay	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Payable to similarly situated	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

PENSIONABLE COMPENSATION CRITERIA – PER GC SECTION 7522.34(a)		<u>Qualifier</u>	<u>YES</u>	<u>NO</u>	<u>N/A</u>
3.	Earned for Normal Working Hours	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	In public pay schedule	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Allowance, reimbursement or previously paid in-kind	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Bonus, one-time or ad-hoc	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	Severance or terminal pay	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Overtime other than Section 207(k) time	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	Payment for any unused leave	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Employer contribution to deferred compensation	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pensionable Compensation?					

4. If the pay item is determined to be Compensation Earnable and/or Pensionable Compensation it will be entered into the pension system as pensionable.¹ OCERS will collect retirement contributions on the approved pay item and include it in retirement benefit calculations.

If the pay item is not Compensation Earnable or Pensionable Compensation, it will be entered into the pension system as non-pensionable. OCERS will not collect retirement contributions on the pay item and will not include it in retirement benefit calculation.

5. After completing its assessment, OCERS staff will notify the employer of its determination. The employer will implement the pay code for the new pay item with the approved pay item status.

¹ Exceptions may apply. For example, payoff of compensatory time for holidays, sick leave, vacation, and annual leave may be Compensation Earnable but is reported as non-pensionable for salary reporting purposes. The payoff amount may be considered at the time of retirement.



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

OCERS will add the approved pay item to the master list of approved pay codes. A listing of approved pay items may be found on the Employer Section page of the OCERS website.



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

Reference Guide to Compensation Earnable for Legacy Members and Pensionable Compensation for PEPRA Members

	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
Base Salary and Wages	Yes	Yes
Bilingual Premium Pay	Yes	Yes
Educational Incentive ("POST") Pay	Yes	Yes
Aircraft Rescue Firefighting	Yes	Yes
Paramedic Pay	Yes	Yes
Motorcycle Pay	Yes	Yes
Emergency Dispatch Pay	Yes	Yes
Field Training Officer Bonus	Yes	Yes
Shift Differential Pay	Yes	Yes
Confined Space Pay	Yes	Yes
Longevity Incentive – that is not one time or ad hoc	Yes	Yes
Employee Contributions to Deferred Compensation Plan	Yes	Yes
Overtime (i) that is required to be worked; and (ii) that is ordinarily worked by all in the same grade/class; and (iii) not voluntary (Normal Working Hours)	Yes	Only Yes, if Section 207k time
"Madera" Pay and additional compensation for scheduled meal periods	Yes	Yes
Automobile Allowance, if paid in cash; and, for members whose "final compensation" period (as defined under Sections 31462 and 31482.1 of the Government Code) includes time before January 1, 2001, also to the extent automobile was provided for personal use and declared as income	Yes	No
Uniform Allowance and Uniform Maintenance Allowance	Yes	No



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
Payoffs and cash outs of Vacation and Sick Leave and Holiday provided that the time (1) was earned (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed-out (pro-rated on a monthly basis) under the applicable MOU regardless of when actually paid or cashed-out	Yes	No
Compensatory Time (excluding "True-Overtime" in excess of minimum required reserve)	Yes	No
Any compensation determined by the Board to have been paid to increase a member's retirement benefit	No	No
True Overtime (amounts paid for working outside Normal Working Hours)	No	No
Payments for additional services rendered outside of Normal Working Hours, whether paid in a lump sum or otherwise	No	No
Employer contributions for deferred compensation plan or to retirement system	No	No
Employer "pick up" of employee contributions to retirement system	No	No
Payoffs of vacation and sick leave and holiday pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, regardless of when actually cashed out.	No	No
Flexible benefits ("Cafeteria Plan") provided in-kind	No	No
Flexible benefits paid in cash to the extent paid to members retiring on or after January 1, 1991	No	No
Terminal ("Final") pay in excess of what is earned in 12-month period	No	No
Expense reimbursements	No	No
In-kind advantages (e.g. food, lodging, board, laundry, fuel)	No	No
Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a	No	No



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment		
Fees, licenses, memberships provided to member by employers	No	No
Automobile allowance to the extent automobile is provided for personal use and not paid in cash, whether or not declared as income, for members whose "final compensation" periods (as defined under Sections 31462 and 31482.1 of the Government Code) do not include time before January 1, 2001.	No	No
Any ad hoc or one-time pay of any sort including one-time longevity pay	Yes - if payment made to all similarly situated members in the member's grade/class. No - if not paid to all similarly situated members in the member's grade/class.	No
Any bonus paid in addition to normal monthly rate of pay or base pay	Yes - if payment made to all similarly situated members in the member's grade/class.	No



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

I. Purpose

The purpose of this OAP is to describe the procedure for determining whether an element of pay is pensionable and can be included as Compensation Earnable and/or Pensionable Compensation for inclusion in the Final Average Salary that is used to calculate a member's pension benefit.

II. Authority

This OAP is established pursuant to OCERS Board Policies: Compensation Earnable Policy, Pensionable Compensation Policy, Retirement Enhancement Review Policy and Pay Item Review Policy.

OCERS Board Resolution 98-001 and OCERS Compensation Earnable Policy affirm the OCERS interpretation of the term Compensation Earnable as defined in California Government Code Section 31461.

The Public Employees' Pension Reform Act of 2012 (PEPRA) and AB 197 amended Section 31461 and created the term Pensionable Compensation for members hired on or after January 1, 2013. OCERS Pensionable Compensation Policy explains OCERS interpretation of the term Pensionable Compensation as defined in California Government Code Section 7522.34.

A number of lawsuits were filed shortly after PEPRA became effective. One of these lawsuits was appealed to the Supreme Court, and [on July 30, 2020](#) resulted in a decision of the Court upholding as constitutional AB 197 and PEPRA, including the amendments to Section ~~31461~~[31461](#). (*Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association* 9 Cal.5th 1032; the Alameda Decision.) The Board has amended this OAP to reflect the holding of the Court in the Alameda Decision.

California Government Code Section 31542 requires the OCERS Board to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. In keeping with this requirement, the Board adopted the Retirement Enhancement Review Policy and the Pay Item Review Policy, which include policy guidelines for assessing compensation included in the calculation of the member's final average salary to ensure that an element of pay was not paid to ~~spike-enhance~~ a member's retirement benefit.

III. Definitions

Following are definitions of terms that are used throughout this OAP.

Compensation Earnable: See Section V.

Final Average Salary: One of the factors used to calculate a member's monthly retirement allowance. It is a measure of a member's level of earnings based on the member's average salary for a specified period of time (e.g. one-year of 12 consecutive months or three-years of 36



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consecutive months). It includes base salary and may also include other pay items that the OCERS Board of Retirement has defined as Compensation Earnable or Pensionable Compensation.

Legacy member: Member hired before January 1, 2013.

Non-pensionable: Pay item is not included in Final Average Salary and not subject to pension contributions; no pension contributions are collected from the employee or employer.

Normal Working Hours: ~~Those hours an employee must work in order to be paid their base salary, plus overtime hours, including on-call or standby pay, only to the extent that the overtime hours including on-call or standby pay~~ Hours that: (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked during the period in question by all other members in same grade/class/rate of pay as the employee; and (iii) are not and cannot be served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis. Normal Working Hours will be established by the employer, but must meet OCERS and CERRL requirements. OCERS will rely upon official County or District approved documentation establishing grades/classes/rates of pay.

Pay Item: Element of compensation.

Pensionable Compensation: See Section V.

Pensionable: Pay item is included in the Final Average Salary and subject to pension contributions; pension contributions are collected from the employee and employer.

PEPRA member: Member hired on or after January 1, 2013.

Publicly Available Pay Schedule: A document that:

- a) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- b) Identifies the position title for every employee position;
- c) Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
- d) Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- e) Does not reference an unavailable document in lieu of disclosing pay rate.

IV. Limitations

This administrative procedure shall be construed consistently with the requirements of the California Government Code Sections 31460, 31461 and 31462 (Compensation Earnable), 7522.32 and 7522.34 (Pensionable Compensation), 31542, and the Ventura Decision, the Alameda Decision, and other interpretations issued thereunder.



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V. Compensation Earnable and Pensionable Compensation

Compensation Earnable

Compensation Earnable applies to Legacy members ~~who are existing members of OCERS as of January 1, 2013.~~

ITEMS INCLUDED IN COMPENSATION EARNABLE

As set out in Resolution 98-001 and subdivisions (a) and (b) of Section 31461, and further clarified in OCERS' Compensation Earnable Policy, elements included in Compensation Earnable are remuneration that is (i) earned and receivable in cash (under the applicable MOU) by the retiring member, (ii) during the final compensation period (as defined by Sections 31462 and 31482.1 of the Government Code; hereafter Final Compensation Period), and (iii) for services performed during Normal Working Hours including but not limited to the following items of compensation, and others substantially similar to them:

- Base Salary and Wages
- Bilingual Premium Pay
- Educational Incentive ("POST") Pay
- Aircraft Rescue Firefighting
- Paramedic Pay
- Motorcycle Bonus
- Emergency Dispatch Pay
- Field Training Officer Bonus
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive
- Automobile Allowance, if paid in cash; and for members whose Final Compensation period includes time before January 1, 2001, also to the extent that the automobile was provided for personal use and declared as income
- Uniform Allowance
- Uniform Maintenance Allowance
- Payoffs of Vacation, Sick and Holiday leave to the extent (i) was earned in ~~each of the~~ 12-month ~~period of the~~ Final Compensation Period ~~(s)~~ (pro-rated ~~on a~~ monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed ~~out~~ during ~~each of the~~ 12-



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month ~~period of the~~ Final Compensation ~~Period(s)~~ (prorated on a monthly basis) under the applicable MOU regardless of when actually paid or cashed out

- Employee Contributions to Deferred Compensation Plan (already included in Base Salary and Wages, above)
- "Mandatory or Scheduled Overtime" (including pay items such as On-Call, and Standby) provided that the pay is for services rendered during the employee's Normal Working Hours.
- Compensatory Time (excluding "True Overtime" in excess of minimum required reserve)
- "Madera" Pay (see, *Madera Police Officers Association v. City Of Madera* 36 Cal.3d 403)
- Additional Compensation for Scheduled Meal Periods
- Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring before January 1, 1991

ITEMS EXCLUDED FROM COMPENSATION EARNABLE

As further set out in Resolution 98-001 and subdivisions (a) and (b) of Section 31461, and clarified in the Compensation Earnable Policy, remuneration or other value to the employee that (i) is neither earned nor payable in cash to the employee during the final compensation period; and (ii) is not for services rendered during the employee's Normal Working Hours will be excluded from Compensation Earnable, including but not limited to the following items, and others substantially similar to them:

- "True Overtime", including but not limited to On-Call, Standby and similar pay, for additional services rendered outside of Normal Working ~~H~~hours, whether paid in a lump sum or otherwise.
- Employer Contributions for Deferred Compensation plan or to Retirement System
- Employer "pick up" of Employee Contributions to Retirement System
- Payoffs or cash outs of Vacation and Sick Leave and Holiday Pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, during ~~each of the~~ 12-month ~~period of the~~ Final Compensation Period~~(s)~~, regardless of when actually cashed out.
- Flexible Benefits ("Cafeteria Plan") provided in-kind
- Flexible Benefits paid in cash to the extent paid to members retiring on or after January 1, 1991
- Terminal ("Final") Pay, unless included in Compensation Earnable under the section above
- Expense Reimbursements
- In-Kind Advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, Licenses, Memberships provided to member by employers



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- Automobile Allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation periods **do not** include time before January 1, 2001.

Pensionable Compensation

Pensionable Compensation applies to PEPRAs members, ~~who are OCERS members hired on or after January 1, 2013.~~

ITEMS INCLUDED IN PENSIONABLE COMPENSATION

For PEPRAs members, Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same group or class of employment; (iv) for services rendered on a full-time basis; (v) during Normal Working Hours; pursuant to ~~P~~publicly ~~A~~available ~~P~~pay ~~S~~schedules; and (vi) subject to limitations set forth below.

Pensionable Compensation includes the following items of compensation:

Base Salary and Wages, (which includes any employee contributions to deferred compensation plans) and additional compensation for scheduled meal periods, plus the following skill-based or shift-based premium pay categories, and others substantially similar to them:

- Bilingual Pay
- Educational Pay
- Aircraft Rescue Firefighting Pay
- Paramedic Pay
- Motorcycle Pay
- Emergency Dispatch Pay
- Field Training Officer Pay
- Shift Differential Pay
- Confined Space Pay
- ~~Longevity Incentive Pay (other than one-time payments based on longevity)~~

Premium Pay will be included only if the assignment, certification or license:

- ~~Is part of a member's regularly assigned responsibilities,~~
- ~~Is an essential, normal or traditional function of the job,~~
- ~~Is part of the available to all other regular assignment of all other members in the same grade or class as part of their regular assignment, and,~~
- ~~Is not for work performed or received solely during the final average compensation period.~~



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ITEMS EXCLUDED FROM PENSIONABLE COMPENSATION

As described in OCERS Board Policy Pensionable Compensation, Pensionable Compensation does not include items explicitly excluded from Pensionable Compensation under Government Code Section 7522.34, including the following items and others substantially similar to them:

- Any item of compensation determined by the Board (i) to have been paid in order to increase a member's retirement benefit (pension spiking) or (ii) to be inconsistent with the requirements of the Pensionable Compensation Policy.
- Overtime other than as defined in Section 207(k) of the Title 29 of the United States Code
- Payments for additional services rendered outside of Normal Working Hours, whether paid in a lump sum or otherwise
- Employer Contribution to deferred compensation plan or retirement system
- Flexible benefits ("Cafeteria Plan") provided in-kind or paid in cash
- Automobile, uniform or other allowances
- Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
- Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, licenses, or memberships provided to or for a member by employer
- Any bonus paid in addition to the compensation defined as Pensionable Compensation above
- Any ad hoc or one-time pay of any sort including one-time longevity pay
- Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
- Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

VI. Process

As pay items are requested, each item must be evaluated by OCERS to determine whether it is Compensation Earnable and/or Pensionable Compensation. Employers are required to submit a request for a new pay item or changes to a pay item for OCERS review and approval in compliance with the Pay Item Request and Approval Procedures for Employers.



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

The following describes the process of analyzing and determining if a pay item is Compensation Earnable and/or Pensionable Compensation.

1. Upon receiving a pay item request, OCERS staff reviews and analyses the following:
 - a. Pay item description;
 - b. Relevant MOU/contract/side letter or other employer document that establishes the terms or requirements of the pay item;
 - c. Specific provision(s)/section(s) of the MOU/contract, and
 - d. Any other relevant policy or governing code.

Staff will ask the employer for clarification if the descriptions of the pay item or requirements are unclear.

2. OCERS staff reviews the information provided by the employer to determine:
 - a. What job classifications are eligible to receive the pay item
 - b. Whether ~~payment is provided to~~ all members in the same grade/class are eligible for the payment
 - c. How the pay item is calculated – fixed amount or % of pay
 - d. Type of pay – allowance, reimbursement, bonus, cash-out, etc.
 - e. Frequency of payment – recurring, ad-hoc, one time
 - f. If payment is for work performed during ~~N~~ormal Working ~~H~~ours

3. Then the following criteria and guidelines are applied to determine if the pay item qualifies for inclusion in Compensation Earnable and/or Pensionable Compensation:

For Legacy members, if the answer to questions 1-4 below is "Yes" and "NO" to questions 5 and 6, the pay item is Compensation Earnable. If the answers to questions 1-4 are "NO" and "Yes" to questions 5 and 6, the pay item is **not** Compensation Earnable.

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		Qualifier	YES	NO	N/A
1.	Compensation at same pay rate as persons in same grade/class	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	
2.	One-time or ad hoc payment paid to all similarly situated	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Leave/vacation payout earned & payable in 12-month period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Terminal pay earned & payable in 12-month period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



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COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		Qualifier	YES	NO	N/A
5.	Compensation previously paid in-kind & now in cash	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Payment for services rendered outside N ormal W orking H ours	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compensation Earnable?					

For PEPRAs members, Pensionable Compensation must meet the following qualifying criteria pursuant to Government Code Section 7522.34. If the answers are “YES” to questions 1-4 below, the pay item is determined Pensionable Compensation. If the answer is “NO” to questions 1-4 and/or “YES” to questions 5-10, the pay item is **not** Pensionable Compensation.

PENSIONABLE COMPENSATION CRITERIA – PER GC SECTION 7522.34(a)		Qualifier	YES	NO	N/A
1.	Normal rate of pay or base pay	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Payable to similarly situated	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Earned for N ormal W orking H ours	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	In public pay schedule	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Allowance, reimbursement or previously paid in-kind	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Bonus, one-time or ad-hoc	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	Severance or terminal pay	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Overtime other than Section 207(k) time	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	Payment for any unused leave	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Employer contribution to deferred compensation	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pensionable Compensation?					



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

4. If the pay item is determined to be Compensation Earnable and/or Pensionable Compensation it will be entered into the pension system as pensionable.¹ OCERS will collect retirement contributions on the approved pay item and include it in retirement benefit calculations.

If the pay item is not Compensation Earnable or Pensionable Compensation, it will be entered into the pension system as non-pensionable. OCERS will not collect retirement contributions on the pay item and will not include it in retirement benefit calculation.

5. After completing its assessment, OCERS staff will notify the employer of its determination. The employer will implement the pay code for the new pay item with the approved pay item status.

OCERS will add the approved pay item to the master list of approved pay codes. A listing of approved pay items may be found on the Employer Section page of the OCERS website.

¹ Exceptions may apply. For example, payoff of compensatory time for holidays, sick leave, vacation, and annual leave may be Compensation Earnable but is reported as non-pensionable for salary reporting purposes. The payoff amount may be considered at the time of retirement.



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Reference Guide to Compensation Earnable for Legacy Members and Pensionable Compensation for PEPRA Members

	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
Base Salary and Wages	Yes	Yes
Bilingual Premium Pay	Yes	Yes
Educational Incentive ("POST") Pay	Yes	Yes
Aircraft Rescue Firefighting	Yes	Yes
Paramedic Pay	Yes	Yes
Motorcycle Pay	Yes	Yes
Emergency Dispatch Pay	Yes	Yes
Field Training Officer Bonus	Yes	Yes
Shift Differential Pay	Yes	Yes
Confined Space Pay	Yes	Yes
Longevity Incentive <u>– that is not one time or ad hoc</u>	Yes	Yes
Employee Contributions to Deferred Compensation Plan	Yes	Yes
Overtime (i) that is required to be worked; and (ii) that is ordinarily worked by all in the same grade/class; and (iii) not voluntary (Normal Working Hours)	Yes	Only Yes, if Section 207k time
"Madera" Pay and additional compensation for scheduled meal periods	Yes	Yes
Automobile Allowance, if paid in cash; and, for members whose "final compensation" period (as defined under Sections 31462 and 31482.1 of the Government Code) includes time before January 1, 2001, also to the extent automobile was provided for personal use and declared as income	Yes	No
Uniform Allowance and Uniform Maintenance Allowance	Yes	No



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	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
Payoffs and cash outs of Vacation and Sick Leave and Holiday provided that the time (1) was earned (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed-out (pro-rated on a monthly basis) under the applicable MOU regardless of when actually paid or cashed-out	Yes	No
Compensatory Time (excluding "True-Overtime" in excess of minimum required reserve)	Yes	No
Any compensation determined by the Board to have been paid to increase a member's retirement benefit	No	No
True Overtime (amounts paid for working outside N ormal W orking H ours)	No	No
Payments for additional services rendered outside of N ormal W orking H ours, whether paid in a lump sum or otherwise	No	No
Employer contributions for deferred compensation plan or to retirement system	No	No
Employer "pick up" of employee contributions to retirement system	No	No
Payoffs of vacation and sick leave and holiday pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, regardless of when actually cashed out.	No	No
Flexible benefits ("Cafeteria Plan") provided in-kind	No	No
Flexible benefits paid in cash to the extent paid to members retiring on or after January 1, 1991	No	No
Terminal ("Final") pay in excess of what is earned in 12-month period	No	No
Expense reimbursements	No	No
In-kind advantages (e.g. food, lodging, board, laundry, fuel)	No	No
Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a	No	No



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	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment		
Fees, licenses, memberships provided to member by employers	No	No
Automobile allowance to the extent automobile is provided for personal use and not paid in cash, whether or not declared as income, for members whose "final compensation" periods (as defined under Sections 31462 and 31482.1 of the Government Code) do not include time before January 1, 2001.	No	No
Any ad hoc or one-time pay of any sort including one-time longevity pay	Yes - if payment made to all similarly situated members in the member's grade/class. No - if not paid to all similarly situated members in the member's grade/class.	No
Any bonus paid in addition to normal monthly rate of pay or base pay	Yes - if payment made to all similarly situated members in the member's grade/class.	No



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

I. Purpose

This OAP describes the procedure for calculating the Final Average Salary (FAS) of a retiring member when calculating the member’s monthly retirement allowance.

II. Authority

This OAP is in accordance with OCERS Board Retirement Enhancement Review Policy Compensation Review Policy, pursuant to California Government Code (GC) Section 31542 and in compliance with GC Sections 7522.32, 7522.34, 31460, 31461, 31462, and related applicable sections.

III. Final Average Salary Components

Final Average Salary (FAS) is one of the four factors used to calculate a member’s monthly retirement allowance; it includes a member’s base salary and may also include other pay items that the OCERS Board of Retirement (Board) has defined as Compensation Earnable or Pensionable Compensation.



COMPENSATION EARNABLE

Compensation Earnable means (i) remuneration earned and receivable in cash (under the applicable MOU) by the retiring employee, (ii) during the final compensation period, and (iii) for working the ordinary time required of all other employees in the same grade/class. Compensation Earnable is applicable to existing members as of January 1, 2013, referred to as Legacy members.

PENSIONABLE COMPENSATION

Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same grade or class of employment; (iv) for services rendered on a full-time basis; (v) during Normal Working Hours (as defined in the Pensionable Compensation Policy); (vi) pursuant to Publicly Available Pay Schedules (as defined in the Pensionable Compensation Policy); and (vii) subject to limitations. Pensionable Compensation is applicable to all OCERS members enrolled on or after January 1, 2013, referred to as PEPRAs members.

EARNABLE SALARY

FAS is based on a member’s earnable salary, which represents the total base salary that could have been earned during a bi-weekly pay period. Earnable salary is calculated by multiplying the member’s hourly rate by the total number of hours a member could have worked within a reported pay period.

GROSS SALARY

A member’s gross salary represents the total payment made to a member within a reported bi-weekly pay period. Gross salary records are used by OCERS when calculating an eligible part-time member’s FAS at retirement.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

IV. Limitations

This administrative procedure will be construed consistently with the requirements of the California Government Code Sections 31460, 31461, and 31462 (Compensation Earnable), 7522.32 and 7522.34 (Pensionable Compensation), 31542, the decisions of the California Supreme Court in *Ventura County Deputy Sheriffs' Assn. v. Alameda County Employees' Retirement Assn.* (2020) 9 Cal.5th 1032 and other interpretations issued thereunder.

V. Process

The following describes the Final Average Salary calculation process.

1. Plan Verification

The first step in calculating FAS is to identify the member's plan membership and benefit plan formula.

- **Legacy**
 - **Plan Members**
 - a. Active member of OCERS prior to January 1, 2013; or
 - b. An individual who was a deferred member of OCERS prior to January 1, 2013, and who returns to the same employer; or
 - c. An individual who was a deferred member of a reciprocal retirement system with service under that system prior to January 1, 2013 who became an active member of OCERS within six months of deferring membership in the reciprocal system.
 - d. Deferred Legacy members (who do not return) as either PEPPRA or Legacy (depending on what they were when they deferred)
 - **Plans**
 - Plan A B C, D, E, F, G, H, I, J, M, N, O, P, Q, R and S
- **PEPPRA**
 - **Plan Members** – Member enrolled in OCERS on or after January 1, 2013
 - **Plans**
 - Plan T, U, V, and W

2. Measuring Period

Then the measuring period – one-year or three-years (12 or 36 consecutive months)- is identified based on the member's plan and entry date. Members who entered OCERS prior to September 21, 1979 have a one-year measuring period; all others have a three-year measuring period.

- **One-year (12-months):** Plan A, C, E, G, I, M, O and Q
- **Three-years (36-months):** Plan B, D, F, H, J, N, P, R, S, T, U, V and W



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

3. Compensation Review

1. Based on the selected retirement date, the highest average salary earned within a consecutive 12-month or 36-month period, whichever applies based on the member's plan and entry date, is identified.
2. OCERS staff then examines the member's earnable salary records for the highest 12 or 36 consecutive months provided by the employer to determine the member's base pay and whether there are any additional pay items that qualify for inclusion in Compensation Earnable or Pensionable Compensation.

A) ITEMS INCLUDED IN COMPENSATION EARNABLE – LEGACY MEMBERS

For Legacy members, OCERS will determine whether the member has any additional premium pay or cash out items that may be included in Compensation Earnable.

TYPES OF PAY ITEMS INCLUDED

The following pay items are included, in addition to a member's hourly base wages:

- Premium pay (e.g. shift differential, bilingual premium pay, etc.)
- Allowances (e.g. automobile, if paid in cash or used for personal use, uniform, or uniform maintenance, etc.)
- Overtime, including on-call/standby pay but only if it is: (i) required to be worked as part of the employee's Normal Work Hours (defined below); (ii) ordinarily worked during the period in question as part of the regular assignments of all other members in same grade/class as the employee; and (iii) not served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.

TYPES OF CASH OUT ITEMS INCLUDED

Cash out items, often referring to Paid Time Off (PTO) hours, up to the maximum amount earned and cashable during a 12-month period, for each year of the measuring period:

- **Annual Leave/Vacation** – amount earned, not taken as time off and permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when actually cashed out. (e.g. employees are typically able to cash out 40, 60, or 80 hours of vacation or annual leave in a 12-month period.)
- **Sick Leave** – time that (i) was earned; (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when actually paid or cashed out.
- **Compensatory Time for Holidays** - for holidays worked or for holidays that fall on a member's regularly scheduled day off, (i) the amount earned; (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the



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measuring period under the member’s applicable MOU, regardless of when actually paid or cashed out.

For Legacy members, if members have a measuring period that spans multiple fiscal years, OCERS will only include in Compensation Earnable the amount earned and could have been cashed out during each 12-month period of the measuring period.

B) ITEMS INCLUDED IN PENSIONABLE COMPENSATION – PEPRA MEMBERS

For PEPRA members, OCERS will determine the normal monthly rate of pay and any pensionable items that meet the following criteria for Pensionable Compensation:

- Pay is the normal monthly rate of pay or base pay
- Pay is paid in cash
- Paid to similarly situated members of the same group or class of employment
- Pay is for services rendered on a full-time basis during Normal Working Hours (defined below)
- Pay is paid pursuant to publicly available schedules

PAY ITEMS INCLUDED

- Base Salary and Wages (which includes employee contributions to deferred compensation plans), and including additional compensation for scheduled meal periods, plus skill-based or shift-based premium pay categories as defined in the Pensionable Compensation Policy.

NORMAL WORKING HOURS ARE HOURS THAT (I) ARE REQUIRED TO BE WORKED AS PART OF THE EMPLOYEE’S REGULAR DUTIES; (II) ARE ORDINARILY WORKED DURING THE PERIOD IN QUESTION BY ALL OTHER MEMBERS IN THE SAME GRADE/CLASS/RATE OF PAY AS THE EMPLOYEE; AND (III) ARE NOT AND CANNOT BE VOLUNTARILY WORKED BY THE EMPLOYEE. “ORDINARILY WORKED” DOES NOT INCLUDE TIME SERVED ON A TEMPORARY OR EMERGENCY BASIS.

C) ITEMS EXCLUDED FROM COMPENSATION EARNABLE AND PENSIONABLE COMPENSATION

In accordance with Resolution 98-001 and GC Section 7522.34, the following are excluded from Compensation Earnable for Legacy members and Pensionable Compensation for PEPRA members including, but not limited to the following items, and others substantially similar to them.



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Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRA Members
Any compensation determined by the Board to have been paid to increase a member's retirement benefit or is inconsistent with the requirements of OCERS Board Policies Compensation Earnable and Pensionable Compensation.	
True overtime (not qualifying in 3. 2. A), above)	Overtime other than as defined in Section 207(k) of Title 29 of the United States Code
Payments for additional services rendered outside of Normal Working Hours, whether paid in a lump sum or otherwise.	
Payoffs or cash outs of vacation and sick leave and holiday pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, regardless of when actually paid or cashed out	Payments for unused vacation, annual, leave, personal leave, sick leave or compensatory time off, however denominated, whether paid in lump sum or otherwise, regardless of when reported or paid.
Flexible benefits ("Cafeteria Plan") provided in kind and Flexible Benefits paid in cash	
Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)	
Fees, licences, memberships provide to member by employer	
Automobile allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation Periods (as defined in Section 9(a) of the Compensation Earnable Policy) do not include time before January 1, 2001.	Automobile, uniform, or other allowances
Terminal "Final" pay, to the extent not included in Cash Out items	Severance or other termination pay that is received while employed
	Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRA Members
	the form of a cash payment in the final average salary period.
	Any ad hoc or one-time pay of any sort

3. OCERS staff reviews each pay period that contains a pay item to determine whether the pay item is included in the approved list of pay items and is reported as pensionable. Staff then confirms that the member is eligible to receive the pay item by verifying the member’s job classification, bargaining unit and MOU that was applicable during the measuring period. Staff also validates that the pay item was reported and paid correctly according to the applicable MOU.

4. For Legacy members, to determine whether a cash out item should be included in Compensation Earnable, OCERS reviews all payroll records from the employer and any relevant documents the member may have. Then, using the MOU that was applicable during the measuring period, OCERS confirms that the item was earned, not taken as time off and cashable during a 12-month period for each year of the measuring period. Members cannot receive credit for time that was used for time off.

If payment for compensatory time for holidays has not been reported as a cash out item by the employer, the member may be required to provide supporting documentation, including pay stubs and timesheets to show that the holiday hours accrued were not used as time off and that the member either received payment for the holiday hours, or could have received payment for those hours within 12-months of the measuring period.

No cash out items are included in Pensionable Compensation for PEPRA members.

5. OCERS will research any item of compensation that may look inconsistent or appear to have been paid to spike a member’s retirement benefit.
6. OCERS may request additional documentation from the employer or member to verify what has been provided and reported.
7. If OCERS staff determines that one or more items of compensation were paid to inappropriately enhance a member’s retirement benefit, OCERS staff will send written notification to the member and the employer of its determination.
8. OCERS may conduct written or oral follow-up communication with the member and/or employer as appropriate in the exercise of reasonable diligence. Staff will document any such communications and when concluded, will issue a final notice of determination.
9. Once all pay items and applicable cash out items have been validated, staff adds each pay item and/or applicable cash out item to the base salary to compute the total Compensation Earnable or Pensionable Compensation.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

4. FAS Calculation

After completing the compensation review, OCERS calculates the Final Average Salary.

- For **Legacy members in Tier 1**, FAS is calculated by taking the sum of the member’s highest consecutive 12-months of Compensation Earnable and dividing it by 12.
- For **Legacy members in Tier 2**, FAS is calculated by taking the sum of the member’s highest 36-months of Compensation Earnable and dividing it by 36.
- For **PEPRA members**, FAS is calculated by taking the sum of the member’s highest 36-months of Pensionable Compensation and dividing it by 36.

FAS is limited to applicable IRS 401(a)17 and Social Security limits.

The FAS is then applied to the calculation of the member’s monthly retirement allowance.

Part-Time or Full-Time Members with Less than One (1) Year (Tier 1) or Three (3) Years (Tier 2) of Service

If a member is a part-time employee or a full-time employee with less than 1 year of service (Tier 1) or 3 years of service (Tier 2), then the FAS is calculated using the member’s Gross Salary. The member’s sum of Gross Salary is divided by the number of months of service credited in OCERS and multiplied by 12.

Part-Time Members with Equivalent of Three (3) Years of Full-Time Service

For part-time members, FAS is calculated by using the member’s Gross Salary over 6272 hours and dividing it by 36.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

I. Purpose

This OAP describes the procedure for calculating the Final Average Salary (FAS) of a retiring member when calculating the member’s monthly retirement allowance.

II. Authority

This OAP is in accordance with OCERS Board Retirement Enhancement Review Policy Compensation Review Policy, pursuant to California Government Code (GC) Section 31542 and in compliance with GC Sections 7522.32, 7522.34, 31460, 31461, 31462, and related applicable sections.

III. Final Average Salary Components

Final Average Salary (FAS) is one of the four factors used to calculate a member’s monthly retirement allowance; it includes a member’s base salary and may also include other pay items that the OCERS Board of Retirement (Board) has defined as Compensation Earnable or Pensionable Compensation.



COMPENSATION EARNABLE

Compensation Earnable means (i) remuneration earned and receivable in cash (under the applicable MOU) by the retiring employee, (ii) during the final compensation period, and (iii) for working the ordinary time required of all other employees in the same grade/class. Compensation Earnable is applicable to existing members as of January 1, 2013, referred to as Legacy members.

PENSIONABLE COMPENSATION

Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same grade or class of employment; (iv) for services rendered on a full-time basis; (v) during Normal Working Hours (as defined in the Pensionable Compensation Policy); (vi) pursuant to Publicly Available Pay Schedules (as defined in the Pensionable Compensation Policy); and (vii) subject to limitations. Pensionable Compensation is applicable to all OCERS members enrolled on or after January 1, 2013, referred to as PEPRAs members.

EARNABLE SALARY

FAS is based on a member’s earnable salary, which represents the total base salary that could have been earned during a bi-weekly pay period. Earnable salary is calculated by multiplying the member’s hourly rate by the total number of hours a member could have worked within a reported pay period.

GROSS SALARY

A member’s gross salary represents the total payment made to a member within a reported bi-weekly pay period. Gross salary records are used by OCERS when calculating an eligible part-time member’s FAS at retirement.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

IV. Limitations

This administrative procedure ~~will shall~~ be construed consistently with the requirements of the California Government Code Sections 31460, 31461, and 31462 (Compensation Earnable), 7522.32 and 7522.34 (Pensionable Compensation), 31542, ~~and the~~ [decisions of the California Supreme Court in *Ventura County Deputy Sheriffs' Assn. v. Alameda County Employees' Retirement Assn.* \(2020\) 9 Cal.5th 1032-Decision, the Alameda Decision](#), and other interpretations issued thereunder.

V. Process

The following describes the Final Average Salary calculation process.

1. Plan Verification

The first step in calculating FAS is to identify the member's plan membership and benefit plan formula.

- **Legacy**
 - **Plan Members**
 - a. Active member of OCERS prior to January 1, 2013; or
 - b. An individual who was deferred member of OCERS prior to January 1, 2013, and who returns to the same employer; or
 - c. An individual who was a deferred member of a reciprocal retirement system with service under that system prior to January 1, 2013 who became an active member of OCERS within six months of deferring membership in the reciprocal system.
 - d. Deferred Legacy members (who do not return) as either PEPRAs or Legacy (depending on what they were when they deferred)
 - **Plans**
 - Plan A B C, D, E, F, G, H, I, J, M, N, O, P, Q, R and S
- **PEPRA**
 - **Plan Members** – Member enrolled in OCERS on or after January 1, 2013
 - **Plans**
 - Plan T, U, V, and W

2. Measuring Period

Then the measuring period – one-year or three-years (12 or 36 consecutive months)- is identified based on the member's plan and entry date. Members who entered OCERS prior to September 21, 1979 have a one-year measuring period; all others have a three-year measuring period.

- **One-year (12-months):** Plan A, C, E, G, I, M, O and Q
- **Three-years (36-months):** Plan B, D, F, H, J, N, P, R, S, T, U, V and W



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

3. Compensation Review

1. Based on the selected retirement date, the highest average salary earned within a consecutive 12-month or 36-month period, whichever applies based on the member's plan and entry date, is identified.
2. OCERS staff then examines the member's earnable salary records for the highest 12 or 36 consecutive months provided by the employer to determine the member's base pay and whether there are any additional pay items that qualify for inclusion in Compensation Earnable or Pensionable Compensation.

A) ITEMS INCLUDED IN COMPENSATION EARNABLE – LEGACY MEMBERS

For Legacy members, OCERS will determine whether the member has any additional premium pay or cash out items that may be included in Compensation Earnable.

TYPES OF PAY ITEMS INCLUDED

The following pay items are included, in addition to a member's hourly base wages:

- Premium pay (e.g. shift differential, bilingual premium pay, etc.)
- Allowances (e.g. automobile, if paid in cash or used for personal use, uniform, or uniform maintenance, etc.)
- Overtime, including on-call/standby pay but only if it is: (i) required to be worked as part of the employee's ~~regular duties~~Normal Work Hours (defined below); (ii) ordinarily worked during the period in question as part of the regular assignments of all other members in same grade/class as the employee; and (iii) not served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.

TYPES OF CASH OUT ITEMS INCLUDED

Cash out items, often referring to Paid Time Off (PTO) hours, up to the maximum amount earned and cashable during a 12-month period, for each year of the measuring period:

- **Annual Leave/Vacation** – amount earned, not taken as time off and permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when actually cashed out. (e.g. ~~e~~Employees are typically able to cash out 40, 60, or 80 hours of vacation or annual leave in a 12-month period.)
- **Sick Leave** – time that (i) was earned; (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when actually paid or cashed out.
- **Compensatory Time for Holidays** - for holidays worked or for holidays that fall on a member's regularly scheduled day off, (i) the amount earned; (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

measuring period under the member’s applicable MOU, regardless of when actually paid or cashed out.

For Legacy members, if members have a measuring period that spans multiple fiscal years, OCERS will only include in Compensation Earnable the amount earned and could have been cashed out during each 12-month period of the measuring period.

B) ITEMS INCLUDED IN PENSIONABLE COMPENSATION – PEPRA MEMBERS

For PEPRA members, OCERS will determine the normal monthly rate of pay and any pensionable items that meet the following criteria for Pensionable Compensation:

- Pay is the normal monthly rate of pay or base pay
- Pay is paid in cash
- Paid to similarly situated members of the same group or class of employment
- Pay is for services rendered on a full-time basis during ~~N~~normal ~~W~~working ~~H~~hours [\(defined below\)](#)
- Pay is paid pursuant to publicly available schedules

PAY ITEMS INCLUDED

- Base Salary and Wages (which includes employee contributions to deferred compensation plans), and including additional compensation for scheduled meal periods, plus skill-based or shift-based premium pay categories as defined in the Pensionable Compensation Policy.

NORMAL WORKING HOURS ARE HOURS THAT (I) ARE REQUIRED TO BE WORKED AS PART OF THE EMPLOYEE’S REGULAR DUTIES; (II) ARE ORDINARILY WORKED DURING THE PERIOD IN QUESTION BY ALL OTHER MEMBERS IN THE SAME GRADE/CLASS/RATE OF PAY AS THE EMPLOYEE; AND (III) ARE NOT AND CANNOT BE VOLUNTARILY WORKED BY THE EMPLOYEE. “ORDINARILY WORKED” DOES NOT INCLUDE TIME SERVED ON A TEMPORARY OR EMERGENCY BASIS.

C) ITEMS EXCLUDED FROM COMPENSATION EARNABLE AND PENSIONABLE COMPENSATION

In accordance with Resolution 98-001 and GC Section 7522.34, the following are excluded from Compensation Earnable for Legacy members and Pensionable Compensation for PEPRA members including, but not limited to the following items, and others substantially similar to them.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRA Members
Any compensation determined by the Board to have been paid to <u>spike-increase</u> a member's retirement benefit or is inconsistent with the requirements of OCERS Board Policies Compensation Earnable and Pensionable Compensation.	
True overtime (not qualifying in <u>3.2.A</u> [A] , above)	Overtime other than as defined in Section 207(k) of Title 29 of the United States Code
Payments for additional services rendered outside of <u>N</u> ormal <u>W</u> orking <u>H</u> ours, whether paid in a lump sum or otherwise.	
Payoffs or cash outs of vacation and sick leave and holiday pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, regardless of when actually paid or cashed out	Payments for unused vacation, annual, leave, personal leave, sick leave or compensatory time off, however denominated, whether paid in lump sum or otherwise, regardless of when reported or paid.
Flexible benefits ("Cafeteria Plan") provided in kind and Flexible Benefits paid in cash	
Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)	
Fees, licences, memberships provide to member by employer	
Automobile allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation Periods (as defined in Section 9(a) of the Compensation Earnable Policy) do not include time before January 1, 2001.	Automobile, uniform, or other allowances
Terminal "Final" pay, to the extent not included in Cash Out items	Severance or other termination pay that is received while employed
	Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in



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	the form of a cash payment in the final average salary period.
	Any ad hoc or one-time pay of any sort

3. OCERS staff reviews each pay period that contains a pay item to determine whether the pay item is included in the approved list of pay items and is reported as pensionable. Staff then confirms that the member is eligible to receive the pay item by verifying the member’s job classification, bargaining unit and MOU that was applicable during the measuring period. Staff also validates that the pay item was reported and paid correctly according to the applicable MOU.

4. For Legacy members, to determine whether a cash out item should be included in Compensation Earnable, OCERS reviews all payroll records from the employer and any relevant documents the member may have. Then, using the MOU that was applicable during the measuring period, OCERS confirms that the item was earned, not taken as time off and cashable during a 12-month period for each year of the measuring period. Members cannot receive credit for time that was used for time off.

If payment for compensatory time for holidays has not been reported as a cash out item by the employer, the member may be required to provide supporting documentation, including pay stubs and timesheets to show that the holiday hours accrued were not used as time off and that the member either received payment for the holiday hours, or could have received payment for those hours within 12-months of the measuring period.

No cash out items are included in Pensionable Compensation for PEPRA members.

5. OCERS will research any item of compensation that may look inconsistent or appear to have been paid to spike a member’s retirement benefit.
6. OCERS may request additional documentation from the employer or member to verify what has been provided and reported.
7. If OCERS staff determines that one or more items of compensation were paid to inappropriately enhance a member’s retirement benefit, OCERS staff will send written notification to the member and the employer of its determination.
8. OCERS may conduct written or oral follow-up communication with the member and/or employer as appropriate in the exercise of reasonable diligence. Staff will document any such communications and when concluded, will issue a final notice of determination.
9. Once all pay items and applicable cash out items have been validated, staff adds each pay item and/or applicable cash out item to the base salary to compute the total Compensation Earnable or Pensionable Compensation.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

4. FAS Calculation

After completing the compensation review, OCERS calculates the Final Average Salary.

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- For **PEPRA members**, FAS is calculated by taking the sum of the member’s highest 36-months of Pensionable Compensation and dividing it by 36.

FAS is limited to applicable IRS 401(a)17 and Social Security limits.

The FAS is then applied to the calculation of the member’s monthly retirement allowance.

Part-Time or Full-Time Members with Less than One (1) Year (Tier 1) or Three (3) Years (Tier 2) of Service

If a member is a part-time employee or a full-time employee with less than 1 year of service (Tier 1) or 3 years of service (Tier 2), then the FAS is calculated using the member’s Gross Salary. The member’s sum of Gross Salary is divided by the number of months of service credited in OCERS and multiplied by 12.

Part-Time Members with Equivalent of Three (3) Years of Full-Time Service

For part-time members, FAS is calculated by using the member’s Gross Salary over 6272 hours and dividing it by 36.

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April 26, 2021

VIA EMAIL ONLY
sdelaney@ocers.org

Steve J. Delaney, Chief Executive Officer
Orange County Employees Retirement System
2223 E. Wellington Avenue, Suite 100
Santa Ana, California 92701

Re: Proposed OCERS Action in Response to Alameda County Deputy Sheriff's Assn. v. Alameda County Employees' Retirement Association

Dear Mr. Delaney:

First, on behalf of the Orange County Attorneys Association (OCAA or Association), I wish to thank you, Ms. Jenike and your counsel for meeting with OCAA on April 6, 2021. I would also like to thank you, on behalf of OCAA, for sharing an advance copy of the staff report on proposed OCERS action in response to the decision in Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association (2020) 9 Cal.5th 1032 (Alameda).

Second, as indicated in the letter to the OCERS Board from District Attorney Todd Spitzer dated April 8, 2021, attorneys do not have regular working hours. Consequently, any policy decision by OCERS based on the inaccurate premise that Attorneys Unit employees have such regular working hours is factually unsustainable. In this regard, As District Attorney Spitzer stated about the attorneys in his Office (but which is equally true of other attorneys in OCAA's Attorneys Unit), it is expected that "attorneys . . . will work far in excess of 40 hours in any given week in order to accomplish the tasks they have been assigned and that as a result they will work at night and on weekends as part of meeting the work requirements of their assignment."

Given this, OCAA strongly disagrees with the exclusion of Attorney Special Duty Pay (other than parole hearing preparation) from pensionable compensation in purported reliance on such work being outside regular working hours. This exclusion not only is factually incorrect, but it runs afoul of attorneys' status as exempt employees who, under their MOU, do not have regular working hours. Moreover, as illustrated in the detailed description of parole hearing duty

Steve J. Delaney, Executive Director
April 26, 2021
Page 2

in District Attorney Spitzer's letter, OCERS attempt to delimit pensionable compensation to preparation for parole hearings is underinclusive and is built on a faulty factual predicate inasmuch as the entire parole hearing assignment is but a single assignment paid in what is effectively a lump sum, which--while calculated based on a fraction of a fixed number of hours--is paid without regard to the amount of time expended. Further, it is clear that the portion of the payment nominally attributable to the travel time is—like the preparation time—payment for tasks that ordinarily take place during hours when courtrooms are open and which would customarily be considered regular business hours for any County office or agency.

Third, OCAA wishes to call to your attention and that of your counsel that OCERS' conclusion that warrant duty-related Attorney Special Duty Pay is analogous to "on call" pay is directly contrary to the conclusion of the Santa Barbara County Employees' Retirement System reflected in the attached SBCERS Stand-By Duty Fact Finding Report ("Santa Barbara Report"), at pages 25 and 28, that such pay is pensionable compensation based on the fact that attorneys are exempt salaried employees and the payments for being assigned service requests taking place during certain hours each week were a lump sum. These are precisely the same facts which undergird Attorney Special Duty Pay for warrant duty-related assignments in the Offices of the District Attorney, Public Defender and County Counsel and are largely, if not entirely the same, as the facts related to parole hearing pay. The fact that the Santa Barbara Report reaches a directly contrary conclusion based on effectively the same facts should cause OCERS to reconsider its assertion that it is compelled to treat such special duty pay as non-pensionable and non-compensable.

The Association trusts that, upon consideration of the information in this letter, OCERS staff will reconsider its recommendations.

Very truly yours,



Laurence S. Zakson
of REICH, ADELL & CVITAN

LSZ:caw
cc: Mena Guirguis, President, OCAA

405912.2

SANTA BARBARA COUNTY EMPLOYEES' RETIREMENT SYSTEM

Stand-by Duty Fact Finding Report

November 10, 2020

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 Recommendation 3: Remove the earning code STC from the schedule of earnings codes included in compensation earnable and refund contributions made on such pay subsequent to December 31, 2012. 28

 Recommendation 4: Affirm the inclusion of the earnings codes DAP, DEP and SPA in compensation earnable. 28

 Recommendation 5: Consider implementation of procedures for evaluation of corrections. 28

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Executive Summary

Review Background and Procedures

This report was prepared in response to the California Supreme Court Ruling in Alameda County Deputy Sheriffs' Assoc. v. Alameda County Employees' Retirement Association (the Alameda Decision). The Alameda Decision, among other things, clarified the responsibility of the Board of Retirement to broadly construe the provisions of PEPR that seek to control pension enhancement. The facts of the Alameda case specifically dealt with the inclusion of irregularly and voluntarily performed stand-by duty in compensation earnable.

Based on a review performed in 2012, SBCERS Board of Retirement has held that stand-by duty is part of the normal working hours of membership and therefore stand-by pay should be included in compensation earnable for legacy members. In response to the Alameda Decision, staff prepared this report in order to provide a current review of stand-by duty in the context of normal working hours and evaluate individual member use in comparison with class averages. The report was the result of interviews with 11 County of Santa Barbara operating departments, interviews with affected members and analysis of thousands of time card entries made by SBCERS members. In making this report, we sought to gather information that would demonstrate:

1. Whether stand-by duty is part of the normal working hours of SBCERS membership.
2. Whether inclusion of stand-by pay in compensation earnable was resulting in members receiving pensions greater than the average of similarly situated members.

Analysis Criteria for Compensation Earnable

For the purposes of this report we established criteria for both normal working hours and similarly situated members. For normal working hours we adopted the criteria that stand-by duty needed to be mandatory and uniformly distributed across the classification. In this report, we describe the factors that demonstrate normal working hours. These factors included regular scheduling and performance of the member's regular job for which the member earns their base pay. We also concluded that in order for the stand-by duty to be part of the member's regular schedule it could not be the result of assuming another member's scheduled work time or be the result of an ad hoc or incident related need. In order to determine the average compensation earnable for similarly situated members, we utilized the County's existing job classification system.

Analysis of Santa Barbara County Stand-by Duty

The County uses several earnings codes to account for duty performed by members on an hourly basis. In addition to hourly stand-by duty, the County also has stand-by per call pay and special duty pay types that are paid in lump sum each bi-weekly pay period regardless of utilization. Total compensation paid to members working stand-by averaged \$22,785 per pay period. On average, the County utilized 93 legacy members to work approximately 5,821 hours of stand-by duty per pay period. This is an average of 63 Hours of stand-by duty per affected employee. This utilization is the equivalent of an additional 72 full time equivalent employees on an hours performed basis.

The County has members in more than 114 job classifications that work stand-by duty. The functions most reliant on stand-by to cover operational responsibility are located within public safety, welfare and

protective services and those who support critical infrastructure. Eleven departments account for almost all of the stand –by duty performed by legacy plan members.

Analysis of Normal Working Hours

Most operational managers took the position that stand-by duty was ultimately mandatory; however, many had also adopted informal policies of convenience. We also found several instances of stand-by that was driven by the member’s job assignment or job location. However, in the instances where stand-by duty was truly mandatory and job specific, we often were unable to demonstrate that similarly situated members of the same grade or class (job classification) all performed the assigned duty. This is due to the fact that the specialized assignments were performed by members in large job classifications. In this way, we were unable to determine that such stand-by duty was uniform across the broad classification.

In our department interviews, we found multiple examples of job classifications in the County that met all of our criteria for normal working hours. In all circumstances, these were small job classifications, with the class description closely matched to the member’s job assignment and where each member performed a very consistent function within the class. The conclusion from departmental interviews was supported by data analysis.

Analysis of Stand-by Duty Utilization

To perform our analysis of stand-by duty we measured utilization across two different dimensions for each pay period. First, we evaluated how frequently members performed stand-by duty. Second, we measured the volume of stand-by duty performed within each instance. Using these two factors we were able to measure dispersion of stand-by duty performance for each job classification. In reviewing the calculated dispersion we arrived at a result that correlated with the results of our qualitative interviews. Specifically, we found that:

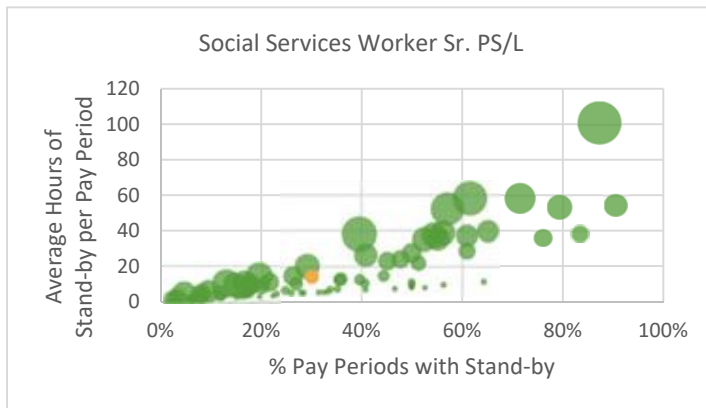


Figure 1 Chart of Social Services Worker Sr. PS/L shows a broad dispersion that is consistent with flexible departmental scheduling policies (bullet 2).

1. There are instances of job classifications performing stand-by duty that are part of normal working schedules and worked by all members of the classification. In these instances the dispersion analysis showed a tight grouping or smaller distribution of outcomes relative to the mean. We estimate that these classifications account for significantly less than 50% of the classifications using stand-by.

2. There are instances of stand-by duty that are part of normal working schedules but not performed by all members in the job classification at the same frequency or volume. In these instances the dispersion analysis showed a broad distribution of results, with numerous members performing stand-by duty at rates greater than one standard deviation from the class mean. We found this result to be consistent with departments who had adopted policies of convenience with regard to scheduling members on stand-by duty.

3. Numerous classifications contain highly specialized assignments that result in certain members performing stand-by duty at a high rate, but the majority of members in the classification perform little or no stand-by duty at all. In these cases, the dispersion analysis often displayed a barbell pattern, with a small group of members performing stand-by duty at rates greater than one standard deviation from the class mean. The members in these classifications met all of the criteria for normal working hours except for the uniformity criteria (because most members of the classification do not perform the specialized assignment).

Conclusions and Recommendations

We found significant evidence to support the determination made by the Board of Retirement in 2012 that stand-by duty is performed as part of the normal working hours of membership. In departmental interviews departmental management often held the position that such time was part of the member's normal schedule and was a cost effective way of managing their department. We also found that once we applied a statistical test to the data in order to compare a member's pay to that of other class members, the finding on normal working schedule is rendered moot because of policies of convenience surrounding schedule changes or because the stand-by was only worked by a small number of members performing specialized assignments.

Using job classifications to create cohorts of similarly situated employees produces what may be viewed as an arbitrary result. The variables of population and diversity of assignments within the series mean that some groups get it and other groups don't; this happens regardless of the individual contract between the employer and the member. We cite the barbell pattern and the existence of specialized assignments within classifications to support this view. However, departing from County job classifications to define a member's peer group may be inconsistent with the statute and may be seen as equally arbitrary, placing the Board of Retirement in the position of defining classes of County employment in a manner different than the employer.

Based on this research, we cannot conclude that all past stand-by duty should be removed from compensation earnable unilaterally and without consideration of individual job classifications. Further, we conclude that any determination that a correction to a member account is necessary can only be made on an individual basis. We found many instances where stand-by was part of normal working schedules of members and that it was worked by all similarly situated members, but not at the same amount. The dispersion may be attributable to volunteerism but also to myriad other factors having nothing to do with the goal of enhancing a members pension and more to do with the efficient management of personnel resources.

Ultimately, we concluded that the current system of accounting for stand-by duty does not support reliable and consistent outcomes. Management policy is subject to change based on the preferences and style of individual managers and the County's budgetary cycles. In order for the Board of Retirement and SBCERS staff to ensure consistent outcomes, the underlying policies of the County need to remain consistent. We do not believe that consistency will be achieved unless the related policies have greater permanence.

For that reason, we recommend that the Board of Retirement adopt the following recommendations as its determinations regarding the inclusion of stand-by duty in compensation earnable prospectively, for all legacy members.

Recommendation 1: Remove stand-by pay codes from the schedule of earnings codes included in compensation earnable.

We recommend that the Board of Retirement remove the following hourly earnings codes from its calculation of compensation earnable.

Earning Code	Title	Hourly	Amount	Employee Group
STA	Stand By 2	Y	\$2.00	Local 620
SBY	Stand By 2.6	Y	\$2.60	Local 721, PPOA
STB	Stand By 3	Y	\$3.00	Local 620, Local 721, ETA
SSB	Sheriff Stand By	Y	\$4.00	DSA
SBF	Stand By Firefighters	Y	\$4.00	Local 2046
STE	Stand By 4	Y	\$4.00	Local 721

This recommendation should be considered concurrently with Recommendation 2.

Recommendation 2: Establish clear guidance for future inclusion of new stand-by duty earnings codes in compensation earnable.

We recommend that the Board of Retirement establish the following standards for inclusion of new earnings codes used to account for stand-by duty when inclusion in compensation earnable is proposed.

1. Normal working schedule and any mandatory stand-by duty included in that schedule must be clearly defined in writing, including the number of stand-by duty hours normally scheduled for each job classification and associated earning code in an executed memorandum of understanding. Such hours shall be the maximum hours includable in compensation earnable for a member of the class.
2. The County must have documented time card procedures that direct employees to separately account for ad hoc, voluntary or assumed stand-by duty using an earning code that is recognizable as not included in compensation earnable and for which retirement contributions will not be collected. For the purposes of this requirement, the earnings codes identified in Recommendation 1 are suitable.
3. County scheduling procedures must allocate and track stand-by duty hours to all affected members of a class.

Recommendation 3: Remove the earning code STC from the schedule of earnings codes included in compensation earnable and refund contributions made on such pay subsequent to December 31, 2012.

In our review, we concluded that the earning code STC has been erroneously included in compensation earnable since the passage of PEPRA. In recognition that this was included as an item of compensation earnable incorrectly, we recommend that contributions made since January 1, 2013 on this pay be refunded to active members and that STC not be included in compensation earnable at retirement.

Recommendation 4: Affirm the inclusion of the earnings codes DAP, DEP and SPA in compensation earnable.

These earnings codes are a fixed amount paid to employees of the Public Defender, District Attorney and Behavioral Wellness department. In our review, we concluded that these codes are more similar to a special duty pay, which remains a valid category of compensation earnable post-PEPRA. They are paid regardless of utilization or timing and paid to employees in professional classifications that are generally exempt from overtime except in very limited circumstances (Attorneys and Doctors).

Recommendation 5: Consider implementation of procedures for evaluation of corrections.

Direct staff to develop and recommend procedures for the implementation of any necessary corrections to retired or active member accounts and benefits. The procedures should include the application of the Board's Errors, Corrections and Collections Policy, the applicable statute of limitations, a process for considering member and employer input, and a procedure for the calculation and implementation of any required corrections. At the option of the Board of Retirement, these recommendations may be brought to the full Board or preliminarily to an ad hoc committee.

Review Background and Procedures

On July 30, 2020, the California Supreme Court issued its decision in Alameda County Deputy Sheriffs' Assoc. v. Alameda County Employees' Retirement Association (the Alameda Decision). The Alameda Decision is the culmination of seven years of litigation pertaining to 2012 amendments to the County Employees' Retirement Law (CERL) made as part of the Public Employees' Pension Reform Act of 2013 and the companion bill, AB 197 (together, "PEPRA"). PEPRA established new benefit plans for new employees and modified the definition of "compensation earnable" for members who were active employees at the time of PEPRA's passage and thereafter.

Compensation earnable is a statutory term that defines the items of compensation that SBCERS uses to calculate contributions and pension benefits for members of pre-PEPRA benefit plans. Prior to PEPRA, the statutory definition of compensation earnable, as interpreted by the courts, included special items of compensation such as stand-by, leave cash-outs, and special duty pay types. Effective January 1, 2013, PEPRA made several changes to the definition of compensation earnable for then-current members of CERL retirement systems.

In response to these changes and after study and consideration in 2012, SBCERS staff reviewed plan sponsor compensation policies and recommended several modifications to compensation earnable to the SBCERS Board of Retirement. At that time, staff concluded that stand-by duty was part of the normal working hours and regular duties of members and, similar to actions taken by several other CERL systems at the time, the SBCERS Board of Retirement determined to allow stand-by duty pay to remain in compensation earnable. Immediately following the enactment of PEPRA, other CERL retirement systems, including the three defendants in the Alameda case, adopted policies excluding certain items of compensation they found to be subject to exclusion under PEPRA definitions. One of the items of compensation excluded by those three systems was stand-by duty pay. Employee groups sued to reverse the exclusion of stand-by pay (among other items) as an item of pay for "additional services rendered outside of normal working hours."

What Did the Supreme Court's Decision Say About Stand-by pay?

The primary cases at issue have been sent back to the trial court for further proceedings and new information may become available in the future as part of that further consideration. However, the Supreme Court ruling made clear that items of compensation paid for "additional services rendered outside normal working hours" must be excluded, as must compensation paid to enhance a member's retirement benefit, and are not limited to the examples provided in the statute. In this regard, some items of compensation related to stand-by pay should be excluded from compensation earnable.

The decision contains extensive discussion of the exclusion from compensation earnable of pay for "additional services outside of normal working hours" and reasons that such language "prevents employees from volunteering, during their final compensation period, to perform additional services outside of normal working hours to artificially inflate their daily rate of pay."

The court did not categorically state that all items of stand-by pay are excluded, and noted in its opinion the similarity of stand-by pay to overtime pay, citing another compensation earnable statute that excludes overtime pay except where the overtime is worked within the employee's "normally scheduled or regular working hours." Accordingly, this review of plan sponsor management practices is intended to evaluate,

based on current information, whether or not stand-by pay should continue to be included in compensation earnable in whole or in part.

Departmental Interviews

SBCERS staff met with designated departmental management staff and County Human Resources department labor relations team members to document the purposes for which departments are using stand-by duty along with how it is scheduled and assigned to members. The interviews also inquired about the use of various earnings codes, the affected job classifications and the conditions imposed on members while on stand-by duty.

For the purposes of this review, SBCERS staff interviewed responsible officials for the 11 departments that are the largest users of stand-by duty. These departments are responsible for almost all of stand-by duty awarded since the passage of PEPRA. The departments reviewed included membership in both general and safety classifications and covered a broad range of classifications including first responders, professional tradespeople, traditional office workers and medical professionals. Four other departments that had de minimus utilization and were not interviewed.

Department	Functions Utilizing Stand-by Duty
Fire	Dispatch Duty, Public Information, Information Technology, Arson Investigations, Air Support Unit, Emergency Operations Support, Wildland Fire Crew, and Construction
Sheriff	Air Support, Cuyama Valley Patrol Operations and Intermittently in all divisions.
Social Services	Child Welfare Services and Adult Protective Services
Behavioral Wellness	Assertive Community Treatment, Psychiatric Health Facility, Crisis and Recovery Emergency Services, Medical Staff, Information Technology, Administration and Intermittently in all divisions.
General Services	Information Technology, Communications and Facilities maintenance.
Parks - Community Services	Cachuma Lake Recreation Area, Jalama Beach, Water Lift Stations
Public Health	Animal Services, Disease Control, Environmental Health, Emergency Medical Services
Public Works	Laguna Sanitation Plant Operations and Sewer Operations.
Probation	Institutions
District Attorney	Duty Deputy
Public Defender	Duty Deputy

Member Interviews

SBCERS identified and noticed 607 legacy plan members who have earned stand-by duty pay since the passage of PEPRA. Members were notified of potential impacts to their retirement account and encouraged to call SBCERS member services in order to arrange for a virtual counseling session. During the virtual counseling session, members were asked to take a voluntary survey. The voluntary survey documented the member's stand-by duty history, including the member's assignment and role. The survey also asked members to provide information regarding how they were assigned to stand-by duty.

Data Analysis

SBCERS staff reviewed the timecard submissions and pay history of members who have received stand – by pay subsequent to the passage of PEPRRA. This involved the review of thousands of time card entries over a seven-year period. Utilizing analytical and statistical procedures, SBCERS reviewed stand–by duty time entries for consistency throughout the member’s course of employment. Staff also reviewed individual member stand-by duty time coding in the context of class averages.

Analysis Criteria for Compensation Earnable

The compensation earnable statute is constructed in two parts, the first part of the compensation earnable statute 31461 (a) provides that general definition for compensation earnable that defines compensation earnable as average compensation for the number of days ordinarily worked by persons in the same grade or class of positions (emphasis added).

*31461. (a) “Compensation earnable” by a member means **the average compensation as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay...***

Explained simply, SBCERS staff interprets 31461(a) as limiting compensation earnable to that what is earned by similarly situated members. The second part of the compensation earnable statute 31461(b) lists items of compensation that are specifically excluded by the statute. In relation to stand – by duty pay, one component of the statute is particularly applicable as disallowing pay for additional services performed outside of normal working hours (emphasis added).

*31461(b)(3) Payments for **additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.***

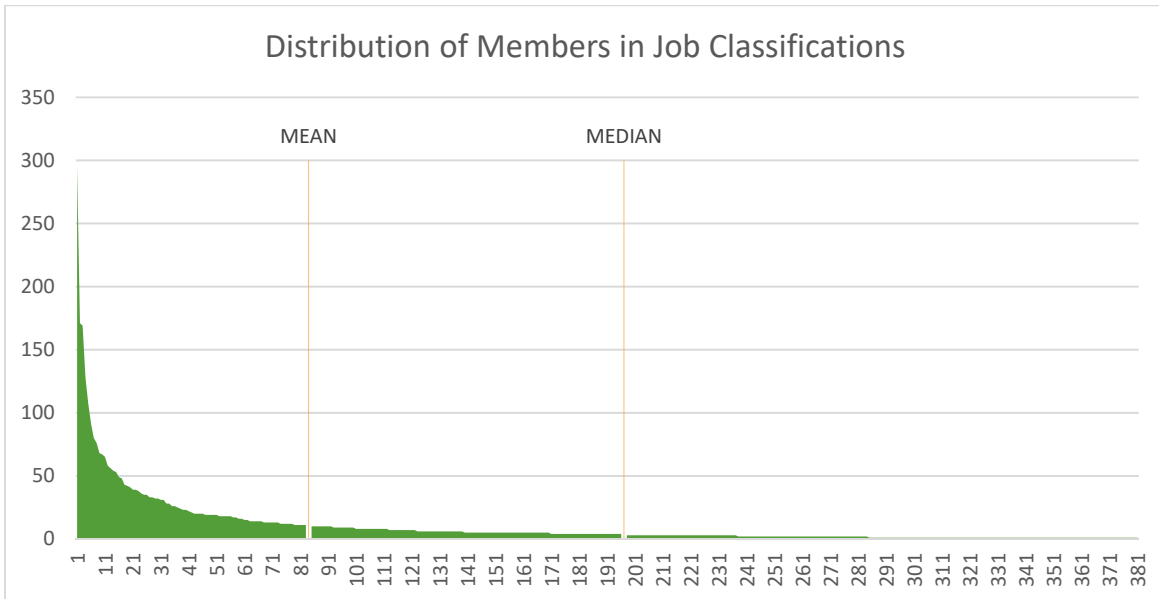
In accordance with the statutes discussed above, staff established criteria for use in performing our analysis.

Criteria for Available to Similarly Situated Members

The County of Santa Barbara currently utilizes 385 active job classifications within its payroll system to classify approximately 4,035 current employees. These classifications include a range of positions covering all aspects of the County workforce. They include hourly and salaried positions as well as regular and contract employees. The largest classification currently holds 295 members while 97 classifications currently hold only a single member. On average, each classification has approximately 11 members, however, the median classification holds just 4 members. The 27 largest job classifications account for over 50% of the County workforce.

Many job classifications are built in a series that allows for job progression, for example, Social Services Worker is followed by Social Services Worker Sr. In other classifications, the series progression is denoted by the use of I, II, III, Sr., Supervisor or Expert at the end of the classification title. In a series, there is generally commonality across job classes in the example duties provided. In addition to series progression, some classifications have alternates that denote “restricted”, which indicates that they are performing duties that exempt them from employee group representation. If job classifications were

grouped by series, the distribution of members in job classifications would concentrate into even fewer groups of similar employees with the size of each group increasing significantly.



The classification process is a product of management’s organizational design and employee collective bargaining efforts. Generally, the process of creating or modifying a classification involves the County Human Resources department studying the job duties of a position in coordination with the requesting department and preparing a class specification that is then reviewed by the responsible employee group and operating department. Upon completion, the classification is considered by the County Board of Supervisors. Using this process, minor modifications to the classification schedule are made with regularity throughout the year. These modifications include new classifications and re-classifications of various positions based on job duties.

During the 2006 -2008 fiscal years, the County completed a major reclassification effort that was the foundation for the current County classification system. The 2006-2008 reclassification effort was implemented in multiple phases and affected a broad range of classifications included clerical and leadership classifications. One iteration of the reclassification effort resulted in the consolidation of 60 classifications into 12 classifications. Reports prepared for the County Board of Supervisors at the time stated that the objective of the project was to:

“Provide a more flexible classification and compensation structure that would increase overall organizational capacity, provide departments with greater operational flexibility, and improve customer service delivery”¹

¹ <https://santabarbara.legistar.com/LegislationDetail.aspx?ID=463161&GUID=B9B235CB-00DC-4B6E-B7F9-EFCAA327083E&Options=ID|Text|&Search=Classification>

Safety classifications have been more stable in number, however, the example duties provided discuss a broad range of activities and don't include discussion of the specific specializations involved in operating a modern public safety department. The example duties provided in the job classifications for a Sheriff Deputy and a Sheriff Deputy – Special Duty are exactly the same, while providing greater compensation for senior class. Sheriff Deputy – Special Duty being the senior class in the series tends to hold more employees who perform specialized functions for the department. Safety classifications in other departments are similar in that the example duties are broad in nature and replicate throughout the classification series.

The classification schedules currently adopted are based around theories of efficient public sector management colloquially referred to as “broad-banding.” The central concept around broad-banding was that it gives management the flexibility to staff operations free from the encumbrances of the classification process. However, a consequence of broad-banding is that it groups a diverse range of assignments into a single job classification.

Simultaneous to broad-banding, the County, like all other organizations has evolved over time and is consistently providing new services, changing methods of service for existing services and eliminating others. As a result, the County maintains several job classifications that encompass a broad range of tasks that are incompatible from a scheduling perspective due to the various service demands they support.

In our study, we identified that a significant portion of the stand-by duty assigned to members occurred within large job classifications. We also found that the major determinate of a members schedule and the amount of stand-by a member was assigned was more correlated to the member's assignment to a specific program and work location staffed by the member's job class. We did not find that schedules or the assignment of stand-by duty correlated to the member's greater job classification.

In the course of our work, we identified several instances where assignments within classifications were awarded using competitive practices. In many circumstances members were asked to demonstrate specialized skills or reasons for which they were uniquely suited to a duty. Some were required to apply

Sheriff Department Classifications
<p><i>Members of Sheriff Deputy-Special Duty classification are assigned to almost all the commands and divisions of the Sheriff's Department. All of these various units require that employees have the basic skill set possessed by Sheriff Deputy Specialty Duty classification; however, the scheduling demands are entirely different depend on the employees duty and location.</i></p> <p><i>Air Support Unit members receive specialized training in order to operate air assets and perform law enforcement functions that utilize those assets. Due to the limited availability of members having this specialized skill set and the need to have air assets available 24 hours a day, members employed in this division typically perform stand – by duty at a greater rate than counterparts in other divisions.</i></p> <p><i>We found similar duty driven schedule divisions within basic patrol functions. In the Sheriff Deputy classification, we found that demand for stand – by duty is driven by the employee's work location. Employees performing patrol services in the rural Cuyama Valley were assigned ten times the amount of stand-by duty as the average Sheriff Deputy assigned stand-by over the same period. The increased rate of stand – by was due to the distant work location being an hour away from major population centers and the absence of other Sheriff Deputies available to support an officer in need. Accordingly, the two Sheriff Deputies assigned to patrol the Cuyama Valley area (and who live the area) are assigned stand – by duty for essentially all hours that they are not on active duty.</i></p>

for various duties, submit letters of intent, and in limited cases interview for the assignments. In certain departments, we found that there was no defined process for awarding specific assignments.

Several of the County's MOUs describe procedures for special assignments that are unique across job classifications. These special assignments include, Air Support Unit duty, Staff positions in the fire department and working in the Psychiatric Health Facility among others. As described in the MOUs, some of these special roles are location specific, for example, working in the Psychiatric Health Facility or Juvenile Hall is deemed a separate and specific duty within MOU documents. Many of these special roles are identified in the MOUs and have unique pay codes associated with them.

Notwithstanding our determination that job classification is an overly broad classification system we found it to be the only available objective method of determining a members "**grade or class of positions**" as is contemplated in government code section 31461(a). From a practical perspective, we reviewed the County payroll accounting procedures, budgetary procedures and were unable to determine an alternate method of classification that would allow us to reliably group members by assignment or location - the two drivers of stand-by pay - in a consistent and objective manner. We found several departments that utilize the location or budget units to capture certain instances of specialty assignments or work locations, but the data was not uniform across all departments and classifications.

Our decision to use Job Classification to establish criteria for the grade or class of positions affected, is further reinforced by the ruling of the Fourth District Court of Appeal in *Stevenson v. Board of Retirement* (2010) 186 Cal.App.4th 498. In that matter, OCERS had excluded from compensation earnable overtime pay worked by a narcotics investigator who contended that his pay should have been included because a similar amount of overtime was worked by other narcotics investigators. The Court of Appeal rejected this contention because applicable Memoranda of Understanding and other evidence of job classifications within Orange County demonstrated that the job of "narcotics investigator," although a distinct assignment within the Sheriff's Department, was not itself a "grade or class" of employment. Rather the broader class of "investigator" applied equally to narcotics investigators and other investigators in the department who did not regularly work overtime. Accordingly, the claim for inclusion of overtime within compensation earnable was rejected.

The determination to use job classification in order to determine similarly situated members, favors members who are working in smaller classifications because of the need to limit compensation earnable to the average compensation based on the average number of days worked.

Definition of Similarly Situated Members
Members within a job class as defined in a plan sponsor salary resolution.

Criteria for Normal Working Hours

Government code section 31461(b)(3) requires that payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise, be excluded. Going further, the Alameda decision reasons that voluntary service should be excluded from compensation earnable. In its opinion the Court stated:

*We emphasize that there is nothing inherently abusive in the practices addressed by section 31461, subdivision (b)(2) through (4), at least when divorced from their pension consequences. Accepting **voluntary on-call duty** and cashing out unused leave time to the extent permitted by an employer are ordinary practices that serve proper public policy interests. Yet by not expressly excluding such payments when determining a county employee's pension benefit, the pre-PEPRA definition of compensation earnable allowed an employee to considerably increase his or her pension benefit by volunteering for a large quantity of on-call duty or by accumulating and cashing out a large quantity of unused leave time during the final compensation period. Because such enhancements are arguably inconsistent with the underlying concept of compensation earnable, which is intended to reflect pay for work ordinarily performed during the course of a year, these types of enhancement have been characterized as pension spiking.*

In its opinion, the court clearly differentiates voluntary stand-by from mandatory stand-by pay and excludes only the former from compensation earnable. With regard to the broader issue of stand-by pay's inclusion in compensation earnable, the Court Opinion is more permissive and notes the legitimate public purpose of such pay. The Court also drew comparison to other statutes that govern the exclusion of Overtime pay. Specifically, the Court notes the similar nature of the language in G.C. 31461(b) "normal working hours" with the use of the words "normally scheduled or regular working hours" in G.C. 31461.6, a statute that generally excludes overtime from compensation earnable unless it is regularly scheduled. From this, we conclude that the Court did not disallow all stand-by pay as a potential item of compensation earnable; rather, it disallowed stand-by pay that is used to enhance a member's pension beyond the amount that would be earned by the average member of the class.

In Staff's view, in making the connection with the principal of controlling pension enhancement, the Court is providing an important distinction. Volunteering for additional duty is not the only way a member could potentially enhance their pension through performance of an hourly duty. There are other methods of implementation to consider, including the employer's policies. For that reason, we adopted criteria for normal working hours that also excludes employees from assuming another employees mandatory time, duty that results from ad hoc assignments from management and, incident related duty.

The concept of normal working hours suggests routine, frequency, advance planning, even-handedness and consistency. We adopted criteria that the stand-by pay had to have a clear connection with a member's regular duty and, that there was a clear expectation that it was the member's responsibility to perform the duty. The regularly recurring nature of such stand-by duty was considered evidence that such duty was a normal part of the member's regular job as assigned by the department.

Examples of this include members who held specialized skills, or were responsible for maintaining critical infrastructure equipment. Other examples include myriad location based pay scenarios wherein members

Wastewater Plant Operators

The County maintains several small job classifications for employees who maintain and support critical wastewater infrastructure. These employees work in both the Community Services and Public Works Departments. They operate and maintain Wastewater Treatment Plants that operate 24 hours a day, 7 days a week.

While they don't occur often, wastewater plant failures can result to significant threats to the health and safety of the area they serve. The County uses stand-by duty to ensure that employees are available to respond and critical incidents are corrected timely. Stand-by time costs significantly less than regular time and reduces the need to staff additional shifts of employees to cover evening and weekend hours. There are currently a total of 9 members in the wastewater plant operator series for the Public Works Department and 2 members in the Water & Sewage Plant Operator series for the Community Services Department.

Due to the small number of these employees who are trained to operate very complex and unique pieces of equipment, members of these classifications are assigned stand – by duty regularly and at a high rate. When employees on stand-by report to work after call in, they are performing the same function that they perform while they are working regular time.

were assigned stand-by regularly due to need to staff an operation continuously or due to limited availability of other responsive members. We found in some circumstances that there was a general correlation between the size of geographically available workforce and the rate at which members worked stand-by duty. If a small number of members are located in an area that requires continuous service, then stand-by was likely to be utilized in a higher instance.

We considered Ad Hoc assignments that derive from short-term operational needs. In the case of ad hoc assignment, we didn't view backfilling another member's illness, or being on stand-by to support a special event as part of a member's normal and recurring working hours. We viewed stand-by that results from a natural disaster; however frequently they may occur, as not a normal duty. If an Animal Control Officer – Supervisor that normally manages a shelter is placed on stand-by in order to support field operations, that would also be an example of irregular duty and not meet our definition of normal working hours. We found that a significant amount of stand-by time coded is attributable to these factors. The following chart illustrates the criteria and factors for consideration that we adopted in evaluating the information gathered.

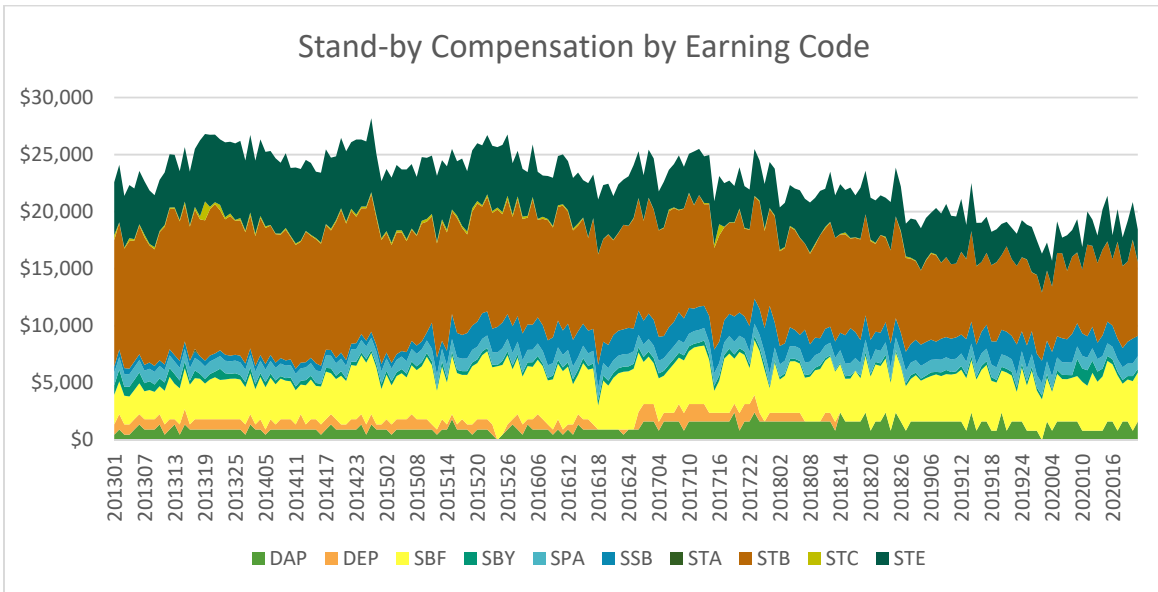
Normal Working Hours	
<u>Out – Not Compensation Earnable</u>	<u>In – May be Compensation Earnable</u>
Voluntary – Voluntary agreement to stand – by.	Mandatory – Stand-by duty that is mandatory for all in the same classification.
Ad Hoc – Occasional assignment to stand-by duty on the basis of non-recurring factors, regardless if mandatory.	Scheduled in Advance – Stand-by duty scheduled in advance as part of normal scheduling practices.
Assumed time – Time assumed to cover another employees obligation to work stand-by.	Recurring – Stand-by duty that is recurring at set intervals and allocated on established rules.
Incident Related – Stand-by duty related to specific non-recurring incidents, emergency declarations, special events and disasters.	Uniform – Members within a job class assigned to work stand-by duty on a regular or rotational basis.
Selective – Stand-by duty that is assigned to individual members but not to other members who possess the same qualifications.	

Analysis of County of Santa Barbara Stand-by Duty

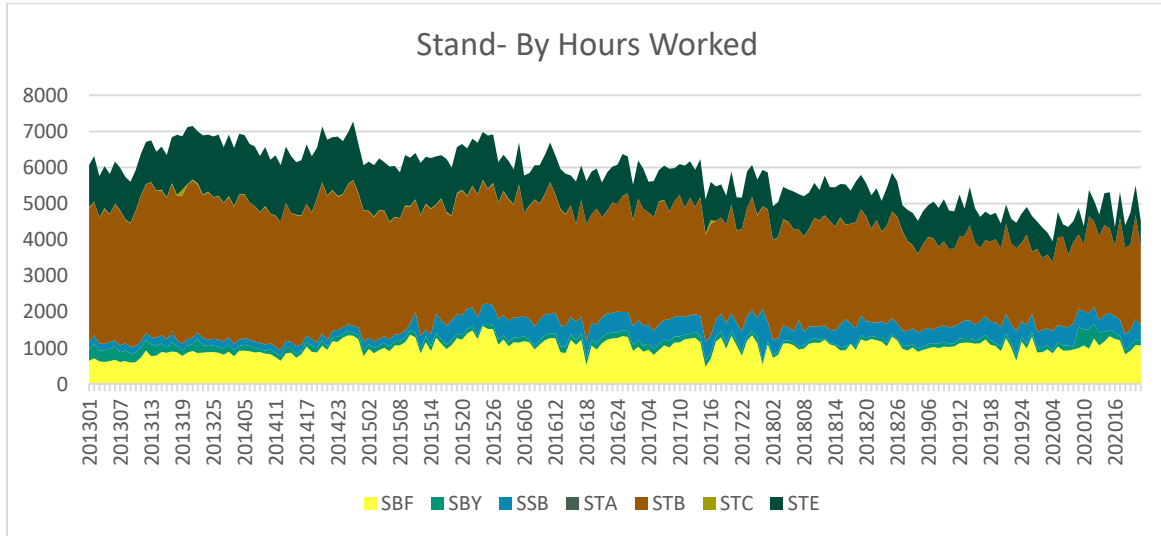
The County of Santa Barbara utilized 10 separate earnings codes during the period studied to account for Stand-by Duty performed by legacy members. Earnings codes are differentiated based on the amount of pay and the specific standards negotiated with in various memorandum of understanding. Six of the earnings codes are used to account for hours based work. The County uses one code (STC) to compensate employees on a per call basis, for accepting phone calls between midnight and 6:00am. Three earnings codes (DEP, DAP and SPA) are paid as a pay period lump sum amount and are not hours based.

Earning Code	Title	Hourly	Amount	Employee Group
STA	Stand By 2	Y	\$2.00	Local 620
SBY	Stand By 2.6	Y	\$2.60	Local 721, PPOA
STB	Stand By 3	Y	\$3.00	Local 620, Local 721, ETA
SSB	Sheriff Stand By	Y	\$4.00	DSA
SBF	Stand By Firefighters	Y	\$4.00	Local 2046
STE	Stand By 4	Y	\$4.00	Local 721
STC	Per Call Stand-by	N	\$10.00 per call	Local 620
DEP	Public Defender Deputy Duty	N	\$768.00 per pay period	Local 620
DAP	District Attorney Deputy Duty	N	\$800.00 per pay period	DDA
SPA	Physician Stand-by - Special Duty	N	\$1,100.00 per pay period	UAPD

The County has on average provided \$22,785 in compensation earnable per pay period since January 1, 2013. The amount of compensation earnable provided has been declining slightly over time as the County’s work force transitions to members enrolled in PEPPRA pension plans. PEPPRA plan members do not receive stand-by pay as pensionable compensation. On an average dollar per pay period basis, the three most utilized earnings codes were STB (\$9,312), STE (\$4,470) and SBF (\$4,113). Over the period, the member contributions averaged \$1,052 per pay period.



The County utilized on average 93 legacy members to work approximately 5,808 hours of stand-by duty per pay period. This is an average of 63 Hours of Stand-by Duty per affected employee. This utilization is the equivalent of an additional 72 full time equivalent employees on an hours performed basis.



The County has members of over 114 job classifications that work stand-by duty. The top 11 job classifications with the highest average utilization each pay period are listed in the table below. The functions most reliant on stand-by to cover operational responsibility are located within public safety, welfare and protective services and those who support critical infrastructure. We have included in Appendix B a complete listing of affected job classifications listed in accordance with the governing Memorandum of Understanding. Viewed another way, the table above shows the 11 County Departments that accounted for the almost all of the County’s stand-by duty compensation. In total, compensation related to Stand-by Duty represents approximately 0.2% of the total compensation earnable recorded each pay period.

Average Number of Employees Utilizing Stand-by	Job Class
7	SOC SVCS WORKER SR PS/L
6	FIRE CAPTAIN STAFF
6	ANIMAL CONTROL OFF II
5	EDP OFFICE AUTO SPEC II
3	WASTEWTR PLANT OPER III
3	SOCIAL SVCS PRACTITIONER
3	SOCIAL SERVICES SUPV II
5	SHERIFFS DEPUTY S/DUTY
3	BUILDING MAINT WORKER
3	FIRE EQUIPMENT OPER
3	Park Ranger II

Average Stand-by Compensation Per Pay Period	Department
\$4,477	Social Services
\$4,113	Fire
\$4,077	General Services
\$2,998	Behavioral Wellness
\$1,331	Parks - Community Services
\$1,556	Sheriff
\$1,211	District Attorney
\$1,112	Public Health
\$979	Public Works
\$871	Public Defender
\$392	Probation

Stand-by Duty County Policy and Normal Working Hours

In our interviews with responsible department managers, we set out to assess whether or not the departmental practices for scheduling aligned with the criteria that we established for our review. We found that procedures and policies varied across departments. We also found that while most operational managers took the position that stand-by duty was ultimately mandatory, many had also adopted informal policies of convenience. These policies of convenience mean that for the most part, managers did not have to enforce mandatory provision - *volunteering is fine so long as equity considerations are not being raised by employees who are not working stand-by.*

Notwithstanding the volunteering, we also found several instances of stand-by that was driven by the member's job assignment or job location. However, in the instances where stand-by duty was truly mandatory and job specific, we often were unable to demonstrate that similarly situated members of the same grade or class (job classification) performed the assigned duty. This is due to the fact that these specialized assignments were performed by members of large job classifications. We also found numerous instances where a material portion of the actual stand-by duty worked within the class appeared to be either ad hoc or intermittent in nature.

Ultimately, in our department interviews we found multiple examples of job classifications in the County that met all of our criteria for normal working hours and paid to all similarly situated members. In all circumstances, these were small job classifications, with the class description closely matched to the member's job assignment and where each member performed a very consistent function within the class.

The chart displays some of the classifications that we found to meet all the criteria, based on statistical analysis, we anticipate that there are other qualifying classifications.

Department	Operational Unit	Defined by Job Class	Mandatory for all employees	Uniform Distribution of Hours within unit
Community Services – Parks	Overnight Campgrounds <i>Water/Sewer Plant Operator Series</i>	☑	☑	☑
Fire	Construction <i>Fire Equipment Operator Series</i>	☑	☑	☑
Public Works	Laguna Sanitation District <i>Wastewater Plant Operator Series</i>	☑	☑	☑

We found several examples of unique duties within larger classifications that appeared to meet all criteria, except for the fact that they are performed by members who are part of large job classifications. In many cases we found that the members who are in these classifications had special skills and abilities not possessed by other members of the class. Examples of specializations within large classifications are Public Information Officers and Arson Investigators within the Fire classifications and Air Support Unit members in the Sheriff Classifications. In other areas we found that stand-by was the result of a specific duty assignment location. Examples of this included Park Rangers assigned to overnight campgrounds, Sheriff Deputy's assigned to Cuyama Valley, and Maintenance workers assigned to the Laguna Sanitation District.

Department	Operational Unit	Defined by Job Class	Mandatory for all employees	Uniform Distribution of Hours within unit
Community Services – Parks	Overnight Campgrounds <i>Park Ranger Series</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Fire	Air Support Unit, PIO, Arson Investigators, Dispatch Duty Officer, EOC, Wildland Fire Crew (EI) <i>Fire Captain – Staff</i> <i>Fire Inspector Engineer - Staff</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Probation	Institutions Management <i>Supervising Deputy Probation Officers</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Public Health	EMS <i>PH Improvement Coordinator</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Public Health	Animal Services <i>Animal Control Officer Supervisor</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Public Works	Laguna Sanitation District <i>Maintenance Worker Series</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sheriff	Cuyama Resident Deputies <i>Sheriff Deputy</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sheriff	Air Support Unit <i>Sheriff Deputy - Special Duty</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

We found other classifications where the performance of stand-by duty did not meet the criteria because the department's policies were permissive of volunteering, or the assignment of stand-by duty was not uniform. These are the classifications that were generally subject to management policies of convenience.

Department	Operational Unit	Defined by Job Class	Mandatory for all employees	Uniform Distribution of Hours within unit
Public Health	Environmental Health <i>Hazardous Materials Specialist Series</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public Health	Animal Services <i>Animal Control Officer Series</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Social Services	Adult Protective Services and Child Welfare Services Services <i>Social Services Worker Series</i> <i>Social Services Practitioner Series</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

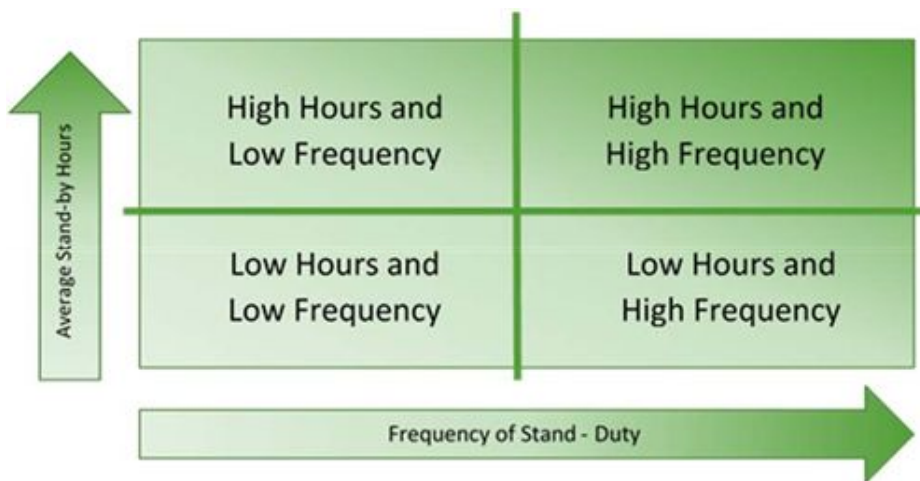
Stand-by Duty Performance Analysis

In order to analyze the hours ordinarily worked by a member of a class we developed several metrics. First, we evaluated the classifications to assess a relative trend of stand-by performance. A consistent and level usage of stand-by indicated that the County had a regular operating need for afterhours duty coverage by the employees of a given job class. We next measured the impact or cost of that need by comparing the average compensation earnable with and without for the class.

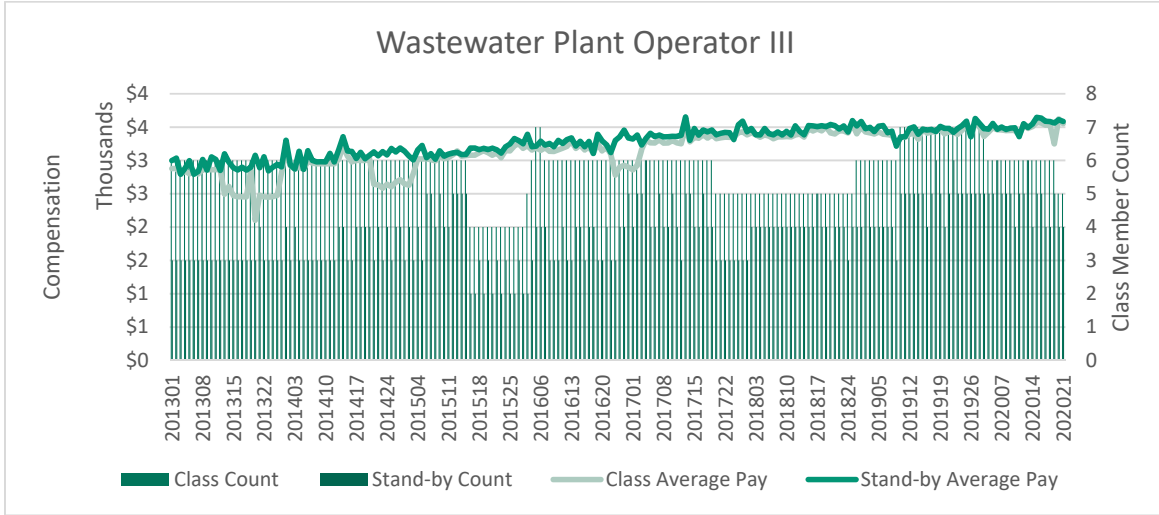
We then evaluated the frequency of stand-by duty across the class membership and the volume of stand-by duty performed within each job class. In order to establish a measure of frequency, we calculated the number of pay periods each member spent in the class and the number pay periods each member performed stand-by duty. From this we were able to calculate the probability that an employee worked stand-by during their tenure. In order to establish the volume of stand-by duty for each member we calculated the average number of hours a member worked per pay period in a given job classification.

Using this analysis we were able to assess the consistency of stand-by duty across the job class. The charts on the following pages shows volume (Average Hours Worked per Pay Period) on the Y-Axis and the Frequency (Average number of pay periods in which the duty is performed) on the X-Axis for each member of the job classification. The resulting scatter plot displays each member's stand-by duty performance relative to the class average for both metrics (orange dot). Shown on the following pages are 3 separate job classifications where stand-by duty was significant. The size of the plot point in the chart is an intensity indicator, it represents the average hours of stand-by worked with the periods that had no stand-by excluded from the calculation. We chose three classifications and that represented a variety of work types. The three classes also provide a graphic example of three separate results.

The closer the data points are grouped, the stronger the indication that all employees within the class were performing stand-by duty in the same relative manner. Charts with more dispersion indicated that the performance of stand-by duty is inconsistent across the class. Bar belled charts indicate overall inconsistency but show how a small group of members within a class may be working stand-by consistently. This view also displays the impact on the member pensions with outliers in the northwest quadrant indicating that select members received larger beneficial impacts than the group.

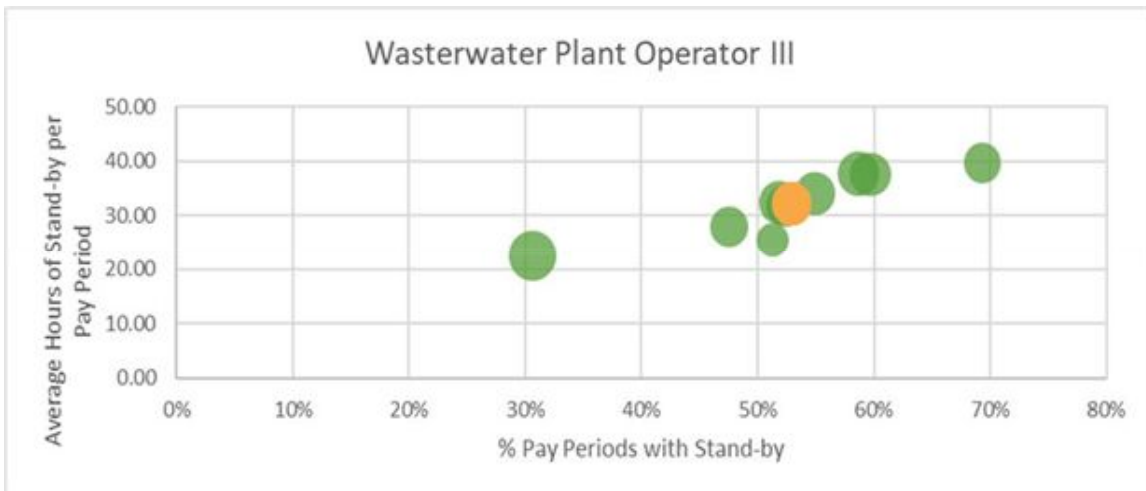


Wastewater Plant Operator III

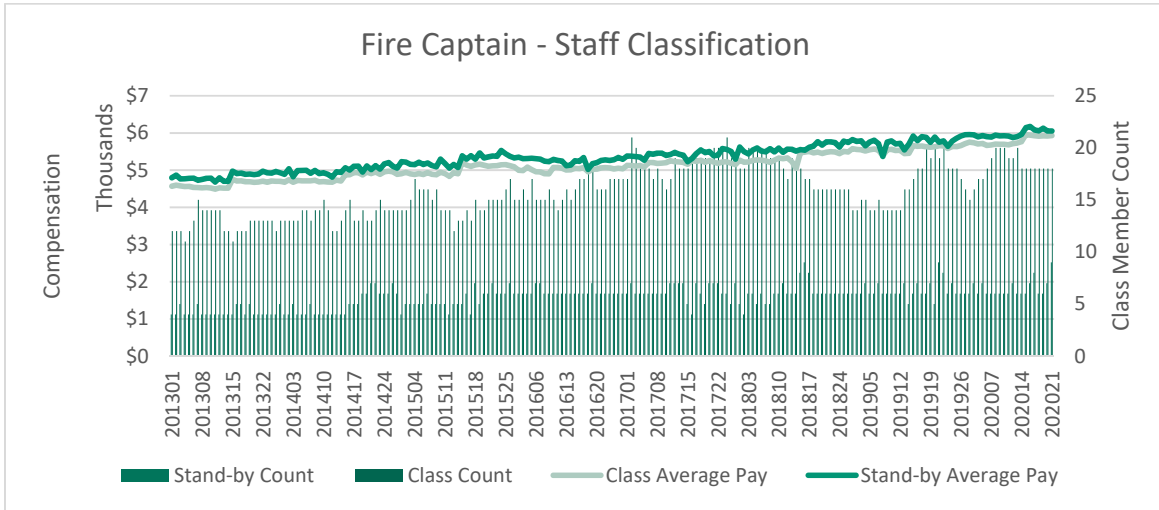


During the period studied, 9 members recorded time in the Wastewater Plant Operator III Job Classification. Of the 9 members, all have been in the class for more than 26 pay periods, or one year. On average, the County employed 6 Wastewater Plant Operator III positions during the period studied. Of these 6 positions, an average of 3.8 were awarded stand-by duty during each pay period. The positions average pay before overtime was \$3,157 per pay period. Members awarded stand-by duty earned on average \$3,280 per pay period, an average increase of \$123. For the purposes of this analysis we eliminated overtime, vacation cash outs and administrative payroll adjustments.

In the following chart, we analyze the individual performance of stand-by duty and how it affects compensation earnable for individual members of the class. The Wastewater Plant Operator III members are grouped together. This indicates that the members of the class are performing stand-by at the same relative frequency and volume. With respect to the Waste Water Plant Operator III we found the data supports the notion that stand-by duty is performed uniformly and consistently across the class. As noted above, we also found that the operating division’s policies conformed with our criteria for normal working hours.

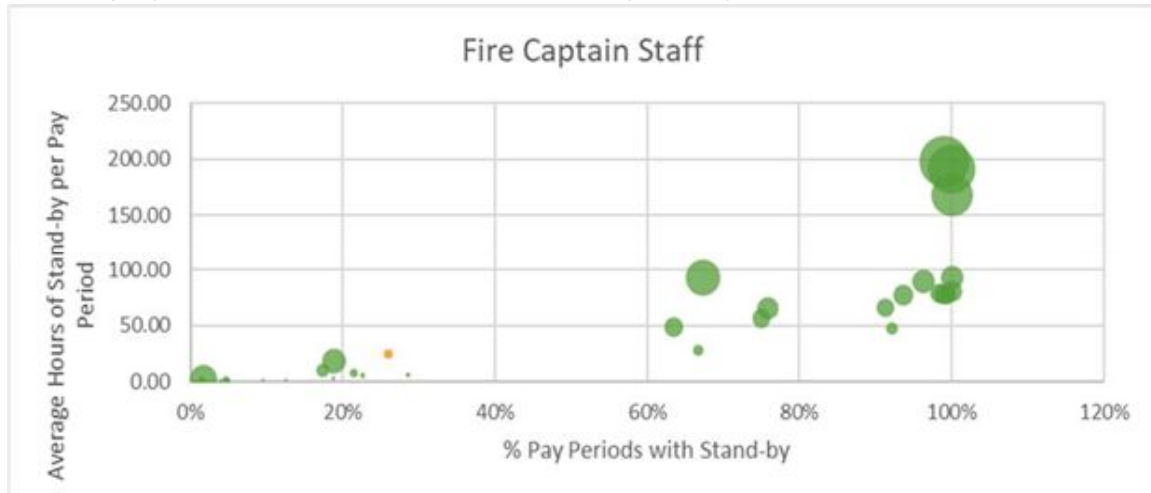


Fire Captain - Staff

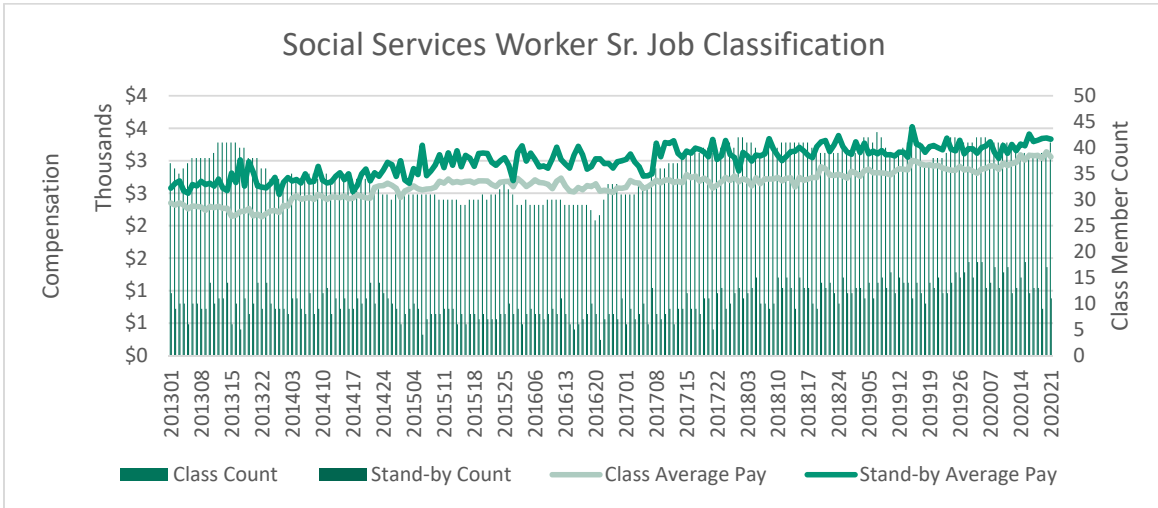


During the period studied, 65 members recorded time in the Fire Captain – Staff Job Classification. Of the 65 members, 27 members were in the class for less than 26 pay periods, or one year. The classification is used relatively flexibly with the Fire Captain – Shift classification. Class members are rotated to through the classification based on job assignment and it is relatively common for members to move between the two different classifications, which have different compensation practices.

On average, the County employed 16 Fire Captain – Staff positions during the period studied. Of these 16 positions, an average of 5.5 were awarded stand-by duty during each pay period. The positions average pay before overtime was \$5,155 per pay period. Members awarded stand-by duty earned on average \$5,375 per pay period, an average increase of \$220. For the purposes of this analysis we eliminated overtime, vacation cash outs and administrative payroll adjustments. The Fire Captain Staff Classification displays a barbell pattern. This appears due the fact that certain units within the department are continuously performing a high rate of stand-by duty. Based on interviews we know that Fire Captain – Staff members assigned to public relations, dispatch duty officers and arson investigations have scheduling expectations different from that of the average fire captain – staff member.

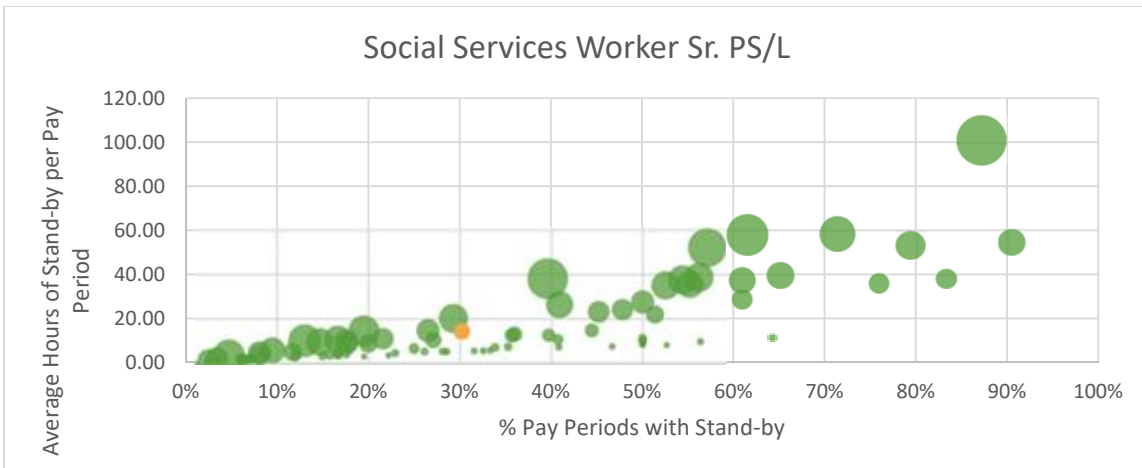


Social Services Worker Sr. PS/L



During the period studied, 89 members recorded time in the Social Services Worker Sr. PS/L Class. The classification is the Sr. or master class in the series. On average, the County employed 36 Social Services Worker Sr. PS/L positions during the period studied. Of these 36 positions, an average of 10.5 were awarded stand-by duty during each pay period. The positions average pay before overtime was \$2,644 per pay period. Members awarded stand-by duty earned on average \$2,999 per pay period, an average increase of \$355. For the purposes of this analysis we eliminated overtime, vacation cash outs and administrative payroll adjustments.

The Social Services Worker Sr. PS/L displays a widely dispersed pattern. This dispersion shows that while stand-by duty is a consistent operational need for the county, the actual performance is varied and inconsistent across the classification due to the variety of programs supported, the location of assigned coverage areas and volunteerism. This result is consistent with our interviews which indicated that location considerations drove utilization and revealed that while stand-by performance is ultimately mandatory, management has maintained a policy of convenience that allows for employees to trade shifts and arrange coverage so long as it is approved by a supervisor.



Measure of Dispersion by Classification

Using the data we gathered, we were able to calculate the dispersion of frequency and volume of stand-by performance by calculating the Coefficient of Variation (CV) by job classification for each measure. Also known as the relative standard deviation or ratio of standard deviation to the mean, the CV measures the dispersion of a data set relative to the mean. This is an imperfect measurement and can be noisy for smaller classifications; however, we have found the lower the CV of the classification, the more likely it is to meet our criteria for inclusion in compensation earnable. We provide the results for hours based earnings codes and classifications in the [appendices of this report](#).

In evaluating the CV results across all classifications, we estimate that significantly less than 50% of the total stand-by duty performed will meet our criteria for inclusion in compensation earnable based on it being the amount “ordinarily worked by a member of the same grade or class.” This estimate is provided before consideration of the County’s actual operating procedure and whether the duty is part of a member’s normal working schedule, which likely would reduce that result further.

Small Job Classifications

Within the population of members working stand-by duty we identified 16 classifications with fewer than five members overall and 58 classifications with fewer than five members who work stand-by. Of the classifications with less than five members, eight only had one member. For very small classifications the definition of “normal” and “ordinary” presents a complex consideration. For a classification of one, ordinary and normal could be as simple as what happened. There is no variation within work schedules to analyze.

In general, the smaller the classification the more likely we are to see smaller variation in the assigned duties; what follows is that the smaller the classification, the more likely there is to be homogenous scheduling across the class. However, what variation there is complicates analysis due to the outsize affect one member can have on the class average. In several smaller classifications we see a phenomena where one member of the classification has no stand-by duty, however, the remainder of the class is working stand-by duty in a consistent manner. In this case, we have one member that is creating dispersion, not by electing to work more hours on average (potential pension enhancement) but by electing to **NOT** work thereby reducing their compensation earnable to an amount below the class average and ostensibly increasing the compensation earnable of other members of the class.

Non – Hourly Earnings Codes

In our review, we identified several earning codes that are similar to stand-by but not paid on an hourly basis. STC is a “\$10 per call pay” that is awarded when an employee takes a phone call or service request between the hours of 12:00am and 6:00am. DAP, DEP and SPA earnings codes are a fixed amount paid to employees of the Public Defender, District Attorney and Behavioral Wellness department. These codes are not hours based, rather they are bi-weekly fixed amount paid to an employee who is assigned the responsibility for answering service requests made after 5:00pm and before 8:00am M-F and any time on Saturday and Sunday.

Conclusions, Findings and Recommendations

In evaluation of the facts gathered along with analysis of the data, we conclude that there is a material portion of stand-by duty that meets the criteria for inclusion in compensation earnable for legacy members. We were able to support this conclusion on the basis of departmental interviews, member interviews and by using statistical measurements of the data. However, we also conclude that the majority of stand-by duty (greater than 50%) being performed likely does not meet the test for inclusion in compensation earnable.

We support this conclusion that the majority of stand-by duty should be excluded from compensation earnable prospectively through our observations of:

- inconsistent policy across operating divisions of the County,
- the County's creation of broad job classifications that group disparate job assignments into a single class and,
- the County's large geographic service area that places differing scheduling demands on members based on their job location.

These findings are not a criticism of the County; rather it is an acknowledgement that operating policy design and workload management procedures are intended to maximize service outcomes. The issue of calculating a member's pension benefit is second to the objective priorities of operational management when it comes to ensuring the quality delivery of critical services. Further, management has never received direction to modify classification procedures or time reporting in the manner contemplated by the Court. As a result, the current policy framework does not permit a reliable systematic approach to controlling pension enhancement that could result from volunteerism or other management practices that create uneven outcomes.

Further, the issues of "normal working schedule", "ordinarily worked" and "similar class or pay grade" are ephemeral qualities that change with each new management regime and budgetary cycle. Absent a rigid policy constraint it is entirely likely that what was includable in 2013, may not be so in 2015 but again be includable in 2020. Looking backward, there is no way to determine with absolute certainty whether a specific instance of stand-by pay should be included or not based simply on the records maintained.

Overall, we found some evidence to support the determination made by the Board of Retirement in 2012 that stand-by duty is performed as part of the normal working hours of membership. In interviews departmental management often held the position that such time was part of the member's normal schedule and was a cost effective way of managing their department. We also found that once we applied a statistical test to the data in order to compare a members pay to that of similarly situated members, a study not performed in 2012, that a finding on normal working schedule is not supportable in the majority of cases.

Using job classifications to create cohorts of similarly situated employees produces what may be viewed as an arbitrary result. The variables of population and diversity of assignments within the series mean that some groups get it and other groups don't; this happens regardless of the individual contract between the employer and the member. We cite the barbell pattern and the existence of specialized assignments within classifications to support this view. However, departing from County job classifications to define a member's peer group may be inconsistent with the statute and may be seen as equally arbitrary, placing

the Board of Retirement in the position of defining classes of County employment in a manner different than the employer.

This is exemplified by the many instances we found where stand-by was part of normal working schedules of members and that the Board could conclude that it was worked by all similarly situated members. Given those two conclusions, the question then goes to what happens when the amount of stand-by worked by an individual member of the class is far in excess of the class average. This may be attributable to volunteerism but also to myriad other factors having nothing to do with the goal of enhancing a members pension. For that reason, we recommend that the Board of Retirement adopt the following recommendations as its determinations regarding the inclusion of stand-by duty in compensation earnable prospectively.

Recommendation 1: Remove pay codes from the schedule of earnings codes included in compensation earnable.

We recommend that the Board of Retirement remove the following hourly earnings codes from its calculation of compensation earnable.

Earning Code	Title	Hourly	Amount	Employee Group
STA	Stand By 2	Y	\$2.00	Local 620
SBY	Stand By 2.6	Y	\$2.60	Local 721, PPOA
STB	Stand By 3	Y	\$3.00	Local 620, Local 721, ETA
SSB	Sheriff Stand By	Y	\$4.00	DSA
SBF	Stand By Firefighters	Y	\$4.00	Local 2046
STE	Stand By 4	Y	\$4.00	Local 721

We support this recommendation on the basis that the current operating policies of the County do not support consistent outcomes with regard to the calculation and determination of compensation earnable at the individual member level. This recommendation should be considered concurrently with Recommendation 2.

Recommendation 2: Establish clear guidance for future inclusion of new stand-by duty earnings codes in compensation earnable.

We recommend that the Board of Retirement establish the following standards for inclusion of new earnings codes used to account for stand-by duty when inclusion in compensation earnable is proposed.

1. Normal working schedule and any mandatory stand by duty included in that schedule must be clearly defined in writing, including the number of stand-by duty hours normally scheduled for each job classification and associated earning code in an executed memorandum of understanding. Such hours shall be the maximum hours includable in compensation earnable for a member of the class.
2. The County must have documented time card procedures that direct employees to separately account for ad hoc, voluntary or assumed stand-by duty using an earning code that is not to be included in compensation earnable, and for which no retirement contributions are collected. For the purposes of this requirement, the earnings codes identified in Recommendation 1 are suitable.

3. County scheduling procedures must allocate and track stand-by duty hours to all affected members of a class.

Recommendation 3: Remove the earning code STC from the schedule of earnings codes included in compensation earnable and refund contributions made on such pay subsequent to December 31, 2012.

In our review, we concluded that the earning code STC has been erroneously included in compensation earnable since the passage of PEPRA. STC is a "\$10 per call pay" that is awarded when an employee takes a phone call or service request between the hours of 12:00am and 6:00am. By its very nature it is not subject to a normal schedule, rather, it is an incident based pay more similar to overtime pay. In recognition that this was included as an item of compensation earnable incorrectly, we recommend that contributions on this pay be refunded to active members.

Recommendation 4: Affirm the inclusion of the earnings codes DAP, DEP and SPA in compensation earnable.

These earnings codes are a fixed amount paid to employees of the Public Defender, District Attorney and Behavioral Wellness department. These codes are not hours based, rather they are bi-weekly fixed amount paid to an employee who is assigned the responsibility for answering service requests made after 5:00pm and before 8:00am M-F and any time on Saturday and Sunday. Due to budgetary considerations, the County is not currently using the DEP code for public defenders. In our review, we concluded that these codes are more similar to a special duty pay. They are paid regardless of utilization or timing and paid to employees in professional classifications that are generally exempt from overtime except in very limited circumstances (Attorneys and Doctors).

Recommendation 5: Consider implementation of procedures for evaluation of corrections.

Direct staff to develop and recommend procedures for the implementation of any necessary corrections to retired or active member accounts and benefits. The procedures should include the application of the Board's Errors, Corrections and Collections Policy, the applicable statute of limitations, a process for considering member and employer input, and a procedure for the calculation and implementation of any required corrections. At the option of the Board of Retirement, these recommendations may be brought to the full Board or preliminarily to an ad hoc committee.

Appendix A: Job Classification Dispersion Statistics

Job Class Title	Count of Members with stand-by		Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Freq. CV	Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Vol. CV
	with stand-by	Total Count														
ADMHS CASE WORKER	23	66	11.22%	22.17%	33.39%	-10.95%	86%	21%	198%	5.9	17.2	23.1	-11.3	91%	26%	291%
ADMHS PRACTITIONER II	14	69	4.87%	16.22%	21.09%	-11.35%	93%	13%	333%	2.7	10.7	13.4	-8.0	94%	14%	398%
ADMHS PRACTITIONER INTERN	30	104	12.12%	26.67%	38.79%	-14.55%	86%	14%	220%	9.5	24.7	34.2	-15.2	89%	18%	260%
ADMHS PSYCHIATRIC TECH II	7	37	8.37%	23.93%	32.30%	-15.56%	92%	11%	286%	7.3	27.6	34.9	-20.3	95%	14%	377%
ADMHS RECOVERY ASSISTANT	15	56	8.85%	21.30%	30.15%	-12.45%	89%	16%	241%	6.7	22.0	28.6	-15.3	93%	20%	330%
ADMHS TEAM SUPV-PRACTITIONER	9	38	8.01%	25.32%	33.33%	-17.30%	92%	16%	316%	2.8	8.0	10.9	-5.2	92%	16%	282%
ALCOHOL & DRUG SERVICE SPEC	5	19	11.24%	23.45%	34.69%	-12.22%	84%	11%	209%	3.8	9.7	13.5	-5.8	89%	16%	251%
ANIMAL CONTROL OFF I	10	13	52.80%	40.24%	93.04%	12.56%	54%	54%	76%	19.9	18.4	38.3	1.5	46%	46%	92%
DEPUTY DISTRICT ATTY SR	27	35	6.37%	5.03%	11.40%	1.34%	60%	60%	79%	0.0	0.0	0.0	0.0	0%	0%	--
ANIMAL CONTROL OFF II	13	14	77.11%	27.70%	104.81%	49.42%	86%	86%	36%	35.0	17.7	52.7	17.3	71%	71%	51%
ANIMAL CONTROL OFF SUPV	7	11	38.99%	36.72%	75.71%	2.27%	45%	45%	94%	15.6	15.5	31.2	0.1	45%	45%	99%
DEP PUBLIC DEFENDER III	19	28	5.59%	5.02%	10.61%	0.58%	54%	54%	90%	0.0	0.0	0.0	0.0	0%	0%	--
AIRCRAFT MECHANIC	1	5	0.24%	0.47%	0.71%	-0.24%	80%	0%	200%	0.1	0.1	0.2	-0.1	80%	0%	200%
BUILDING MAINT WORKER	12	34	15.70%	24.73%	40.43%	-9.04%	79%	15%	158%	13.6	21.2	34.8	-7.7	79%	15%	157%
DEPUTY DISTRICT ATTY IV	23	32	6.06%	5.87%	11.93%	0.20%	59%	59%	97%	0.0	0.0	0.0	0.0	0%	0%	--
COMPUTER SYSTEMS SPEC I	6	22	9.33%	17.84%	27.17%	-8.50%	82%	9%	191%	5.8	17.5	23.2	-11.7	95%	23%	303%

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Job Class Title	Count of Members with stand-by		Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Freq. CV	Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Vol. CV
	stand-by	Total Count														
COMPUTER SYSTEMS SPEC II	12	59	5.00%	14.16%	19.16%	-9.15%	90%	10%	283%	2.1	7.2	9.3	-5.0	92%	12%	340%
CUSTODY DEPUTY	117	365	1.55%	3.40%	4.96%	-1.85%	87%	19%	220%	0.0	0.1	0.1	-0.1	89%	21%	235%
HVAC SPECIALIST	3	6	20.51%	22.51%	43.02%	-2.00%	83%	33%	110%	19.8	22.2	41.9	-2.4	83%	33%	112%
CUSTODY DEPUTY S/DUTY	23	83	1.51%	4.12%	5.62%	-2.61%	90%	18%	273%	0.0	0.1	0.2	-0.1	94%	22%	287%
CCS SUPERVISING THERAPIST	1	5	0.39%	0.78%	1.17%	-0.39%	80%	0%	200%	0.0	0.1	0.1	0.0	80%	0%	200%
COMM EQUIP TECH SR	2	4	45.33%	45.33%	90.66%	0.00%	75%	25%	100%	39.2	39.2	78.4	0.0	75%	25%	100%
COMM SYSTEMS SUPV	1	1	75.61%	0.00%	75.61%	75.61%	0%	0%	0%	75.6	0.0	75.6	75.6	0%	0%	0%
DEP PUBLIC DEFENDER IV	14	26	3.10%	3.48%	6.58%	-0.39%	85%	38%	113%	0.0	0.0	0.0	0.0	0%	0%	--
CUSTODY SERGEANT	17	43	2.75%	4.95%	7.70%	-2.20%	84%	23%	180%	0.1	0.1	0.2	-0.1	81%	21%	180%
DEP PROBATION OFFICER SUP	11	35	17.67%	31.96%	49.62%	-14.29%	83%	14%	181%	8.2	15.0	23.2	-6.8	86%	17%	182%
HAZARD MATERIALS SUPV	4	7	35.24%	42.64%	77.88%	-7.40%	71%	29%	121%	42.8	53.9	96.7	-11.1	71%	29%	126%
DEP PUBLIC DEFENDER II	13	27	3.56%	4.51%	8.07%	-0.94%	85%	33%	127%	0.0	0.0	0.0	0.0	0%	0%	--
EDP NETWORK TECH II	7	7	42.00%	13.88%	55.87%	28.12%	71%	71%	33%	33.7	10.5	44.2	23.2	57%	57%	31%
DEPUTY DISTRICT ATTY III	15	40	3.04%	4.30%	7.33%	-1.26%	70%	8%	141%	0.0	0.0	0.0	0.0	0%	0%	--
ADMHS REHABILITATION SPEC	4	11	17.52%	24.81%	42.33%	-7.29%	73%	9%	142%	6.0	8.7	14.7	-2.7	73%	9%	144%
EDP NETWORK TECH III	5	6	50.71%	23.08%	73.78%	27.63%	83%	83%	46%	41.7	19.7	61.4	22.1	83%	83%	47%
DEP PUBLIC DEFENDER I	14	27	6.92%	10.05%	16.97%	-3.13%	85%	37%	145%	0.0	0.0	0.0	0.0	0%	0%	--
DA INVESTIGATOR III	1	3	0.18%	0.25%	0.42%	-0.07%	67%	0%	141%	0.1	0.2	0.3	-0.1	67%	0%	141%
EDP OFFICE AUTO SPEC I	6	13	12.09%	25.31%	37.39%	-13.22%	85%	31%	209%	15.3	38.5	53.8	-23.2	92%	38%	252%

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Job Class Title	Count of Members with stand-by		Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Freq. CV	Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Vol. CV
	stand-by	Total Count														
EDP OFFICE AUTO SPEC II	18	31	20.91%	27.84%	48.74%	-6.93%	77%	35%	133%	24.3	32.6	56.8	-8.3	74%	32%	134%
MAINTENANCE PLUMBER	3	9	16.97%	25.49%	42.46%	-8.52%	78%	11%	150%	15.5	23.2	38.7	-7.7	78%	11%	150%
FIRE CAPTAIN SHIFT	19	96	1.47%	5.32%	6.79%	-3.85%	93%	13%	362%	0.4	1.8	2.2	-1.4	97%	17%	464%
FIRE CAPTAIN STAFF	31	65	25.92%	38.80%	64.72%	-12.88%	75%	23%	150%	24.6	46.3	70.8	-21.7	83%	31%	188%
BUILDING MAINT SUPV	4	15	10.31%	17.69%	28.00%	-7.38%	80%	7%	172%	8.0	14.0	21.9	-6.0	73%	0%	175%
ADMHS TEAM SUPV-RN	2	8	20.99%	37.23%	58.21%	-16.24%	75%	0%	177%	27.4	54.8	82.3	-27.4	88%	13%	200%
FIRE ENG INSPECTOR SHIFT	9	104	1.29%	8.39%	9.68%	-7.10%	98%	7%	652%	0.4	3.3	3.7	-2.9	98%	7%	760%
FIRE ENG INSPECTOR STAFF	12	35	27.58%	40.00%	67.58%	-12.42%	74%	9%	145%	22.4	33.5	55.9	-11.1	74%	9%	150%
DA INVESTIGATOR I	2	8	0.18%	0.33%	0.51%	-0.15%	75%	0%	182%	0.1	0.2	0.4	-0.1	88%	13%	188%
PSYCHIATRIC NURSE SR	3	11	7.88%	14.98%	22.86%	-7.10%	82%	9%	190%	5.8	13.2	19.0	-7.4	91%	18%	226%
FIREFIGHTER STAFF	7	50	12.26%	30.72%	42.98%	-18.46%	86%	0%	251%	10.0	25.1	35.1	-15.1	86%	0%	251%
HAZ MATERIALS SPEC II	12	17	28.62%	23.50%	52.12%	5.12%	53%	53%	82%	26.4	22.7	49.0	3.7	53%	53%	86%
PARK RANGER I	2	8	16.06%	32.34%	48.40%	-16.28%	88%	13%	201%	8.0	18.9	26.9	-10.8	88%	13%	235%
HAZ MATERIALS SPEC SR	5	7	31.07%	32.71%	63.78%	-1.64%	71%	43%	105%	33.3	35.8	69.1	-2.4	71%	43%	107%
JUVENILE INST OFFICER	5	122	0.06%	0.46%	0.52%	-0.40%	97%	1%	711%	0.0	0.4	0.4	-0.4	99%	3%	1056%
MAINTENANCE WORKER II	6	79	2.94%	11.54%	14.48%	-8.60%	94%	1%	393%	2.0	8.0	10.0	-5.9	94%	1%	393%
EDP OFFICE AUTO COORD	1	1	0.49%	0.00%	0.49%	0.49%	0%	0%	0%	0.2	0.0	0.2	0.2	0%	0%	0%
PARK RANGER II	19	34	25.70%	37.94%	63.63%	-12.24%	76%	32%	148%	14.8	24.9	39.6	-10.1	76%	32%	169%
PARK RANGER III	8	9	45.62%	37.30%	82.91%	8.32%	56%	56%	82%	32.1	34.1	66.2	-2.0	89%	78%	106%

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Job Class Title	Count of Members with stand-by	Total Count	Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Freq. CV	Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Vol. CV
HEALTH EDUCATION ASST SR	1	6	0.24%	0.55%	0.79%	-0.30%	83%	0%	224%	0.0	0.1	0.1	0.0	83%	0%	224%
PH PERFORM IMPROVE COORD	5	8	16.19%	18.39%	34.57%	-2.20%	75%	38%	114%	18.5	24.1	42.6	-5.5	75%	38%	130%
ELECTRONICS SYSTEMS TECH	3	4	18.46%	30.59%	49.05%	-12.13%	75%	50%	166%	15.1	25.3	40.4	-10.2	75%	50%	168%
DEP PUBLIC DEFENDER SR	3	16	0.45%	1.09%	1.54%	-0.64%	88%	6%	244%	0.0	0.0	0.0	0.0	0%	0%	--
DA INVESTIGATOR SUPV	1	7	0.17%	0.42%	0.59%	-0.25%	86%	0%	245%	0.1	0.3	0.5	-0.2	86%	0%	245%
FACILITIES SUPERVISOR	1	5	5.38%	10.77%	16.15%	-5.38%	80%	0%	200%	6.3	12.6	19.0	-6.3	80%	0%	200%
PSYCHIATRIC NURSE II	9	47	9.69%	25.39%	35.07%	-15.70%	87%	6%	262%	4.4	14.2	18.6	-9.8	91%	11%	320%
DA INVESTIGATOR II	2	15	0.09%	0.22%	0.31%	-0.13%	87%	0%	255%	0.0	0.1	0.2	-0.1	93%	7%	296%
PUBLIC HEALTH NURSE	20	66	5.08%	10.71%	15.80%	-5.63%	85%	15%	211%	0.8	1.8	2.6	-1.0	88%	18%	224%
PUBLIC HEALTH NURSE SUPV	8	12	19.98%	19.62%	39.59%	0.36%	58%	58%	98%	3.4	3.5	6.9	-0.1	83%	50%	103%
FINANCIAL SYS ANALYST I	1	9	0.35%	0.98%	1.33%	-0.63%	89%	0%	283%	0.0	0.0	0.0	0.0	0%	0%	--
FIRE EQUIPMENT OPER	3	3	92.36%	1.15%	93.51%	91.21%	67%	67%	1%	44.3	2.2	46.5	42.1	33%	33%	5%
FIRE EQUIPMENT OPER SUPV	1	1	91.22%	0.00%	91.22%	91.22%	0%	0%	0%	55.3	0.0	55.3	55.3	0%	0%	0%
COMPUTER SYSTEMS SPEC SUPV	1	9	0.19%	0.55%	0.74%	-0.35%	89%	0%	283%	0.1	0.2	0.2	-0.1	89%	0%	283%
SHERIFFS DEPUTY	61	258	1.43%	10.18%	11.62%	-8.75%	99%	22%	711%	1.1	9.9	11.0	-8.8	99%	22%	895%
GEOLOGIST REGISTERED	1	3	0.65%	0.92%	1.57%	-0.27%	67%	0%	141%	0.4	0.6	1.0	-0.2	67%	0%	141%
SHERIFFS DEPUTY S/DUTY	69	164	3.04%	11.35%	14.38%	-8.31%	96%	38%	374%	1.7	9.1	10.8	-7.4	96%	38%	526%
ENVIRON HEALTH SPEC	3	20	0.20%	0.59%	0.79%	-0.39%	90%	5%	292%	0.0	0.0	0.1	0.0	90%	5%	294%

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Job Class Title	Count of Members		Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Freq. CV	Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Vol. CV
	with stand-by	Total Count														
ENVIRON HEALTH SPEC SR	3	12	3.11%	9.36%	12.47%	-6.26%	92%	17%	301%	2.6	8.6	11.2	-6.0	92%	17%	329%
SHERIFFS SERGEANT	23	71	1.08%	5.35%	6.44%	-4.27%	99%	31%	494%	0.5	3.8	4.3	-3.3	99%	31%	760%
SOC SVCS WORKER SR PS/L	79	89	30.24%	23.80%	54.04%	6.44%	62%	62%	79%	14.2	17.7	31.9	-3.5	83%	72%	125%
EDP SYS & PROG ANLST I	1	14	0.07%	0.25%	0.32%	-0.18%	93%	0%	361%	0.0	0.1	0.2	-0.1	93%	0%	361%
SOCIAL SERVICES SUPV I	8	9	43.93%	29.18%	73.11%	14.75%	56%	56%	66%	49.5	34.4	84.0	15.1	56%	56%	69%
SOCIAL SERVICES SUPV II	24	28	22.90%	25.24%	48.14%	-2.34%	82%	68%	110%	16.2	19.3	35.5	-3.2	89%	75%	120%
MAINT ELECTRICIAN	1	1	35.71%	0.00%	35.71%	35.71%	0%	0%	0%	34.4	0.0	34.4	34.4	0%	0%	0%
HEALTH EDUCATION ASST	2	22	0.45%	1.68%	2.12%	-1.23%	95%	5%	374%	0.1	0.3	0.4	-0.2	95%	5%	396%
SOCIAL SERVICES WORKER	76	122	16.21%	19.36%	35.56%	-3.15%	83%	45%	119%	9.0	14.3	23.3	-5.3	87%	49%	159%
PROG/BUS LDR-ATTY	1	18	0.10%	0.43%	0.54%	-0.33%	94%	0%	412%	0.0	0.0	0.0	0.0	0%	0%	--
DEPUTY DISTRICT ATTY II	3	40	0.39%	1.79%	2.18%	-1.40%	93%	0%	458%	0.0	0.0	0.0	0.0	0%	0%	--
SOCIAL SVCS PRACTITIONER	61	87	20.65%	21.28%	41.93%	-0.63%	79%	49%	103%	8.6	10.8	19.4	-2.1	89%	59%	124%
ACCOUNTANT I	1	29	0.36%	1.90%	2.26%	-1.54%	97%	0%	529%	0.0	0.2	0.3	-0.2	97%	0%	529%
EDP SYS & PROG ANLST SR	1	30	0.02%	0.09%	0.10%	-0.07%	97%	0%	539%	0.0	0.2	0.2	-0.2	97%	0%	539%
COMMUNICATIONS DISP II	1	31	0.03%	0.14%	0.17%	-0.12%	97%	0%	548%	0.0	0.0	0.0	0.0	97%	0%	548%
MAINTENANCE LEADER	2	36	1.56%	9.08%	10.65%	-7.52%	97%	3%	581%	1.2	7.2	8.4	-5.9	97%	3%	590%
DEP PROBATION OFFICER SR	3	81	0.30%	1.79%	2.09%	-1.48%	96%	0%	590%	0.2	0.9	1.1	-0.8	96%	0%	540%
COST ANALYST II	1	37	0.17%	1.01%	1.18%	-0.84%	97%	0%	600%	0.0	0.0	0.0	0.0	0%	0%	--
PSYCHIATRIC NURSE SUPV	3	3	44.75%	37.37%	82.12%	7.38%	33%	33%	84%	42.5	33.3	75.7	9.2	33%	33%	78%

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Job Class Title	Count of Members with stand-by	Total Count	Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Freq. CV	Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Vol. CV
DEP PROBATION OFFICER RADIO	4	151	0.12%	0.75%	0.86%	-0.63%	97%	0%	647%	0.1	0.4	0.5	-0.3	97%	0%	612%
COMMUNICATION SYSTEMS ENGINEER	1	1	90.00%	0.00%	90.00%	90.00%	0%	0%	0%	71.6	0.0	71.6	71.6	0%	0%	0%
VICTIM WITNESS PROG ASST II	8	18	11.29%	18.24%	29.53%	-6.95%	78%	22%	162%	8.4	14.0	22.3	-5.6	83%	28%	166%
JUVENILE INST OFFICER SR	1	49	0.02%	0.12%	0.13%	-0.10%	98%	0%	693%	0.0	0.0	0.0	0.0	98%	0%	693%
WASTEWTR PLANT OPER II	5	6	34.30%	21.57%	55.87%	12.73%	67%	67%	63%	21.0	13.4	34.4	7.5	50%	50%	64%
WASTEWTR PLANT OPER III	9	9	52.93%	9.90%	62.83%	43.03%	78%	78%	19%	32.2	5.5	37.7	26.6	56%	56%	17%
DEPT BUS SPEC I	2	68	1.46%	11.54%	13.00%	-10.08%	99%	1%	789%	0.9	6.8	7.6	-5.9	99%	1%	789%
MEDICAL ASSISTANT	2	100	0.05%	0.40%	0.45%	-0.35%	98%	0%	819%	0.1	0.7	0.8	-0.7	99%	1%	974%
ASST DEPT LDR-EXEC	1	94	0.01%	0.05%	0.06%	-0.05%	99%	0%	964%	0.0	0.0	0.0	0.0	0%	0%	--
FIREFIGHTER SHIFT	4	141	0.41%	3.96%	4.37%	-3.56%	98%	1%	972%	0.1	1.4	1.5	-1.2	99%	2%	1047%
SOCIAL SVCS WORKER SR	1	1	20.41%	0.00%	20.41%	20.41%	0%	0%	0%	13.1	0.0	13.1	13.1	0%	0%	0%
DEPT BUS SPEC II	2	123	0.52%	5.65%	6.17%	-5.14%	99%	1%	1094%	0.5	5.3	5.8	-4.8	99%	1%	1104%
ADMN OFFICE PRO III	1	168	0.01%	0.17%	0.19%	-0.16%	99%	0%	1292%	0.0	0.1	0.1	-0.1	99%	0%	1292%
VICTIM WITNESS PROG SUPV	2	2	10.18%	9.69%	19.87%	0.49%	0%	0%	95%	18.1	17.8	35.9	0.3	50%	50%	98%
WASTEWTR PLANT OPER CHIEF	1	2	0.40%	0.40%	0.81%	0.00%	0%	0%	100%	0.1	0.1	0.1	0.0	0%	0%	100%
ADMN OFFICE PRO SR	3	215	0.47%	6.59%	7.06%	-6.12%	100%	1%	1401%	0.1	0.5	0.6	-0.5	99%	0%	1030%
ADMN OFFICE PRO II	3	535	0.37%	5.98%	6.35%	-5.61%	100%	0%	1628%	0.0	0.4	0.4	-0.3	100%	0%	1627%
WASTEWTR PLANT OPER SUPV	5	5	45.42%	20.94%	66.36%	24.48%	60%	60%	46%	25.6	9.2	34.7	16.4	40%	40%	36%

<i>Job Class Title</i>	Count of Members with stand-by	Total Count	Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Freq. CV	Mean	Std. Dev.	Upper bound	Lower Bound	% of Total Members within 1SD of Mean	% of stand-by Members within 1SD of Mean	Vol. CV
<i>WASTEWTR PLANT OPER TR</i>	2	5	28.29%	34.65%	62.93%	-6.36%	60%	0%	122%	22.4	28.0	50.4	-5.6	80%	20%	125%
<i>WTR & SEWAGE PLANT OPER II</i>	1	1	97.56%	0.00%	97.56%	97.56%	0%	0%	0%	110.5	0.0	110.5	110.5	0%	0%	0%
<i>WTR/SEW PLANT OPER CHIEF</i>	1	1	99.51%	0.00%	99.51%	99.51%	0%	0%	0%	118.4	0.0	118.4	118.4	0%	0%	0%

Appendix B: Affected Job Classifications

District Attorney Association	
DEPUTY DISTRICT ATTY II	DEPUTY DISTRICT ATTY IV
DEPUTY DISTRICT ATTY III	DEPUTY DISTRICT ATTY SR
Deputy Sheriff Association	
COMMUNICATIONS DISP II	DA INVESTIGATOR III
CUSTODY DEPUTY	DA INVESTIGATOR SUPV
CUSTODY DEPUTY S/DUTY	SHERIFFS DEPUTY
CUSTODY SERGEANT	SHERIFFS DEPUTY S/DUTY
DA INVESTIGATOR I	SHERIFFS SERGEANT
DA INVESTIGATOR II	
Engineers & Technicians Association	
ENVIRON HEALTH SPEC	HAZ MATERIALS SPEC II
ENVIRON HEALTH SPEC SR	HAZ MATERIALS SPEC SR
GEOLOGIST REGISTERED	HAZARD MATERIALS SUPV
Fire Fighters Local 2046	
FIRE CAPTAIN SHIFT	FIRE EQUIPMENT OPER
FIRE CAPTAIN STAFF	FIRE EQUIPMENT OPER SUPV
FIRE ENG INSPECTOR SHIFT	FIREFIGHTER SHIFT
FIRE ENG INSPECTOR STAFF	FIREFIGHTER STAFF
Probation Peace Officers Association	
DEP PROBATION OFFICER	JUVENILE INST OFFICER
DEP PROBATION OFFICER SR	JUVENILE INST OFFICER SR
DEP PROBATION OFFICER SUP	DEP PROBATION OFFICER SUP
SEIU Local 721	
SOC SVCS WORKER SR PS/L	SOCIAL SERVICES WORKER
SOCIAL SERVICES SUPV I	SOCIAL SVCS PRACTITIONER
SOCIAL SERVICES SUPV II	SOCIAL SVCS WORKER SR
Union of American Physicians and Dentists	
STAFF PHYSICIAN	
Unrepresented	
PROG/BUS LDR-ATTY	

SEIU Local 620	
ACCOUNTANT I	EDP SYS & PROG ANLST I
ADMHS CASE WORKER	EDP SYS & PROG ANLST SR
ADMHS PRACTITIONER II	ELECTRONICS SYSTEMS TECH
ADMHS PRACTITIONER INTERN	FACILITIES SUPERVISOR
ADMHS PSYCHIATRIC TECH II	FINANCIAL SYS ANALYST I
ADMHS RECOVERY ASSISTANT	HEALTH EDUCATION ASST
ADMHS REHABILITATION SPEC	HEALTH EDUCATION ASST SR
ADMHS TEAM SUPV-PRACTITIONER	HVAC SPECIALIST
ADMHS TEAM SUPV-RN	MAINT ELECTRICIAN
AIRCRAFT MECHANIC	MAINTENANCE LEADER
ALCOHOL & DRUG SERVICE SPEC	MAINTENANCE PLUMBER
ANIMAL CONTROL OFF I	MAINTENANCE WORKER II
ANIMAL CONTROL OFF II	MEDICAL ASSISTANT
ANIMAL CONTROL OFF SUPV	PARK RANGER I
BUILDING MAINT SUPV	PARK RANGER II
BUILDING MAINT WORKER	PARK RANGER III
CCS SUPERVISING THERAPIST	PH PERFORM IMPROVE COORD
COMM EQUIP TECH SR	PSYCHIATRIC NURSE II
COMM SYSTEMS SUPV	PSYCHIATRIC NURSE SR
COMPUTER SYSTEMS SPEC I	PSYCHIATRIC NURSE SUPV
COMPUTER SYSTEMS SPEC II	PUBLIC HEALTH NURSE
COMPUTER SYSTEMS SPEC SUPV	PUBLIC HEALTH NURSE SUPV
COST ANALYST II	RADIO COMMUNICATION SYSTEMS ENGINEER
DEP PUBLIC DEFENDER I	VICTIM WITNESS PROG ASST II
DEP PUBLIC DEFENDER II	VICTIM WITNESS PROG SUPV
DEP PUBLIC DEFENDER III	WASTEWTR PLANT OPER CHIEF
DEP PUBLIC DEFENDER IV	WASTEWTR PLANT OPER II
DEP PUBLIC DEFENDER SR	WASTEWTR PLANT OPER III
DEPT BUS SPEC I	WASTEWTR PLANT OPER SUPV
DEPT BUS SPEC II	WASTEWTR PLANT OPER TR
EDP NETWORK TECH II	WTR & SEWAGE PLANT OPER II
EDP NETWORK TECH III	WTR/SEW PLANT OPER CHIEF
EDP OFFICE AUTO COORD	ADMN OFFICE PRO II
EDP OFFICE AUTO SPEC I	ADMN OFFICE PRO III
EDP OFFICE AUTO SPEC II	ADMN OFFICE PRO SR

Appendix C: Government Code Section 31461

31461(a) "Compensation earnable" by a member means the average compensation as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay. The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence. Compensation, as defined in Section 31460, that has been deferred shall be deemed "compensation earnable" when earned, rather than when paid.

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

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

(A) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.

(B) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.

(C) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.

(2) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

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

(4) Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

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

(Amended by Stats. 2012, Ch. 297, Sec. 2. (AB 197) Effective January 1, 2013.)

31461.6(a) "Compensation earnable" shall not include overtime premium pay other than premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory

maximum workweek or work period applicable to the employee under Section 201 and following of Title 29 of the United States Code.

(b) This section shall not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013.

(Amended by Stats. 2013, Ch. 247, Sec. 6. (AB 1380) Effective January 1, 2014.)



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA

TODD SPITZER

April 8, 2021

VIA EMAIL
sdelaney@ocers.org

Shawn Dewane, Chair, and Members of the Board of Retirement
Orange County Employees Retirement System
C/O Steve J. Delaney, Chief Executive Officer
2223 E. Wellington Avenue, Suite 100
Santa Ana, California 92701

Re: Attorney Special Duty Pay and the Proposed OCERS Action in Response to *Alameda County Deputy Sheriff's Assn. v. Alameda County Employees' Retirement Association*

Dear Chairman Dewane and Members of the Board of Retirement:

The Orange County Attorneys Association (OCAA or Association) has requested that I provide the OCERS Board of Retirement with information concerning attorney Special Duty Pay and how it functions in the Office of the District Attorney. Initially it is important to realize that in the District Attorney's Office it is only the more experienced attorneys in the classifications of Attorney IV and Senior Deputy District Attorney who are generally eligible to earn Special Duty Pay. These are classifications that attorneys can only achieve after many years of experience and at the discretion of the management of the Office.

As the elected District Attorney it is my responsibility to ensure the Office operates efficiently and effectively fulfills the mission of prosecuting criminal cases. The attorneys I am responsible for supervising do not have normal working hours and are expected to work the number of hours and at the times of day necessary to complete the tasks they have been assigned. As a result, it is my expectation that all the attorneys working in all the classifications, but particularly the more experienced attorneys in the Attorney IV and Senior Attorney ranks, are available at all times to respond to issues and calls that arise 24/7. The attorneys are provided with a cell phone and expected to respond to calls at all hours of the day unless they are off on a leave of some type. It is not unusual for attorneys to work at night and over the weekend to perform the tasks for which they are responsible. I have directed that it is the expectation of the Office that attorneys are available to respond to calls on their cell phones at any time of day and on weekends.

Given that many, if not most, of the assignments in the Office involve working as a litigator with a very

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: <http://orangecountyda.org/>

MAIN OFFICE
300 N. FLOWER ST.
SANTA ANA, CA 92703
PO. BOX 808 (92702)
(714) 834-3800

NORTH OFFICE
1275 N. BERKELEY AVE.
FULLERTON, CA 92832
(714) 773-4480

WEST OFFICE
8141 13TH STREET
WESTMINSTER, CA 92683
(714) 898-7261

HARBOR OFFICE
4801 JAMBOREE RD.
NEWPORT BEACH, CA 92660
(949) 476-4850

JUVENILE OFFICE
341 CITY DRIVE SOUTH
ORANGE, CA 92668
(714) 935-7624

CENTRAL OFFICE
300 N. FLOWER ST.
SANTA ANA, CA 92703
PO. BOX 808 (92702)
(714) 834-3952

heavy case load it is expected that attorneys at various times will work far in excess of a 40 hours work week. Moreover, the hours worked beyond 80 hours in a two-week period are hours for which they receive no additional compensation as they are exempt salaried employees. When a Deputy District Attorney is in trial it is anticipated that before and during the trial they will spend many hours preparing for that trial which will generally involve working in the evenings or early morning and on weekends. Attorneys in vertical prosecution units, which are generally the positions held by Attorneys IV and Senior Deputy District Attorneys, are expected to be responsive to not just their supervising attorneys but also to police agencies that are assigned to them. So for example a prosecutor assigned to the Sex Crimes Unit, Gang Unit, or Homicide Unit is responsible for handling a case from its very inception which means they respond to calls from police agencies in the geographic area to which they are assigned and go out on calls at whatever time they arise. The prosecutor is responsible for gathering the necessary information to file any resulting criminal case and to then handle the case through all the steps in prosecuting the defendant from initially filing the case through to any trial. This type of assignment, as well as other litigation assignments in the Office, results in attorneys being expected to work long hours outside any normal working schedule of 9:00 to 5:00 in order to take the actions necessary to handle their caseloads. Thus, the inclusion of the language that has for many, many years been in the Memorandum of Understanding between the County of Orange and the Orange County Attorneys Unit that expressly provides the attorneys do not have “normal working hours.” It is a communicated expectation that attorneys in the Office will work far in excess of 40 hours in any given week in order to accomplish the tasks they have been assigned and that as a result they will work at night and on weekends as part of meeting the work requirements of their assignment.

There are two types of assigned duties that result in a deputy district attorney becoming eligible to earn Attorney Special Duty Pay—Parole Hearings and Search Warrant Duty. The Office determines who is eligible to either handle a parole hearing or to be assigned search warrant duty. Only a Deputy District Attorney IV or a Senior Deputy District Attorney is eligible to be assigned either a Parole Hearing or Search Warrant Duty. Both assignments require specialized training that is provided by the Office as well as broad based prosecutorial knowledge. Senior Management in the Office reserves the right to refuse to allow an attorney to participate in either of these assignments and has exercised that right when there were concerns about the attorney’s suitability for the particular assignment.

Parole Hearings

The assignment to appear at a Lifer Parole Hearing involves representing the Office during a hearing taking place when a defendant who has been sentenced to prison is being considered for parole. The Office allows attorneys who are either a Deputy District Attorney IV or a Senior Deputy District Attorney to handle these hearings after they have participated in the required sessions of training. Attorneys are assigned which parole hearing they will handle and have no ability to alter that assignment. However, attorneys who previously were responsible for prosecuting the particular defendant who has become eligible for parole will most times be assigned to handle the parole hearing for that convicted felon regardless of whether they meet the eligibility requirements and appear on the list of attorneys available to handle a parole hearing. The Parole Hearing Policy and Procedures (a copy of which is attached) provides that the Senior Management in the Office has the right to assign a parole hearing to any attorney in the Office for this reason. The practice of assigning the attorney who previously handled the prosecution of a defendant is desirable both because of their familiarity with the case and also because of their relationship with the victims of the particular crimes committed by the defendant. Victims of the crimes often participate in parole hearings which can be very emotionally charged proceedings for them. Therefore, having a prior relationship with the victims and being able to assuage any concerns they may have is an important factor.

The hearings take place generally during usual business hours (although at times the hearings go into the evening) and the attorney does not receive Attorney Special Duty pay for attending the parole hearing itself.

The attorney receives four hours of Attorney Special Duty compensation for the task of preparing for the hearing and also receives Attorney Special Duty compensation for a predetermined amount of time which is based on an estimate of the time involved in traveling to the location of the parole hearing. The Office has developed a table of the hours the Office has estimated it would ordinarily take to make the trip to and back from the prison at which the hearing is taking place. Both the preparation time and the travel time can and often do take place during usual business hours, but may not. For example the Policy and Procedures provides that attorneys are expected to travel to the hearing after 12:00 pm on the day prior to the hearing and take a return flight that leaves before noon when possible. Thus, it is clear that the tasks for which the attorney receives Attorney Special Duty pay likely take place during customary business hours, but may not. Because the pay for the time to travel is not based on the actual hours expended traveling and the attorney is already being paid for this time as a result of it occurring generally during a customary work time, the additional pay is in the nature of compensation for particularly onerous work. Attending a parole hearing inside a prison subjects the attorney to inconvenience and additional risk. While inside the prison the attorney has no access to their cell phone so they cannot be in contact with their family or with other individuals about the many issues that arise during the course of a working day. And being a deputy district attorney who likely prosecuted the particular prison inmate involved in the hearing and potentially other inmates as well it is the case that while the attorney is present inside the prison for the hearing they are at far more risk of physical danger than ordinarily and certainly more risk than other individuals.

Any contention that Attorney Special Duty pay for handling a parole hearing is pay for work performed outside normal working hours should be rejected both because: (1) attorneys in the Office do not have normal working hours and are expected to work nights and weekends; and (2) the tasks performed as a result of being assigned responsibility for a parole hearing are performed generally during normal business hours in any event.

Furthermore, it is important to recognize that attorneys only receive 1/3 of their regular hourly rate as Attorney Special Duty pay. The compensation received by an attorney who is assigned to handle a parole hearing (or search warrant duty) is not pay for hours worked outside of normal working hours for the reasons previously explained but also because paying the individual at 1/3 of their hourly rate is not payment for hours the individual is working. The pay is more in the nature of a flat stipend that is paid the attorney based upon a set number of hours that is multiplied by the particular attorney's pay rate.

Search Warrant Duty

With respect to search warrant duty, it is again assigned to attorneys who are either an Attorney IV or a Senior Deputy District Attorney and the attorneys are again required to participate in specialized training to handle the assignment. Moreover, attorneys need to take and pass a Search Warrant Exam to be eligible for this assignment. After receiving the training, passing the exam, and being determined to be eligible and suitable for the assignment, an attorney will be assigned by senior management to a time period of 5:00 pm to 8:00 am for one day or 24 hours of weekend days or a holiday. During the assigned time period the deputy district attorney is designated as the attorney responsible for handling any calls regarding general search warrants. The attorney is required to be readily available by telephone, to not travel out of the area, and to not consume any alcoholic beverages or other substances that would interfere with their abilities to

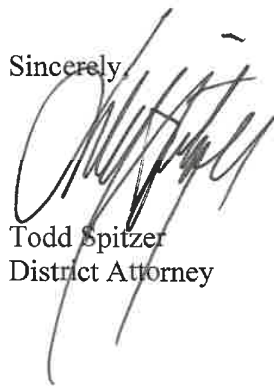
handle the incoming calls. It is not accurate to say that any part of search warrant duty Special Duty Pay is pay for hours outside normal working hours because the attorneys in the Office do not have normal working hours and are expected to work—whether on search warrant duty or other assignments—during courtroom hours, at night and on weekends. As previously noted, attorneys in vertical units (which is the ordinary assignment for attorneys at the Attorney IV and Senior Deputy District Attorney level) are routinely required to respond to calls regarding search warrants at any time of the day or night. The only difference between the search warrant duty of those in vertical units and those who are given Special Duty Pay is the origin of the request. While those in vertical units are given search warrant duty responsibility on matters within the scope of their day-to-day assignment, those getting Special Duty Pay are given search warrant duty for cases that are not already assigned.

As previously stated, the amount of Special Duty Pay an attorney is paid is the result of multiplying a fixed number of hours by one-third (1/3) of that attorney's normal regular hourly rate and the amount paid to the attorney assigned search warrant duty is the same without regard to how many hours the attorney spends actually on the telephone discussing or reviewing and approving a search warrant during the period of time they are assigned search warrant duty. This pay is not in the nature of on call pay or pay for holding one's self ready and available for work because unlike hourly-paid employees the attorneys will not--for any of the time spent actually handling a call about a warrant--receive pay at their regular hourly rate. In other words they do not keep track of the time spent actually handling the many calls they receive during their assigned time and convert that amount of time to being in a pay status that involves their receiving their regular hourly rate for any of the time. Thus, the amount of Special Duty Pay the attorney receives is a set amount that is in the nature of a stipend for work performed that requires specialized skills and onerous conditions—handling an extremely high volume of warrant calls on an emergency basis.

Conclusion

This information is presented to assist the Board of Retirement in determining how to apply the statutory rules, as interpreted in the *Alameda* decision, to Special Duty Pay for deputy district attorneys in the District Attorney's Office. I am happy to answer any questions or concerns that are not addressed in this letter and would be pleased to respond to inquiries. You may also contact Chief Assistant District Attorney Shawn Nelson, who is available at (714) 347-8402.

Sincerely,



Todd Spitzer
District Attorney

Larry Brennler
20730 Manzanita Ave.
Yorba Linda, CA 92886



April 8, 2021

Mr. Steve J. Delaney, Chief Executive Officer
Orange County Employees Retirement System
2223 E. Wellington Avenue, Suite 100
Santa Ana, CA 92701

RE: ALAMEDA DECISION / SUGGESTION TO MINIMIZE FINANCIAL IMPACT TO AFFECTED MEMBERS

Dear Mr. Delaney:

In response to the recent March 2021 meeting announcement regarding the Alameda Decision, it appears that OCERS is moving forward to implement the most extreme course of action in benefit reduction and recovery from affected members. This letter is intended to provide a suggested methodology to help affected members deal with any consequent severe financial impact while still allowing OCERS to meet PEPRA requirements.

While some members may be able to absorb a reasonable benefit reduction, others may be severely impacted due to higher percentages of their benefit being derived from the disputed pay elements and length of time they have received those benefits. Personally, I would not (and could not) have retired had OCERS provided my benefit estimate calculated per PEPRA. The life decision I made based upon the OCERS benefit estimate has left me shipwrecked with no means of resuming my career with the County.

Since OCERS initially provided benefit estimates that many retirees based their lives upon when they decided to retire, would it not be reasonable for OCERS to implement a method that would minimize the severity of a benefit reduction as long as it fulfills the intent of PEPRA?

A simple solution to this dilemma would be to offer affected members the option to freeze their benefit at the level they initially retired at in exchange for future COLA awards until parity is reached (equalization between the actual cumulative amount received and the recalculated PEPRA basis).

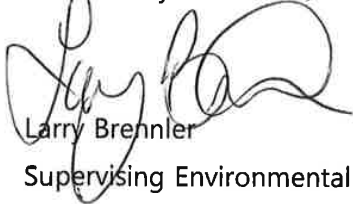
This is a win-win for OCERS and those members faced with severe financial hardship. In practical terms, unaffected members will still receive and enjoy COLA over the years, while unpaid COLA would pay for excess benefits paid to affected members. In the end, OCERS will not have paid any extra benefits and could continue using affected member contributions during the recovery period to ensure all benefits are recovered.

To illustrate, Table 1 on the following page shows what would happen if my current benefit was frozen over several years compared to what should have been paid out (the PEPRA basis). Of course, the actual time will vary depending on the size and frequency of COLA awards, but I chose a variety of lower hypothetical percentages to give you a sense of the time involved to reach parity.

Using my situation as an example, my monthly allowance is currently \$7175, but under PEPRA it would be recalculated to approximately \$6289 adjusted for previous COLA.

However, if that same \$7175 was reduced to my original starting benefit of \$6566 and frozen in exchange for future COLA, at some point in the future the basis of the recalculated PEPRA allowance would grow and become equal to the frozen benefit. Do you see how the money is being slowly recovered? I would ask that this method be seriously considered.

Respectfully submitted,



Larry Brenner

Supervising Environmental Health Specialist, Retired

Attachment

cc REAOC, OCEA

Table 1 – REDUCTION/RECOVERY THROUGH BENEFIT FREEZE AND DEFERRED COLA

YEAR	Actual COLA 2017-2021	<u>PAID</u>	<u>UNPAID</u>
	-AND- Hypothetical COLA 2022-2031	Current benefit level reduced to the level awarded when retirement started and which remains fixed throughout the recovery period.	This is the level that should have been used under PEPRA, but now serves as the basis to determine parity.
2017	0	\$6566	\$5,755
2018	3.00%	\$6763	\$5,927
2019	3.00%	\$6966	\$6,104
2020	3.00%	\$7,175	\$6,289
2021	1.50%	\$6566	\$6,381
2022	1.00%	\$6566	\$6,445
2023	2.00%	\$6566	\$6,574
2024	1.50%	\$6566	\$6,673
2025	0.50%	\$6566	\$6,706
2026	1.00%	\$6566	\$6,773
2027	2.50%	\$6566	\$6,942
2028	1.50%	\$6566	\$7,047
2029	2.00%	\$6566	\$7,187
2030	1.50%	\$6566	\$7,277
PARITY TEST			
SUBTOTAL		\$ 1,071,598*	\$1,064,660*
Returned Contributions (est.)		(\$6938)	\$0
GRAND TOTAL		\$1,064,660*	\$1,064,660*
PARITY REACHED??		YES!	
2031	1.50%	\$6664	PARITY MET/ COLA RESUMES

*SUBTOTAL and GRAND TOTAL are the cumulative sums of the monthly dollar amount x 12.

Note: Years are based on May to May to capture COLA. The 2017 accumulation is based on December 2017 to May 2018 since my retirement began at that time.

Contributions are returned at the end of the recovery period.



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel
SUBJECT: **BOARD INTERVIEWS OF NOSSAMAN LLP AND REED SMITH LLP AND AWARD OF CONTRACT FOR FIDUCIARY COUNSEL SERVICES**

Recommendation

Staff recommends (1) the Board interview the two finalists, Nossaman LLP and Reed Smith LLP, selected by the Board at its April 19, 2021 meeting, to serve as the Board's fiduciary counsel; and (2) after conducting such interviews, that the Board award a Contract for Fiduciary Counsel Services to one of the two firms, subject to satisfactory negotiation of terms.

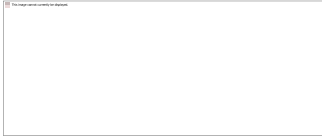
Background/Discussion

At its January 19, 2021 meeting, the Board approved release of a Request for Proposal (RFP) to initiate a search for fiduciary counsel. The Board's Procurement and Contracting Policy (Policy) designates the fiduciary counsel as a "Named Service Provider." Under the Policy, all contracts with Named Service Providers are required to be for an initial term of three years, and may be extended by the Board for up to three additional years, for a total maximum term of six years. Prior to the expiration of the final extension of the contract, a competitive search and selection process for the Named Service Provider must be conducted. The current contract with Reed Smith LLP expires on June 30, 2021.

The RFP was released on January 22, 2021, and five responses were received. A panel consisting of CEO Steve Delaney, Assistant CEO Suzanne Jenike, General Counsel Gina Ratto, and Staff Attorney Manuel Serpa, reviewed and evaluated all proposals and presented the Board with a list of proposed finalists at the Board's meeting in April. Based on the recommendation of the evaluation committee, the Board decided to interview two finalists, Nossaman LLP and Reed Smith LLP, at the Board's May 17, 2021 meeting.

The Board will interview the two finalists in open session. Agents and representatives of the Reed Smith firm will be excused from the meeting and placed in the Zoom waiting room while the Nossaman firm is interviewed by the Board. Similarly, Nossaman will be excused during the Board's interview of Reed Smith. Both firms will be excused from the meeting and placed in the Zoom waiting room during the Board's deliberation and selection of the firm to be awarded the contract for fiduciary counsel services, and then will return to the meeting for announcement by the Board of the award of the contract.

Submitted by:



Gina M. Ratto
General Counsel



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: PRELIMINARY DECEMBER 31, 2020 ACTUARIAL VALUATION

Presentation

Background/Discussion

On May 17, Mr. Paul Angelo and Andy Yeung of Segal Consulting, will be reviewing the attached PowerPoint presentation which is the introduction to the December 31, 2020 Actuarial Valuation.

OCERS is nearly unique among Segal clients in that the Board receives this initial PowerPoint summary of valuation highlights a month prior to the full formal Actuarial Valuation. This informal approach allows OCERS' stakeholders time to review the data being used in the Actuarial Valuation and provide input prior to the OCERS Board giving final approval to the valuation.

This month's presentation does not require formal approval from the Board but instead, is an informational presentation. On June 21, Mr. Angelo and Mr. Yeung, will return to present the formal valuation that includes contribution rates to be effective July 1, 2022 and at that time, OCERS' staff will request the OCERS Board approve and finalize the valuation for distribution to all stakeholders.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Orange County Employees
Retirement System

December 31, 2020 Actuarial Valuation

May 17, 2021

Prepared by Paul Angelo and Andy Yeung

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| Agenda

Changes Since Last Valuation

Plans of Benefit Offered at OCERS

Summary and Reconciliation of Employer Contribution Rates

**Calculation of Net Market, Actuarial and Valuation
Value of Assets**

Unfunded Actuarial Accrued Liability and Funded Ratio

Summary of Active and Retired Membership

Contribution Rates for Employers and Members

Changes Since Last Valuation

- December 31, 2019 Triennial Experience Study
 - Non-Economic assumptions adopted for December 31, 2020 valuation
 - Retirement rates:
 - » Introduce age-based retirement rates for legacy plans, with separate rates for above and below 30 years of service
 - Termination rates:
 - » Overall, slight increases to termination rates
 - » Decrease assumption for proportion of members electing a refund
 - Disability incidence:
 - » Overall, slight increases to disability rates
 - Mortality Rates:
 - » Apply Pub-2010 Benefit-Weighted mortality tables as a starting point (“base table”), projected generationally using the two-dimensional Scale MP-2019, with adjustments
 - » Administrative tables still use static projection for member contribution rates

Changes Since Last Valuation (continued)

- December 31, 2019 Triennial Experience Study (continued)
 - Economic assumptions adopted for December 31, 2020 valuation
 - Price inflation (CPI):
 - » Reduce from 2.75% to 2.50%
 - » Maintain 2.75% COLA assumption
 - Investment return:
 - » Reduce price inflation component from 2.75 % to 2.50%
 - » Maintain nominal return assumption of 7.00%
 - Salary increases:
 - » Reduce price inflation component from 2.75% to 2.50%
 - » Maintain “Across the Board” real wage growth component of 0.50%
 - » Total wage inflation and payroll growth reduced from 3.25% to 3.00%
 - » Promotion and Merit: Slight decreases overall for General and slight increases overall for Safety

Changes Since Last Valuation (continued)

- This valuation incorporates a refinement in calculating some members' entry ages as used in Entry Age actuarial cost method calculations. In previous valuations, the Normal Cost was spread over a period including both the member's service with a reciprocal system (if any) and their OCERS service.
Beginning with this valuation, the Normal Cost is spread over only the member's service period with OCERS. This refinement does not change the Present Value of Future Benefits but it increases the Normal Cost and decreases the Actuarial Accrued Liability for members with reciprocal service.
- Beginning with this valuation, we are valuing the actual COLA for the upcoming year (i.e. April 1, 2021) and the associated COLA banks. Under the prior methodology, the COLA for the upcoming year was based on the COLA increase assumption.
- OCFA contributed an additional \$21.6 million to pay off part of their UAAL.

Changes Since Last Valuation (continued)

- O.C. Sanitation District (Rate Group #3), Transportation Corridor Agency (Rate Group #9), and O.C. Law Library (Rate Group #12) were overfunded as of December 31, 2020. Under CalPEPRA, the employer's contribution rate cannot be less than the Normal Cost unless the funded ratio is over 120% and other conditions in CalPEPRA are met. Therefore, their contribution rates are set equal to their normal cost rates.
- The O.C. Sanitation District UAAL Deferred Account has grown from \$12.1 million to \$13.4 million. No transfer from this account to the Valuation Assets was necessary as of December 31, 2020.
- On July 30, 2020, the California Supreme Court issued a decision in the case of Alameda County Deputy Sheriffs' Association et al. v. Alameda County Employees' Retirement Association (ACERA) and Board of Retirement of ACERA. It should be noted that neither the December 31, 2020 assets provided by OCERS nor the liabilities we calculated using the membership data provided by OCERS reflect the financial impact of this California Supreme Court decision.

Plans of Benefit Offered at OCERS

General Plans

- Plan A (§31676.12) – 2% @ 57
- Plan B (§31676.1) – 1.67% @ 57.5
- Plans G and H (§31676.18) – 2.5% @ 55
- Plans I and J (§31676.19) – 2.7% @ 55
- Plans M and N (§31676.16) – 2% @ 55
- Plans O and P (§31676.01) – 1.62% @ 65
- Plan S (§31676.12) – 2% @ 57
- Plan T (§31676.01) – 1.62% @ 65 CalPEPRA
- Plan U (§7522.20(a)) – 2.5% @ 67 CalPEPRA
- Plan W (§31676.01) – 1.62% @ 65 CalPEPRA

Safety Plans

- Plans E and F (§31664.1) – 3% @ 50
- Plans Q and R (§31664.2) – 3% @ 55
- Plan V (§7522.25(d)) – 2.7% @ 57 CalPEPRA

Employer Contributions

- The sum of:
 - Normal Cost
 - Level percentage of payroll amortization of:
 - Balance of December 31, 2012 UAAL re-amortized over 20 years as of December 31, 2013 (with 13 years left as of December 31, 2020)
 - New UAAL established after December 31, 2012 amortized over separate 20-year periods
 - Adjustment to reflect 18-month delay between date of valuation and date of rate implementation
- Expressed as percent of pay

Employer Contribution Rates – Fiscal Years Beginning July 1, 2021 and July 1, 2022 (% of payroll)

	FY 22-23	FY 21-22 ¹	Difference
Rate Group #1			
General Plans A, B and U (County and IHSS)	15.13%	15.48%	-0.35%
Rate Group #2			
General Plans I, J, O, P, S, T, U and W (County et al.)	40.82%	39.04%	1.78%
Rate Group #3			
General Plans B, G, H and U (OCSD)	11.99%	11.70%	0.29%
Rate Group #5			
General Plans A, B and U (OCTA)	31.48%	31.41%	0.07%
Rate Group #9			
General Plans M, N and U (TCA)	13.07%	13.15%	-0.08%
Rate Group #10			
General Plans I, J, M, N and U (OCFA)	24.39%	26.40%	-2.01%
Rate Group #11			
General Plans M and N, future service, and U (Cemetery)	15.36%	14.85%	0.51%
Rate Group #12			
General Plans G, H and U (Law Library)	13.24%	13.70%	-0.46%
Rate Group #6			
Safety Plans E, F and V (Probation)	56.85%	59.63%	-2.78%
Rate Group #7			
Safety Plans E, F, Q, R and V (Law Enforcement)	63.25%	67.22%	-3.97%
Rate Group #8			
Safety Plans E, F, Q, R and V (OCFA)	<u>40.65%</u>	<u>48.12%</u>	<u>-7.47%</u>
Aggregate Total	41.16%	41.35%	-0.19%

¹ The FY 21-22 composite rates have changed due to payroll shifting among plans within the Rate Groups.

Reconciliation of Aggregate Employer Contributions (\$000)

	Contribution Rate	Estimated Amount ¹
1. Aggregate Recommended Contribution Rate as of December 31, 2019	41.35%	\$811,745
2. Actuarial (gain)/loss items:		
a. Effect of investment gain (after smoothing)	-1.33%	-\$26,106
b. Effect of additional UAAL contributions from OCFA	-0.08%	-1,570
c. Effect of difference in actual versus expected contributions	0.40%	7,851
d. Effect of higher than expected COLA increases in 2020 ²	0.12%	2,355
e. Effect of lower than expected COLA increases in 2021 ³	-0.69%	-13,544
f. Effect of difference in actual versus expected salary increases	-0.23%	-4,515
g. Effect of growth in total payroll less than expected	0.58%	11,385
h. Effect of other experience losses	0.25%	4,684
i. Effect of changes in actuarial assumptions	0.58%	11,385
j. Effect of reallocating present value benefits between NC and AAL, increase in NC	0.23%	4,515
k. Effect of reallocating present value benefits between NC and AAL, decrease in UAAL	-0.12%	-2,355
l. Effect of minimum funding requirement ⁴	<u>0.10%</u>	<u>1,963</u>
m. Subtotal	-0.19%	-\$3,952
3. Aggregate Recommended Contribution Rate as of December 31, 2020	41.16%	\$807,793

¹ Based on December 31, 2020 projected compensation of \$1,962,869,000.

² Actuarial loss from payment of an April 1, 2020 COLA 0.25% higher than the 2.75% COLA assumption.

³ Actuarial gain from payment of an April 1, 2021 COLA 1.25% lower than the 2.75% COLA assumption.

⁴ Under CalPEPRA, the employer's contribution rate cannot be less than the Normal Cost unless the funded ratio is over 120% and other conditions in CalPEPRA are met.

Reconciliation of Employer Contributions for General Members

	RG #1	RG #2	RG #3	RG #5	RG #9	RG #10	RG #11	RG #12
1. Aggregate Recommended Contribution Rate as of Dec. 31, 2019	15.48%	39.04%	11.70%	31.41%	13.15%	26.40%	14.85%	13.70%
2. Actuarial (gain)/loss items:								
a. Effect of investment gain (after smoothing)	-0.58%	-1.21%	-1.64%	-1.14%	-1.27%	-1.07%	-1.00%	-1.61%
b. Effect of additional UAAL contributions from OCFA	0.00%	0.00%	0.00%	0.00%	0.00%	-1.31%	0.00%	0.00%
c. Effect of difference in actual versus expected contributions	0.16%	0.46%	0.11%	0.53%	0.17%	-0.17%	0.18%	0.02%
d. Effect of higher than expected COLA increases in 2020 ¹	0.02%	0.12%	0.09%	0.09%	0.06%	0.07%	0.43%	0.07%
e. Effect of lower than expected COLA increases in 2021 ²	-0.18%	-0.64%	-0.58%	-0.54%	-0.40%	-0.48%	-0.31%	-0.57%
f. Effect of difference in actual versus expected salary increases	0.03%	-0.11%	-1.96%	-1.05%	-0.70%	-0.06%	0.11%	-1.27%
g. Effect of growth in total payroll (greater)/less than expected	0.31%	0.75%	0.00%	1.14%	0.06%	-0.50%	-0.12%	0.01%
h. Effect of other experience (gain)/loss ³	0.06%	0.45%	0.63%	-0.07%	0.02%	0.25%	-0.69%	-0.55%
i. Effect of changes in actuarial assumptions	-0.18%	1.87%	1.12%	0.97%	0.19%	0.98%	1.17%	0.16%
j. Effect of reallocating present value benefits between NC and AAL, increase in NC	0.03%	0.18%	0.35%	0.29%	0.47%	0.70%	0.84%	0.00%
k. Effect of reallocating present value benefits between NC and AAL, decrease in UAAL	-0.02%	-0.09%	-0.23%	-0.15%	-0.15%	-0.42%	-0.10%	0.00%
l. Effect of minimum funding requirement	<u>0.00%</u>	<u>0.00%</u>	<u>2.40%</u>	<u>0.00%</u>	<u>1.47%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>3.28%</u>
m. Subtotal	-0.35%	1.78%	0.29%	0.07%	-0.08%	-2.01%	0.51%	-0.46%
3. Aggregate Recommended Contribution Rate as of Dec. 31, 2020	15.13%	40.82%	11.99%	31.48%	13.07%	24.39%	15.36%	13.24%

¹ Actuarial loss from payment of an April 1, 2020 COLA 0.25% higher than the 2.75% COLA assumption.

² Actuarial gain from payment of an April 1, 2021 COLA 1.25% lower than the 2.75% COLA assumption.

³ Net of an adjustment to reflect 18-month delay between date of valuation and date of rate implementation for all actuarial experience.

Reconciliation of Employer Contributions for Safety Members

	RG #6	RG #7	RG #8
1. Aggregate Recommended Contribution Rate as of Dec. 31, 2019	59.63%	67.22%	48.12%
2. Actuarial (gain)/loss items:			
a. Effect of investment gain (after smoothing)	-1.86%	-1.89%	-1.62%
b. Effect of additional UAAL contributions from OCFA	0.00%	0.00%	-0.71%
c. Effect of difference in actual versus expected contributions	0.87%	0.40%	0.11%
d. Effect of higher than expected COLA increases in 2020 ¹	0.32%	0.17%	0.11%
e. Effect of lower than expected COLA increases in 2021 ²	-0.77%	-1.06%	-0.76%
f. Effect of difference in actual versus expected salary increases	-1.02%	0.40%	-0.59%
g. Effect of growth in total payroll (greater)/less than expected	3.12%	0.19%	-0.68%
h. Effect of other experience (gain)/loss ³	0.30%	-0.21%	-0.36%
i. Effect of changes in actuarial assumptions	-3.73%	-2.11%	-3.07%
j. Effect of reallocating present value benefits between NC and AAL, increase in NC	0.00%	0.27%	0.48%
k. Effect of reallocating present value benefits between NC and AAL, decrease in UAAL	-0.01%	-0.13%	-0.38%
l. Effect of minimum funding requirement	0.00%	0.00%	0.00%
m. Subtotal	-2.78%	-3.97%	-7.47%
3. Aggregate Recommended Contribution Rate as of Dec. 31, 2020	56.85%	63.25%	40.65%

¹ Actuarial loss from payment of an April 1, 2020 COLA 0.25% higher than the 2.75% COLA assumption.

² Actuarial gain from payment of an April 1, 2021 COLA 1.25% lower than the 2.75% COLA assumption.

³ Net of an adjustment to reflect 18-month delay between date of valuation and date of rate implementation for all actuarial experience.

Reconciliation of Aggregate Member Contributions (\$000)

	Contribution Rate	Estimated Amount ¹
Aggregate Recommended Contribution Rate as of December 31, 2019	12.18%	\$238,993
Effect of changes in actuarial assumptions	-0.02%	-393
Effect of reallocating present value benefits between NC and AAL, increase in NC	0.01%	196
Effect of changes in demographics	<u>-0.01%</u>	<u>-78</u>
Subtotal	-0.02%	-\$275
Aggregate Recommended Contribution Rate as of December 31, 2020	12.16%	\$238,718

¹ Based on December 31, 2020 projected compensation of \$1,962,869,000.

Calculation of Net Market, Actuarial and Valuation Value of Assets

- The asset information is based on the preliminary unaudited financial statement provided by OCERS on April 2, 2021
 - An updated financial statement was provided by OCERS on April 21, 2021 in which the market value of assets was higher by approximately \$129 million
 - Consistent with prior practice the updated market value of assets will be reflected only in OCERS' December 31, 2020 financial reporting

- Net market value of Pension Fund is total market value reduced by:
 - Obligations under securities lending program including securities purchased
 - Unearned contributions, retiree payroll payable and other liabilities
 - County investment account
 - Amount held in Health Care Funds
 - Remaining O.C. Sanitation District UAAL Deferred Account of \$13.4 million

¹ Return on market value was calculated using a modified dollar-weighted approach based on pension plan assets net of accounting liabilities. Actual investment gain on net pension plan assets was \$1,982,757,000 during 2020 after including both the administrative expenses and discount for prepaid contributions while excluding the losses credited to County Investment Account and O.C. Sanitation District UAAL Deferred Account. Without these adjustments, the actual investment gain was \$2,044,254,000.

Calculation of Net Market, Actuarial and Valuation Value of Assets

- Actuarial value is a “smoothed” value to dampen short-term effect of market volatility
 - Based on spreading difference between actual market return and expected market return (7.00% starting in 2018) over 5 years
 - Return for 2020 on market value was 12.01%¹ (i.e., 5.01% more than assumed)
 - Return for 2020 on valuation value was 9.31% (i.e., 2.31% more than assumed)
 - As of December 31, 2020, there were \$969.3 million in net deferred investment gains or about 5% of the net market value
 - Prior year: \$479.2 million in net deferred investment gains or about 3% of the net market value
- Valuation value is actuarial value reduced by non-valuation reserves:
 - Medicare medical insurance reserve (only \$84,000 as of December 31, 2020)

Calculation of Net Market, Actuarial and Valuation Value of Assets

It is important to note that this actuarial valuation is based on plan assets as of December 31, 2020. Due to the COVID-19 pandemic, market conditions have changed significantly since the onset of the Public Health Emergency. The plan's funded status does not reflect short-term fluctuations of the market, but rather is based on the market values on the last day of the plan year. Moreover, this actuarial valuation does not include any possible short-term or long-term impacts on mortality of the covered population that may emerge after December 31, 2020. While it is impossible to determine how the pandemic will affect market conditions and other demographic experience of the plan in future valuations, Segal is available to prepare projections of potential outcomes upon request.

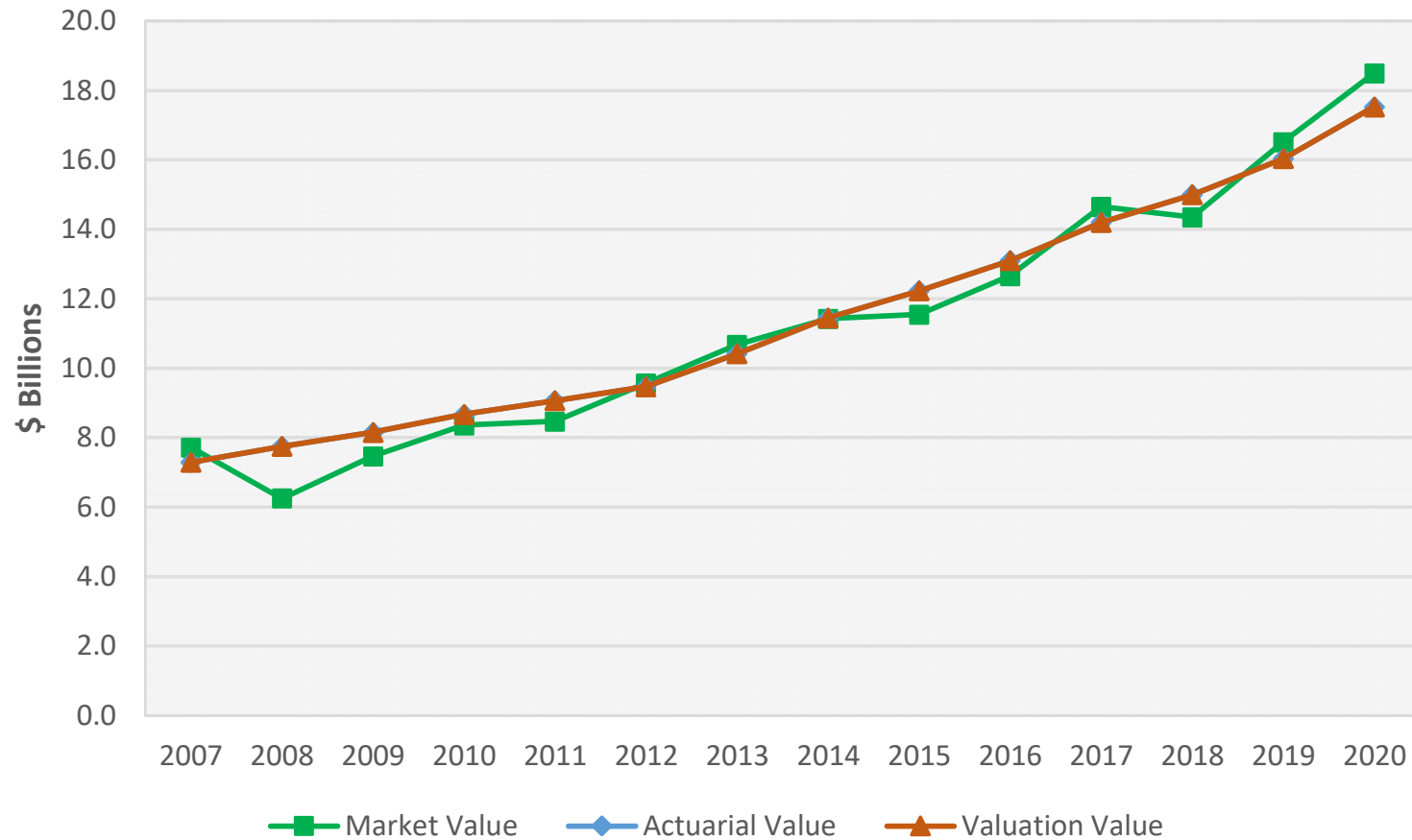
Market, Actuarial and Valuation Value of Assets (\$000)

Valuation Date	Net Market Value of Assets ^{1,2}	Actuarial Value of Assets ²	Valuation Value of Assets
December 31, 2007	\$7,719,690	\$7,292,205	\$7,288,900
December 31, 2008	\$6,248,558	\$7,750,751	\$7,748,380
December 31, 2009	\$7,464,761	\$8,155,654	\$8,154,687
December 31, 2010	\$8,357,835	\$8,673,473	\$8,672,592
December 31, 2011	\$8,465,593	\$9,064,580	\$9,064,355
December 31, 2012	\$9,566,874	\$9,469,423	\$9,469,208
December 31, 2013	\$10,679,507	\$10,417,340	\$10,417,125
December 31, 2014	\$11,428,223	\$11,450,001	\$11,449,911
December 31, 2015	\$11,548,529	\$12,228,098	\$12,228,009
December 31, 2016	\$12,657,418	\$13,103,066	\$13,102,978
December 31, 2017	\$14,652,607	\$14,197,211	\$14,197,125
December 31, 2018	\$14,349,790	\$14,994,505	\$14,994,420
December 31, 2019	\$16,516,108	\$16,036,953	\$16,036,869
December 31, 2020	\$18,494,462	\$17,525,201	\$17,525,117

¹ Net of amounts in County investment account, prepaid employer contributions and O.C. Sanitation District UAAL Deferred Account (after transfer), if any.

² Includes amounts in unclaimed member reserve and Medicare medical insurance reserve.

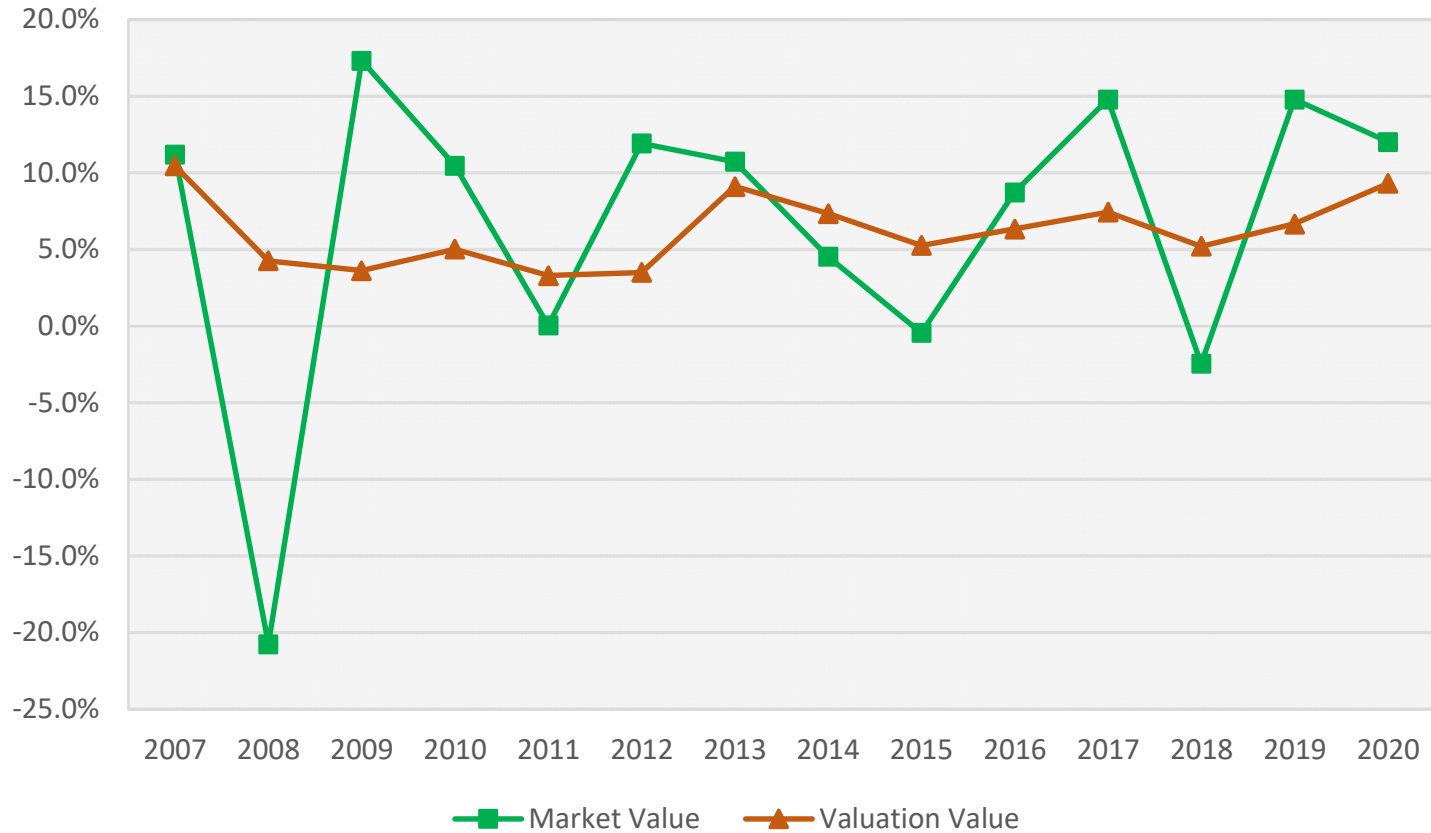
Market Value of Assets, Actuarial Value of Assets and Valuation Value of Assets as of December 31, 2007 – 2020



History of Return on Assets

	Market	Valuation	Expected
December 31, 2011	0.04%	3.29%	7.75%
December 31, 2012	11.92%	3.49%	7.75%
December 31, 2013	10.73%	9.11%	7.25%
December 31, 2014	4.52%	7.34%	7.25%
December 31, 2015	-0.45%	5.26%	7.25%
December 31, 2016	8.72%	6.33%	7.25%
December 31, 2017	14.79%	7.44%	7.25%
December 31, 2018	-2.46%	5.20%	7.00%
December 31, 2019	14.79%	6.66%	7.00%
December 31, 2020	12.01%	9.31%	7.00%
Annualized 5-Year Average	9.37%	6.98%	
Annualized 10-Year Average	7.28%	6.32%	

Market Value and Valuation Value Rates of Return for Years Ended December 31, 2007 – 2020



Unfunded Actuarial Accrued Liability (\$000) and Funded Ratio

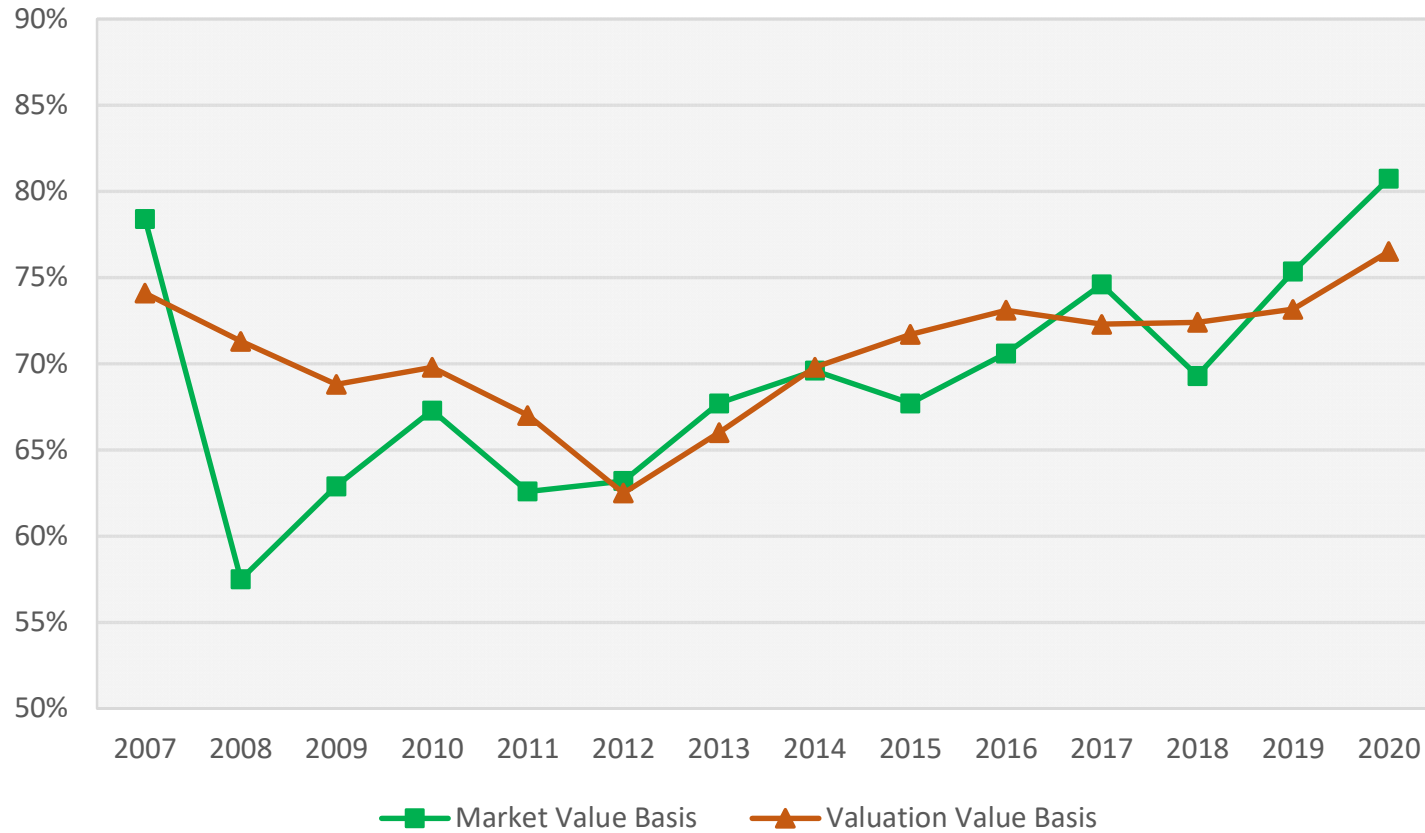
	December 31, 2020	December 31, 2019
Actuarial Accrued Liability	\$22,904,975	\$21,916,730
Valuation Value of Assets ¹	17,525,117	16,036,869
Unfunded Actuarial Accrued Liability	5,379,858	5,879,861
Percent Funded on Valuation Value	76.51%	73.17%
Market Value of Assets ¹	\$18,494,378	\$16,516,024
Percent Funded on Market Value	80.74%	75.36%

¹ Excludes County investment account, prepaid employer contributions, Medicare medical insurance reserve and O.C. Sanitation District UAAL Deferred Account (after transfer), if any.

Unfunded Actuarial Accrued Liability (\$000) and Funded Ratio

Valuation Date	UAAL	Valuation Value Funded Ratio	Market Value Funded Ratio
December 31, 2007	\$2,549,786	74.1%	78.4%
December 31, 2008	\$3,112,335	71.3%	57.5%
December 31, 2009	\$3,703,891	68.8%	62.9%
December 31, 2010	\$3,753,281	69.8%	67.3%
December 31, 2011	\$4,458,623	67.0%	62.6%
December 31, 2012	\$5,675,680	62.5%	63.2%
December 31, 2013	\$5,367,917	66.0%	67.7%
December 31, 2014	\$4,963,213	69.8%	69.6%
December 31, 2015	\$4,822,348	71.7%	67.7%
December 31, 2016	\$4,830,483	73.1%	70.6%
December 31, 2017	\$5,438,302	72.3%	74.6%
December 31, 2018	\$5,708,929	72.4%	69.3%
December 31, 2019	\$5,879,861	73.2%	75.4%
December 31, 2020	\$5,379,858	76.5%	80.7%

Market Value and Valuation Value Funded Ratios for Years Ended December 31, 2007 – 2020



Changes in UAAL since December 31, 2019 Valuation

December 31, 2019 valuation	
• Total UAAL	\$5,880 million
Changes during calendar year 2020	
• Interest minus expected payments to UAAL	-\$123 million
• Difference in actual versus expected contributions	110 million
• Additional UAAL payments from OCFA, DOE and UCI	-25 million
• Investment gains (on smoothed value of assets)	-371 million
• Difference in actual versus expected salary increases	-62 million
• Effect of higher than expected COLA increases in 2020 ¹	34 million
• Effect of lower than expected COLA increases in 2021 ²	-158 million
• Changes in assumptions	24 million
• Effect of reallocating present value benefits between NC and AAL	-38 million
• Other losses	<u>109 million</u>
• Subtotal	-\$500 million
December 31, 2020 valuation	
• Total UAAL	\$5,380 million

¹ Actuarial loss from payment of an April 1, 2020 COLA 0.25% higher than the 2.75% COLA assumption.

² Actuarial gain from payment of an April 1, 2021 COLA 1.25% lower than the 2.75% COLA assumption.

Unfunded Actuarial Accrued Liability (\$000) and Funded Ratio by Rate Group

	UAAL	Funded Ratio
Rate Group #1 General Plans A, B and U (County and IHSS) ¹	\$75,790	85.72%
Rate Group #2 General Plans I, J, O, P, S, T, U and W (County et al.)	\$3,526,018	72.50%
Rate Group #3 General Plans B, G, H and U (OCSD)	-\$24,920	103.17%
Rate Group #5 General Plans A, B and U (OCTA)	\$215,409	79.32%
Rate Group #9 General Plans M, N and U (TCA)	-\$1,333	102.48%
Rate Group #10 General Plans I, J, M, N and U (OCFA)	\$34,229	87.82%
Rate Group #11 General Plans M and N, future service, and U (Cemetery)	\$642	94.89%
Rate Group #12 General Plans G, H and U (Law Library)	-\$507	104.44%
Rate Group #6 Safety Plans E, F and V (Probation)	\$207,237	78.22%
Rate Group #7 Safety Plans E, F, Q, R and V (Law Enforcement)	\$1,105,871	75.26%
Rate Group #8 Safety Plans E, F, Q, R and V (OCFA)	\$241,422	87.57%
Aggregate Total	\$5,379,858	76.51%

¹ Includes payees from Vector Control, Cypress Parks and Recreation, U.C.I. and DOE.

Changes in UAAL for General Members (\$000)

	RG #1	RG #2	RG #3	RG #5	RG #9	RG #10	RG #11	RG #12
December 31, 2019 valuation								
• Total UAAL	\$89,621	\$3,553,748	\$0	\$249,186	\$373	\$46,103	\$648	\$31
• Interest minus expected payments to UAAL	\$1,398	-\$77,001	\$0	-\$5,297	-\$1	-\$1,432	-\$3	\$0
• Difference in actual versus expected contributions	2,004	74,696	1,218	8,193	159	-812	45	3
• Additional UAAL payments from OCFA, DOE and UCI	-3,520	0	0	0	0	-6,200	0	0
• Investment gains (on smoothed value of assets)	-9,649	-197,219	-17,364	-17,567	-1,170	-5,076	-252	-254
• Difference in actual versus expected salary increases	336	-17,707	-20,776	-16,295	-650	-282	29	-201
• Effect of higher than expected COLA increases in 2020 ¹	501	19,180	973	1,412	55	318	109	11
• Effect of lower than expected COLA increases in 2021 ²	-3,298	-86,145	-5,718	-7,110	-364	-1,960	-58	-74
• Changes in assumptions	-1,253	183,271	12,086	4,801	334	3,814	218	66
• Effect of reallocating present value benefits between NC and AAL	-222	-15,846	-2,355	-2,414	-139	-2,018	-43	0
• Other (gains)/losses	<u>-128</u>	<u>89,041</u>	<u>7,016</u>	<u>500</u>	<u>70</u>	<u>1,774</u>	<u>-51</u>	<u>-89</u>
• Subtotal	-\$13,831	-\$27,730	-\$24,920	-\$33,777	-\$1,706	-\$11,874	-\$6	-\$538
December 31, 2020 valuation								
• Total UAAL	\$75,790	\$3,526,018	-\$24,920	\$215,409	-\$1,333	\$34,229	\$642	-\$507

¹ Actuarial loss from payment of an April 1, 2020 COLA 0.25% higher than the 2.75% COLA assumption.

² Actuarial gain from payment of an April 1, 2021 COLA 1.25% lower than the 2.75% COLA assumption.

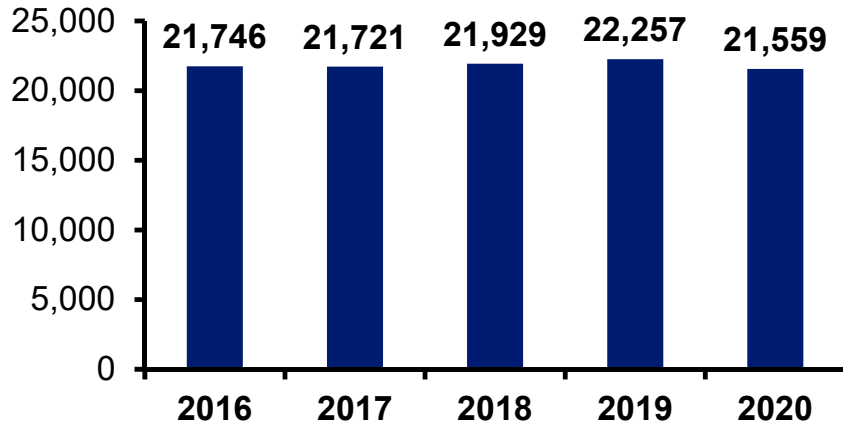
Changes in UAAL for Safety Members (\$000)

	RG #6	RG #7	RG #8
December 31, 2019 valuation			
• Total UAAL	\$263,477	\$1,288,095	\$388,579
• Interest minus expected payments to UAAL	-\$5,421	-\$26,551	-\$8,968
• Difference in actual versus expected contributions	7,328	14,966	2,329
• Additional UAAL payments from OCFA, DOE and UCI	0	0	-15,575
• Investment gains (on smoothed value of assets)	-15,638	-70,920	-35,566
• Difference in actual versus expected salary increases	-8,618	14,880	-13,007
• Effect of higher than expected COLA increases in 2020 ¹	2,697	6,337	2,451
• Effect of lower than expected COLA increases in 2021 ²	-5,547	-33,575	-14,039
• Changes in assumptions	-36,195	-88,103	-54,766
• Effect of reallocating present value benefits between NC and AAL	-44	-4,900	-9,802
• Other (gains)/losses	<u>5,198</u>	<u>5,642</u>	<u>-214</u>
• Subtotal	-\$56,240	-\$182,224	-\$147,157
December 31, 2020 valuation			
• Total UAAL	\$207,237	\$1,105,871	\$241,422

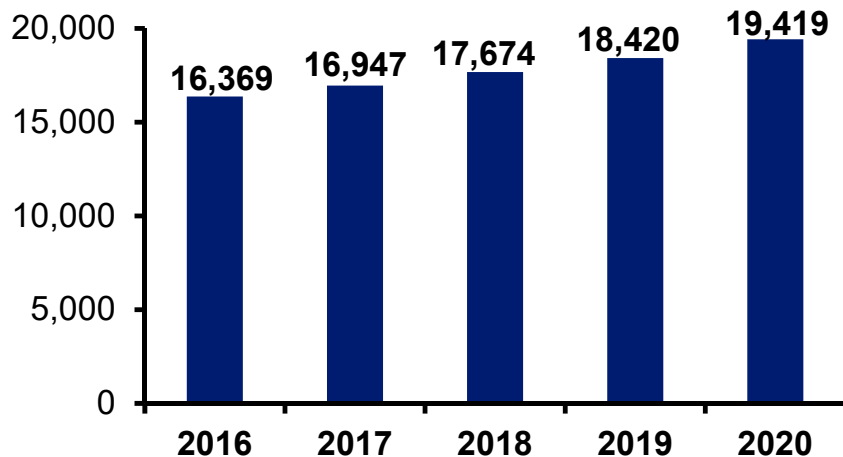
¹ Actuarial loss from payment of an April 1, 2020 COLA 0.25% higher than the 2.75% COLA assumption.

² Actuarial gain from payment of an April 1, 2021 COLA 1.25% lower than the 2.75% COLA assumption.

Entire OCERS Membership Demographics (as of December 31)



	2020	2019
Active Members	21,559	22,257
Average Age	44.8	44.9
Average Service	12.5	12.5
Average Compensation	\$91,046	\$87,727



	2020	2019
Retired Members and Beneficiaries	19,419	18,420
Average Age	70.2	70.1
Average Annual Benefit	\$51,016	\$48,921

Terminated Vested Members	6,818	6,520
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Questions and Discussion



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Summary of Active Membership

Rate Group #1 General – County and IHSS	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	1,530	1,650	-7.3%
Average age	43.3	42.9	0.4
Average service	9.8	9.3	0.5
Projected total compensation	\$88,071,531	\$90,620,091	-2.8%
Projected average compensation	\$57,563	\$54,921	4.8%

Rate Group #2 General Plans I, J, O, P, S, T, U and W	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	13,845	14,339	-3.4%
Average age	45.2	45.4	-0.2
Average service	12.5	12.6	-0.1
Projected total compensation	\$1,162,867,995	\$1,160,247,859	0.2%
Projected average compensation	\$83,992	\$80,916	3.8%

Summary of Active Membership

Rate Group #3 General – OCSD	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	618	608	1.6%
Average age	47.0	47.3	-0.3
Average service	11.8	12.3	-0.5
Projected total compensation	\$75,365,517	\$76,392,296	-1.3%
Projected average compensation	\$121,951	\$125,645	-2.9%

Rate Group #5 General – OCTA	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	1,322	1,350	-2.1%
Average age	49.7	49.6	0.1
Average service	12.7	12.8	-0.1
Projected total compensation	\$109,899,068	\$112,979,357	-2.7%
Projected average compensation	\$83,131	\$83,688	-0.7%

Summary of Active Membership

Rate Group #9 General – TCA	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	54	61	-11.5%
Average age	49.5	48.7	0.8
Average service	9.9	9.2	0.7
Projected total compensation	\$6,572,806	\$7,334,734	-10.4%
Projected average compensation	\$121,719	\$120,242	1.2%

Rate Group #10 General – OCFA	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	325	310	4.8%
Average age	44.1	44.7	-0.6
Average service	9.5	10.2	-0.7
Projected total compensation	\$33,716,592	\$31,598,713	6.7%
Projected average compensation	\$103,743	\$101,931	1.8%

Summary of Active Membership

Rate Group #11 General – Cemetery District	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	25	24	4.2%
Average age	48.8	49.3	-0.5
Average service	15.2	14.9	0.3
Projected total compensation	\$1,798,756	\$1,674,297	7.4%
Projected average compensation	\$71,950	\$69,762	3.1%

Rate Group #12 General – Law Library	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	14	14	0.0%
Average age	59.2	58.2	1.0
Average service	18.4	17.4	1.0
Projected total compensation	\$1,125,455	\$1,119,047	0.6%
Projected average compensation	\$80,390	\$79,932	0.6%

Summary of Active Membership

Rate Group #6 Safety – Probation Officers	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	679	736	-7.7%
Average age	44.9	44.6	0.3
Average service	17.7	17.2	0.5
Projected total compensation	\$59,957,162	\$63,093,762	-5.0%
Projected average compensation	\$88,302	\$85,725	3.0%

Rate Group #7 Safety – Law Enforcement	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	2,015	2,059	-2.1%
Average age	40.7	40.5	0.2
Average service	12.6	12.6	0.0
Projected total compensation	\$267,410,289	\$259,968,109	2.9%
Projected average compensation	\$132,710	\$126,259	5.1%

Summary of Active Membership

Rate Group #8 Safety – OCFA	Year Ended December 31		Change from Prior Year
	2020	2019	
Number	1,132	1,106	2.4%
Average age	42.2	42.5	-0.3
Average service	13.1	12.5	0.6
Projected total compensation	\$156,082,978	\$147,506,069	5.8%
Projected average compensation	\$137,882	\$133,369	3.4%

Summary of Retired Members and Beneficiaries

Rate Group #1 General – County and IHSS ¹	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	685	650	5.4%
Average monthly benefit ²	\$2,852	\$2,768	3.0%
Disabled members			
Number in pay status	39	38	2.6%
Average monthly benefit ²	\$2,515	\$2,438	3.2%
Beneficiaries			
Number in pay status	97	98	-1.0%
Average monthly benefit ²	\$1,523	\$1,571	-3.1%

¹ Includes payees from Vector Control, Cypress Parks and Recreation, U.C.I. and DOE.

² Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #2 General Plans I, J, O, P, S, T, U and W	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	10,449	9,828	6.3%
Average monthly benefit ¹	\$4,111	\$3,939	4.4%
Disabled members			
Number in pay status	562	570	-1.4%
Average monthly benefit ¹	\$2,760	\$2,666	3.5%
Beneficiaries			
Number in pay status	1,591	1,553	2.4%
Average monthly benefit ¹	\$2,059	\$1,983	3.8%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #3 General – OCSD	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	435	410	6.1%
Average monthly benefit ¹	\$6,124	\$5,823	5.2%
Disabled members			
Number in pay status	19	19	0.0%
Average monthly benefit ¹	\$3,945	\$3,830	3.0%
Beneficiaries			
Number in pay status	85	79	7.6%
Average monthly benefit ¹	\$2,524	\$2,536	-0.5%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #5 General – OCTA	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	1,029	992	3.7%
Average monthly benefit ¹	\$2,819	\$2,659	6.0%
Disabled members			
Number in pay status	267	268	-0.4%
Average monthly benefit ¹	\$2,551	\$2,483	2.7%
Beneficiaries			
Number in pay status	193	187	3.2%
Average monthly benefit ¹	\$1,542	\$1,452	6.2%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #9 General – TCA	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	54	51	5.9%
Average monthly benefit ¹	\$3,298	\$3,276	0.7%
Disabled members			
Number in pay status	0	0	N/A
Average monthly benefit ¹	N/A	N/A	N/A
Beneficiaries			
Number in pay status	4	4	0.0%
Average monthly benefit ¹	\$493	\$478	3.1%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #10 General – OCFA	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	187	172	8.7%
Average monthly benefit ¹	\$4,794	\$4,662	2.8%
Disabled members			
Number in pay status	11	11	0.0%
Average monthly benefit ¹	\$3,358	\$3,004	11.8%
Beneficiaries			
Number in pay status	13	13	0.0%
Average monthly benefit ¹	\$1,589	\$1,542	3.0%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #11 General – Cemetery District	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	7	7	0.0%
Average monthly benefit ¹	\$3,235	\$3,065	5.5%
Disabled members			
Number in pay status	0	0	N/A
Average monthly benefit ¹	N/A	N/A	N/A
Beneficiaries			
Number in pay status	5	6	-16.7%
Average monthly benefit ¹	\$1,583	\$1,501	5.5%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #12 General – Law Library	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	12	13	-7.7%
Average monthly benefit ¹	\$3,317	\$3,019	9.9%
Disabled members			
Number in pay status	0	0	N/A
Average monthly benefit ¹	N/A	N/A	N/A
Beneficiaries			
Number in pay status	0	0	N/A
Average monthly benefit ¹	N/A	N/A	N/A

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #6 Safety – Probation Officers	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	427	376	13.6%
Average monthly benefit ¹	\$5,748	\$5,672	1.3%
Disabled members			
Number in pay status	36	33	9.1%
Average monthly benefit ¹	\$3,093	\$3,052	1.3%
Beneficiaries			
Number in pay status	37	28	32.1%
Average monthly benefit ¹	\$2,372	\$2,469	-3.9%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #7 Safety – Law Enforcement	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	1,572	1,489	5.6%
Average monthly benefit ¹	\$7,672	\$7,412	3.5%
Disabled members			
Number in pay status	378	370	2.2%
Average monthly benefit ¹	\$5,627	\$5,465	3.0%
Beneficiaries			
Number in pay status	402	385	4.4%
Average monthly benefit ¹	\$3,369	\$3,250	3.7%

¹ Excludes monthly benefits payable from the STAR COLA.

Summary of Retired Members and Beneficiaries

Rate Group #8 Safety – OCFA	Year Ended December 31		Change from Prior Year
	2020	2019	
Retired members			
Number in pay status	481	460	4.6%
Average monthly benefit ¹	\$8,942	\$8,780	1.8%
Disabled members			
Number in pay status	213	196	8.7%
Average monthly benefit ¹	\$7,444	\$7,035	5.8%
Beneficiaries			
Number in pay status	128	113	13.3%
Average monthly benefit ¹	\$3,514	\$3,380	4.0%

¹ Excludes monthly benefits payable from the STAR COLA.

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #1	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plans A and B		
Normal Cost	10.38%	10.68%
UAAL ¹	<u>5.03%</u>	<u>5.16%</u>
Total	15.41%	15.84%

Plan U		
Normal Cost	9.89%	10.05%
UAAL ¹	<u>5.03%</u>	<u>5.16%</u>
Total	14.92%	15.21%

Rate Group 1 combined		
Normal Cost	10.10%	10.32%
UAAL ¹	<u>5.03%</u>	<u>5.16%</u>
Total	15.13%	15.48%

¹ These are "net" UAAL contribution rate for County and IHSS Public Authority without reflecting the UAAL contributions required for Vector Control, Cypress Parks and Recreation, U.C.I. and DOE.

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #1 <i>continued</i>	Sample Member Rates	
	FY 22 – 23	FY 21 – 22
Plans A and B		
<u>Tier 2</u>		
Entry Age: 30	8.95%	9.04%
Entry Age: 35	9.77%	9.79%
Entry Age: 40	10.69%	10.64%
Plan U		
Entry Age: 30	9.13%	9.38%
Entry Age: 35	9.96%	10.16%
Entry Age: 40	10.88%	11.01%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #2	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plans I and J (non-Children & Families)		
Normal Cost	14.69%	14.34%
UAAL ¹	<u>28.97%</u>	<u>27.38%</u>
Total	43.66%	41.72%
Plans I and J (Children & Families)		
Normal Cost	14.69%	14.34%
UAAL	<u>5.98%</u>	<u>5.36%</u>
Total	20.67%	19.70%
Plans O and P		
Normal Cost	6.26%	6.10%
UAAL ¹	<u>28.97%</u>	<u>27.38%</u>
Total	35.23%	33.48%

¹ Before adjustments for future service benefit improvements.

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #2 <i>continued</i>	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plan S		
Normal Cost ¹	16.45%	12.61%
UAAL	<u>28.97%</u>	<u>27.38%</u>
Total	45.42%	39.99%

Plan T		
Normal Cost	7.06%	7.14%
UAAL ²	<u>28.97%</u>	<u>27.38%</u>
Total	36.03%	34.52%

Plan U (non-Children & Families)		
Normal Cost	8.37%	8.81%
UAAL ²	<u>28.97%</u>	<u>27.38%</u>
Total	37.34%	36.19%

¹ The increase in the employer Normal Cost rate from last year to this year is primarily due to reallocating Present Value of Benefits between Normal Cost and Actuarial Accrued Liability which resulted in the average entry age increasing from 33.8 to 40.6.

² Before adjustments for future service benefit improvements.

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #2 <i>continued</i>	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plan U (Children & Families)		
Normal Cost	8.37%	8.81%
UAAL	<u>5.98%</u>	<u>5.36%</u>
Total	14.35%	14.17%

Plan W		
Normal Cost	8.43%	8.54%
UAAL	<u>28.97%</u>	<u>27.38%</u>
Total	37.40%	35.92%

Rate Group 2 combined		
Normal Cost	11.88%	11.69%
UAAL	<u>28.94%</u>	<u>27.35%</u>
Total	40.82%	39.04%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #2 <i>continued</i>	Sample Member Rate	
	FY 22 – 23	FY 21 – 22
Plans I and J		
<u>Tier 1</u>		
Entry Age: 30	13.22%	13.17%
Entry Age: 35	14.48%	14.32%
Entry Age: 40	15.90%	15.53%
<u>Tier 2</u>		
Entry Age: 30	12.69%	12.59%
Entry Age: 35	13.89%	13.69%
Entry Age: 40	15.16%	14.76%
Plan P		
<u>Tier 2</u>		
Entry Age: 30	8.16%	8.29%
Entry Age: 35	8.91%	8.99%
Entry Age: 40	9.76%	9.77%
Plan S		
<u>Tier 2</u>		
Entry Age: 30	10.75%	10.92%
Entry Age: 35	11.73%	11.84%
Entry Age: 40	12.84%	12.87%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #2 <i>continued</i>	Sample Member Rate	
	FY 22 – 23	FY 21 – 22
Plan T		
Entry Age: 30	6.42%	6.56%
Entry Age: 35	7.01%	7.11%
Entry Age: 40	7.68%	7.73%
Plan U		
Entry Age: 30	7.90%	8.29%
Entry Age: 35	8.62%	8.98%
Entry Age: 40	9.42%	9.73%
Plan W		
Entry Age: 30	5.86%	5.90%
Entry Age: 35	6.40%	6.40%
Entry Age: 40	7.01%	6.97%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #3	Employer Rate	
	FY 22 – 23	FY 21 – 22
Plans G and H		
Normal Cost	13.46%	13.22%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	13.46%	13.22%
Plan B		
Normal Cost ²	13.25%	11.23%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	13.25%	11.23%
Plan U		
Normal Cost	9.86%	9.88%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	9.86%	9.88%
Rate Group 3 combined		
Normal Cost	11.99%	11.70%
UAAL ¹	<u>0.00%</u>	<u>0.00%</u>
Total	11.99%	11.70%

¹ Under CalPEPRA, the employer's contribution rate cannot be less than the Normal Cost unless the funded ratio is over 120% and other conditions in CalPEPRA are met.

² The increase in the employer Normal Cost rate from last year to this year is primarily due to reallocating Present Value of Benefits between Normal Cost and Actuarial Accrued Liability which resulted in the average entry age increasing from 33.3 to 38.4.

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #3 <i>continued</i>	Sample Member Rate	
	FY 22 – 23	FY 21 – 22
Plans G and H		
<u>Tier 2</u>		
Entry Age: 30	12.39%	12.35%
Entry Age: 35	13.57%	13.42%
Entry Age: 40	14.81%	14.47%
Plan B		
<u>Tier 2</u>		
Entry Age: 30	9.04%	9.10%
Entry Age: 35	9.87%	9.86%
Entry Age: 40	10.80%	10.71%
Plan U		
Entry Age: 30	8.53%	8.68%
Entry Age: 35	9.31%	9.40%
Entry Age: 40	10.17%	10.18%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #5	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plans A and B		
Normal Cost	12.59%	11.97%
UAAL	<u>19.12%</u>	<u>19.54%</u>
Total	31.71%	31.51%
Plan U		
Normal Cost	11.73%	11.59%
UAAL	<u>19.12%</u>	<u>19.54%</u>
Total	30.85%	31.13%
Rate Group 5 combined		
Normal Cost	12.36%	11.87%
UAAL	<u>19.12%</u>	<u>19.54%</u>
Total	31.48%	31.41%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #5 <i>continued</i>	Sample Member Rates	
	FY 22 – 23	FY 21 – 22
Plans A and B		
<u>Tier 1</u>		
Entry Age: 30	6.82%	6.83%
Entry Age: 35	7.45%	7.41%
Entry Age: 40	8.16%	8.05%
<u>Tier 2</u>		
Entry Age: 30	9.14%	9.15%
Entry Age: 35	9.98%	9.91%
Entry Age: 40	10.92%	10.77%
Plan U		
Entry Age: 30	9.86%	9.86%
Entry Age: 35	10.76%	10.67%
Entry Age: 40	11.75%	11.57%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #9	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plans M and N		
Normal Cost	14.95%	14.23%
UAAL	<u>0.00%</u> ¹	<u>0.39%</u>
Total	14.95%	14.62%
Plan U		
Normal Cost	10.98%	11.14%
UAAL	<u>0.00%</u> ¹	<u>0.39%</u>
Total	10.98%	11.53%
Rate Group 9 combined		
Normal Cost	13.07%	12.76%
UAAL	<u>0.00%</u> ¹	<u>0.39%</u>
Total	13.07%	13.15%

¹ Under CalPEPRA, the employer's contribution rate cannot be less than the Normal Cost unless the funded ratio is over 120% and other conditions in CalPEPRA are met.

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #9 <i>continued</i>	Sample Member Rates	
	FY 22 – 23	FY 21 – 22
Plans M and N		
<u>Tier 2</u>		
Entry Age: 30	9.49%	9.49%
Entry Age: 35	10.36%	10.29%
Entry Age: 40	11.34%	11.18%
Plan U		
Entry Age: 30	8.65%	8.90%
Entry Age: 35	9.44%	9.64%
Entry Age: 40	10.31%	10.45%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #10	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plans I and J		
Normal Cost	15.22%	14.75%
UAAL	<u>11.49%</u>	<u>14.06%</u>
Total	26.71%	28.81%
Plans M and N		
Normal Cost ¹	16.83%	13.68%
UAAL	<u>11.49%</u>	<u>14.06%</u>
Total	28.32%	27.74%
Plan U		
Normal Cost	9.82%	10.05%
UAAL	<u>11.49%</u>	<u>14.06%</u>
Total	21.31%	24.11%
Rate Group 10 combined		
Normal Cost	12.90%	12.34%
UAAL	<u>11.49%</u>	<u>14.06%</u>
Total	24.39%	26.40%

¹ The increase in the employer Normal Cost rate from last year to this year is primarily due to reallocating the Present Value of Benefits between Normal Cost and Actuarial Accrued Liability which resulted in the average entry age increasing from 33.7 to 39.4.

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #10 <i>continued</i>	Sample Member Rate	
	FY 22 – 23	FY 21 – 22
Plan J		
<u>Tier 2</u>		
Entry Age: 30	12.61%	12.57%
Entry Age: 35	13.81%	13.66%
Entry Age: 40	15.07%	14.73%
Plan N		
<u>Tier 2</u>		
Entry Age: 30	9.83%	9.60%
Entry Age: 35	10.73%	10.41%
Entry Age: 40	11.75%	11.31%
Plan U		
Entry Age: 30	8.75%	9.00%
Entry Age: 35	9.55%	9.75%
Entry Age: 40	10.43%	10.57%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #11	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plans M and N		
Normal Cost	12.83%	11.62%
UAAL	<u>2.85%</u>	<u>3.01%</u>
Total	15.68%	14.63%
Plan U		
Normal Cost	11.80%	12.25%
UAAL	<u>2.85%</u>	<u>3.01%</u>
Total	14.65%	15.26%
Rate Group 11 combined		
Normal Cost	12.51%	11.84%
UAAL	<u>2.85%</u>	<u>3.01%</u>
Total	15.36%	14.85%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #11 <i>continued</i>	Sample Member Rates	
	FY 22 – 23	FY 21 – 22
Plans M and N		
<u>Tier 2</u>		
Entry Age: 30	9.49%	9.49%
Entry Age: 35	10.36%	10.29%
Entry Age: 40	11.34%	11.18%
Plan U		
Entry Age: 30	9.62%	9.77%
Entry Age: 35	10.50%	10.58%
Entry Age: 40	11.47%	11.47%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #12	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plans G and H		
Normal Cost	13.88%	14.20%
UAAL	<u>0.00%</u> ¹	<u>0.19%</u>
Total	13.88%	14.39%
Plan U		
Normal Cost	10.51%	10.37%
UAAL	<u>0.00%</u> ¹	<u>0.19%</u>
Total	10.51%	10.56%
Rate Group 12 combined		
Normal Cost	13.24%	13.51%
UAAL	<u>0.00%</u> ¹	<u>0.19%</u>
Total	13.24%	13.70%

¹ Under CalPEPRA, the employer's contribution rate cannot be less than the Normal Cost unless the funded ratio is over 120% and other conditions in CalPEPRA are met.

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #12 <i>continued</i>	Sample Member Rates	
	FY 22 – 23	FY 21 – 22
Plan H		
<u>Tier 2</u>		
Entry Age: 30	12.32%	12.38%
Entry Age: 35	13.49%	13.46%
Entry Age: 40	14.72%	14.51%
Plan U		
Entry Age: 30	8.25%	8.52%
Entry Age: 35	9.00%	9.23%
Entry Age: 40	9.83%	10.00%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #6	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plans E and F		
Normal Cost	23.39%	23.25%
UAAL	<u>34.06%</u>	<u>36.92%</u>
Total	57.45%	60.17%
Plan V		
Normal Cost	16.26%	16.82%
UAAL	<u>34.06%</u>	<u>36.92%</u>
Total	50.32%	53.74%
Rate Group 6 combined		
Normal Cost	22.79%	22.71%
UAAL	<u>34.06%</u>	<u>36.92%</u>
Total	56.85%	59.63%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #6 <i>continued</i>	Sample Member Rates	
	FY 22 – 23	FY 21 – 22
Plan F		
<u>Tier 2</u>		
Entry Age: 30	18.10%	18.18%
Entry Age: 35	19.65%	19.52%
Entry Age: 40	21.26%	20.96%
Plan V		
Entry Age: 30	16.12%	16.84%
Entry Age: 35	17.38%	18.05%
Entry Age: 40	18.88%	19.43%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #7	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plans E and F		
Normal Cost	26.66%	26.57%
UAAL	<u>39.73%</u>	<u>43.65%</u>
Total	66.39%	70.22%
Plans Q and R		
Normal Cost	24.23%	23.58%
UAAL	<u>39.73%</u>	<u>43.65%</u>
Total	63.96%	67.23%
Plan V		
Normal Cost ¹	17.73%	18.46%
UAAL	<u>39.73%</u>	<u>43.65%</u>
Total	57.46%	62.11%
Rate Group 7 combined		
Normal Cost	23.52%	23.57%
UAAL	<u>39.73%</u>	<u>43.65%</u>
Total	63.25%	67.22%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #7 <i>continued</i>	Sample Member Rate	
	FY 22 – 23	FY 21 – 22
Plan F		
<u>Tier 2</u>		
Entry Age: 30	19.08%	18.82%
Entry Age: 35	20.66%	20.20%
Entry Age: 40	22.27%	21.66%
Plan R		
<u>Tier 2</u>		
Entry Age: 30	17.97%	17.64%
Entry Age: 35	19.46%	18.94%
Entry Age: 40	20.97%	20.30%
Plan V		
Entry Age: 30	17.39%	18.08%
Entry Age: 35	18.75%	19.38%
Entry Age: 40	20.36%	20.86%

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #8	Employer Rates	
	FY 22 – 23	FY 21 – 22
Plans E and F		
Normal Cost	27.31%	27.48%
UAAL	<u>16.36%</u>	<u>23.79%</u>
Total	43.67%	51.27%
Plans Q and R		
Normal Cost ¹	27.25%	25.77%
UAAL	<u>16.36%</u>	<u>23.79%</u>
Total	43.61%	49.56%
Plan V		
Normal Cost	15.11%	15.66%
UAAL	<u>16.36%</u>	<u>23.79%</u>
Total	31.47%	39.45%
Rate Group 8 combined		
Normal Cost	24.29%	24.33%
UAAL	<u>16.36%</u>	<u>23.79%</u>
Total	40.65%	48.12%

¹ The increase in the employer Normal Cost rate from last year to this year is primarily due to reallocating the Present Value of Benefits between Normal Cost and Actuarial Accrued Liability which resulted in the average entry age increasing from 32.0 to 35.7.

Contribution Rates

Fiscal Years Beginning July 1, 2022 and July 1, 2021

Rate Group #8 <i>continued</i>	Sample Member Rate	
	FY 22 – 23	FY 21 – 22
Plan F		
<u>Tier 2</u>		
Entry Age: 30	18.04%	18.22%
Entry Age: 35	19.59%	19.59%
Entry Age: 40	21.25%	21.07%
Plan R		
<u>Tier 2</u>		
Entry Age: 30	17.81%	17.78%
Entry Age: 35	19.35%	19.12%
Entry Age: 40	20.99%	20.57%
Plan V		
Entry Age: 30	15.34%	15.91%
Entry Age: 35	16.54%	17.06%
Entry Age: 40	17.96%	18.36%



Memorandum

DATE: May 17, 2021
 TO: Members of the Board of Retirement
 FROM: Steve Delaney, Chief Executive Officer
 SUBJECT: **COVID-19 UPDATE**

Presentation

On May 17 I will provide my monthly update as to OCERS and the ongoing impact of the COVID pandemic. OCERS staff continues to telework through the end of May. On May 18 the Crisis Management Team will meet for our monthly review to determine if the OCERS team should continue under mandatory telework for yet another month, through the end of June 2021.

Now the question arises, is that soon to change? From the Governor's Office:

Governor Newsom Outlines the State's Next Step in the COVID-19 Pandemic Recovery, Moving Beyond the Blueprint

Published: Apr 06, 2021

SACRAMENTO – As California surpasses a major milestone in the fight against COVID — administering more than 20 million vaccine doses, including 4 million in the state's hardest-hit communities, and with hospitalizations continuing to steadily decline — Governor Gavin Newsom today outlined the state's next step in the COVID-19 pandemic recovery, moving beyond the Blueprint for a Safer Economy.

On June 15, California will fully open its economy if two criteria are met:

If vaccine supply is sufficient for Californians 16 years and older who wish to be inoculated;

and

If hospitalization rates are stable and low.

Everyday activities will be allowed and businesses can open with common-sense risk reduction measures, including encouraging all Californians to get vaccinated and mandating masking, to prevent illness and promote health.

While the OCERS team will continue to review our situation one month at a time, it seems like a good time to begin asking what the OCERS Board wants to do with regard to virtual compared to in-person meetings. I first asked Mr. Gossard, Chair of the OCERS Crisis Management Team to provide me with some current CDC and County of Orange guidance as to meetings. Though not addressed directly, Mr. Gossard was able to glean the following from the various government web sites:

CDC Considerations for Events & Gatherings

- *Promote healthy behaviors that reduce spread*
 - o *Stay home when appropriate*
 - o *Exercise physical distancing*
 - o *Wear masks*
 - o *Exercise hand hygiene and respiratory etiquette*
 - o *Provide adequate supplies to accomplish the above*
 - o *Provide adequate signage and messaging to accomplish the above*

Additional CDC guidance on Small Gatherings that mimics the above

General CDC Guidance for Businesses and Employers

- *Along with the above:*
 - o *Implement health checks*

CDPH Industry Guidance for Office Workspaces

- *Physical distancing to the maximum extent possible*
- *Use of face coverings*
- *Frequent handwashing and regular cleaning and disinfection*
- *Training attendees on these and other elements of COVID-19 prevention*

CDPH Industry guidance to reduce risk

- *Office workspaces in the Orange (and Yellow) tier are encouraged to utilize telework*

County of Orange Business Reopening Guidance

- *This site points back to the CDPH guidance above*

Finally, hoping to assist our own conversation with yet more data, I posed a series of questions to a number of public pension systems around California. The attached matrix lists my five questions, and provides answers where systems responded. I have removed names as some wanted to share without publicizing their current status.

I look forward to discussing these materials with the Board on May 17, to see if a consensus is starting to develop among the Trustees as to when, or if, the OCERS Board will be returning to some form of in-person meetings.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

RETIREMENT SYSTEM BOARD MEETINGS - COVID IMPACT as of May 1, 2021

Questions	1	2	3
1. Is your Board meeting in person?	No - all still virtual	No - all still virtual	No - still virtual
2. If in person, What modifications if any have you made to your Board room?			Social distancing and masks on
3. If in person, Do you have some Trustees still participating virtually?			1 or 2 Board Members participate in person
4. If you do have a mix of in-person and virtual, are you experiencing sound system issues? [my It Department warns me that each Trustee coming in person will have to bring their lap top to join in, and we may get echoes.]			No sound issues
5. If in person, Do you allow the public to attend in person as well?			no public attendance

4	5	6	7	8
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No - all still virtual	No, all still virtual - although planning on in person starting in August	No	No, still virtual but anticipating lifting of most restrictions on June 15 per Governer's orders	No, still virtual but that can change as of June 15
		Some staff is in person in board room		
		All still participate virutally		
		Don't yet know		
		no until Governer allows it		

9	10	11	12	13	14	15
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Yes	No - still virtual with an occasional Trustee attendance	No - all still virtual	Yes but a mixture of in-person and virtual	No - still virtual but anticipating the June 15th order	No, not at this time	No, still virtual for the most part
6' social distancing between trustees			social distancing		added barriers between the board table and presenters and for staff running the meeting	plexiglass partitions on the dais
Yes			Yes		On occasion 2 or 3 Trustees participate in-person	allow a max of 3 Trustees in the chamber
No			No		Yes, occasionally but not from Boardroom equipment	Only issue is spotty connection for 1 Trustee
Yes, with social distancing and face masks	No public access		No		No, not yet	No

16	17
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plan is to potentially start hosting hybrid meetings starting in July	No, still fully virtual and will continue as long as possible
distance as best as possible	
Will do a hybrid of in person and virtual	No - they hope to hold out going Hybrid until November meeting
No	No

*Orange County Employees Retirement System
Retirement Board Meeting
May 17, 2021
Application Notices*

Member Name	Agency/Employer	Retirement Date
Afable, Loreta	Treasurer - Tax Collector	2/26/2021
Aquirre, Heide	Sheriff's Dept	3/12/2021
Amezcuca, Gerardo	Sanitation District	2/24/2021
Anderson, Lisa	Health Care Agency	3/23/2021
Andrew, Arthur	OC Public Works	2/26/2021
Angold, Miriam	Sanitation District	3/19/2021
Baker, Chad	Sheriff's Dept	2/17/2021
Baroni, Sonia	Superior Court	3/12/2021
Blue, Janet	Social Services Agency	3/12/2021
Boles, John	OC Public Works	3/12/2021
Breaton, Steven	Sheriff's Dept	3/12/2021
Burns, Tracy	Sheriff's Dept	3/23/2021
Cappel, David	Sheriff's Dept	3/12/2021
Castillo, Katherine	OCTA	3/16/2021
Chambers, James	Sheriff's Dept	3/12/2021
Christensen, Jeanette	Sheriff's Dept	3/19/2021
Close, Charles	Sanitation District	3/5/2021
Cochran, Dixie	OCTA	3/14/2021
Cowen, Grace	Health Care Agency	3/12/2021
Crafton, Ann	Sanitation District	3/12/2021
Davis, Nancy	OC Community Resources	3/11/2021
Diaz, Juli	Superior Court	3/12/2021
Dyer, Loree	Probation	3/12/2021
Eroles, Jose	Sanitation District	3/12/2021
Evans, Dea	Probation	4/9/2021
Fedorovsky, Anna	Social Services Agency	3/22/2021
Fell, Sheila	Superior Court	3/22/2021
Ferrentino, Anthony	District Attorney	2/19/2021
Few, Michael	Sheriff's Dept	3/12/2021
Ford, Candice	Social Services Agency	3/12/2021
Ford, Donald	Fire Authority (OCFA)	3/12/2021
Francisco, Edgardo	OCTA	3/6/2021
Fry, Tamara	Superior Court	3/12/2021
Gonzalez, Diana	Superior Court	3/12/2021
Gutierrez, Alberto	OCWR	2/26/2021
Gutierrez, William	Sheriff's Dept	3/12/2021
Harrison, Kenneth	Fire Authority (OCFA)	3/12/2021
Hazencomb, Linda	Superior Court	3/12/2021
Hernandez, Rosaura	Fire Authority (OCFA)	2/26/2021
Hicks, Larry	District Attorney	3/12/2021
Huynh, Thang	Health Care Agency	3/12/2021
Johnson, Luci	Sheriff's Dept	3/12/2021
Kaelin, Theda	Superior Court	3/12/2021
Keefe, Keunho	Health Care Agency	3/12/2021
Lee, David	Sheriff's Dept	3/12/2021
Lim, Theresa	Social Services Agency	2/26/2021
Lopez, Aida	John Wayne Airport	3/12/2021
Lyles, Mark	OC Public Works	3/20/2021
Marei, Samer	OC Public Works	3/12/2021

Member Name	Agency/Employer	Retirement Date
Martinez, Tammy	Probation	3/12/2021
Mc Bride, Paul	District Attorney	1/30/2021
Morfin, Laura	Superior Court	3/13/2021
Mura, Bonnie	Clerk of the Board	3/12/2021
Murray, Kathleen	Health Care Agency	3/12/2021
Naku, Mubula	Health Care Agency	3/12/2021
Noud, Jean	Social Services Agency	3/12/2021
Odulio, Eliseo	OCTA	3/7/2021
Perez, Marco	Probation	3/12/2021
Perez, Suzan	Superior Court	3/12/2021
Phillips, Christine	Sheriff's Dept	8/14/2020
Rangel, Martha	Auditor Controller	3/12/2021
Raymond, Victoria	Sanitation District	3/10/2021
Rivera, Maria	Health Care Agency	3/12/2021
Rocker, Thelma	District Attorney	3/12/2021
Romo, Alma	District Attorney	3/12/2021
Rosal, Rickey	Sheriff's Dept	3/12/2021
Rowe, Beverly	Social Services Agency	3/12/2021
Rowe, Paul	Sheriff's Dept	2/26/2021
Rozen, Patricia	Health Care Agency	2/26/2021
Sakamoto, Christina	Probation	3/12/2021
Salceda, Alejandro	Sheriff's Dept	3/12/2021
Santillan, Richard	Probation	3/12/2021
Savvaides, Eleni	District Attorney	3/21/2021
Schmitt, Candy	Health Care Agency	3/20/2021
Schwitters, Shawn	Sheriff's Dept	2/26/2021
Seminaris, Frank	District Attorney	3/12/2021
Sierra, Tomas	Sheriff's Dept	3/22/2021
Singh, Gornam	OCTA	2/28/2021
Smith, Kymberly	Sanitation District	3/12/2021
Soto, Javier	Probation	3/12/2021
Stevens, Frances	Social Services Agency	2/26/2021
Sumrall, Brent	OCTA	1/30/2021
Taylor, Randy	Sheriff's Dept	3/12/2021
Thomas, Arlene	Probation	3/12/2021
Torkamanha, Hamid	OCTA	2/28/2021
Torrez, Gilbert	Sheriff's Dept	2/26/2021
Vergara, Maria	Social Services Agency	2/27/2021
Vo, Tina	Social Services Agency	3/12/2021
Wilkes, Alan	Fire Authority (OCFA)	12/6/2020
Witherspoon, Harold	OCTA	3/2/2021
Wong, Ken	Sanitation District	3/21/2021
Yared, Herbert	District Attorney	3/12/2021
Yee, Edward	District Attorney	3/3/2021
Zaidi, Farah	Health Care Agency	3/12/2021

*Orange County Employees Retirement
Retirement Board Meeting
May 17, 2021
Death Notices*

<i>Active Members</i>	<i>Agency/Employer</i>
Bello, Rasheed	OCTA
Grant, Camille	Social Services Agency
Manges, Lynn	Health Care Agency

<i>Retired Members</i>	<i>Agency/Employer</i>
Acosta, Pete	OC Public Works
Anselmi, Joan	OC Community Resources
Blevins, Howard	Sanitation District
Bramlett, Reine	Social Services Agency
Bucher, Judith	Sanitation District
Castellaw, Rex	Probation
Chabra, Ramexh	OC Public Works
Crawford, Joe	Treasurer - Tax Collector
Davidson, Shizue	County Clerk/Recorder
Davies, Shirley	OCTA
De La Masa, Sofronio	Assessor
Eaton, Cindy	Superior Court
Ebargaray, Margaret	Sheriff's Dept
Edwards, Dennis	Sheriff's Dept
Epstein, Anita	Sheriff's Dept
Gentle, Marnie	Social Services Agency
Graham, Aldina	Auditor Controller
Grant, Ian	OC Public Works
Greenwell, Christine	Social Services Agency
Griffith, Stanley	Sheriff's Dept
Knife Chief, Margot	Social Services Agency
Kouns, Patricia	Health Care Agency
Latour, Maurice	Health Care Agency
Mailhot, Karen	Superior Court
Martin, Emmett	OC Public Works
Martinez, Sandra	Probation
Mc Coy, John	Treasurer - Tax Collector
Meeker, Stephen	OCTA
Mendoza, Miguel	OC Public Works
Munoz, Esther	Health Care Agency
Nash, Susan	Probation
Nguyen, Julie	Social Services Agency
Oravec, Deloras	Auditor Controller
Pena, Javier	County Executive Office (CEO)
Rieder, Charlene	Superior Court
Santiago, Rose Marie	Superior Court

Silverman, Joan	OC Community Resources
Sowell, Janelle	Assessor
Tomlinson, Ann	Superior Court
Weltz, Gloria	Sheriff's Dept
Wysocki, Jane	OC Public Works
Zoerlein, Gladys	Auditor Controller

<i>Surviving Spouses</i>	
Akins, Clea	
Anderson, Althea	
Brooke, Jean	
Cooper, Phyllis	
Hernandez, Gustavo	
Longnecker, Phyllis	
Miller, Marta	
Reinker, Rita	
Sprankle, Donald	
White, Judy	

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CALIFORNIA**

**AUDIT COMMITTEE MEETING
January 25, 2021
9:00 a.m.**

MINUTES

OPEN SESSION

The Chair called the meeting to order at 9:00am.

Attendance was as follows:

Present via Zoom Video conference pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020:

Frank Eley, Chair; Shari Freidenrich, Vice Chair; Charles Packard; Jeremy Vallone

Also Present via Zoom:

David Kim, Director of Internal Audit; Steve Delaney, Chief Executive Officer; Gina Ratto, General Counsel; Suzanne Jenike, Assistant CEO, External Operations; Brenda Shott, Assistant CEO, Internal Operations; Jenny Sadoski, Director of Information Technology; Reginald Tucker, Managing Director of Investments; Mark Adviento, Internal Auditor; Sonal Sharma-Beeson, Recording Secretary; Anthony Beltran, Audio Visual Technician.

PUBLIC COMMENT

None.

C-1 APPROVE AUDIT COMMITTEE MEETING MINUTES

Updated Audit Committee Meeting Minutes
Audit Committee Meeting Minutes

October 13, 2020
December 17, 2020

MOTION was made by Packard, **seconded** by Vallone to approve the minutes.

The motion passed **unanimously**.

A-2 AUDIT OF SECURITIES LENDING

Presentation by David Kim, Director of Internal Audit and Louis Musto, Director of Business Risk, RSM

Recommendation: Receive and file.

Audit Committee Meeting
January 25, 2021

MOTION was made by Freidenrich, **seconded** by Packard to approve staff recommendation.

The motion passed **unanimously**.

A-3 AUDIT OF INVESTMENT ACCOUNTING PROCESS

Presentation by David Kim, Director of Internal Audit and Mark Adviento, Internal Auditor

Recommendation: Receive and file.

MOTION was made by Packard, **seconded** by Vallone to approve staff recommendation.

The motion passed **unanimously**.

A-4 CONSIDERATION OF 2021 RISK ASSESSMENT AND 2021 AUDIT PLAN

Presentation by David Kim, Director of Internal Audit

Recommendation: Receive and file

MOTION was made by Packard, **seconded** by Vallone to approve staff recommendation.

The motion passed **unanimously**.

INFORMATION ITEMS

I-1 STATUS UPDATE OF 2020 AUDIT PLAN

Written Report

I-2 MANAGEMENT ACTION PLAN VERIFICATION

Written Report

The Committee took a break at 10:39am and resumed at 10:50am.

The Committee recessed into Closed Session at 10:53am.

The Committee resumed at 11:49am.

OPEN SESSION

A PUBLIC EMPLOYEE PERFORMANCE EVALUATION (GOVERNMENT CODE §54957(b))

Title: Chief Executive Officer

Adjourn pursuant to Government Code section 54957(b) to evaluate the performance of the Chief Executive Officer.

Recommendation: Take appropriate action.

B PUBLIC EMPLOYEE PERFORMANCE EVALUATION (GOVERNMENT CODE §54957(b))

Title: Director Internal Audit

Adjourn pursuant to Government Code section 54957(b) to evaluate the performance of the Director Internal Audit.

Audit Committee Meeting
January 25, 2021

Recommendation: Take appropriate action.

The Audit Committee took no reportable action.

COMMITTEE MEMBER COMMENTS

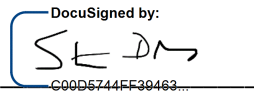
CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

ADJOURNMENT

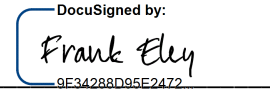
The Chair adjourned the meeting at 11:51 am.

Submitted by:

DocuSigned by:

C00D6744FF39463...

Steve Delaney
Secretary to the Board

Approved by:

DocuSigned by:

9E34288D95E2472

Frank Eley
Chair



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN**

Written Report

AGENDA TOPICS FOR THE OCERS BOARD OF RETIREMENT

JUNE

Approve 2020 Comprehensive Annual Financial Report
OCERS 2021 Business Plan and 2021-2023 Strategic Plan: Mid-year Review
Strategic Planning Workshop – Proposed Agenda
December 31, 2021 Actuarial Valuation – Final Approval

JULY

Actuarial Review: Risk Assessment
Alt. Invest. Return and Assumption Sensitivity: 20-year Illustration
Consideration of early payment of Employer Contributions for fiscal year 2021-2023
OCERS Different Benefit Plans – An Overview (Suzanne)
CEM Benchmarking Presentation
OCFA Liability Paydown Update
SEGAL Cost Projections
Strategic Planning Workshop – Final Agenda
Travel and Training Expense Report

AUGUST

Employer Employee Contribution Matrix
OCERS by the Numbers
The Evolution of the OCERS UAAL

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

OCERS RETIREMENT BOARD - 2021 Work Plan

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep (Offsite)	Oct	Nov	Dec
System Oversight		STAR COLA Posting (I)	Approve 2021 STAR COLA (A)	SACRS Board of Directors Election (A)	Preliminary December 31, 2020 Valuation (I)	Mid-Year Review of 2021 Business Plan Progress (I)	Alt. Invest. Return and Assumption Sensitivity: 20-year Illustration (I)	Review 2nd Quarter Budget to Actuals Financial Report (I)	Strategic Planning Workshop (I)	Overview of 2022 Administrative Budget and Investment (Workshop) (I)	Review 3rd Quarter Budget to Actuals Financial Report (I)	
		Approve 2021 COLA (A)	Quarterly 2021-2023 Strategic Plan Review (A)			Approve December 31, 2020 Actuarial Valuation & Funded Status of OCERS (A)	Actuarial Review: Risk Assessment (I)	Receive OCERS by the Numbers (I)	Annual OCERS Employer Review (I)	Approve 2022-2024 Strategic Plan (A)	Approve 2022 Administrative (Operating) Budget (A)	
						Approve 2020 Comprehensive Annual Financial Report (A)	Approve Early Payment Rates for Fiscal Year 2021-22 (A)	Receive Evolution of the UAAL (I)		Approve 2022 Business Plan (A)	Annual CEO Performance Review and Compensation (A)	
						Quarterly 2021-2023 Strategic Plan Review (A)		Employer & Employee Pension Cost Comparison (I)				
												Adopt 2022 Board Meeting Calendar (A)
Board Governance				Brown Act Training (biannual) (I)					Annual Review of Succession Plan (I)			Adopt Annual Work Plan for 2022 (A)
				Fiduciary Training (I)								Vice-Chair Election (A)
Regulation / Policies	Communication Policy Fact Sheet (I)											
Compliance	Status of Board Education Hours for 2020 (I)			Form 700 Due (A)		Receive Financial Audit (I)			State of OCERS (I)			

(A) = Action (I) = Information



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Jim Doezie, Contracts, Risk and Performance Administrator
SUBJECT: QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report Background/Discussion

1. **Quiet Period Policy Guidelines**

The following guidelines established by the Quiet Period Policy, section 3.c, will govern a search process for any contract to be awarded by OCERS:

“...Board Members and OCERS staff shall not knowingly communicate with any party financially interested in any prospective contract with OCERS regarding the contract, the services to be provided under the contract or the selection process;”

2. **Quiet Period Guidelines**

In addition, the following language is included in all distributed RFP's:

“From the date of issuance of this RFP until the selection of one or more respondents is completed and announced, respondents are not permitted to communicate with any OCERS staff member or Board Members regarding this procurement, except through the Point of Contact named herein. Respondents violating the communications prohibition may be disqualified at OCERS’ discretion. Respondents having current business with OCERS must limit their communications to the subject of such business.”

Distributed RFP's

The RFP's noted below are subject to the quiet period until such time as a contract(s) is finalized.

- An RFP for an Accounting System (ERP) was released October 30th. We need to replace our current, unsupported system so this RFP is to solicit bids for this effort. Five bids were received. A final selection was made and we are in contract negotiations.
- An RFP for the Named Services Provider for Fiduciary Counsel Services was distributed January 22nd. Responses are due March 5th. Per the Contracting & Procurement Policy, we must do an RFP for Named Service Providers at least every six years. The contract with our current services provider, ReedSmith, will expire on June 30, 2021, the term having been extended by the Board for two months in order to give time for the RFP process. (After being in place for six years.) Five proposals were received with a selection of two finalists to be interviewed during the May 17th, 2021 Board of Retirement meeting.
- An RFP for Microsoft 365 Implementation Services was distributed February 25th, 2021. This is for consulting services to assist with a computer software upgrade to Microsoft 365. Due to a lack of bids received, this RFP was cancelled without a vendor selection. The RFP was revised and redistributed April 29, 2021. Bids deadline is May 28, 2021.



Memorandum

- An RFP for Executive Coaching Services was released in March. This RFP was to solicit qualified firms to bid on providing coaching and leadership training for the OCERS Executives. Four bids were received that are currently being evaluated.

Submitted by:

Jim Doezie

Contracts, Risk and Performance Administrator



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: BOARD COMMUNICATIONS

Written Report

Background/Discussion

To ensure that the public has free and open access to those items that could have bearing on the decisions of the Trustees of the Board of Retirement, the OCERS Board has directed that all written communications to the entire Board during the interim between regular Board meetings be included in a monthly communications summary.

News Links

The various news and informational articles that have been shared with the full Board are being provided to you here by web link address. By providing the links in this publicly available report, we comply with both the Brown Act public meeting requirements, as well as avoid any copyright issues.

The following news and informational item was provided by staff and the CEO for distribution to the entire Board:

From Steve Delaney:

- Interesting history and current challenges for our sister system to the south:
<https://www.sandiegouniontribune.com/columnists/story/2021-04-16/column-timing-may-facilitate-negotiations-to-end-san-diegos-pension-nightmare>
- As CalPERS begins review of their investment strategy and impact on assumption rate, they provided this public overview:
<https://calmatters.org/commentary/my-turn/2021/04/calpers-review-of-its-investment-strategy-and-actuarial-assumptions/>

Attached:

- OCERS Activities for March 2021

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Monthly Team Status

March 2021

To the members of the OCERS Board of Retirement,

The following is my regular monthly summary of OCERS' team activity, starting with an overview of key customer service statistics as well as activity highlights followed by updates for the month of March.

MEMBER SERVICES MONTHLY METRICS

Retirement Applications Received			
Month	2019	2020	2021
January	261	254	101
February	201	169	90
March	206	80	57
April	38	33	0
May	44	47	0
June	52	63	0
July	56	288	0
August	65	229	0
September	41	114	0
October	69	57	0
November	54	52	0
December	75	66	0

2021 Customer Service Statistics						
Month	Unplanned	Member	Queue Calls	Direct to	Operator Calls	Total Calls (monthly)
	Recalculations	Satisfaction Approval Rate	Received	Extension Calls	Received	
January	2	100%	2606	4867	992	8465
February	1	100%	2618	4839	1811	9268
March	1	95%	2947	5630	1599	10176
Grand Total	4	98%	8171	15336	4402	27909

MEMBER SURVEY RESPONSE

"Member called to commend our OCERS representative for the customer service experience they provided while answering questions regarding reciprocity. Member said she found the representatives voice to be very joyful which she finds rare during these unprecedented times and appreciated the kindness and willingness to assist her."

March 2021

"The OCERS representative I reached today provided all the answers I needed in preparation for my upcoming retirement. I can't thank them enough for the detailed information they provided in order for me to get to my goals. They were very professional, friendly, helpful, patient and answered all the questions and concerns I've had. This team member truly embodied the characteristics of a stellar employee and is such a great asset to your department. With their help, I am looking forward to a smooth transition to retirement without any concerns. I want to thank you for having such a wonderful representative in your unit."

February 2021

"I had many questions for the OCERS representative and they were extremely patient with me. The OCERS representative really helped me understand how my monthly benefit was calculated."

January 2021

"Mr. Doug Storm, co-President of REAOC called to say that he had gone to the OCERS website to print out his documents necessary to file his 2020 taxes, and found the entire process easy to navigate. "I had an excellent experience, you have a very happy customer" were his closing words."

January 2021



Monthly Team Status

March 2021

ACTIVITIES

OCERS MONTHLY INFO UPDATE FOR SUPERVISORS EXECUTIVE ASSISTANTS

Another sign of a return to pre-pandemic times. For the past year I have been providing at the Executive Assistants request a monthly written report on OCERS activities, in lieu of our prior monthly in-person meetings. On March 10 we converted to a Zoom meeting format for the first time in a slow return to eventual in-person updates. As a reminder, I am accompanied both in-person (when that is the preferred format) and via Zoom by Ms. Jenike and Ms. Shott. In turn, while these meetings are designed to provide monthly updates to the Supervisors and their staff, we are always pleased to have several members of the County of Orange Executive Administration join these meetings as well.

DISABILITY HEARINGS IN THE MODJESKA ROOM

As we previously informed the Board, following some important safety modifications made to the Modjeska Room, OCERS began at the start of 2021 to once again hold in-person disability and appeal hearings. We recently received a note of praise for the physical set up that OCERS has put in place. From our own Mr. Singleton:

“I spoke with Mr., Wicke, applicants counsel, and he praised our set up in the Modjeska Room for in person hearings as well as safety protocols we have in place and said it was the best he’s seen compared to the other systems he works with. He took a picture of the room to share with Los Angeles County Employee’s Retirement Association.”

My special thanks to both Mr. Dozie and Ms. Shott who lead this project.

OREGON PERS SEEKS SAMPLES OF OCERS 75TH ANNIVERSARY ACTIVITIES

In March we received a request via NASRA (National Association of State Retirement System Administrators) to make contact with Oregon PERS which is gearing up to celebrate its 75th anniversary. Their requests was for any system that may have celebrated a similar anniversary to reach out and share with them its experiences. Mr. Kinsler was able to send them many samples of banners, letterhead, proclamations, videos and other items and activities related to our own 75th Anniversary celebration. As you might imagine, they were quite impressed.

UPDATES

INVESTMENT DEPARTMENT

Mr. Beeson reports on the Investment Department’s March activities:

As of February 28, 2021, the portfolio year-to date is up 0.9% net of fees, while the one-year return is up 15.8%. The fund value now stands at \$19.9 billion. The OCERS Investment Team continued to work effectively remotely during the coronavirus pandemic. The Investment Team added one new strategy to the portfolio. OCERS committed \$50 million to Oak HC/FT IV, a re-up commitment within the venture/growth space of private equity. Oak HC/FT IV will focus on healthcare information & services and financial services technology. OCERS also



Monthly Team Status March 2021

committed \$25 million to Oak HC/FT III back in 2019. During March, Reggie Tucker completed the 2020 year in review for the Investment Team. The Team conducted 664 total meetings and calls in 2020. 54% of the meetings/calls were with current managers and 46% of the meetings/calls were with prospective managers. Molly Murphy continued to work with Aksia TorreyCove and Gina Ratto on the structure for a potential co-investment program within the private equity asset class. Finally, the OCERS Investment Team added a new team member in March. Josh DePaula has joined the Investment Team as an Investment Analyst.



As a reminder you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the May 17, 2021 meeting of the OCERS Board of Retirement.



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel
SUBJECT: LEGISLATIVE UPDATE

Written Report

State Legislative Update

The California Legislature reconvened on January 11, 2021, beginning the two-year legislative session. A comprehensive list and summary of the pending bills that staff will monitor during the first year of the 2021-2022 legislative session is attached. Below are the bills that may be of greater interest to the Board. **New or updated information since the last report to the Board are indicated in bold text.**

OCERS Sponsored Bill

- **AB 761 (Chen) – OCERS’ Sponsored Bill**

This bill add section 31522.11 to the Government Code to authorize the board of retirement for Orange County to appoint an administrator, assistant administrators, a chief investment officer, subordinate investment officers subordinate investment officers next in line of authority to the chief investment officer, senior management employees next in line of authority to the subordinate investment officers, subordinate administrators, senior management employees next in line of authority to subordinate administrators, and legal counsel. The bill would provide that the personnel appointed pursuant to these provisions would not be county employees subject to county civil service and merit system rules, and instead would be employees of the retirement system. The bill would provide that the compensation of personnel appointed pursuant to these provisions is an expense of administration of the retirement system. The bill would authorize the board of retirement and board of supervisors to enter into agreements as necessary and appropriate to carry out these provisions and would make related, conforming changes. The bill would make conforming changes to Government Code sections 31522.5 and 31580.2.

(STATUS: Introduced and read first time on 02/16/21. Referred to Com. on P.E. & R on 02/25/21. From committee chair, with author’s amendments: Amend, and re-refer to Com. on P.E. & R. Read second time and amended on 03/18/21. Re-Referred to Com. on P.E. & R on 03/22/21. **From Committee: To Consent Calendar on 04/19/21. Read second time; and ordered to third reading on 04/20/21. Read third time; passed; and ordered to the Senate on 04/22/21. In Senate; read first time; and referred to Com. on RLS for assignment on 04/26/21.**)

SACRS Sponsored Bills¹

- **SB 634 (Cortese, Durazo, Laird, Newman, and Ochoa Bogh)**

This bill is the annual housekeeping bill for CalPERS, CalSTRS and the CERL systems.

(1) Current law requires CalSTRS to pay premiums associated with Medicare Part A for certain retired or disabled members, as specified. Current law creates the Cash Balance Benefit Program, which is administered by the CalSTRS board, to provide a retirement plan for the benefit of participating employees who provide creditable service for less than 50% of full time. Current law applicable to the Defined Benefit Program, for applications and documents requiring a signature, requires that the signature be in a form prescribed by the system. This bill would apply the above-described requirements regarding signed applications and documents to the Cash Balance Benefit Program and the requirement that CalSTRS pay certain Medicare Part A premiums.

Existing law authorizes a member of CalSTRS who is not retired and who was previously excluded from membership in the Defined Benefit Program request to purchase service credit in the program for certain types of other service. This bill would prohibit a member from purchasing service credit for any school year if the purchase would result in more than one year of service for that school year.

Existing law authorizes a member of CalSTRS who files an application for service retirement to change or cancel their retirement application if specified requirements are met. In this regard, existing law requires a member to return the total gross distribution amount of all payments for any canceled retirement benefit, including a lump-sum payment, as specified. This bill would extend the requirement to return total gross distribution amount, as described above, to apply to any canceled benefit.

(2) The PERL excludes specified appointees, elective officers, and legislative employees from membership in CalPERS unless the person to whom these provisions apply elects to file with the board an election in writing to become a member. This bill would prescribe the circumstances pursuant to which the start date would be determined for an appointee, elective officer, or legislative employee who elects to become a member of PERS. If the written election is received by the system within 90 days of the applicable appointment, current term, or start date for the position, the bill would require that the effective date be the start date of the appointment, the start date of the term, or the start date of the position. If the election is not received by the system within 90 days, as specified, the effective date would be the first day of the month in which the election is received by the system.

The PERL prescribes the circumstances pursuant to which specified payments and benefits may be paid by PERS in connection with the death of a member, among others. This bill would require that overpayments, issued after the date of death to a member, retired member, or beneficiary, made to or on behalf of any

¹ The SACRS membership will vote on whether to sponsor SB 634 at the SACRS Business Meeting on May 14, 2021.

member, retired member, or beneficiary, as specified, be deducted from any subsequent payment or benefit that is payable by PERS as a result of the death.

(3) The CERL requires the county health officer to advise the retirement board on medical matters and, if requested, attend its meetings. This bill would authorize a county health officer's duly authorized representative to also advise the board of retirement with advice on medical matters.

The CERL authorizes a member of a system established under its provision who ceases to be an employee of the county under certain provisions of the Education Code to elect to remain a member of the CERL system. This bill would correct an obsolete cross-reference in this regard.

The CERL provides benefits based upon service credit, defines service for this purpose, and authorizes a member to elect to receive service credit for other forms of public service, as defined, by making contributions. CERL authorizes a member who has elected to make contributions to receive service credit to complete payment, at any time prior to the effective date of the member's retirement, by a lump sum. This bill would repeal the above-described authority of a member to complete a payment by lump sum.

The CERL requires the board of retirement to secure medical, investigatory, and other service and advice as is necessary for the purpose of administering provisions relating to disability retirement. This bill would authorize the board to contract with a physician in private practice for the medical advice necessary to carry out the purpose of provisions relating to disability retirement. The bill would make various technical and stylistic changes.

(STATUS: Introduced 02/19/21. Referred to Com. on L, P.E. & R on 03/03/21. From committee: Do pass and re-refer to Com. on APPR with recommendation: To consent calendar. Re-referred to Com. on APPR on 03/23/21. **From committee: Ordered to second reading pursuant to Senate Rule 28.8 and ordered to consent calendar on 04/05/21. Read second time and ordered to consent calendar on 04/06/21. Read third time; passed; and ordered to Assembly. In Assembly; read first time; and held at Desk on 04/08/21.)**

Bills That Would Amend the CERL or Other Laws That Apply to OCERS

- **AB 339 (Lee)**

This bill would amend the Brown Act to require all meetings of a legislative body of a local agency to include an opportunity for members of the public to attend the meeting via a telephonic option and an internet-based service option. It would also require all meetings to include an in-person public comment opportunity, except in specified circumstances during a declared state or local emergency. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation in person and remotely via a telephonic and an internet-based service option, as provided, and would specify requirements for public comment registration. The bill would require the legislative body to provide interpretation services as requested, and have a system to process requests for interpretation services and publicize that system online. Finally, the bill would require the legislative body to make available instructions on joining the meeting to all non-English-speaking persons upon request, and

publish instructions in the two most spoken languages other than English within the local agency's jurisdiction.

(STATUS: Referred to Com. on L. GOV on 04/15/21. From committee chair, with author's amendments. Read second time and amended on 04/15/21. Re-referred to Com. on L. GOV on 04/19/21.)

- **AB 361 (R. Rivas)**

This bill would authorize the legislative body of a local agency to hold public meetings using teleconferencing without complying with the teleconferencing requirements imposed by the Brown Act when a legislative body of a local agency holds a meeting for the purpose of declaring or ratifying a local emergency, during a declared state **of emergency** or local emergency, when state or local health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency, provided the legislative body makes certain determinations by majority vote. **The bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from submitting public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings. The bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. When there is a continuing state of emergency, local emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.**

(STATUS: Introduced and read first time on 02/01/21. Referred to Committee on L. Gov. on 02/12/21. From committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV. Read second time on 04/06/21. Re-referred to Com. on L. GOV on 04/07/21.)

- **AB 627 (Waldron)**

The Tribal Court Civil Money Judgment Act governs the procedure by which the superior courts of the state recognize and enter tribal court money judgments of any federally recognized Indian tribe. Under the act, an applicant may apply for recognition and entry of a judgment based on a tribal court money judgment by filing an application, as specified. If granted, the act requires the court to enter a judgment that has the same terms and provisions as the tribal court money judgment and that has the same effect and is enforceable as a civil money judgment, order, or decree of a state court. The act does not apply to tribal court money judgment orders for which federal law requires that states grant full faith and credit

recognition or for which state law otherwise provides for recognition. This bill would establish a procedure pursuant to which one or both of the parties to a tribal court proceeding may file an application for recognition of a tribal court order that establishes a right to child support, spousal support payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant in a retirement plan or other plan of deferred compensation, and that assigns all or a portion of the benefits payable with respect to the plan participant to an alternate payee.

(STATUS: Introduced and read first time on 02/12/21. Referred to Com. on JUD on 02/25/21. From committee: Do pass and re-refer to Com. on APPR on 03/23/21 with recommendation: to Consent Calendar.

From committee: To Consent Calendar on 04/24/21. Read second time; ordered to Consent Calendar on 04/15/21. Read third time; passed; and ordered to Senate on 04/22/21. In Senate; read first time; referred to Com. on RLS for assignment on 04/26/21.)

- **AB 703 (Rubio)**

Executive Order N-29-20 suspended the Brown Act requirements for teleconferencing during the COVID-19 pandemic, provided that notice requirements are met, the ability of the public to observe and comment is preserved, and a local agency permitting teleconferencing has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified. This bill would remove the **notice requirements particular to teleconferencing and would revise the requirements of the act particular to teleconferencing, and to** would allow for teleconferencing subject to existing provisions regarding the posting of notice of an ~~agenda and the ability of the public to observe the meeting and provide public comment.~~ **agenda, provided that the public is allowed to observe the meeting and address the legislative body directly both in person and remotely via a call-in option or internet-based service option, and that a quorum of members participate in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the jurisdiction.** The bill would require that, in each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the local agency also give notice of the means by which members of the public may observe the meeting and offer public comment, and require that the legislative body have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act. (STATUS: Introduced and read first time on 02/16/21. Referred to Com. on L. GOV on 02/25/21. **From committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV; read second time and amended on 04/29/21. Re-referred to Com. on L. GOV on 05/03/21.)**

- **AB 845 (Rodriguez)**

Current law provides that participants of public retirement systems who are in certain membership categories may be entitled to special benefits if death or disability arises in the course of employment. PEPPRA generally requires a public retirement system to modify its plan or plans to comply with PEPPRA and establishes, among other things, limits on defined benefit formulas and caps on pensionable compensation. This bill, until January 1, 2023, would create a presumption, applicable to the retirement systems that PEPPRA regulates and to specified members in those systems, that would be applied to disability retirements on the basis, in whole or in part, of a COVID-19-related illness. In this circumstance, the bill would require that it be presumed that the disability arose out of, or in the course of, the member's employment. The bill would

authorize the presumption to be rebutted by evidence to the contrary, but unless controverted, the applicable governing board of a public retirement system would be required to find in accordance with the presumption.

(STATUS: Introduced and read first time on 02/17/21. Referred to Com. on P.E. & R on 02/25/21. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R. Read second time and amended on 03/30/21. **Re-referred to Com. on P.E. & R on 04/05/21. From committee: Do pass and re-refer to Com. on APPR on 04/19/21. From committee: Do pass on 04/28/21. Read second time; ordered to third reading on 04/29/21.)**

- **SB 274 (Weockowski)**

The Brown Act authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body of a local agency be mailed to that person. This bill would require a local agency with an internet website, or its designee, to email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email. If a local agency determines it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by ~~mail~~ or by other electronic means, the bill would require the legislative body or its designee to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet, as specified.

(STATUS: Introduced 01/29/21. Read first time on 02/01/21. Referred to Com. on GOV & F on 02/10/21. From committee: Do pass as amended and re-refer to Com. on APPR on 03/25/21. **Set for hearing on 04/19/21. From committee: Ordered to second reading pursuant to Senate Rule 28.8 and ordered to consent calendar on 04/19/21. Read second time; ordered to consent calendar on 04/20/21. Read third time; passed; ordered to Assembly. In Assembly, read first time; held at Desk on 04/22/21.)**

Other Bills of Interest

- **AB 766 (Gabriel and Bennett)**

This bill would require, beginning January 1, 2025, and annually thereafter, a covered corporation (defined as a publicly traded domestic or foreign corporation whose principal executive offices, according to the corporation's SEC 10-K form, are located in the state and whose annual revenues exceed one hundred million dollars) to disclose to the State Air Resources Board and the Secretary of State specified information for the prior calendar year, including, but not limited to, the potential financial impacts of, and any risk management strategies relating to the physical and transition risks, as defined, posed to the covered corporation by climate change. The bill would require the state board to establish climate change-related disclosure guidance that, to the extent practicable would be specialized for industries within specified sectors of the economy, establish reporting standards for estimating and disclosing direct and indirect greenhouse gas emissions, as defined, include reporting standards for fossil fuel-related assets, establish a minimum social cost of carbon, as defined, and require a covered corporation to conduct climate scenario analyses, as provided.

(STATUS: Introduced and read first time on 02/16/21. Referred to Com. on NAT. RES. From committee chair, with author's amendments: Amend, and re-refer to Com. on NAT. RES. Read second time and amended on 03/18/21. Re-referred to Com. on NAT. RES on 03/22/21.)

- **AB 885 (Quirk)**

This bill would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies. The bill would require a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely. The bill would further require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting. (STATUS: Introduced and read first time on 02/17/21. Referred to Com. on G.O on 02/25/21. From committee chair, with author's amendments: Amend, and re-refer to Com. on G.O. Read second time on 03/24/21. Re-referred to Com. on G.O on 03/25/21.)

- **SB 449 (Stern and Wiener)**

Existing law generally provides for the regulation of various financial institutions, including banks, credit unions, and finance lenders, by the Department of Financial Protection and Innovation. Existing law requires the Secretary for Environmental Protection to coordinate greenhouse gas emission reductions and climate-change activities in state government. Executive Order N-19-19 requires, among other things, the Department of Finance to create a Climate Investment Framework and to consult with the Office of Planning and Research on the framework. This bill would require a covered entity, defined as a corporation, partnership, limited liability company, or other business entity incorporated, formed, or issued a license to operate or certificate of authority under the laws of the state that had annual gross revenues of at least five hundred million dollars (\$500,000,000) in the prior calendar year, to, on or before December 31, 2022, and annually thereafter, prepare a climate-related financial risk report, as defined, and to submit to the Secretary of State, and make available to the public on its own internet website, a copy of that report. The bill would also require a covered entity to submit to the Secretary of State a statement affirming, not under penalty of perjury, that the climate-related financial risk report discloses climate-related financial risk, as required by the bill. This bill would also require, on or before January 31, 2023, and annually thereafter, the Secretary of State to deliver to the Climate-Related Risk Disclosure Advisory Group in the Office of Planning and Research copies of all climate-related financial risk reports received pursuant to these provisions in the prior calendar year and would require the office to make those reports available to the public on its internet website.

(STATUS: Introduced 02/16/21. Referred to Com. on B. & F.I. and E.Q. on 02/25/21. **From committee with author's amendments; read second time; amended; and re-referred to Com. on B. & F.I. on 04/13/21. From committee: Do pass as amended and re-referred to Com. on E.Q. on 04/21/21. Read second time; amended; re-referred to Com. on E.Q. on 04/22/21. From committee: pass and re-refer to Com. on APPR on 04/29/21.)**

Bills that Apply to CalPERS and/or CalSTRS Only

- **AB 386 (Cooper)**

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. Current law excludes from disclosure certain records regarding alternative investments in which public investment funds invest. This bill would exempt from disclosure under the act specified records regarding an internally managed private loan made directly by CalPERS. Under the bill, these records would include quarterly and annual financial statements of the borrower or its constituent owners, unless the information has already been publicly released by the keeper of the information. **The bill would prescribe specified exceptions to the new exemption from disclosure.**

(STATUS: Introduced and read first time on 02/02/21. Referred to Committees on P.E., & R. and JUD on 02/12/21. From committee chair, with author's amendments: Amend, and re-refer to Committee on P.E. & R. Read second time and amended on 03/18/21. Re-Referred to Committee on P.E. & R on 03/22/21. **From committee: Do pass and re-refer to Com. on JUD. Re-referred to Com. on JUD on 04/19/21. From Committee: Amend, and do pass as amended and re-refer to Com. on APPR on 04/27/21. Read second time and amended on 04/28/21. Re-referred to Com. on APPR on 04/29/21.)**

- **AB 539 (Cooley and Cervantes)**

The Teachers' Retirement Law authorizes the CalSTRS board, upon a finding by the board that necessary investment expertise is not available within existing civil service classifications, and with approval of the State Personnel Board, to contract with qualified investment managers. This bill would additionally authorize the CalSTRS board to contract with investment *advisers*, as defined, upon the same finding by the board and approval by the State Personnel Board. **The bill would, pursuant to a policy adopted by the board, authorize the board to establish a competitive bidding process and to specify the contract terms and conditions the board solely deems necessary and prudent to contract with qualified investment managers and investment advisers.**

(STATUS: Introduced and read first time on 02/10/21. Referred to Com. on P.E. & R on 02/18/21. **Coauthors revised on 04/16/21. From committee: Do pass and re-refer to Com. on APPR on 04/16/21. From committee: Do pass. To Consent Calendar on 04/28/21. Read second time. Ordered to Consent Calendar on 04/29/21.)**

- **AB 551 (Rodriguez)**

Current law authorizes CalSTRS to administer an individual retirement plan described in Section 408A of Title 26 of the United States Code, commonly referred to as a Roth IRA, for the purpose of accepting a rollover from an annuity contract or custodial account offered by the system to the extent the rollover complies with specified federal law. Current law establishes the Teachers' Deferred Compensation Fund, which is continuously appropriated, to serve as the repository of funds received by the system for various deferred compensation plans, and specifies where in the fund certain premium and fee revenues received by the system are to be deposited. This bill would also authorize the system to administer an individual retirement plan as described in Section 408 of Title 26 of the United States Code. The bill would eliminate the requirement that the administration of these plans be for the purpose of accepting a rollover from an annuity contract or custodial account offered by the system, as described above. The bill would instead specify categories of people for whom the system could provide this service, including certain former

eligible employees and their spouses. The bill would make a conforming change regarding where premium and fee revenues received in this regard are to be deposited.

(STATUS: Introduced and read first time on 02/10/21. Referred to Com. on P.E. & R on 02/18/21. **From committee: Do pass and re-refer to Com. on APPR on 04/19/21. In committee: Set, first hearing; hearing canceled at the request of author on 04/26/21.**)

- **AB 890 (Cervantes)**

This bill would require the Boards of CalPERS and CalSTRS to provide reports to the Legislature, commencing March 1, 2022, and annually thereafter, on the status of achieving objectives and initiatives, to be defined by the boards, regarding participation of emerging managers or diverse managers responsible for asset management within each retirement system's portfolio of investments. The bill would require the reports to contain specified information and would require the boards to define "emerging manager" and "diverse manager" for purposes of these reports. The bill would require that the reports be based on contracts that the system enters into on and after January 1, 2021, and be based on information from the prior fiscal year. (STATUS: Introduced and read first time on 02/17/21. Referred to Com. on P.E. & R; from committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R; read second time and amended on 03/11/21. Re-referred to Com. on P.E. & R on 03/15/21. **From committee: Do pass and re-referred to Com. on APPR on 05/03/21. Received at desk April 30 pursuant to Joint Rule 61(a)(2).**)

- **AB 1092 (Mayes)**

The Public Employees' Medical and Hospital Care Act (PEMHCA), administered by CalPERS, governs the funding and provision of postemployment health care benefits for eligible retired public employees and their families. PEMHCA authorizes an employee or annuitant, as those terms are defined, of the state to enroll in a health benefit plan approved or maintained by CalPERS. The act generally requires the state and each employee or annuitant to contribute a portion of the cost of providing the benefit coverage afforded under the approved health benefit plan in which the employee or annuitant is enrolled. **PEMHCA also prohibits, among other things, employees, annuitants, and family members who become eligible to enroll on or after January 1, 1985, in Part A and Part B of Medicare from being enrolled in a basic health benefit plan. PEMHCA, however, permits the employee, annuitant, or family member to enroll in a Medicare health benefit plan if they are enrolled in Part A and Part B of Medicare.** PEMHCA establishes the Public Employees' Contingency Reserve Fund for the purpose of funding health benefits and funding administrative expenses.

This bill would preclude a person who has retired under PERS and who obtains work with a subsequent employer from receiving any health benefits offered under PEMHCA if the person's subsequent employer offers health care coverage that provides reasonably comparable benefits. **The bill would also prohibit, except as provided and by January 1, 2023, persons who have retired under a public retirement system, as defined, annuitants of a public retirement system, and their beneficiaries who become eligible to enroll on or after January 1, 1985, in Part A and Part B of Medicare from being enrolled in a basic health benefit plan, as defined, offered by the public retirement system.**

(STATUS: Introduce and read first time on 02/18/21. Referred to Com. on P.E. & R; from committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R; read second time and amended on

03/18/21. Re-referred to Com. on P.E. & R on 03/22/21. **From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R; read second time and amended on 04/26/21. Re-referred to Com. on P.E. & R on 04/27/21.)**

- **AB 1293 (Cooley)**

Current law establishes the Judges' Retirement System II, administered by CalPERS. Current law authorizes a judge who is a member of the system and retires after meeting specified conditions to receive pension benefits. Federal law limits the amount a defined benefit plan may pay a participant annually, and requires that this limitation be adjusted annually by regulation to account for increases in the cost of living. This bill would prohibit the amount payable to a member under the Judges' Retirement System II, including cost-of-living adjustments, from exceeding the limits established by federal law, and would incorporate specified provisions of federal law by reference. The bill would also require the retirement allowance of a member or monetary credits available to a member to be increased to reflect cost-of-living adjustments contained in **federal law, in accordance with specified limits.**

(STATUS: Introduced 02/19/21. Read first time on 02/22/21. Referred to Com. on P.E. & R; from committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R; read second time and amended on 03/18/21. **Re-referred to Com. on P.E. & R on 04/08/21. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R; read second time and amended on 04/13/21. Coauthors revised on 04/16/21. From committee: Do pass and re-refer to Com. on APPR on 04/19/21.)**

- **SB 278 (Leyva)**

PEPRA, among other things, established new defined benefit formulas and caps on pensionable compensation. This bill would establish new procedures under the PERL for cases in which CalPERS determines that the benefits of a member or annuitant are, or would be, based on disallowed compensation that conflicts with PEPRA and other specified laws and thus impermissible under the PERL. This bill would also apply these procedures retroactively to determinations made on or after January 1, 2017, if an appeal has been filed and the employee member, survivor, or beneficiary has not exhausted their administrative or legal remedies. At the threshold, after determining that compensation for an employee member reported by the state, school employer, or a contracting agency is disallowed, the bill would require the applicable employer to discontinue the reporting of the disallowed compensation. The bill would require that contributions made on the disallowed compensation, for active members, be credited against future contributions on behalf of the state, school employer, or contracting agency that reported the disallowed compensation and would require that the state, school employer, or contracting agency return to the member any contributions paid by the member or on the member's behalf.

With respect to retired members, survivors, or beneficiaries whose benefits are based on disallowed final compensation, the bill would require CalPERS to adjust the benefit to reflect the exclusion of the disallowed compensation and provide that contributions made on the disallowed compensation be credited against future contributions on behalf of the employer entity that reported the disallowed compensation. Additionally, if specified conditions are met, the bill would require the employing entity to refund overpayment costs to the system and to pay retired members, survivors, and beneficiaries whose benefits have been reduced an annuity, or a lump sum, as prescribed, that reflects the difference between the

monthly allowance that was based on the disallowed compensation and the adjusted monthly allowance calculated without the disallowed compensation, as provided.

The bill would authorize the state, a school employer, as specified, or a contracting agency, as applicable, to submit to the system an additional compensation item proposed to be included or contained in a memorandum of understanding or collective bargaining agreement on and after January 1, 2022, that is intended to form the basis of a pension benefit calculation in order for CalPERS to review its consistency with PEPR and other laws, as specified, and would require CalPERS to provide guidance regarding the review within 90 days, as specified. The bill would require CalPERS to publish notices regarding proposed compensation language submitted to the system for review and the guidance given by the system that is connected with it. For educational entities that participate in the system, the final responsibility for funding payments to the system and to retired members, survivors, and beneficiaries would belong to the educational entity that is the actual employer of the employee.

(STATUS: Introduced 01/29/21. Read first time on 02/01/21. To Com. on L., P.E. & R and JUD on 02/10/21. From committee: Do pass and re-refer to Com. on JUD on 03/09/21. From committee with author's amendments; read second time and amended; re-referred to Com. on JUD on 03/23/21. **From Committee: Do pass and re-refer to Com. on APPR on 04/07/21. Set for hearing on 04/19/21. Placed on APPR suspense file on 04/20/21.**)

- **SB 294 (Leyva)**

CalPERS and CalSTRS require employees to make contributions to the system based on their creditable compensation, as defined. Existing law defines "leave of absence" for purposes of both laws as a period of leave to which a member is entitled that is expressly authorized or required pursuant to specified provisions, including employer-approved compensated leave. Under current law, during a leave of absence for an employer-approved compensated leave, an employee earns full service credit and is required to pay employee contributions. Existing law limits the maximum amount of the service credit earned during an employer-approved compensated leave of absence to 12 years. This bill would remove the 12-year limitation for service credit earned on an employer-approved compensated leave.

(STATUS: Introduced 02/02/21. Referred to Com. on L., P.E. & R on 02/10/21. From committee: Do pass and re-refer to Com. on APPR on 03/09/21. From committee: ordered to second reading on 03/22/21. Read second time and ordered to third reading on 03/23/21. **Read third time; passed; ordered to the Assembly on 05/03/21.**)

- **SB 411 (Cortese)**

PEPRA prescribed various limitations on public employees, employers, and retirement systems concerning, among other things, work after retirement. PERL generally prohibits retired PERS members from working for an agency participating in the system without reinstatement in the system, unless that employment is otherwise specifically authorized. This bill would eliminate the above-described requirement that a person employed without reinstatement in a manner other than authorized by PERL be reinstated, instead providing that reinstatement is permissive. The bill would limit the circumstances pursuant to which retired members and employers are obligated to pay employee and employer contributions, which would have otherwise been paid, plus interest, to apply only to specified

reinstatements. The bill would make conforming changes and make specific reference to the duties of employees and employers regarding reinstatement after retirement in violation of PEPRA.

(STATUS: Introduced 02/12/21. Re-referred to Com. on L., P.E. & R. on 04/06/21. From committee with author’s amendments; read second time and amended; and re-Referred to Com. on L., P.E. & R on 04/13/21. From committee: Do pass and re-refer to Com. on APPR on 04/20/21.

• **SB 457 (Portatino & Wilk)**

This bill would require the boards of CalPERS and CalSTRS to provide employers that are school districts and cities that participate in the systems an option to elect an investment portfolio that does not contain investment vehicles that are issued or owned by the government of the Republic of Turkey.

(STATUS: Introduced 02/16/21. Referred to Com. on L., P.E. & R on 02/25/21. From committee: Do pass and re-refer to Com. on APPR on 04/20/21. Set for hearing 05/03/21.)

Divestment Proposals (CalPERS and CalSTRS Only)

• **AB 1019 (Holden)**

Existing law, upon the passage of a federal law that imposes sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, prohibits the boards of CalPERS and CalSTRS from making additional or new investments or renewing existing investments of public employee retirement funds in an investment vehicle in the government of Turkey that is issued by the government of Turkey or that is owned by the government of Turkey. Existing law repeals this provision on January 1, 2025, or upon a determination by the board, the United States Department of State, the Congress of the United States, or another appropriate federal agency that the government of Turkey has officially acknowledged its responsibility for the Armenian Genocide, whichever occurs first. This bill would, in addition, prohibit state trust moneys from being used to make additional or new investments or to renew existing investments in investment vehicles issued or owned by the government of Turkey, unless the government adopts a policy to acknowledge the Armenian Genocide and embark on a path of affording justice to its victims. The bill would define “state trust moneys” as funds administered by PERS and STRS.

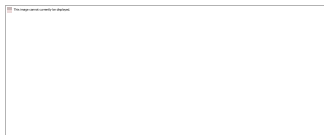
(STATUS: Introduced 02/18/21. Read first time on 02/18/21. Referred to Com. on P.E. & R on 03/04/21.)

Attachments:

Legislative Update

2021 Tentative Legislative Calendar

Submitted by:



Gina M. Ratto
General Counsel



**OCERS BOARD OF RETIREMENT
MAY 17, 2021 MEETING**

**LEGISLATIVE UPDATE – ATTACHMENT
2021 - 2022 CALIFORNIA STATE LEGISLATIVE SESSION
BILLS OF INTEREST**

New or updated information in bold text

AB 339 (Lee)

This bill would amend the Brown Act to require all meetings of a legislative body of a local agency to include an opportunity for members of the public to attend the meeting via a telephonic option and an internet-based service option. It would also require all meetings to include an in-person public comment opportunity, except in specified circumstances during a declared state or local emergency. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation in person and remotely via a telephonic and an internet-based service option, as provided, and would specify requirements for public comment registration. The bill would require the legislative body to provide interpretation services as requested, and have a system to process requests for interpretation services and publicize that system online. Finally, the bill would require the legislative body to make available instructions on joining the meeting to all non-English-speaking persons upon request, and publish instructions in the two most spoken languages other than English within the local agency's jurisdiction.

(STATUS: Referred to Com. on L. GOV on 04/15/21. From committee chair, with author's amendments. Read second time and amended on 04/15/21. Re-referred to Com. on L. GOV on 04/19/21.)

AB 361 (R. Rivas)

This bill would authorize the legislative body of a local agency to hold public meetings using teleconferencing without complying with the teleconferencing requirements imposed by the Brown Act when a legislative body of a local agency holds a meeting for the purpose of declaring or ratifying a local emergency, during a declared state of emergency or local emergency, when state or local health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency, provided the legislative body makes certain determinations by majority vote. **The bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which**

prevents members of the public from submitting public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings. The bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. When there is a continuing state of emergency, local emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

(STATUS: Introduced and read first time on 02/01/21. Referred to Committee on L. Gov. on 02/12/21. **From committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV. Read second time on 04/06/21. Re-referred to Com. on L. GOV on 04/07/21.**)

AB 386 (Cooper)

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. Current law excludes from disclosure certain records regarding alternative investments in which public investment funds invest. This bill would exempt from disclosure under the act specified records regarding an internally managed private loan made directly by CalPERS. Under the bill, these records would include quarterly and annual financial statements of the borrower or its constituent owners, unless the information has already been publicly released by the keeper of the information. **The bill would prescribe specified exceptions to the new exemption from disclosure.**

(STATUS: Introduced and read first time on 02/02/21. Referred to Committees on P.E., & R. and JUD on 02/12/21. From committee chair, with author's amendments: Amend, and re-refer to Committee on P.E. & R. Read second time and amended on 03/18/21. Re-Referred to Committee on P.E. & R on 03/22/21. **From committee: Do pass and re-refer to Com. on JUD. Re-referred to Com. on JUD on 04/19/21. From Committee: Amend, and do pass as amended and re-refer to Com. on APPR on 04/27/21. Read second time and amended on 04/28/21. Re-referred to Com. on APPR on 04/29/21.**)

AB 539 (Cooley and Cervantes)

The Teachers' Retirement Law authorizes the CalSTRS board, upon a finding by the board that necessary investment expertise is not available within existing civil service classifications, and with approval of the State Personnel Board, to contract with qualified investment managers. This bill would additionally authorize the CalSTRS board to contract with investment *advisers*, as defined, upon the same finding by the board and approval by the State Personnel Board. **The bill would, pursuant to a policy adopted by the board, authorize the board to establish a competitive bidding process and to specify the contract terms and conditions the board solely deems necessary and prudent to contract with qualified investment managers and investment advisers.**

(STATUS: Introduced and read first time on 02/10/21. Referred to Com. on P.E. & R on 02/18/21. **Coauthors revised on 04/16/21. From committee: Do pass and re-refer to Com. on APPR on 04/16/21. From committee: Do pass. To Consent Calendar on 04/28/21. Read second time. Ordered to Consent Calendar on 04/29/21.)**

AB 551 (Rodriguez)

Current law authorizes CalSTRS to administer an individual retirement plan described in Section 408A of Title 26 of the United States Code, commonly referred to as a Roth IRA, for the purpose of accepting a rollover from an annuity contract or custodial account offered by the system to the extent the rollover complies with specified federal law. Current law establishes the Teachers' Deferred Compensation Fund, which is continuously appropriated, to serve as the repository of funds received by the system for various deferred compensation plans, and specifies where in the fund certain premium and fee revenues received by the system are to be deposited. This bill would also authorize the system to administer an individual retirement plan as described in Section 408 of Title 26 of the United States Code. The bill would eliminate the requirement that the administration of these plans be for the purpose of accepting a rollover from an annuity contract or custodial account offered by the system, as described above. The bill would instead specify categories of people for whom the system could provide this service, including certain former eligible employees and their spouses. The bill would make a conforming change regarding where premium and fee revenues received in this regard are to be deposited.

(STATUS: Introduced and read first time on 02/10/21. Referred to Com. on P.E. & R on 02/18/21. **From committee: Do pass and re-refer to Com. on APPR on 04/19/21. In committee: Set, first hearing; hearing canceled at the request of author on 04/26/21.**)

AB 627 (Waldron)

The Tribal Court Civil Money Judgment Act governs the procedure by which the superior courts of the state recognize and enter tribal court money judgments of any federally recognized Indian tribe. Under the act, an applicant may apply for recognition and entry of a judgment based on a tribal court money judgment by filing an application, as specified. If granted, the act requires the court to enter a judgment that has the same terms and provisions as the tribal court money judgment and that has the same effect and is enforceable as a civil money judgment, order, or decree of a state court. The act does not apply to tribal court money judgment orders for which federal law requires that states grant full faith and credit recognition or for which state law otherwise provides for recognition. This bill would establish a procedure pursuant to which one or both of the parties to a tribal court proceeding may file an application for recognition of a tribal court order that establishes a right to child support, spousal support payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant in a retirement plan or other plan of deferred compensation, and that assigns all or a portion of the benefits payable with respect to the plan participant to an alternate payee.

(STATUS: Introduced and read first time on 02/12/21. Referred to Com. on JUD on 02/25/21. From committee: Do pass and re-refer to Com. on APPR on 03/23/21 with recommendation: to Consent Calendar. **From committee: To Consent Calendar on 04/24/21. Read second time; ordered to Consent Calendar on 04/15/21. Read third time; passed; and ordered to Senate on 04/22/21. In Senate; read first time; referred to Com. on RLS for assignment on 04/26/21.**)

AB 703 (Rubio)

Executive Order N-29-20 suspended the Brown Act requirements for teleconferencing during the COVID-19 pandemic, provided that notice requirements are met, the ability of the public to observe and comment is

preserved, and a local agency permitting teleconferencing has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified. This bill would remove the **notice requirements particular to teleconferencing and would revise the requirements of the act particular to teleconferencing, and to** would allow for teleconferencing subject to existing provisions regarding the posting of notice of an ~~agenda and the ability of the public to observe the meeting and provide public comment.~~ **agenda, provided that the public is allowed to observe the meeting and address the legislative body directly both in person and remotely via a call-in option or internet-based service option, and that a quorum of members participate in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the jurisdiction.** The bill would require that, in each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the local agency also give notice of the means by which members of the public may observe the meeting and offer public comment, and require that the legislative body have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act.

(STATUS: Introduced and read first time on 02/16/21. Referred to Com. on L. GOV on 02/25/21. **From committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV; read second time and amended on 04/29/21. Re-referred to Com. on L. GOV on 05/03/21.**)

AB 761 (Chen) – OCERS' Sponsored Bill

This bill would add section 31522.11 to the Government Code to authorize the board of retirement for Orange County to appoint an administrator, assistant administrators, a chief investment officer, subordinate investment officers subordinate investment officers next in line of authority to the chief investment officer, senior management employees next in line of authority to the subordinate investment officers, subordinate administrators, senior management employees next in line of authority to subordinate administrators, and legal counsel. The bill would provide that the personnel appointed pursuant to these provisions would not be county employees subject to county civil service and merit system rules, and instead would be employees of the retirement system. The bill would provide that the compensation of personnel appointed pursuant to these provisions is an expense of administration of the retirement system. The bill would authorize the board of retirement and board of supervisors to enter into agreements as necessary and appropriate to carry out these provisions and would make related, conforming changes. The bill would make conforming changes to Government Code sections 31522.5 and 31580.2.

(STATUS: Introduced and read first time on 02/16/21. Referred to Com. on P.E. & R on 02/25/21. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R. Read second time and amended on 03/18/21. Re-Referred to Com. on P.E. & R on 03/22/21. **From Committee: To Consent Calendar on 04/19/21. Read second time; and ordered to third reading on 04/20/21. Read third time; passed; and ordered to the Senate on 04/22/21. In Senate; read first time; and referred to Com. on RLS for assignment on 04/26/21.**)

AB 766 (Gabriel and Bennett)

This bill would require, beginning January 1, 2025, and annually thereafter, a covered corporation (defined as a

publicly traded domestic or foreign corporation whose principal executive offices, according to the corporation's SEC 10-K form, are located in the state and whose annual revenues exceed one hundred million dollars) to disclose to the State Air Resources Board and the Secretary of State specified information for the prior calendar year, including, but not limited to, the potential financial impacts of, and any risk management strategies relating to the physical and transition risks, as defined, posed to the covered corporation by climate change. The bill would require the state board to establish climate change-related disclosure guidance that, to the extent practicable would be specialized for industries within specified sectors of the economy, establish reporting standards for estimating and disclosing direct and indirect greenhouse gas emissions, as defined, include reporting standards for fossil fuel-related assets, establish a minimum social cost of carbon, as defined, and require a covered corporation to conduct climate scenario analyses, as provided.

(STATUS: Introduced and read first time on 02/16/21. Referred to Com. on NAT. RES. From committee chair, with author's amendments: Amend, and re-refer to Com. on NAT. RES. Read second time and amended on 03/18/21. Re-referred to Com. on NAT. RES on 03/22/21.)

AB 845 (Rodriguez)

Current law provides that participants of public retirement systems who are in certain membership categories may be entitled to special benefits if death or disability arises in the course of employment. PEPR generally requires a public retirement system to modify its plan or plans to comply with PEPR and establishes, among other things, limits on defined benefit formulas and caps on pensionable compensation. This bill, until January 1, 2023, would create a presumption, applicable to the retirement systems that PEPR regulates and to specified members in those systems, that would be applied to disability retirements on the basis, in whole or in part, of a COVID-19-related illness. In this circumstance, the bill would require that it be presumed that the disability arose out of, or in the course of, the member's employment. The bill would authorize the presumption to be rebutted by evidence to the contrary, but unless controverted, the applicable governing board of a public retirement system would be required to find in accordance with the presumption.

(STATUS: Introduced and read first time on 02/17/21. Referred to Com. on P.E. & R on 02/25/21. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R. Read second time and amended on 03/30/21. **Re-referred to Com. on P.E. & R on 04/05/21. From committee: Do pass and re-refer to Com. on APPR on 04/19/21. From committee: Do pass on 04/28/21. Read second time; ordered to third reading on 04/29/21.**)

AB 885 (Quirk)

This bill would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies. The bill would require a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely. The bill would further

require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting.

(STATUS: Introduced and read first time on 02/17/21. Referred to Com. on G.O on 02/25/21. From committee chair, with author's amendments: Amend, and re-refer to Com. on G.O. Read second time on 03/24/21. Re-referred to Com. on G.O on 03/25/21.)

AB 890 (Cervantes)

This bill would require the Boards of CalPERS and CalSTRS to provide reports to the Legislature, commencing March 1, 2022, and annually thereafter, on the status of achieving objectives and initiatives, to be defined by the boards, regarding participation of emerging managers or diverse managers responsible for asset management within each retirement system's portfolio of investments. The bill would require the reports to contain specified information and would require the boards to define "emerging manager" and "diverse manager" for purposes of these reports. The bill would require that the reports be based on contracts that the system enters into on and after January 1, 2021, and be based on information from the prior fiscal year.

(STATUS: Introduced and read first time on 02/17/21. Referred to Com. on P.E. & R; from committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R; read second time and amended on 03/11/21. Re-referred to Com. on P.E. & R on 03/15/21. **From committee: Do pass and re-referred to Com. on APPR on 05/03/21. Received at desk April 30 pursuant to Joint Rule 61(a)(2).**)

AB 1019 (Holden)

Existing law, upon the passage of a federal law that imposes sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, prohibits the boards of CalPERS and CalSTRS from making additional or new investments or renewing existing investments of public employee retirement funds in an investment vehicle in the government of Turkey that is issued by the government of Turkey or that is owned by the government of Turkey. Existing law repeals this provision on January 1, 2025, or upon a determination by the board, the United States Department of State, the Congress of the United States, or another appropriate federal agency that the government of Turkey has officially acknowledged its responsibility for the Armenian Genocide, whichever occurs first. This bill would, in addition, prohibit state trust moneys from being used to make additional or new investments or to renew existing investments in investment vehicles issued or owned by the government of Turkey, unless the government adopts a policy to acknowledge the Armenian Genocide and embark on a path of affording justice to its victims. The bill would define "state trust moneys" to mean funds administered by CalPERS and CalSTRS.

(STATUS: Introduced 02/18/21. Read first time on 02/18/21. Referred to Com. on P.E. & R on 03/04/21.)

AB 1092 (Mayes)

The Public Employees' Medical and Hospital Care Act (PEMHCA), administered by CalPERS, governs the funding and provision of postemployment health care benefits for eligible retired public employees and their families. PEMHCA authorizes an employee or annuitant, as those terms are defined, of the state to enroll in a health benefit plan approved or maintained by CalPERS. The act generally requires the state and each employee or annuitant to contribute a portion of the cost of providing the benefit coverage afforded under the approved

health benefit plan in which the employee or annuitant is enrolled. **PEMHCA also prohibits, among other things, employees, annuitants, and family members who become eligible to enroll on or after January 1, 1985, in Part A and Part B of Medicare from being enrolled in a basic health benefit plan. PEMHCA, however, permits the employee, annuitant, or family member to enroll in a Medicare health benefit plan if they are enrolled in Part A and Part B of Medicare.** PEMHCA establishes the Public Employees' Contingency Reserve Fund for the purpose of funding health benefits and funding administrative expenses.

This bill would preclude a person who has retired under PERS and who obtains work with a subsequent employer from receiving any health benefits offered under PEMHCA if the person's subsequent employer offers health care coverage that provides reasonably comparable benefits. **The bill would also prohibit, except as provided and by January 1, 2023, persons who have retired under a public retirement system, as defined, annuitants of a public retirement system, and their beneficiaries who become eligible to enroll on or after January 1, 1985, in Part A and Part B of Medicare from being enrolled in a basic health benefit plan, as defined, offered by the public retirement system.**

(STATUS: Introduce and read first time on 02/18/21. Referred to Com. on P.E. & R; from committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R; read second time and amended on 03/18/21. Re-referred to Com. on P.E. & R on 03/22/21. **From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R; read second time and amended on 04/26/21. Re-referred to Com. on P.E. & R on 04/27/21.**)

AB 1133 (Chen)

This bill would state the intent of the Legislature to enact legislation that would create a hybrid retirement benefit, consisting of a defined benefit pension and a defined contribution program, within CalPERS, that state employees would have the option of electing.

(STATUS: Introduced and read first time on 02/18/21.)

AB 1293 (Cooley)

Current law establishes the Judges' Retirement System II, administered by CalPERS. Current law authorizes a judge who is a member of the system and retires after meeting specified conditions to receive pension benefits. Federal law limits the amount a defined benefit plan may pay a participant annually, and requires that this limitation be adjusted annually by regulation to account for increases in the cost of living. This bill would prohibit the amount payable to a member under the Judges' Retirement System II, including cost-of-living adjustments, from exceeding the limits established by federal law, and would incorporate specified provisions of federal law by reference. The bill would also require the retirement allowance of a member or monetary credits available to a member to be increased to reflect cost-of-living adjustments contained in **federal law, in accordance with specified limits.**

(STATUS: Introduced 02/19/21. Read first time on 02/22/21. Referred to Com. on P.E. & R; from committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R; read second time and amended on 03/18/21. **Re-referred to Com. on P.E. & R on 04/08/21. From committee chair, with author's amendments:**

Amend, and re-refer to Com. on P.E. & R; read second time and amended on 04/13/21. Coauthors revised on 04/16/21. From committee: Do pass and re-refer to Com. on APPR on 04/19/21.)

AB 1354 (Grayson)

PEPRA generally prohibits a retired person from being employed by a public employer in the same public retirement system from which the retiree receives pension benefits without reinstatement from retirement into that system, subject to certain exceptions. This bill would make nonsubstantive changes to that provision. (STATUS: Introduced and read first time on 02/22/21.)

SB 274 (Weockowski)

The Brown Act authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body of a local agency be mailed to that person. This bill would require a local agency with an internet website, or its designee, to email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email. If a local agency determines it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by ~~mailemail~~ or by other electronic means, the bill would require the legislative body or its designee to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet, as specified. (STATUS: Introduced 01/29/21. Read first time on 02/01/21. Referred to Com. on GOV & F on 02/10/21. From committee: Do pass as amended and re-refer to Com. on APPR on 03/25/21. **Set for hearing on 04/19/21. From committee: Ordered to second reading pursuant to Senate Rule 28.8 and ordered to consent calendar on 04/19/21. Read second time; ordered to consent calendar on 04/20/21. Read third time; passed; ordered to Assembly. In Assembly, read first time; held at Desk on 04/22/21.)**

SB 278 (Leyva)

PEPRA, among other things, established new defined benefit formulas and caps on pensionable compensation. This bill would establish new procedures under the PERL for cases in which CalPERS determines that the benefits of a member or annuitant are, or would be, based on disallowed compensation that conflicts with PEPRA and other specified laws and thus impermissible under the PERL. This bill would also apply these procedures retroactively to determinations made on or after January 1, 2017, if an appeal has been filed and the employee member, survivor, or beneficiary has not exhausted their administrative or legal remedies. At the threshold, after determining that compensation for an employee member reported by the state, school employer, or a contracting agency is disallowed, the bill would require the applicable employer to discontinue the reporting of the disallowed compensation. The bill would require that contributions made on the disallowed compensation, for active members, be credited against future contributions on behalf of the state, school employer, or contracting agency that reported the disallowed compensation and would require that the state, school employer, or contracting agency return to the member any contributions paid by the member or on the member's behalf.

With respect to retired members, survivors, or beneficiaries whose benefits are based on disallowed final compensation, the bill would require CalPERS to adjust the benefit to reflect the exclusion of the disallowed compensation and provide that contributions made on the disallowed compensation be credited against future contributions on behalf of the employer entity that reported the disallowed compensation. Additionally, if specified conditions are met, the bill would require the employing entity to refund overpayment costs to the system and to pay retired members, survivors, and beneficiaries whose benefits have been reduced an annuity, or a lump sum, as prescribed, that reflects the difference between the monthly allowance that was based on the disallowed compensation and the adjusted monthly allowance calculated without the disallowed compensation, as provided.

The bill would authorize the state, a school employer, as specified, or a contracting agency, as applicable, to submit to the system an additional compensation item proposed to be included or contained in a memorandum of understanding or collective bargaining agreement on and after January 1, 2022, that is intended to form the basis of a pension benefit calculation in order for CalPERS to review its consistency with PEPR and other laws, as specified, and would require CalPERS to provide guidance regarding the review within 90 days, as specified. The bill would require CalPERS to publish notices regarding proposed compensation language submitted to the system for review and the guidance given by the system that is connected with it. For educational entities that participate in the system, the final responsibility for funding payments to the system and to retired members, survivors, and beneficiaries would belong to the educational entity that is the actual employer of the employee. (STATUS: Introduced 01/29/21. Read first time on 02/01/21. To Com. on L., P.E. & R and JUD on 02/10/21. From committee: Do pass and re-refer to Com. on JUD on 03/09/21. From committee with author's amendments; read second time and amended; re-referred to Com. on JUD on 03/23/21. **From Committee: Do pass and re-refer to Com. on APPR on 04/07/21. Set for hearing on 04/19/21. Placed on APPR suspense file on 04/20/21.**)

SB 294 (Leyva)

CalPERS and CalSTRS require employees to make contributions to the system based on their creditable compensation, as defined. Existing law defines "leave of absence" for purposes of both laws as a period of leave to which a member is entitled that is expressly authorized or required pursuant to specified provisions, including employer-approved compensated leave. Under current law, during a leave of absence for an employer-approved compensated leave, an employee earns full service credit and is required to pay employee contributions. Existing law limits the maximum amount of the service credit earned during an employer-approved compensated leave of absence to 12 years. This bill would remove the 12-year limitation for service credit earned on an employer-approved compensated leave.

(STATUS: Introduced 02/02/21. Referred to Com. on L., P.E. & R on 02/10/21. From committee: Do pass and re-refer to Com. on APPR on 03/09/21. From committee: ordered to second reading on 03/22/21. Read second time and ordered to third reading on 03/23/21. **Read third time; passed; ordered to the Assembly on 05/03/21.**)

SB 411 (Cortese)

PEPRA prescribed various limitations on public employees, employers, and retirement systems concerning, among other things, work after retirement. PERL generally prohibits retired PERS members from working for

an agency participating in the system without reinstatement in the system, unless that employment is otherwise specifically authorized. This bill would eliminate the above-described requirement that a person employed without reinstatement in a manner other than authorized by PERL be reinstated, instead providing that reinstatement is permissive. The bill would limit the circumstances pursuant to which retired members and employers are obligated to pay employee and employer contributions, which would have otherwise been paid, plus interest, to apply only to specified reinstatements. The bill would make conforming changes and make specific reference to the duties of employees and employers regarding reinstatement after retirement in violation of PEPRA.

(STATUS: Introduced 02/12/21. Re-referred to Com. on L., P.E. & R. on 04/06/21. From committee with author's amendments; read second time and amended; and re-Referred to Com. on L., P.E. & R on 04/13/21. From committee: Do pass and re-refer to Com. on APPR on 04/20/21.)

SB 449 (Stern and Wiener)

Existing law generally provides for the regulation of various financial institutions, including banks, credit unions, and finance lenders, by the Department of Financial Protection and Innovation. Existing law requires the Secretary for Environmental Protection to coordinate greenhouse gas emission reductions and climate-change activities in state government. Executive Order N-19-19 requires, among other things, the Department of Finance to create a Climate Investment Framework and to consult with the Office of Planning and Research on the framework. This bill would require a covered entity, defined as a corporation, partnership, limited liability company, or other business entity incorporated, formed, or issued a license to operate or certificate of authority under the laws of the state that had annual gross revenues of at least five hundred million dollars (\$500,000,000) in the prior calendar year, to, on or before December 31, 2022, and annually thereafter, prepare a climate-related financial risk report, as defined, and to submit to the Secretary of State, and make available to the public on its own internet website, a copy of that report. The bill would also require a covered entity to submit to the Secretary of State a statement affirming, not under penalty of perjury, that the climate-related financial risk report discloses climate-related financial risk, as required by the bill. This bill would also require, on or before January 31, 2023, and annually thereafter, the Secretary of State to deliver to the Climate-Related Risk Disclosure Advisory Group in the Office of Planning and Research copies of all climate-related financial risk reports received pursuant to these provisions in the prior calendar year and would require the office to make those reports available to the public on its internet website.

(STATUS: Introduced 02/16/21. Referred to Com. on B. & F.I. and E.Q. on 02/25/21. From committee with author's amendments; read second time; amended; and re-referred to Com. on B. & F.I. on 04/13/21. From committee: Do pass as amended and re-referred to Com. on E.Q. on 04/21/21. Read second time; amended; re-referred to Com. on E.Q. on 04/22/21. From committee: pass and re-refer to Com. on APPR on 04/29/21.)

SB 457 (Portatino & Wilk)

This bill would require the boards of CalPERS and CalSTRS to provide employers that are school districts and cities that participate in the systems an option to elect an investment portfolio that does not contain investment vehicles that are issued or owned by the government of the Republic of Turkey.

(STATUS: Introduced 02/16/21. Referred to Com. on L., P.E. & R on 02/25/21. From committee: Do pass and re-refer to Com. on APPR on 04/20/21. Set for hearing 05/03/21.)

SB 634 (Cortese, Durazo, Laird, Newman, and Ochoa Bogh)

This bill is the annual housekeeping bill for CalPERS, CalSTRS and the CERL systems.

(1) Current law requires CalSTRS to pay premiums associated with Medicare Part A for certain retired or disabled members, as specified. Current law creates the Cash Balance Benefit Program, which is administered by the CalSTRS board, to provide a retirement plan for the benefit of participating employees who provide creditable service for less than 50% of full time. Current law applicable to the Defined Benefit Program, for applications and documents requiring a signature, requires that the signature be in a form prescribed by the system. This bill would apply the above-described requirements regarding signed applications and documents to the Cash Balance Benefit Program and the requirement that CalSTRS pay certain Medicare Part A premiums.

Existing law authorizes a member of CalSTRS who is not retired and who was previously excluded from membership in the Defined Benefit Program request to purchase service credit in the program for certain types of other service. This bill would prohibit a member from purchasing service credit for any school year if the purchase would result in more than one year of service for that school year.

Existing law authorizes a member of CalSTRS who files an application for service retirement to change or cancel their retirement application if specified requirements are met. In this regard, existing law requires a member to return the total gross distribution amount of all payments for any canceled retirement benefit, including a lump-sum payment, as specified. This bill would extend the requirement to return total gross distribution amount, as described above, to apply to any canceled benefit.

(2) The PERL excludes specified appointees, elective officers, and legislative employees from membership in CalPERS unless the person to whom these provisions apply elects to file with the board an election in writing to become a member. This bill would prescribe the circumstances pursuant to which the start date would be determined for an appointee, elective officer, or legislative employee who elects to become a member of PERS. If the written election is received by the system within 90 days of the applicable appointment, current term, or start date for the position, the bill would require that the effective date be the start date of the appointment, the start date of the term, or the start date of the position. If the election is not received by the system within 90 days, as specified, the effective date would be the first day of the month in which the election is received by the system.

The PERL prescribes the circumstances pursuant to which specified payments and benefits may be paid by PERS in connection with the death of a member, among others. This bill would require that overpayments, issued after the date of death to a member, retired member, or beneficiary, made to or on behalf of any member, retired member, or beneficiary, as specified, be deducted from any subsequent payment or benefit that is payable by PERS as a result of the death.

(3) The CERL requires the county health officer to advise the retirement board on medical matters and, if requested, attend its meetings. This bill would authorize a county health officer's duly authorized representative to also advise the board of retirement with advice on medical matters.

The CERL authorizes a member of a system established under its provision who ceases to be an employee of the county under certain provisions of the Education Code to elect to remain a member of the CERL system.

This bill would correct an obsolete cross-reference in this regard.

The CERL provides benefits based upon service credit, defines service for this purpose, and authorizes a member to elect to receive service credit for other forms of public service, as defined, by making contributions. CERL authorizes a member who has elected to make contributions to receive service credit to complete payment, at any time prior to the effective date of the member's retirement, by a lump sum. This bill would repeal the above-described authority of a member to complete a payment by lump sum.

The CERL requires the board of retirement to secure medical, investigatory, and other service and advice as is necessary for the purpose of administering provisions relating to disability retirement. This bill would authorize the board to contract with a physician in private practice for the medical advice necessary to carry out the purpose of provisions relating to disability retirement. The bill would make various technical and stylistic changes.

(STATUS: Introduced 02/19/21. Referred to Com. on L, P.E. & R on 03/03/21. From committee: Do pass and re-refer to Com. on APPR with recommendation: To consent calendar. Re-referred to Com. on APPR on 03/23/21.

From committee: Ordered to second reading pursuant to Senate Rule 28.8 and ordered to consent calendar on 04/05/21. Read second time and ordered to consent calendar on 04/06/21. Read third time; passed; and ordered to Assembly. In Assembly; read first time; and held at Desk on 04/08/21.)

2021 TENTATIVE LEGISLATIVE CALENDAR
 COMPILED BY THE OFFICES OF THE SECRETARY OF THE SENATE AND THE CHIEF CLERK
 Revised 12-21-2020

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
					<u>1</u>	2
3	4	5	6	7	8	9
<u>10</u>	<u>11</u>	12	13	14	15	16
17	<u>18</u>	19	20	21	<u>22</u>	23
24	25	26	27	28	29	30
31						

FEBRUARY						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	<u>15</u>	16	17	18	<u>19</u>	20
21	22	23	24	25	26	27
28						

MARCH						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	<u>25</u>	26	27
28	29	30	<u>31</u>			

APRIL						
S	M	T	W	TH	F	S
				1	2	3
4	<u>5</u>	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	<u>30</u>	

MAY						
S	M	T	W	TH	F	S
						1
2	3	4	5	6	<u>7</u>	8
9	10	11	12	13	<u>14</u>	15
16	17	18	19	20	<u>21</u>	22
23	24	25	26	27	28	29
30	<u>31</u>					

- [Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).
- [Jan. 10](#) Budget must be submitted by Governor (Art. IV, Sec. 12 (a)).
- [Jan. 11](#) Legislature **reconvenes** (J.R. 51(a)(1)).
- [Jan. 18](#) Martin Luther King, Jr. Day.
- [Jan. 22](#) Last day to submit **bill requests** to the Office of Legislative Counsel.

- [Feb. 15](#) Presidents' Day
- [Feb. 19](#) Last day for bills to be **introduced** (J.R. 61(a)(1)), (J.R. 54(a)).

- [Mar. 25](#) **Spring Recess** begins upon adjournment of this day's session (J.R. 51(a)(2)).
- [Mar. 31](#) Cesar Chavez Day.

- [Apr. 5](#) Legislature reconvenes from **Spring Recess** (J.R. 51(a)(2)).
- [Apr. 30](#) Last day for **policy committees** to hear and report to Fiscal Committees **fiscal bills** introduced in their house (J.R. 61(a)(2)).

- [May 7](#) Last day for **policy committees** to hear and report to the Floor **non-fiscal** bills introduced in their house (J.R. 61(a)(3)).
- [May 14](#) Last day for **policy committees** to meet prior to June 7 (J.R. 61(a)(4)).
- [May 21](#) Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61 (a)(5)). Last day for **fiscal committees** to meet prior to June 7 (J.R. 61 (a)(6)).
- [May 31](#) Memorial Day.

* Holiday schedule subject to final approval by Rules Committee

2021 TENTATIVE LEGISLATIVE CALENDAR
 COMPILED BY THE OFFICES OF THE SECRETARY OF THE SENATE AND THE CHIEF CLERK
 Revised 12-21-2020

JUNE						
S	M	T	W	TH	F	S
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	5
6	<u>7</u>	8	9	10	11	12
13	14	<u>15</u>	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

- [June 1-4](#) **Floor Session Only.** No committee, other than Conference or Rules, may meet for any purpose (J.R. 61(a)(7)).
- [June 4](#) Last day for bills to be **passed out of the house of origin** (J.R. 61(a)(8)).
- [June 7](#) Committee meetings may resume (J.R. 61(a)(9)).
- [June 15](#) **Budget bill** must be passed by **midnight** (Art. IV, Sec. 12 (c)(3)).

JULY						
S	M	T	W	TH	F	S
				1	<u>2</u>	3
4	5	6	7	8	9	10
11	12	13	<u>14</u>	15	<u>16</u>	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

- [July 2](#) Independence Day observed.
- [July 14](#) Last day for **policy committees** to meet and report bills (J.R. 61(a)(10)).
- [July 16](#) **Summer Recess** begins upon adjournment of this day's session, provided Budget Bill has been passed (J.R. 51(a)(3)).

AUGUST						
S	M	T	W	TH	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	<u>16</u>	17	18	19	20	21
22	23	24	25	26	<u>27</u>	28
29	<u>30</u>	<u>31</u>				

- [Aug. 16](#) Legislature reconvenes from **Summer Recess** (J.R. 51(a)(3)).
- [Aug. 27](#) Last day for **fiscal committees** to meet and report bills to the Floor (J.R. 61(a)(11)).
- [Aug. 30-Sept. 10](#) **Floor Session only.** No committees, other than conference committees and Rules Committee, may meet for any purpose (J.R. 61(a)(12)).

SEPTEMBER						
S	M	T	W	TH	F	S
			<u>1</u>	<u>2</u>	<u>3</u>	4
5	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

- [Sept. 3](#) Last day to **amend** bills on the Floor (J.R. 61(a)(13)).
- [Sept. 6](#) Labor Day.
- [Sept. 10](#) Last day for **each house to pass bills** (J.R. 61(a)(14)).
Interim Study Recess begins at end of this day's session (J.R. 51(a)(4)).

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2021
[Oct. 10](#) Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 10 and in the Governor's possession after Sept. 10 (Art. IV, Sec. 10(b)(1)).

2022
[Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).

[Jan. 3](#) Legislature reconvenes (J.R. 51 (a)(4)).

** Holiday schedule subject to final approval by Rules Committee



Memorandum

DATE: May 06, 2021
TO: Members of the Board of Retirement
FROM: Cynthia Hockless, Director of Human Resources
SUBJECT: UPDATE TO BOARD ELECTION, SAFETY MEMBER AND ALTERNATE SAFETY MEMBER

Background/Discussion:

OCERS contacted the Registrar of Voters on December 28, 2020, with a request to conduct an election for the position of Safety Member and Alternate Safety Member with a term of office from July 1, 2021, through June 30, 2024.

The following two candidates filed nomination papers by the deadline and were determined, qualified candidates:

1. Jeremy Vallone, Incumbent- Alternate Safety Board Member/ Firefighter
2. Richard Oates, Deputy Sheriff II

The Registrar of Voters mailed out ballots to the home of each OCERS Safety Member on April 12, 2021. A voted ballot must be received in the Registrar of Voters’ office by 9:00 A.M., May 18, 2021. Ballots will be tallied at the Registrar of Voters’ office on this date at 2:00 P.M. Once the Registrar of Voters completes its tally, the Orange County Board of Supervisors will certify the election on May 25, 2021.

We are currently on schedule and will continue to provide updates as we progress through the process.

Attachment:

OCERS Election Calendar May 18, 2021

Submitted by:



C.H. – APPROVED

Cynthia Hockless
Director of Human Resources

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM ELECTION CALENDAR
May 18, 2021
1 SAFETY MEMBER AND 1 ALTERNATE MEMBER

February 5 and February 19 (E-102 and E-88)	The Orange County Retirement office shall notify the Safety Members of the Retirement System that an election will be conducted on May 18, 2021. The notice shall include the filing period, qualifications and requirements to be a candidate for Safety Member and Alternate Member of the Orange County Retirement Board of Directors and shall be provided with the payrolls on February 5, 2021 and February 19, 2021.
February 10 (E-97)	The Retirement Office shall provide the number of eligible Safety Members to the Registrar of Voters' Office.
February 10 (E-97)	The Retirement Office shall provide the Registrar of Voters' Office with Willingness to Serve forms.
February 16 (E-91)	First day the Nomination Petition is available for pick up from the Registrar of Voters' Office. A Safety Member requires 75 nomination signatures.
March 19 (E-60)	Last day to file the Nomination Petition, Willingness to Serve Form, and Biographical Statement with the Registrar of Voters' office by 5:00 p.m.
March 22 (E-57)	Random draw will be held to determine the candidate placement on the ballot.
April 1 (E-47)	Retirement Office shall provide the Registrar of Voters with names and addresses of eligible Safety Members in an electronic format.
April 12 (E-36)	Mailing of ballots begins.
May 18 (E-0)	Tally voted ballots at the Registrar of Voters' Office.
May 25 (E+7)	Certificate of Election on Board of Supervisors' agenda.
July 1 (E+45)	Term begins for Safety Member and Alternate Member. Term expires on June 30, 2024.



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: FIRST QUARTER 2021 BUDGET TO ACTUALS REPORT

Written Report

Highlights

First Quarter Target: 25% Used /75% Remaining

	Actuals to Date	Annual Amended Budget	Budget \$ Remaining	Budget % Remaining
Administrative Budget				
Personnel Costs	\$ 4,003,191	\$ 16,034,052	\$ 12,030,861	75.0%
Service and Supplies	1,884,732	11,629,848	9,745,116	83.8%
Capital Expenditures	-	670,000	670,000	100.0%
Grand Total	<u>\$ 5,887,923</u>	<u>\$ 28,333,900</u>	<u>\$ 22,445,977</u>	<u>79.2%</u>

Background/Discussion

The Board of Retirement approved OCERS’ Administrative Budget for Fiscal Year 2021 (FY21) on November 16, 2020, for \$28,283,900 to fund administrative expenses. Subsequently on February 16, 2021, the Board of Retirement approved an amendment to increase the budget for Services and Supplies by \$50,000 resulting in a total budget of \$28,333,900 for administrative expenses. This amendment is related to the 2021 Business Plan initiative to procure and implement a new Enterprise Resource Planning (ERP) system, increasing the original amount budgeted for this project from \$150,000 to \$200,000.

OCERS’ budgeting authority, which is regulated by California Government Code Sections 31580.2 and 31596.1, includes a provision that limits the OCERS’ budget for administrative expenses to twenty-one hundredths of one percent of the accrued actuarial liability of the retirement system. This provision (commonly referred to as the 21 basis points test) excludes investment related costs and expenditures for computer software, hardware and related technology consulting services. The approved amended FY21 administrative budget represents 8.74 basis points of the projected actuarial accrued liability.

The Chief Executive Officer, or the Assistant CEO, has the authority to transfer funds within the three broad categories of the budget: 1) Personnel Costs, 2) Services and Supplies, and 3) Capital Expenditures. Funds may not be transferred from one broad category to another without approval from the Board of Retirement.

Administrative Summary

For the three months ended March 31, 2021, year-to-date actual administrative expenses were \$5,887,923 or 20.8% of the \$28,333,900 amended administrative budget and below the 25% target set for the end of the first quarter amended budget by approximately \$1.2 million. A summary of all administrative expenses and explanations of significant variances are below:

**Summary of all Administrative Expenses
For the Quarter Ended March 31, 2021**

	Actuals to Date	Annual Amended Budget	Balance Remaining	% of Amended Budget Used	Prorated Amended Budget*	Prorated Amended Budget vs. Actuals (Over)/Under
Personnel Costs	\$ 4,003,191	\$ 16,034,052	\$ 12,030,861	25.0%	\$ 4,008,513	\$ 5,322
Services and Supplies						
Bldg. Prop. Mgmt./Maintenance	159,074	680,000	520,926	23.4%	170,000	10,926
Due Diligence	350	100,000	99,650	0.4%	25,000	24,650
Equipment Lease	8,151	49,500	41,349	16.5%	12,375	4,224
Equipment/Software Expenses	119,620	1,086,500	966,880	11.0%	271,625	152,005
Infrastructure Maintenance	168,379	854,700	686,321	11.4%	213,675	45,296
Legal Services	109,425	960,000	850,575	11.4%	240,000	130,575
Meetings & Mileage	785	57,500	56,715	1.4%	14,375	13,590
Membership/Periodicals	37,018	119,395	82,377	31.0%	29,849	(7,169)
Office Supplies	4,899	95,000	90,101	5.2%	23,750	18,851
Postage	28,298	184,000	155,702	15.4%	46,000	17,702
Printing	11,883	77,000	65,117	15.4%	19,250	7,367
Professional Services	1,159,448	6,575,113	5,415,665	17.6%	1,643,778	484,330
Telephone	39,789	205,000	165,211	19.4%	51,250	11,461
Training	37,613	586,140	548,527	6.4%	146,535	108,922
Services and Supplies	1,884,732	11,629,848	9,745,116	16.2%	2,907,462	1,022,730
Administrative Expense-Sub Total	5,887,923	27,663,900	21,775,977	21.3%	6,915,975	1,028,052
Capital Expenditures**	-	670,000	670,000	0.0%	167,500	167,500
Administrative Expense Total	\$ 5,887,923	\$ 28,333,900	\$ 22,445,977	20.8%	\$ 7,083,475	\$ 1,195,552

*Prorated amended budget represents 25% (3 months/12 months) of annual amended budget.

**Capital expenditures represent purchases of assets to be amortized in future periods.

Personnel Costs

Personnel Costs as of March 31, 2021 were approximately \$4.0 million or 25.0% of the annual amended budget for this category, under the prorated amended budget by \$5,322. Although these costs are slightly under budget, lump sum payments made during the first quarter are included in these costs as well as an increase in the annual leave liability. Annual leave expense and liability accounts are adjusted each quarter based on the annual leave balances of OCERS employees. Leave balances continue to trend higher than expected because of impacts of COVID-19 work and travel restrictions. Additionally, more annual leave is typically used during the summer months and holiday periods. For the three months ended March 31, 2021, the annual leave liability increased by approximately \$142,000. Personnel costs are expected to be within budget for the year.

Services and Supplies

Expenditures for services and supplies were approximately \$1.9 million or 16.2% of the annual amended budget for this category. The variance of \$1,022,730 between the pro-rated amended budget and year-to-date actuals in this category is primarily due to the following (note: under budget differences that are less than \$5,000 have been deemed immaterial and are excluded from the discussion below):

- Building Property Mgmt./Maintenance costs utilized 23.4% of the annual budget and were slightly lower than the prorated budget by \$10,926. Lower overall costs relate to timing of payments for items such as insurance premiums, as well as lower maintenance costs incurred due to the continued work from home order in the first quarter of the year. Maintenance costs do not occur evenly and will fluctuate throughout the year. This category is expected to remain under budget during the work from home period.
- Due Diligence costs are at 0.4% of the annual budget and lower than the prorated budget by \$24,650. All investment team travel, including training, is in this category. This lower than budgeted cost is due to no in-person meetings and travel occurring during the first quarter due to the continued global pandemic. Due diligence meetings are held by telephone or video conference. Travel is expected to pick up later in the year as travel restrictions related to COVID-19 are lifted.
- Equipment/Software expense utilized 11.0% of the annual amended budget, and lower than the prorated amended budget by \$152,005. The lower than expected expenditures is the result of several projects budgeted for the year which have not been implemented during the first quarter, including the purchase and implementation of new accounting software, information security software implementations and other IT software implementations. The accounting software project and information security software implementations are anticipated to start during the second quarter, while other projects are also expected to begin during the second and third quarters of the year.
- Infrastructure Maintenance costs are at 11.4% of the annual amended budget resulting in an unused prorated amended budget of \$45,296. The lower than budgeted costs are due to the timing of maintenance agreement renewals, which renew throughout the year, as well as various costs associated with software and hardware support services that are utilized on an as-needed basis.
- Legal Services are at 11.4% of the budget and are lower than the prorated amended budget by \$130,575. Legal services for investments, litigation and tax counsel are utilized on an as-needed basis. Investment legal services are below budget by approximately \$113,000 for the first quarter. General board, tax counsel and outside counsel services are over the prorated amended budget by approximately \$25,000 primarily due to the legal fees and costs associated with the implementation of the *Alameda* case (*Alameda County Deputy Sheriffs Association et al v. Alameda County Employees Retirement Association and Board of Retirement of ACERA (S247095)*). Other litigation costs budgeted are currently under budget. Total legal fees are not anticipated to exceed the budget for the year, but will be closely monitored throughout the year.
- Meetings and Mileage costs are \$785 or 1.4% of the total amended budget, and under the prorated amended budget by \$13,590. This category represents expenditures related to Board and Committee meetings, as well as team member meetings, which have been held remotely since the Stay-at-Home order was put in place. Until in-person meetings resume and team members begin to return to the office, the utilization of this budget category will remain low.

- Memberships/Periodical expense is at 31.0% of the annual amended budget and above the prorated amended budget by \$7,169. This overage is due to timing differences as many of the memberships and periodicals renew in the first quarter of the year. This difference is expected to diminish as the year continues and remain within budget for this category.
- Office Supplies utilized are at 5.2% of the amended budget and lower than the prorated amended budget by \$18,851. During the first quarter, OCERS team members continued to work from home resulting in the need for fewer office supplies. As team members begin to return to the office, it is expected that more office supplies will be utilized.
- Postage is at 15.4% of the annual amended budget and lower than the prorated amended budget by \$17,702. The costs incurred include postage for the spring quarterly newsletter and mailing of retiree 1099s. Postage usage fluctuates based on current needs.
- Printing Services is at 15.4% of the annual amended budget and under the prorated amended budget by \$7,367. During the first quarter, printing costs were incurred for the spring newsletter. No other printing costs were incurred.
- Professional Services utilized 17.6% of the annual amended budget and are lower than the prorated amended budget by \$484,330 due to several consulting and professional services projects incurring no costs during the first quarter. Some professional services budgeted with no costs incurred include a technical writer and a governance consultant in the Executive Department; external financial audit in the Finance Department; Office 365 migration consulting and mobile app/enhanced self-service portal in the IT Department; as well as internal audit consulting and information security consultants. These budgeted services will be utilized later in the year as needed.
- Telephone expenditures were 19.4% of the amended budget, \$11,461 under the prorated amended budget. This is primarily due to costs for cellular and mobile services coming in less than anticipated.
- Training expense is at 6.4% of the annual amended budget and lower than the prorated amended budget by \$108,922. Training costs are significantly below the amended budget since all travel-related training and conferences have been cancelled or postponed due to the COVID-19 pandemic. All current training and conferences are remote and are typically less expensive than in-person training or conferences. Conferences requiring travel are expected to resume in the coming months as the various social distancing and other COVID-19 restrictions are lifted.

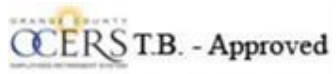
Capital Expenditures

No Capital Expenditures have been incurred as of the end of the first quarter. Capital expenditures budgeted for the year include \$350,000 for board room audio visual improvements and is expected to begin later in the year as part of the re-opening plan of the OCERS headquarters building. The capital expenditures budget also includes project costs of \$250,000 for a new enterprise backup solution to enhance recovery of on premise and cloud systems, which is expected to start in the second or third quarter and completed by the end of the year. A planned project for HVAC rooftop replacements of \$70,000 has been postponed indefinitely.

Conclusion:

As of year-end, the Administrative budget based on preliminary actuals is at 20.8% of the annual budget. As actual administrative expenses are under the annual budget, OCERS complies with the 21 basis point test.

Submitted by:



Tracy Bowman, Director of Finance
Director of Finance



Memorandum

DATE: May 17, 2021
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **FIRST QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THREE MONTHS ENDED MARCH 31, 2021**

Written Report

Background/Discussion

The attached financial statements reflect the unaudited activity for the three months ended March 31, 2021. These statements are unaudited and are not the official statements of OCERS. The following statements represent a review of the progress to date for the first quarter of 2021. The official financial statements of OCERS are included in the Comprehensive Annual Financial Report (Annual Report), which will be available for the year ended December 31, 2020 on our website, www.ocers.org, after the completion of the 2020 year-end audit in June 2021.

Summary

Fiduciary Net Position

As of March 31, 2021, the net position restricted for pension, other post-employment benefits and OPEB 115 is \$19.5 billion, an increase of \$4.0 billion, or 26.0%, from March 31, 2020. The change is a result of an increase in total assets of \$3.7 billion and a decrease in total liabilities of \$352.9 million as described below:

The \$3.7 billion increase in total assets can be attributed to an \$87.2 million increase in total cash and short-term investments and a \$4.0 billion increase in investments at fair value, offset by a decrease of \$414.3 million in total receivables and a decrease of \$2.5 million in capital assets.

The increase of \$87.2 million in cash and short-term investments consists of an increase of \$63.4 million in cash and cash equivalents due to the timing of investing employee and employer contributions received during the quarter and an increase of \$23.8 million in securities lending collateral due to an increase in lending activity in the securities lending program.

The decrease of \$414.3 million in the receivables balance is primarily related to decreases of \$379.6 million in pending security sales receivables, \$33.7 million in investment income, and \$1.2 million in contribution receivables.

Investments at fair value increased \$4 billion, or 25.8%, from March 31, 2020 to March 31, 2021. In March 2020, the World Health Organization declared the coronavirus, COVID-19, a pandemic, resulting in the U.S. and many foreign countries requesting their citizens to shelter in place. In the first quarter of 2020, all major equity indexes posted losses. Since March 2020, the major equity indexes have stabilized and exceeded their pre-pandemic

results. Global Public Equities have experienced strong performance since March 2020 with a 60.6% annual return as of March 31, 2021, versus a negative annual return of -20.2% as of March 31, 2020. The investment focus during this period was equities with the addition of two new investment managers. Several new private equity managers have been added in the last year resulting in the increase in private equity investments. A new investment category for 2021 is Unique Strategies, which currently has two new investment managers. The decreases in the Credit and Real Assets categories are primarily attributed to the termination of certain investment managers and replacing those with other investment managers.

The decrease in capital assets of \$2.4 million from the prior year represents depreciation expense, of which \$2.2 million is attributed to the Pension Administration System Solution (PASS) Project.

Total liabilities decreased \$352.9 million, or 20.8%, from March 31, 2020 to March 31, 2021, primarily due to a decrease of \$424.1 million in pending securities purchased. At the end of March 2020, the volume of capital calls from investment managers increased resulting in an increase in pending purchases as the global stock market continued to be volatile. At the end of March 2021, the market has stabilized along with the investment manager capital calls. Liabilities also decreased in foreign currency forward contracts and other liabilities of \$1.3 million and \$3.1 million, respectively. These decreases were offset by increases in obligations under the security lending program of \$23.8 million, which is directly related to the increase in the securities lending collateral as previously discussed, unearned contributions of \$44 million and retiree payroll payable of \$7.8 million. Unearned contributions increased due to increases in prepaid employer contributions received for the 2021-2022 prepayment program compared to the prior year's prepayment program. An increase in retiree payroll payable is a result of a gradual increase in the number of participants in the plan and the retiree benefits paid.

Statement of Changes in Fiduciary Net Position

The ending net position as of March 31, 2021 increased by \$4.0 billion or 26.0%, when compared to the same period ending March 31, 2020. The change is a primarily the result of the comeback of the market after the downturn in March 2020 due to the lockdown from the COVID-19 pandemic. The annual return on the Investment portfolio as of March 31, 2021 was 26.12%, compared to a negative annual return of .96% as of March 31, 2020. Total additions to fiduciary net position increased 137.2%, or \$1.9 billion for the quarter from the previous year.

Net investment income for the three months ended March 31, 2021 is \$278.8 million versus a net investment loss of -\$1.6 billion for the three months ended March 31, 2020, an increase of \$1.9 billion. The majority of the increase is due to the net appreciation in fair value of investments. The year-to-date return for the portfolio at March 31, 2021 is 2.80% versus a negative -8.87% at March 31, 2020. Global Public Equities have soared since the big drop in the first quarter of 2020. Global Public Equities had a negative year-to-date return for March 2020 of -22.03% versus a year-to-date return of 5.04% for March 2021. The Private Equity category reported a year-to-date return for March 2021 of 7.97% versus a return of 2.39% for March 2020. Dividends, interest and other investment income increased by \$24.1 million or 36.5%. Total investment fees and expenses increased \$3.3 million, primarily due to increases in investment manager fees and other fund expenses.

Employer and employee contributions have decreased \$7.1 million over the prior year. The overall decrease is the result of an \$11.1 million employer contribution to the County health care fund received in the first quarter of 2020 whereas no contributions to this fund were received during the first quarter of 2021. Employee contributions to the pension plan have decreased by approximately \$4 million, while employer contributions have increased by approximately \$8 million. The decrease in employee contributions can be attributed to a decrease of nearly 4%

of County active employees as a result of the Voluntary Incentive Program Separation and Retirement Incentives Program offered by the County to eligible employees in the fall of 2020 as a way to manage revenue reductions that occurred as a result of the COVID-19 pandemic. In addition, the decrease in employee contributions can also be attributed to the reduction and/or gradual phase-out of employee reverse pick-up rates for various OCEA represented employees, which were offset by an increase to employer contributions. Increases to employer contributions can also be attributed to the receipt of higher UAAL contributions compared to the prior year quarter, as well as an increase in employer contribution rates.

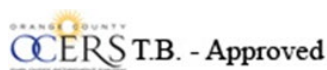
Total deductions from fiduciary net position increased 9.4%, or \$23.1 million, from the previous year. Participant benefits increased by \$22.4 million, which is expected due to the continued and anticipated growth in member pension benefit payments, both in the total number of OCERS's retired members receiving a pension benefit and an increase in the average benefit received; in March 2021 there were 19,170 retirees with an average benefit payment of \$4,345 compared to 18,578 retirees with an average benefit payment of \$4,085 in March 2020. Death benefits and members withdrawals and refunds increased as changes in these categories will fluctuate from year to year based on the occurrence of these events. Administrative expenses decreased minimally during the first quarter of 2021 when compared to the first quarter of 2020.

Other Supporting Schedules

In addition to the basic financial statements for the three months ended March 31, 2021, the following supporting schedules are provided for additional information pertaining to OCERS:

- Total Plan Reserves
- Schedule of Contributions
- Schedule of Investment Expenses
- Schedule of Administrative Expenses
- Administrative Expense Compared to Actuarial Accrued Liability (21 basis points test).

Submitted by:



Tracy Bowman
Director of Finance



ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

Unaudited Financial Statements

For the Three Months Ended March 31, 2021

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

Unaudited Financial Statements
For the Three Months Ended March 31, 2021

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Statement of Fiduciary Net Position (Unaudited)
As of March 31, 2021
(with summarized comparative amounts as of March 31, 2020)
(Dollars in Thousands)

	<u>Pension Trust Fund</u>	<u>Health Care Fund- County</u>	<u>Health Care Fund- OCFA</u>	<u>OPEB 115 Custodial Fund</u>	<u>Total Funds</u>	<u>Comparative Totals 2020</u>
ASSETS						
Cash and Short-Term Investments						
Cash and Cash Equivalents	\$ 918,698	\$ 19,508	\$ 1,985	\$ 266	\$ 940,457	\$ 877,070
Securities Lending Collateral	253,040	5,373	547	-	258,960	235,152
Total Cash and Short-Term Investments	<u>1,171,738</u>	<u>24,881</u>	<u>2,532</u>	<u>266</u>	<u>1,199,417</u>	<u>1,112,222</u>
Receivables						
Investment Income	16,903	359	37	-	17,299	50,998
Securities Sales	127,893	2,716	276	-	130,885	510,496
Contributions	17,654	-	-	-	17,654	18,837
Other Receivables	4,443	94	10	-	4,547	4,323
Total Receivables	<u>166,893</u>	<u>3,169</u>	<u>323</u>	<u>-</u>	<u>170,385</u>	<u>584,654</u>
Investments at Fair Value						
Global Public Equity	9,415,747	199,938	20,342	13,646	9,649,673	5,268,317
Private Equity	2,225,240	47,252	4,807	-	2,277,299	1,795,202
Core Fixed Income	2,302,595	48,894	4,974	5,921	2,362,384	2,926,557
Credit	1,459,804	30,998	3,154	-	1,493,956	1,527,760
Real Assets	1,871,109	39,732	4,042	-	1,914,883	2,235,047
Risk Mitigation	1,685,427	35,789	3,641	-	1,724,857	1,723,955
Absolute Return	217	5	-	-	222	967
Unique Strategies	51,899	1,102	112	-	53,113	-
Total Investments at Fair Value	<u>19,012,038</u>	<u>403,710</u>	<u>41,072</u>	<u>19,567</u>	<u>19,476,387</u>	<u>15,477,805</u>
Capital Assets, Net	<u>13,069</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>13,069</u>	<u>15,427</u>
Total Assets	<u>20,363,738</u>	<u>431,760</u>	<u>43,927</u>	<u>19,833</u>	<u>20,859,258</u>	<u>17,190,108</u>
LIABILITIES						
Obligations Under Securities Lending Program	253,040	5,373	547	-	258,960	235,152
Securities Purchased	210,058	4,460	454	-	214,972	639,054
Unearned Contributions	755,842	-	-	-	755,842	711,866
Foreign Currency Forward Contracts	1,111	24	2	-	1,137	2,469
Retiree Payroll Payable	81,608	4,227	823	-	86,658	78,837
Other	26,157	555	57	-	26,769	29,891
Total Liabilities	<u>1,327,816</u>	<u>14,639</u>	<u>1,883</u>	<u>-</u>	<u>1,344,338</u>	<u>1,697,269</u>
Net Position Restricted for Pension, Other Postemployment Benefits and OPEB 115						
	<u>\$ 19,035,922</u>	<u>\$ 417,121</u>	<u>\$ 42,044</u>	<u>\$ 19,833</u>	<u>\$ 19,514,920</u>	<u>\$ 15,492,839</u>

Statement of Changes in Fiduciary Net Position (Unaudited)

For the Year Ended March 31, 2021

(with summarized comparative amounts for the Year Ended March 31, 2020)

(Dollars in Thousands)

	<u>Pension Trust Fund</u>	<u>Health Care Fund- County</u>	<u>Health Care Fund- OCFA</u>	<u>OPEB 115 Custodial Fund</u>	<u>Total Funds</u>	<u>Comparative Totals 2020</u>
ADDITIONS						
Contributions						
Employer	\$ 163,782	\$ -	\$ 438	\$ -	\$ 164,220	\$ 167,419
Employee	66,748	-	-	-	66,748	70,635
Other Postemployment Contributions	-	-	-	138	138	144
Total Contributions	<u>230,530</u>	<u>-</u>	<u>438</u>	<u>138</u>	<u>231,106</u>	<u>238,198</u>
Investment Income						
Net Appreciation / (Depreciation) in Fair Value of						
Investments	206,363	9,369	941	474	217,147	(1,648,102)
Dividends, Interest, & Other Investment Income	88,157	1,872	190	-	90,219	66,107
Securities Lending Income						
Gross Earnings	264	6	1	-	271	925
Less: Borrower Rebates and Bank Charges	(50)	(1)	-	-	(51)	(711)
Net Securities Lending Income	<u>214</u>	<u>5</u>	<u>1</u>	<u>-</u>	<u>220</u>	<u>214</u>
Total Investment Income	<u>294,734</u>	<u>11,246</u>	<u>1,132</u>	<u>474</u>	<u>307,586</u>	<u>(1,581,781)</u>
Investment Fees and Expenses	<u>(28,118)</u>	<u>(597)</u>	<u>(61)</u>	<u>(1)</u>	<u>(28,777)</u>	<u>(25,452)</u>
Net Investment Income	<u>266,616</u>	<u>10,649</u>	<u>1,071</u>	<u>473</u>	<u>278,809</u>	<u>(1,607,233)</u>
Total Additions	<u>497,146</u>	<u>10,649</u>	<u>1,509</u>	<u>611</u>	<u>509,915</u>	<u>(1,369,035)</u>
DEDUCTIONS						
Participant Benefits	249,970	9,391	1,409	-	260,770	238,412
Death Benefits	85	-	-	-	85	163
Member Withdrawals and Refunds	3,243	-	-	-	3,243	2,401
Other Postemployment Benefits	-	-	-	350	350	340
Administrative Expenses	<u>5,128</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>5,146</u>	<u>5,193</u>
Total Deductions	<u>258,426</u>	<u>9,397</u>	<u>1,415</u>	<u>356</u>	<u>269,594</u>	<u>246,509</u>
Net Increase / (Decrease)	238,720	1,252	94	255	240,321	(1,615,544)
Net Position Restricted For Pension, Other Postemployment Benefits and OPEB 115, Beginning of Year						
	<u>18,797,202</u>	<u>415,869</u>	<u>41,950</u>	<u>19,578</u>	<u>19,274,599</u>	<u>17,108,383</u>
Ending Net Position Restricted For Pension, Other Postemployment Benefits and OPEB 115	<u>\$ 19,035,922</u>	<u>\$ 417,121</u>	<u>\$ 42,044</u>	<u>\$ 19,833</u>	<u>\$ 19,514,920</u>	<u>\$ 15,492,839</u>

Total Plan Reserves
 For the Year Ended March 31, 2021
 (with summarized comparative amounts for the Year Ended March 31, 2020)
 (Dollars in Thousands)

	<u>2021</u>	<u>2020</u>
Pension Reserve	\$ 10,477,496	\$ 9,696,616
Employee Contribution Reserve	3,518,472	3,440,674
Employer Contribution Reserve	3,039,095	2,946,659
Annuity Reserve	2,155,643	1,852,590
Health Care Reserve	459,165	375,957
OPEB 115 Reserve	19,833	15,518
County Investment Account (POB Proceeds) Reserve	161,742	136,795
OCSD UAAL Deferred Reserve	13,433	30,688
Contra Account	<u>(329,959)</u>	<u>(3,002,658)</u>
Total Net Position Restricted for Pension, Other Postemployment Benefits and OPEB 115	<u>\$ 19,514,920</u>	<u>\$ 15,492,839</u>

Schedule of Contributions
For the Year Ended March 31, 2021
(with summarized comparative amounts for the Year Ended March 31, 2020)
(Dollars in Thousands)

	2021		2020	
	Employee	Employer	Employee	Employer
Pension Trust Fund Contributions				
County of Orange	\$ 50,254	\$ 126,045	\$ 54,246	\$ 121,024
Orange County Fire Authority	7,329	23,397	6,849	20,603
Orange County Superior Court of California	3,839	8,862	4,002	8,311
Orange County Transportation Authority	2,452	7,148	2,601	6,930
Orange County Sanitation District	2,060	2,107	2,069	2,128
UCI Medical Center & Campus	-	804	-	736
Orange County Employees Retirement System	302	809	300	721
City of San Juan Capistrano	179	599	205	603
Transportation Corridor Agencies	179	205	204	243
Orange County Department of Education	-	112	-	73
Orange County Cemetery District	43	52	40	51
Orange County In-Home Supportive Services Public Authority	30	39	32	42
Orange County Local Agency Formation Commission	10	40	13	42
Orange County Children & Families Commission	33	45	33	38
Orange County Public Law Library	38	34	41	31
Contributions Before Prepaid Discount	66,748	170,298	70,635	161,576
Prepaid Employer Contributions Discount	-	(6,516)	-	(5,685)
Total Pension Trust Fund Contributions	66,748	163,782	70,635	155,891
Health Care Fund - County Contributions	-	-	-	11,051
Health Care Fund - OCFA Contributions	-	438	-	477
OPEB 115 Custodial Fund Postemployment Contributions	-	138	-	144
Total Contributions	\$ 66,748	\$ 164,358	\$ 70,635	\$ 167,563

¹ Unfunded actuarial accrued liability payments (UAAL) were made in 2021 for \$3.2 million and 2020 for \$1.8 million for the Orange County Fire Authority.

² Unfunded actuarial accrued liability payments have been made in accordance with a separate 20-year level dollar payment schedule to include liabilities for employee benefits related to past service credit.

Schedule of Investment Expenses
For the Year Ended March 31, 2021
(with summarized comparative amounts for the Year Ended March 31, 2020)
(Dollars in Thousands)

	<u>2021</u>	<u>2020</u>
Investment Management Fees*		
Global Public Equity		
U.S. Equity	\$ 327	\$ 233
International Equity	2,202	1,464
Emerging Markets Equity	1,458	1,166
Total Global Public Equity	<u>3,987</u>	<u>2,863</u>
Core Fixed Income		
U.S. Fixed Income	662	652
Total Core Fixed Income	<u>662</u>	<u>652</u>
Credit		
High Yield	-	454
Emerging Markets Debt	777	733
Direct Lending	-	753
Corporate Credit	185	-
Opportunistic Credit	677	-
Private Credit	880	-
Multi-Strategy	-	453
Non-U.S. Direct Lending	-	630
Total Credit	<u>2,519</u>	<u>3,023</u>
Real Assets		
Real Estate	3,492	3,324
Real Return		
Timber	90	196
Agriculture	307	311
Infrastructure	981	724
Energy	1,813	2,940
Total Real Return	<u>3,191</u>	<u>4,171</u>
Total Real Assets	<u>6,683</u>	<u>7,495</u>
Absolute Return		
Direct Hedge Fund	1	30
Total Absolute Return	<u>1</u>	<u>30</u>
Private Equity	6,497	5,603
Risk Mitigation	2,880	3,131
Short-Term Investments	49	87
Total Investment Management Fees	<u>23,278</u>	<u>22,884</u>
Other Fund Expenses¹	<u>4,093</u>	<u>1,265</u>
Other Investment Expenses (Expenses Not Subject to the Statutory Limit)		
Consulting/Research Fees	487	474
Investment Department Expenses	731	629
Legal Services	37	50
Custodian Services	145	145
Investment Service Providers	5	5
Total Other Investment Expenses	<u>1,405</u>	<u>1,303</u>
Security Lending Activity		
Security Lending Fees	60	65
Rebate Fees	(9)	646
Total Security Lending Activity	<u>51</u>	<u>711</u>
OPEB 115 Custodial Fund - Investment Fees and Expenses	<u>1</u>	<u>-</u>
Total Investment Expenses	<u>\$ 28,828</u>	<u>\$ 26,163</u>

* Does not include undisclosed fees deducted at source.

¹ These costs include, but are not limited to, foreign income tax and other indirect flow-through investment expenses such as organizational expenses in limited partnership structures.

Schedule of Administrative Expenses
 For the Year Ended March 31, 2021
 (with summarized comparative amounts for the Year Ended March 31, 2020)
 (Dollars in Thousands)

	<u>2021</u>	<u>2020</u>
Pension Trust Fund Administrative Expenses		
Expenses Subject to the Statutory Limit		
Personnel Services		
Employee Salaries and Benefits	\$ 3,371	\$ 3,384
Board Members' Allowance	<u>4</u>	<u>3</u>
Total Personnel Services	<u>3,375</u>	<u>3,387</u>
Office Operating Expenses		
Depreciation/Amortization	644	633
General Office and Administrative Expenses	317	439
Professional Services	433	339
Rent/Leased Real Property	<u>167</u>	<u>167</u>
Total Office Operating Expenses	<u>1,561</u>	<u>1,578</u>
Total Expenses Subject to the Statutory Limit	<u>4,936</u>	<u>4,965</u>
Expenses Not Subject to the Statutory Limit		
Actuarial Fees	42	52
Equipment/Software	30	56
Information Technology Professional Services	106	90
Information Security Professional Services	<u>14</u>	<u>14</u>
Total Expenses Not Subject to the Statutory Limit	<u>192</u>	<u>212</u>
Total Pension Fund Administrative Expenses	5,128	5,177
Health Care Fund - County Administrative Expenses	6	5
Health Care Fund - OCFA Administrative Expenses	6	6
OPEB 115 Custodial Fund - Administrative Expenses	<u>6</u>	<u>5</u>
Total Administrative Expenses	<u>\$ 5,146</u>	<u>\$ 5,193</u>

Administrative Expense Compared to Actuarial Accrued Liability

For the Year Ended March 31, 2021

(Dollars in Thousands)

Administrative Expense Compared to Actuarial Accrued Liability	
Projected Actuarial Accrued Liability (AAL) as of December 31, 2020	\$ 22,980,997
Maximum Allowed For Administrative Expense (AAL * 0.21%)	48,260
Actual Administrative Expense ¹	<u>4,936</u>
Excess of Allowed Over Actual Expense	<u><u>43,324</u></u>
Actual Administrative Expense as a Percentage of Projected Actuarial Accrued Liability as of December 31, 2021	0.02%
Actual Administrative Expense as a Percentage of Projected Actuarial Accrued Liability as of December 31, 2020	0.08%
¹ Administrative Expense Reconciliation	
Administrative expense per Statement of Changes in Fiduciary Net Position	\$ 5,128
Less administrative expense not considered per CERL section 31596.1	<u>(192)</u>
Administrative Expense allowable under CERL section 31580.2	<u><u>\$ 4,936</u></u>