

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

**REGULAR MEETING
Monday, October 18, 2021
9:30 A.M.**

Pursuant to Assembly Bill 361, signed into law on September 16, 2021 as urgency legislation, and Governor Newsom’s Proclamation of a State of Emergency on March 4, 2020, which Proclamation is still in effect, this meeting will be conducted by video/teleconference only, in compliance with Government Code § 54953 as amended by Assembly Bill 361. 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/91848726495</p> <p>Meeting ID: 918 4872 6495 Passcode: 043911</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: 918 4872 6495 Passcode: 043911</p>
<p>A Zoom Meeting Participant Guide is available on OCERS website Board & Committee meetings page</p>	

AGENDA

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

BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361

Presentation by Gina Ratto, General Counsel, OCERS

The Board is asked to make the following findings by the attached Resolution:

- (1) The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
- (2) The Board has determined that one or both of the following circumstances exist:
 - a. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and/or
 - b. State or local officials continue to impose or recommend measures to promote social distancing.

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.

- Francis Newcomb
- Marc Hale

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

August 16, 2021

Recommendation: Approve Minutes.

C-3 STRATEGIC PLANNING WORKSHOP MINUTES

Recommendation: Approve Minutes.

C-4 ORANGE COUNTY MOSQUITO AND VECTOR CONTROL DISTRICT’S UAAL TRIENNIAL RECALCULATION

Recommendation: Approve the results of the Recalculation of Orange County Mosquito and Vector Control District’s UAAL Obligation as of December 31, 2020 in the surplus amount of \$(915,479).

C-5 CYPRESS RECREATION AND PARKS DISTRICT’S UAAL TRIENNIAL RECALCULATION

Recommendation: Approve the results of the Recalculation of Cypress Recreation and Parks District’s UAAL Obligation as of December 31, 2020 in the amount of \$536,775.

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: WILLIAM BAKER

Assistant Sheriff Orange Sheriff’s Department (Safety Member)

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

- Grant service connected disability retirement.

- Set the effective date as January 17, 2020.

DC-2: CHRISTOPHER BROWN

Communications Coordinator II, Orange County Sheriff's Department (General Member)

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

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

DC-3: GEOFFREY DALY

Environmental Specialist, Orange County Sanitation District (General Member)

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

- Grant non-service connected disability retirement.
- Set the effective date as July 19, 2019.

DC-4: SUSAN DOMINGUEZ

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 July 17, 2020.

DC-5: AUGUSTINE ESTRADA

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

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

- Deny service and non-service connected disability retirement without prejudice due to the member's failure to cooperate.

DC-6: BRUCE FERM

Plumber 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 8, 2021.

DC-7: JUAN FLORES

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

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

- Grant service connected disability retirement.
- Set the effective date as July 31, 2020.

DC-8: CANDICE FORD

Social Worker II, Orange County Social Services Agency (General Member)

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

- Deny service and non-service connected disability retirement without prejudice due to the member's failure to cooperate.

DC-9: NICHOLAS FREELAND

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

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

- Grant service connected disability retirement.
- Set the effective date as August 28, 2020.

DC-10: FERNANDO HERRERA

Facilities Worker/Builder, Orange County Sanitation District (General Member)

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

- Deny service and non-service connected disability retirement without prejudice due to the member's failure to cooperate.

DC-11: DEBORAH KANG

Legal Secretary, 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-12: MINH TAM LUONG

Senior Public Health Nurse, Orange County Health Care Agency (General Member)

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

- Grant non- service connected disability retirement.
- Set the effective date as April 26, 2019.

DC-13: DANNY MOORHOUSE

Fire Captain, 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 July 30, 2021

DC-14: JOHN MURRAY

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

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

- Grant service connected disability retirement.
- Set the effective date as September 7, 2018.

DC-15: JAY MYERS

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

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

- Grant service connected disability retirement.
- Set the effective date as July 5, 2019.

DC-16: RACHAEL RAMOS

Coach Operator, Orange County Transportation Authority (General Member)

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

- Grant service connected disability retirement.
- Set the effective date as December 10, 2017.

DC-17: LAURA SCHUMANN

Office Technician, 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 July 16, 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

DA-2: AMBER DRY SOL

Deputy Juvenile Correctional Officer II, Orange County Probation Department

Recommendation: Staff recommends the Board approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Analysis of the Evidence and Issue, Proposed Findings of Fact Conclusions and Recommendation dated July 18, 2021 (Recommendation) wherein the Hearing Officer recommended that the Applicant, Amber Drysol, is entitled to a service-connected disability retirement.

DA-3: CRISTINA RUPP

Clinical Social Worker II, Orange County Healthcare Agency

Recommendation: Staff recommends the Board approve and adopt the findings and recommendations of the Hearing Officer as set forth in the Findings and Decision in an OCERS Service Connected Disability Retirement Case dated July 17, 2021 (Recommendation) wherein the Hearing Officer recommended that the Applicant, Cristina Rupp, be denied service-connected disability retirement.

OPEN SESSION

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

DA-4: JEFFREY MANCHESTER

Deputy Sheriff II, Orange County Sheriff's Department

Recommendation: Staff recommends that:

- (1) The Board review and determine the Request for Administrative Review of CEO Determination filed by OCERS member, Jeffrey Manchester (Applicant), at the Board's meeting on October 18, 2021; and
- (2) The Board affirm that OCERS' Staff correctly calculated the Applicant's final average salary in accordance with the law and OCERS' policies and procedures.

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 OCERS 2022-2024 STRATEGIC PLAN

Presentation by Steve Delaney, Chief Executive Officer

Recommendation: Approve OCERS 2022-2024 Strategic Plan.

A-3 OCERS 2022 BUSINESS PLAN

Presentation by Steve Delaney, Chief Executive Officer and Brenda Shott, Assistant CEO, Finance and Internal Operations

Recommendation: Approve OCERS 2022 Business Plan.

A-4 VOTING DIRECTION FOR SACRS BUSINESS MEETING

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: Give voting direction to OCERS' delegates for November 12, 2021 SACRS business meeting.

A-5 PERSONNEL COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON SEPTEMBER 15, 2021

Presentation Steve Delaney, Chief Executive Officer, OCERS

Recommendation: The Personnel Committee recommends the Board of Retirement approve the following items related to the 2022 Staffing Plan at the October 18, 2021 Board meeting:

1. Add two (2) Information Technology Managers to the IT department (Est. cost \$214,000 each or \$428,000)
2. Add a total of ten (10) new positions to the Member Services department (Est. total cost \$1,230,672).
 - a. Two (2) Benefit Analysts - Payroll and QA \$303,362
 - b. Two (2) Retirement Supervisors - QA \$254,566
 - c. Four (4) Senior Retirement Program Specialist (Sr. RPS) - QA \$455,744
 - d. Two (2) Retirement Program Specialist (RPS) - Call Center \$217,000

The costs above include salary and a 55% fringe benefits load factor. The total annual cost related to increasing the OCERS headcount from 96 to 108 for the positions listed above is \$1,658,672.

INFORMATIONAL ITEMS

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

Presentations

I-1 STATE OF OCERS

Presentation by Steve Delaney, Chief Executive Officer, OCERS

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

October 18, 2021
October 18, 2021

R-2 COMMITTEE MEETING MINUTES

- [02-09-2021 Building Committee Meeting Minutes](#)
- [06-04-2021 Audit Committee Meeting Minutes](#)
- [06-09-2021 Personnel Committee Meeting 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 THIRD QUARTER 2021 TRAVEL AND TRAINING EXPENSE REPORT

Written Report

R-8 GENERAL MEMBER ELECTION UPDATE

Written Report

R-9 BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN EXERCISE EXECUTIVE SUMMARY

Written Report

R-10 UPDATE ON THE CITY OF SAN JUAN CAPISTRANO'S TRANSITION OF WATER AND SEWER SERVICES

Written Report

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

**INVESTMENT COMMITTEE MEETING
October 27, 2021
9:30 A.M.**

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

**GOVERNANCE COMMITTEE MEETING
October 28, 2021
2:00 P.M.**

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

**DISABILITY COMMITTEE MEETING
November 15, 2021
8:30 A.M.**

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

**REGULAR BOARD MEETING
November 15, 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: October 18, 2021
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – FRANCIS NEWCOMB**

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 June 21, 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

September 21, 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 Francis Newcomb**

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Francis Newcomb and his ex-spouse based on the unmodified benefit and other information provided in the System's request dated September 16, 2021.

The monthly benefits payable to the member and 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	June 21, 2021
Plan of Membership	General Plan B
Monthly Unmodified Benefit	\$1,490.80
Ex-Spouse's Share of Monthly Unmodified Benefit	42.80%
Retirement Type	Service Retirement

Ms. Adina Bercaru
September 21, 2021
Page 2

We calculated the adjustment to the member's unmodified benefit to provide a 42.80% 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:	\$393.99	
Pension:	<u>458.75</u>	
Total:	\$852.74	\$0.00
Monthly benefit payable to ex-spouse ¹	\$509.22	\$509.22

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, 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 42.80% of the member's unmodified benefit (i.e., 42.80% * \$1,490.80 or \$638.06) 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
September 21, 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

Francis J. Newcomb

Re: Retirement Election Confirmation - Option 4

Dear Mr. NEWCOMB:

You have elected Option 4 as your retirement option. This option will provide a 42.80% of your monthly benefit, for the life of the benefit, to:

MARTHA BAER-NEWCOMB

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

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

Understand that any retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 42.80% continuance to MARTHA BAER-NEWCOMB.

[Handwritten Signature]
Member Signature Date: 10-6-2021

Sincerely,

[Handwritten Signature]

RAFAEL LOPEZ
Retirement Program Specialist

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. Wellington Avenue, Suite 100, Santa Ana, CA 92701
Telephone: (714) 554-6200 www.oers.org



Memorandum

DATE: October 18, 2021
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – MARC HALE**

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 23, 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

October 5, 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 Marc A. Hale**

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Marc A. Hale and his ex-spouse based on the unmodified benefit and other information provided in the System's request dated September 27, 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 23, 2021
Plan of Membership	General Plan B and Safety Plan F
Monthly Unmodified Benefit	Plan B: \$67.71 Plan F: <u>7,314.61</u> Total: \$7,382.32
Ex-Spouse's Share of Monthly Unmodified Benefit	29.20%
Retirement Type	Service Retirement

Ms. Adina Bercaru
 October 5, 2021
 Page 2

We calculated the adjustment to the member's unmodified benefit to provide a 29.20% 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:	\$10.92	
Plan B Pension:	37.02	
Plan F Annuity:	1,002.08	
Plan F Pension:	<u>4,176.66</u>	
Total:	\$5,226.68	\$0.00
Monthly benefit payable to ex-spouse ¹	\$1,951.55	\$1,951.55

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 29.20% of the member's unmodified benefit (i.e., 29.20% * \$7,382.32 or \$2,155.64) 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
October 5, 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



October 5, 2021

Marc A. Hale



Re: Retirement Election Confirmation – Option 4

Dear Mr. HALE:

You have elected Option 4 as your retirement option. This option will provide a 29.20% of your monthly benefit, for the life of the benefit, to:

ANGELA ALVAREZ

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 29.20% continuance to ANGELA ALVAREZ.

Marc A. Hale 10-06-21
Member Signature/Date

Sincerely,

Ricardo Serrano
Retirement Program Specialist

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

**REGULAR MEETING
Monday, August 16, 2021
9:30 a.m.**

MINUTES

Chair Dewane called the meeting to order at 9:32 a.m.

Sonal Sharma-Beeson 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, Richard Oates, Adele Tagalao, Charles Packard, Chris Prevatt, Arthur Hidalgo, Jeremy Vallone, Ms. Freidenrich, and Wayne Lindholm

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, Anthony Beltran, Audio-Visual Technician; Sonal Sharma-Beeson; Recording Secretary

Guests:

Harvey Leiderman and Maytak Chin, ReedSmith

CONSENT AGENDA

MOTION by Packard, **seconded** by Tagalao 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.

- None

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

July 19, 2021

Recommendation: Approve minutes.

The motion passed **unanimously.**

CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

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

DC-1: MICHAEL BLAWN

Battalion Chief, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 30, 2020.

DC-2: WILLIAM DANCER

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 December 24, 2017.

DC-3: ALBERT DASHER

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 August 16, 2019.

DC-4: AUGUSTINE ESTRADA

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

Recommendation: The Disability Committee recommends that the Board:

- Deny service and non-service connected disability retirement without prejudice due to the member’s failure to cooperate.

DC-5: JOSHUA DIETRICH

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 August 14, 2020.

DC-6: PERRY FRESE

Deputy Sheriff II, 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 November 15, 2019.

DC-7: PAUL DONOVAN GEORGE

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 March 26, 2021.

DC-8: RICHARD GRAF

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 June 11, 2017.

DC-9: PETER HAMBORG

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 February 28, 2020.

DC-10: CHRISTINA QUINTERO

Property Tax Technician, Orange County Treasurer-Tax Collector (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Deny service and non-service connected disability retirement due to insufficient evidence of permanent incapacity.

DC-11: RONALD REED

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 September 15, 2020.

DC-12: JUDY TORRES

Office Assistant, Orange County Child Support Services (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as August 16, 2019.

DC-13: JAMES WARNER

Deputy Sheriff II, 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 the first day after the last date of regular compensation.

DC-14: WARREN WEBER

Public Assistance Investigator, Orange County District Attorney’s Office (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as January 29, 2021.

The motion passed **unanimously**.

DA-2: AMBER DRYSQL

Recommendation: Staff recommends the Board approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Analysis of the Evidence and Issue, Proposed Findings of Fact Conclusions and Recommendation dated July 18, 2021 (Recommendation) wherein the Hearing Officer recommended that the Applicant, Amber Drysol, is entitled to a service-connected disability retirement.

MOTION by Eley, **seconded** by Prevatt, to postpone this matter until October.

The motion passed **unanimously**.

ACTION ITEMS:

A-2 BUILDING COMMITTEE - BOARD ROOM AUDIO/VISUAL EQUIPMENT REPLACEMENT

Presentation by Brenda Shott, Assistant CEO, Finance and Internal Operations and Jenny Sadoski, Director of Information Technology

Recommendation: Authorize staff to execute an agreement with Key Code Media, Inc. for Board Room Audio Visual equipment replacement and implementation services in the amount not to exceed \$532,000 and authorize the Assistant CEO, Finance and Internal Operations to transfer budget from the Services and Supplies budget category to the Capital Projects budget category to fund additional project costs.

Ms. Shott presented this item to the Board.

MOTION by Prevatt, **seconded** by Oates, to approve staff’s recommendation.

Per Mr. Lindholm's request, Ms. Shott reviewed the Board Room AV RFP Scoring Sheet and explained the reasoning behind choosing Key Code Media. Mr. Lindholm also requested that, in the future, staff should include the RFP Scoring Sheets with the Board materials.

Ms. Sharma-Beeson administered the roll call.

The motion passed **unanimously**.

I-1 ALAMEDA IMPLEMENTATION UPDATE

Presentation by Suzanne Jenike, Assistant CEO, External Operations and Jeff Lamberson, Director of Member Services

Ms. Jenike provided a verbal update to the Board. She explained that the team has sent letters to the payees whose benefits are impacted. The letters included estimates of how much their monthly benefit may be impacted. The team held three Zoom sessions where payees could express their concerns and have their questions answered. The team is currently working with Vitech to change the configurations of the pay codes affected by the Alameda decision in the pension administration system and have updated the Frequently Asked Questions on the website. Two retirees have been brought back on board as extra help to assist in answering the phones.

1-2 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney shared that pension systems participating in the NASRA Annual Conference had a variety of different return to office plans. He noted that OCERS allows employees to voluntarily come into the office; there is also a group of OCERS employees who are now required to come into the office. The requirement to work in the office is in support of the goal to achieve 100% accuracy in benefit calculations.

R-10 THE EVOLUTION OF OCERS' UAAL (2021 EDITION)

Written Report

R-11 2021 STRATEGIC PLANNING WORKSHOP – FINAL AGENDA

Written Report

Mr. Delaney shared that the final Strategic Planning workshop is still pending and should have the final agenda by the end of the week.

The Board recessed into Closed Session at 10:09am.

The Board reconvened at 10:31am.

Open Session

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Orange County Employees Retirement System
August 16, 2021
Regular Board Meeting – Minutes

Page 6

Application Notices
Death Notices

August 16, 2021
August 16, 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

R-7 SECOND QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE SIX MONTHS ENDED JUNE 30, 2021
Written Report

R-8 SECOND QUARTER 2021 BUDGET TO ACTUALS REPORT
Written Report

R-9 OCERS BY THE NUMBERS (2021 EDITION)
Written Report

R-12 GENERAL MEMBER ELECTION
Written Report

R-13 2021 EMPLOYER AND EMPLOYEE CONTRIBUTIONS MATRIX
Written Report

CLOSED SESSION ITEM

E-1 CONFERENCE REGARDING LITIGATION THAT HAS BEEN INITIATED (GOVERNMENT CODE SECTION 54956.9(d)(1))
James B. Morell v. Board of Retirement of the Orange County Employees Retirement System, Los Angeles County Superior Court, Case No. 30-2019-01043847
Adjourn to closed session pursuant to Government Code Section 54956.9(d)(1).

Recommendation: Take appropriate action.

The Board reported no reportable action.

Orange County Employees Retirement System
August 16, 2021
Regular Board Meeting – Minutes

Page 7

BOARD MEMBER COMMENTS

Mr. Dewane requested that the CIO re-inform the Board about the details of her delegated authority at the next Investment Committee Meeting.

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

Mr. Delaney asked if Trustees could confirm whether they are attending the Strategic Planning Workshop in person or attending remotely.

COUNSEL COMMENTS

None.

The meeting **ADJOURNED** at 10:36 am.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

Shawn Dewane
Chairman

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

**2021 STRATEGIC PLANNING WORKSHOP
September 8-9, 2021**

Wednesday, September 8, 2021

Chair Dewane called the meeting to order at 8:30 a.m.

Sonal Sharma-Beeson administered the Roll Call attendance.

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, Richard Oates, Wayne Lindholm and Jeremy Vallone

WELCOME & INTRODUCTORY COMMENTS

Chair Dewane and Steve Delaney provided introductory comments and an overview of the day's schedule.

HEARING FROM OUR STAKEHOLDERS

Michelle Aguirre, Chief Financial Officer, County of Orange

Ms. Aguirre presented for the seventh year in a row the County's budget and the balancing strategy that the County implemented in order to stay afloat during the COVID-19 pandemic. She also discussed County's focus in 2021-2022 is to continue the response to COVID-19 and strategic use of American Rescue Plan Act Funds, replenish reserves, Capital and IT project planning and revisit retirement in 2021 Strategic Financial Plan.

Sam Penrod, Human Resources and Risk Manager, City of San Juan Capistrano

Mr. Penrod thanked OCERS for treating the City of San Juan Capistrano as a big employer even though they are significantly smaller than other employers. He expressed that the City of San Juan Capistrano is very supportive of OCERS' investment portfolio and strategy as its investment choices. He explained that it helps determine whether the expected rate of return is reasonably met on an annual basis, which is one factor that has a direct bearing on the employer's annual contribution rate.

David Main, President, Association of County Law Enforcement Managers (ACLEM)

Mr. Main thanked OCERS for their assistance when the need arises even though they are significantly smaller than many of other associations. He expressed that ACLEM appreciates OCERS' good stewardship.

LESSONS LEARNED FROM A PENSION CRISIS

Mr. Rademacher discussed the brief history of SDCERS, the consequences and fall out of the pension crisis, as well as the rebuilding plan and efforts to preventing a similar situation in the future. He laid out current challenges facing the system as the Courts direct them to return once again to the Defined Benefit pension model they had administered in prior years.

LIQUIDITY ANALYSIS

Ms. Chary reviewed OCERS' Asset Allocation Policy and the Investment Policy Statement in regards to liquidity. Liquidity is a major consideration when adopting the asset allocation and setting investment policy. She noted that J.P. Morgan conducted a Liquidity Analysis on OCERS' portfolio in 2019 with 2018 data. J.P. Morgan updated the Liquidity Analysis with data from 2020 and utilizes peer data to show OCERS' standing relative to peers. OCERS was expected to have negative cash contributions starting 2022. The negative cash flow, after dividends and income, is insignificant until approximately 2031.

Relative to the peer group, OCERS' liquidity was expected to remain strong and there was sufficient liquidity to support illiquid/private investments through 2030 and beyond. OCERS' investment objective is to be a long-term risk seeker and still have sufficient liquidity to pay benefits. Due to changes in the asset allocation, increasing private equity and seasoning of the portfolio, the Investment Team believes the long-term investment income of the current portfolio structure is expected to be in the range of 2%.

OCERS' funded ratio at 80.7% (measured on a market value basis) is generally healthy. UAAL (unfunded actuarial accrued liability) after having peaked in the last decade is on a downward trajectory. In 2011, the ratio of retired members and beneficiaries to actives was 0.62, in 2020 it is 0.90. Once the UAAL is paid-off, contributions will only be the normal cost, placing greater pressure on OCERS to closely manage liquidity. OCERS' Investment Committee and team has the flexibility to remain dynamic, allowing for the program to focus on strategies with a higher income component as OCERS begins to experience negative cash flow. While OCERS is expected to become cash flow negative in 2021, we have another decade or so before significant changes to the asset allocation will need to be made.

Ms. Murphy noted that while the hard flip is estimated to occur in 2034, the plan does not fall off a cliff at that point. Once the plan matures, we want to consider more income producing investments and be mindful of the asset allocations.

Mr. Buchenholz provided a Pension Plan Overview for the calendar year 2020 with OCERS' peer group details. OCERS has consistently met or exceeded the actuarial required contribution. Over the last 10 years OCERS and all peers have outperformed investment return assumptions. OCERS has achieved lower investment returns than select peers, but has generally done so with lower volatility.

The Asset Volatility Ratio (AVR) provides an indication of the sensitivity of contribution rates to investment shocks. For example, an AVR of 4.0x means that a 10% drop in the asset portfolio would be equivalent to 40% of covered payroll. Impacts will vary depending on actuarial assumptions. Higher AVR levels may be indicative of a lower tolerance for investment risk. Plans that aren't covered by Social Security (e.g. OCERS, OP&F, and Colorado PERA) tend to have higher employee contribution burdens. Pension plan net cash flows are directly related to a plan's ability to take on illiquidity in their asset portfolio. OCERS allocates 78.0% to liquid assets.

Ms. Murphy emphasized that the portfolio is actively managed. The negative cash flow and liquidity is reviewed on a regular basis to ensure appropriate asset allocation and portfolio management.

PORTFOLIO LEVERAGE AND CAPITAL EFFICIENCY

Ms. Wirick provided an overview of the portfolio leverage and capital efficiency. The expected returns are low, valuations are high, and some investors are seeking to fill liability gaps. Investors have multiple options to potentially achieve their objectives such as; take more absolute risk (i.e., standard deviation; e.g. more equity, less bonds); take more active risk through manager selection (i.e., tracking error); further diversify sources of risk across asset classes and/or managers (i.e., correlation); utilize forms of leverage.

Mr. Benham discussed the challenges and types of leverage. Low interest rates imply lower future returns for investors. With rates having declined even further, it will be more difficult than ever for institutional investors to achieve their target returns. A positive relationship exists between long-term return expectations and the level of risk accepted; however, this relationship is not static. Achieving similar levels of past returns will require taking greater risks. Leverage can be often found in a portfolio in three ways: Explicit, Implicit, and Embedded. Explicit leverage is the only form where an investor can lose more than the original amount invested. The degree of leverage can vary across the three types.

Leverage magnifies gains and can make a portfolio more efficient (i.e., produce a better risk-return profile), if assumptions are realized. Leveraged portfolios can decrease in value, even for extended periods of time. Leverage magnifies losses and volatility. Leverage always poses a risk because the economic exposure exceeds the capital assets to cover the exposure. It becomes a problem when either periodic financing payments cannot be met or the amount of equity relative to the debt declines to a level unacceptable to the financier. Borrowing costs may exceed the return generated by the investment. A broker may require additional margin if a derivatives contract declines, and will sell the contract and force the investor to realize losses if that margin is not provided. A loan's covenant may require a maximum debt-to-equity ratio. If exceeded, the loan may be called early, or may not be renewed. In times of market shocks or

fluctuations in rates, the effects on the leveraged investment can be magnified. If there is a small increase in borrowing rate from an already low point, the investor experiences a major impact on their borrowing cost. Managing the potential mismatch in borrowing cost is essential in safely managing a levered portfolio. During a liquidity shock, debt providers tend to pull back and require more margin on investments.

Leverage introduces risks that are not easily measured via traditional metrics. These include illiquidity, mark-to-market, counter-party, headline, and model risks. Because leverage magnifies volatility, a high degree of pain tolerance may be required to avoid unwinding the program at an inopportune time. Managing a portfolio with explicit leverage is complex and requires dedicated resources and/or additional monitoring costs. Using a turn-key approach (e.g., portable "alpha") mitigates this concern, but it is more expensive. Leverage has to be disclosed in financial reports, making for an extra accounting consideration. Even if a plan is tax-exempt, leverage can still expose investors to UBTI (Unrelated Business Taxable Income) taxation in certain cases. Leverage can expose investors to headline/peer risk, as explicit portfolio-level leverage is not used by most pension plans. Portfolio-level leverage can be difficult to implement effectively.

The environment calls for continuous research on how to meet future expected returns while managing risks. Leverage can be found in virtually all portfolios in various forms. Explicit leverage is a tool some institutions use in portfolio construction, asset allocation and risk mitigation. Explicit leverage exposes an institution to multiple risks, which may be mitigated through close partnerships with external parties and thorough margin/collateral management.

Thursday, September 9, 2021

Chair Dewane called the meeting to order at 8:30 a.m.

Sonal Sharma-Beeson administered the Roll Call attendance.

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

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

WELCOME

Chair Dewane and Mr. Delaney provided introductory comments and an overview of the day's schedule.

THE ENERGY BIG PICTURE

Mr. DiLoretta provided an overview of the evolution of the OCERS' energy portfolio. OCERS is working towards a target exposure of 40% energy, 60% infrastructure, and <2% timber/ag.

Compared to the current exposure, OCERS will be decreasing energy, increasing infrastructure, and decreasing the exposure to timber/ag to reach that target exposure. Mr. DiLoretta also provided an industry overview and update. 40% of the world's oil supply is provided by the United States, Russia, and Saudi Arabia. The U.S. has risen as a world hydrocarbon producer.

Thirty-two states have some type of oil/gas production. The largest producers are Texas at 43%, offshore at 14.6%, North Dakota producing 10.4%, New Mexico producing 9.2% and Oklahoma at 4.1%.

Looking forward, if demand remains flat, we need to replace 60%+ of current global production over the next 15 years to satisfy global demand for oil. This may result in regulatory issues if the increased supply comes from outside of the U.S.

Oil and gas prices are projected to continue to increase. These prices are volatile and difficult to accurately project future pricing. New U.S. electricity-generation capacity additions continue with solar and winds. While renewable energy is part of the solution, we are mindful of the components that go into renewable energies such as batteries, wind turbines, and how these products are disposed at the end of their useful lifecycle.

There is a growing mineral demand as clean energy expands, with nickel and copper being the two more critical minerals that could impede growth. Copper remains the most critical need. Water and power are fundamental to peace in society and how we go about this is crucial.

VISION 2030

Mr. Delaney shared that OCERS faces two large challenges: the Alameda recalculation and the need to reach 100% benefit accuracy. Some constraints include extreme plan complications, external data access, deficient desk manuals, and V3 constraints. Mr. Delaney emphasized that to solve these problems, technology should be a prime focus, specifically Artificial Intelligence. Mr. Delaney introduced Neil Sahota, United Nations Artificial Intelligence (AI) Advisor, who educated the Board on the basics of AI. Finally, Mr. Delaney presented the Vision 2030 timeline that provides an "at a glance" description of the events to achieve an AI driven environment that will help resolve the two large challenges.

2022 BUSINESS PLAN AND BUDGET

Ms. Shott presented the 2022 Business Plan and Budget. Business Plan Initiatives are items to be worked on in the upcoming year to support moving forward the three year Strategic Plan. The Strategic Goals of Fund Sustainability, Excellent Service and Support, Risk Management, Talent Management and Effective Governance all have Business Plan initiatives for 2022. The Executive Management team then presented each of business initiatives being proposed. The initiatives that have costs associated with them were highlighted and estimates provided.



Memorandum

DATE: October 18, 2021
TO: Members of the Board of Retirement
FROM: Brenda Shott, Assistant CEO Finance and Internal Operations
SUBJECT: **ORANGE COUNTY MOSQUITO AND VECTOR CONTROL DISTRICT'S UAAL TRIENNIAL RECALCULATION**

Recommendation

Approve the results of the recalculation of Orange County Mosquito and Vector Control District's UAAL obligation as of December 31, 2020 in the surplus amount of \$(915,479).

Background/Discussion

The Orange County Mosquito and Vector Control District (previously the Orange County Vector Control District - OCMVCD) was a contracting employer with OCERS until January 2007 when they withdrew from OCERS and contracted with CalPERS to provide retirement benefits for its members. OCERS and OCMVCD entered into a Termination and Continuing Contribution Agreement (Agreement) effective June 1, 2008. The terms of the Agreement established continuing funding obligations for OCMVCD, including a funding mechanism and a "true-up" process whereby OCMVCD pays OCERS in full for the actuarially calculated Unfunded Actuarial Accrued Liability (UAAL) every three years (the contractual payment obligations are calculated in connection to the years when the Board of Retirement adopts new actuarial assumptions). The OCMVCD has made all required true-up payments since the execution of the Agreement. The most recent payment made by OCMVCD was made in January 2018 based on the calculation of UAAL as of December 31, 2017, adjusted for accrued interest through the payment date.

Based on the terms of the Agreement, a true-up calculation is to be completed for the UAAL for OCMVCD as of December 31, 2020. The terms of the Agreement requires OCMVCD to pay off the recalculated UAAL by December 31, 2023 along with accrued interest at the assumed rate of return through the payment date. Based on Segal's recalculation of the withdrawing liability as of December 31, 2020, OCMVCD has an unfunded/ (prefunded) liability of \$(915,749). The decrease in the liability is due to various experience gains, including an investment gain measured on a smoothed market value basis, lower than expected COLA increases during 2021, and mortality gains, offset by higher than expected COLA increases during 2020 and changes in assumptions that were adopted in the December 31, 2020 valuation. This surplus amount is available to OCMVCD to offset any future UAAL in accordance with the Board's withdrawing employer policy.

In accordance with the Agreement, this item requests that the Board of Retirement approve the recalculation of OCMVCD's UAAL as of December 31, 2020 in the surplus amount of \$(915,479). The OCMVCD has already been provided with a copy of the recalculation of their UAAL.

For reference purposes the following are also attached to this memo:

1. Update of Withdrawal Liability as of December 31, 2020 - OCMVCD
2. Termination and Continuing Contribution Agreement – OCMVCD
3. OCERS' Withdrawing Employer (Continuing Obligation) Policy



Memorandum

Submitted by:

A handwritten signature in blue ink that reads "Brenda M. Shott".

Brenda Shott

Assistant CEO, Finance and Internal Operations



Paul Angelo, FSA, MAAA, FCA, EA
Senior Vice President & Actuary
T 415.263.8273
pangelo@segalco.com
Andy Yeung, ASA, MAAA, FCA, EA
Vice President & Actuary
T 415.263.8283
ayeung@segalco.com

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

August 18, 2021

Mr. Steve Delaney
Chief Executive Officer
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)
Update of Withdrawal Liability as of December 31, 2020 – O.C. Mosquito and Vector
Control District (OCMVCD)**

Dear Steve:

As requested, we have updated the withdrawal liability (or unfunded liability) for OCMVCD from December 31, 2019 (as provided in our report dated August 5, 2020) to December 31, 2020.¹

The OCMVCD was a contracting employer with OCERS before it withdrew from OCERS and contracted with CalPERS to provide retirement benefits for its members with respect to service after January 4, 2007. Effective from the date of withdrawal, OCERS is only responsible for providing benefits to employees or retirees of OCMVCD who were members of OCERS before January 5, 2007 and only with respect to service earned at OCERS before January 5, 2007.

Prior Calculation of the OCMVCD's Unfunded Actuarial Accrued Liability (UAAL)

In our letter dated August 5, 2020, we calculated the withdrawal liability for OCMVCD to be \$517,925 as of December 31, 2019 using OCERS' ongoing actuarial assumptions and methods for both liabilities and assets. In particular, the smoothed valuation value of assets was used as the basis for determining the funding obligation for OCMVCD.

Current Analysis and Results

In our current study, we have determined OCMVCD's unfunded liability with OCERS as of December 31, 2020.

The calculation of OCMVCD's present value of benefits is provided in Exhibit I, while a reconciliation of the changes in the present value of benefits from December 31, 2019 to December 31, 2020 is provided in Exhibit II.

¹ Under OCERS' Withdrawing Employer (Continuing Obligation) Policy, an update or true-up of an employer's withdrawal liability is required at least once every three years.

Mr. Steve Delaney
August 18, 2021
Page 2

A reconciliation of the change in the OCMVCD's allocated assets from December 31, 2019 to December 31, 2020 is provided in Exhibit III.

A reconciliation of the change in the OCMVCD's UAAL from December 31, 2019 to December 31, 2020 is provided in Exhibit IV.

The unfunded/(prefunded) liability as of December 31, 2020 is \$(915,749) as provided in column (A) of the table below. The decrease in the unfunded liability between the December 31, 2019 valuation and the December 31, 2020 valuation was due to various experience gains including an investment gain measured on a smoothed market value basis, lower than expected COLA increases during 2021, and mortality gains as detailed in Exhibit IV. The decrease in unfunded liability was offset to some extent by the higher than expected COLA increase during 2020 and reflecting the changes in assumptions adopted in the December 31, 2020 valuation.

The table below summarizes our results in column (A). For reference and comparison purposes, the unfunded liability for OCMVCD developed using the market value of assets is provided in column (B).

As a result of the surplus of \$915,749 determined using the smoothed market value as of December 31, 2020, that amount is available to OCMVCD to offset any future UAAL according to the Board's withdrawing employer policy.

	<u>As of December 31, 2020</u>	
	(A) Valuation Value Basis (smoothed market value)	(B) Market Value Basis (for reference only)
Present Value of Benefits	\$26,898,064	\$26,898,064
Assets	<u>27,813,813</u>	<u>29,556,866</u>
Unfunded/(Prefunded) Liability	\$(915,749)	\$(2,658,802)

Assumptions

The results in this study were calculated using the actuarial assumptions adopted by the Board for the December 31, 2020, actuarial valuation. That valuation and these calculations were prepared under the supervision of Andy Yeung, ASA, MAAA, FCA, EA.

We are members of the American Academy of Actuaries and we meet the qualification requirements to render the actuarial opinion contained herein.

Please let us know if you have any questions.

Sincerely,



Paul Angelo, FSA, MAAA, FCA, EA
Senior Vice President & Actuary



Andy Yeung, ASA, MAAA, FCA, EA
Vice President & Actuary

JY/bbf
Enclosures

cc: Suzanne Jenike
Brenda Shott

Exhibit I

O.C. Mosquito and Vector Control District's Present Value of Benefits as of December 31, 2020

Demographics

Actives ⁽¹⁾	<u>Tier 1 - Plan A</u>	<u>Tier 2 - Plan B</u>	<u>Total</u>
Number of Actives	-	24	24
Payroll	\$0	\$2,337,516	\$2,337,516
Average Payroll	0	97,397	97,397

Inactives

<u>Number</u>			
Termination Vested	-	7	7
Disability Retirement	-	-	-
Service Retirement	13	25	38
Beneficiaries / Survivors	3	1	4

Present Value of Benefits

Actives	\$0	\$4,722,475	\$4,722,475
Non-actives ⁽²⁾	<u>12,388,052</u>	<u>9,787,537</u>	<u>22,175,589</u>
Total	\$12,388,052	\$14,510,012	\$26,898,064

⁽¹⁾ As of December 31, 2020, there are 24 active employees with O.C. Mosquito and Vector Control District. The liability associated with these active employees is valued as "active" status in this withdrawal study (in projecting when those members will terminate or retire from the System, the salaries they will earn when they start collecting benefit, etc.) rather than the terminated vested status as reported by OCERS in the regular December 31, 2020 valuation (in projecting their retirement at a fixed age and at a flat annual salary increase used for all reciprocal members).

⁽²⁾ Of the \$22.2 million in liability attributed to the non-actives, \$0.13 million is attributed to the terminated vested members. For terminated vested members reported with a reciprocal status code by OCERS, we have assumed that they have terminated employment with O.C. Mosquito and Vector Control District and have continued to work for another reciprocal employer.

 Exhibit II

Reconciliation of Change in O.C. Mosquito and Vector Control District's Present Value of Benefits

1. Present Value of Benefits as of December 31, 2019 ⁽¹⁾	\$27,630,524
2. Benefit Payments Made During 2020	1,741,884
3. Interest at the Assumed Rate of 7.00% Per Annum	<u>1,873,171</u>
4. Expected Present Value of Benefits as of December 31, 2020 [1. - 2. + 3.]	\$27,761,811
5. Actual Present Value of Benefits as of December 31, 2020 (From Exhibit I)	<u>26,898,064</u>
6. Liability (Gains) / Losses [5. - 4.] ⁽²⁾	\$(863,747)

⁽¹⁾ From our letter dated August 5, 2020.

⁽²⁾ Includes actuarial experience and changes in actuarial assumptions, if any. See Exhibit IV for detailed breakdown.

Exhibit III

Reconciliation of O.C. Mosquito and Vector Control District's Allocated Assets with OCERS
(From January 1, 2020 to December 31, 2020)

	Year Ending <u>12/31/2020</u>
1. Return on Valuation Value of Assets ⁽¹⁾	9.31%
2. Valuation Value of Assets - Beginning of Year	\$27,112,599
3. Contributions Made	0
4. Benefits Paid	1,741,884
5. Interest Credited using the Rate in 1.	2,443,098
6. Valuation Value of Assets - End of Year ⁽²⁾ [2. + 3. - 4. + 5.]	\$27,813,813

⁽¹⁾ The rate of return on the valuation value of assets is shown on page 24 of our December 31, 2020 valuation.

⁽²⁾ If the Valuation Value of Assets had earned 7.00% per year from January 1, 2020 to December 31, 2020, the Valuation Value of Assets as of December 31, 2020 would have been \$27,207,631. The gain from investments was therefore \$606,182.

Reconciliation of Unfunded Liability (From January 1, 2020 to December 31, 2020)

1. UAAL as of December 31, 2019 ⁽¹⁾	\$517,925
2. Interest on UAAL at 7.00%	36,255
3. Contributions Made during 2020	0
4. Gain due to Favorable Investment Returns	-606,182
5. Gain due to Salary Increases Lower than Expected ⁽²⁾	-67,585
6. Loss due to Higher than Expected COLA Increases in 2020 ⁽²⁾⁽³⁾	36,940
7. Gain due to Lower than Expected COLA Increases in 2021 ⁽²⁾⁽⁴⁾	-249,682
8. Loss due to Active Retirement Experience ⁽²⁾	113,012
9. Gain due to Active Mortality Experience ⁽²⁾	-56,000
10. Gain due to Active Disability Experience ⁽²⁾	-83,489
11. Gain due to Active Turnover Experience ⁽²⁾	-147,554
12. Gain due to Payee Mortality Experience ⁽²⁾	-432,583
13. Gain due to Other Actuarial Experience ⁽²⁾	-1,216
14. Changes in Actuarial Assumptions ⁽²⁾	<u>24,410</u>
15. UAAL/(Prefunded Liability) as of December 31, 2020 ⁽⁵⁾	-\$915,749

⁽¹⁾ From our letter dated August 5, 2020.

⁽²⁾ The sum of items 5 through 14 equals the liability losses shown in Exhibit II.

⁽³⁾ Actuarial loss from payment of an April 1, 2020 COLA of 3.00%, which is 0.25% higher than the 2.75% COLA assumption.

⁽⁴⁾ Actuarial gain from payment of an April 1, 2021 COLA of 1.50%, which is 1.25% lower than the 2.75% COLA assumption.

⁽⁵⁾ The Prefunded Liability of \$(915,749) is less than the \$(488,000) previously estimated in the December 31, 2020 regular valuation (see page 86 of December 31, 2020 funding valuation report) because of the difference in liability calculated for the 24 active employees with O.C. Mosquito and Vector Control District as of December 31, 2020. The liability associated with these active employees is valued as "active" status in this withdrawal study (in projecting when those members will terminate or retire from the System, the salaries they will earn when they start collecting benefit, etc.) rather than the terminated vested status as reported by OCERS in the regular December 31, 2020 valuation (in projecting their retirement at a fixed age and at a flat annual salary increase used for all reciprocal members).

TERMINATION AND CONTINUING CONTRIBUTION AGREEMENT

This Termination and Continuing Contribution Agreement ("Agreement") is entered into effective June 1, 2008 (the "Effective Date") by and between the Orange County Vector Control District ("OCVCD"), a California Special District, and the Orange County Employees Retirement System ("OCERS"), a multiple employer public employees' retirement plan established under the County Employees Retirement Law of 1937, California Government Code sections 31450 et seq., as amended ("CERL").

RECITALS

- A. OCVCD was a participating district employer in OCERS pursuant to the provisions of CERL to and including January 4, 2007. During the time OCVCD participated in OCERS, all of its qualified officers and employees were members of OCERS. Effective January 5, 2007, pursuant to a duly adopted resolution of OCVCD's Board of Directors, OCVCD withdrew as a participating district in OCERS and transferred all of its qualified officers and employees from membership in OCERS to membership in the California Public Employees' Retirement System ("CALPERS") for all service on and after that date.
- B. All service earned by active, retired and deferred officers and employees of OCVCD before January 5, 2007 remains credited with OCERS. All active officers and employees of OCVCD became deferred members of OCERS on that date, pursuant to CERL sections 31700 et seq., and may be entitled to reciprocal benefits pursuant to CERL sections 31830 et seq. upon retirement or disability.
- C. Pursuant to CERL section 31564.2, 31580.1 and other applicable provisions of law, OCVCD remains liable to OCERS for the OCVCD's share of liabilities attributable to the OCVCD's officers and directors who are and may be entitled to receive retirement, disability and related benefits from OCERS.
- D. CERL section 31564.2(d) provides in part: "The funding of the retirement benefits for the employees of a withdrawing agency is solely the responsibility of the withdrawing agency...no contracting agency shall fail or refuse to pay the employer's contributions required by this chapter...In dealing with a withdrawing district, the board of retirement shall take whatever action needed to ensure the actuarial soundness of the retirement system." OCVCD and OCERS enter into this Agreement for these specific purposes.
- E. OCERS' actuary has determined that the difference between the value of the assets held by OCERS attributable to the OCVCD and to its officers and employees, and the OCVCD's liability for the current and prospective benefits due to its officers and directors (the "unfunded actuarial accrued liability" or "UAAL"), as of June 2, 2008, is \$2,033,588. The actuary has certified this amount to the OCERS Board of Retirement, OCERS' governing body.

- F. The purposes of this Agreement are (a) to evidence the OCVCD's continuing funding obligations to OCERS for the ongoing benefits owed to its retired and disabled officers and employees, by offsetting accumulated asset reserves attributable to the OCVCD and its officers and employees against projected future benefits to be paid by OCERS to retired, deferred retired and disabled OCVCD officers and employees and their survivors and beneficiaries, (b) to provide a funding mechanism for the OCVCD to continue to satisfy its funding obligations to OCERS, (c) to provide a mechanism for adjusting the OCVCD's obligations and payments due to OCERS based on periodic actuarial experience analysis and (d) to provide a mechanism by which OCERS will consider the transfer of Surplus, as defined in Par. 4.d below, to a successor retirement system.

AGREEMENT

NOW, THEREFORE, the parties mutually agree to the following terms, conditions and covenants:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference. OCVCD specifically represents and warrants the truth of Recital A.
2. **OCVCD's Current UAAL Obligation.** The OCVCD's current UAAL obligation to OCERS, as of June 2, 2008, is \$2,033,588.
3. **Satisfaction of OCVCD's Current UAAL Obligation.** OCERS acknowledges receipt of OCVCD's payment of \$693,033 on June 2 and \$1,345,679 on June 20, reflecting interest accrued on the balance owing on OCVCD's current UAAL obligation through that date, for a total of \$2,038,712.
4. **Satisfaction of OCVCD's Future UAAL Obligations.**
 - a. As soon as practicable following December 31, 2008 and following the end of every calendar year thereafter, OCERS shall deliver to OCVCD a report on the assets and liabilities in the retirement system attributable to OCVCD's officers and employees, and any UAAL attributable to OCVCD. OCERS' report shall include an itemization of OCVCD's employees by their membership category. These reports will be for information purposes only, and shall not impose any mature funding obligation on OCVCD at the time of the report. The assets attributable to OCVCD will be credited with the actual rate of investment return earned on the total valuation value of OCERS assets, where such rate will reflect any deferred market value gains or losses that are recognized in the valuation value of assets. Following delivery of the annual report, OCERS and OCVCD will meet to discuss any changes in the assets and liabilities attributable to OCVCD.
 - b. Commencing as of December 31, 2010 and every three years thereafter, or in such other intervals as OCERS conducts its multi-ennial Analysis of Actuarial Experience, OCERS' actuary shall recalculate OCVCD's then current UAAL obligation, based on accumulated assets and liabilities attributable to OCVCD and its officers and employees, OCVCD's actual experience and demographics and

consistent with the actuarial assumptions and methodologies and interest crediting policies then in effect as adopted by OCERS Board of Retirement (the "Recalculation of OCVCD's UAAL Obligation"). For purposes of the Recalculation of OCVCD's UAAL Obligation, OCVCD's officers and employees shall be treated as if they were a "closed group" and OCVCD's attributable assets and liabilities shall be treated as segregated from the remaining assets and liabilities of the retirement system. OCERS shall deliver a report of the results of the Recalculation of OCVCD's UAAL Obligation to OCVCD as soon as such information has been finalized by the actuary and adopted by the Board.

c. Based on the Recalculation of OCVCD's UAAL Obligation, in the event that there is any new UAAL obligation required of OCVCD, OCVCD shall satisfy the obligation to OCERS in full by payments from OCVCD within three (3) years following the effective date of each such Recalculation of OCVCD's UAAL Obligation, together with all accrued interest thereon at OCERS' then assumed rate. OCVCD shall have the right to pre-pay any amount due OCERS without penalty, and may add additional funds to its account at OCERS in anticipation of future liabilities at any time.

d. Based on the Recalculation of OCVCD's UAAL Obligation, in the event that there is any negative UAAL obligation ("Surplus") attributable to OCVCD, such Surplus shall remain in the retirement system as a credit against future UAAL obligations attributable to OCVCD. Notwithstanding the foregoing, if the Surplus exceeds 115%, OCERS Board of Retirement shall thereafter consider in a public meeting whether to transfer all or a portion of such Surplus over 115% to CALPERS (or other successor qualified plan in which OCVCD is then a participating employer) for the benefit of OCVCD. OCERS shall give OCVCD reasonable advance notice of the public meeting. OCERS Board of Retirement may, but shall not be obligated to, make any such transfer. Such determination shall be made in the exercise of OCERS' sole and exclusive discretion under the circumstances then prevailing.

e. OCVCD shall be responsible to pay OCERS for the cost of any actuarial services incurred in connection with the reports and analyses respecting OCVCD and shall make payment in full to OCERS within thirty (30) days following receipt of an invoice for such services from OCERS.

5. **OCVCD's Continuing Legal Obligations.** OCVCD's obligations under CERL, including but not limited to sections 31564.2, 31564.5, 31580.1, 31585 and 31627.6, shall be continuing, as necessary to discharge its obligations to OCERS in a timely manner. In the event either party fails to perform any of the obligations imposed by this Agreement or at law in a timely manner, the other party may take any legal action appropriate under the circumstances, including seeking injunctive or other equitable relief, on a preliminary or permanent basis.
6. **Hold Harmless and Indemnification.** Each party to this Agreement shall indemnify, defend and hold the other party (including its governing board, trustees, officers, agents and employees) harmless from any claims, losses, injuries, damages or liability of every kind and character, including reasonable attorneys fees and costs

incurred in connection therewith, to the extent caused by its own wrongful acts or omissions, including but not limited to any breach of this Agreement. This Paragraph shall survive termination of this Agreement and the Expiration Date, as defined in Paragraph 7, below.

7. **Expiration Date.** Once all remaining liabilities to OCVCD's officers and employees and their survivors and beneficiaries have been satisfied, OCERS shall transfer any remaining assets attributable to OCVCD's account to CALPERS (or other successor qualified plan in which OCVCD is then a participating employer) for the benefit of OCVCD.
8. **Venue and Choice of Law.** This Agreement is made in Orange County, California. Any legal action taken with respect to this Agreement shall be brought in the Superior Court for the County of Orange, unless otherwise agreed to in writing by the parties. The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of California as they are applied to domiciliaries thereof. In the event any provision of this Agreement is unenforceable as a matter of law, that provision will be deemed to be reformed to reflect as nearly as possible the original intent of the parties as expressed in this Agreement and in accordance with applicable law, and the remaining provisions will stay in full force and effect, so long as the primary intent of the parties still may be accomplished.
9. **Notices.** All notices or other communications required or permitted to be given under this Agreement shall be made in writing and sent to the addresses set forth below:

If to OCVCD:

Orange County Vector Control District
13001 Garden Grove Boulevard
Garden Grove, California 92843
Attention: District Manager
Fax No.: 714.971.3940

with a copy to:

Law Offices of
Harper & Burns LLP
453 South Glassell Street
Orange, CA 92866
Attn: Alan Burns
Fax No.: 714.744.3350

If to OCERS:

Orange County Employees' Retirement System
2223 Wellington Avenue
Santa Ana, California 92701
Attention: Chief Executive Officer
Fax No.: 714.558.6236

with a copy to:

Harvey L. Leiderman, Esq.
Reed Smith, LLP
Two Embarcadero Center, Suite 2000
San Francisco, CA 94111
Fax No.: 415-391-8269

All notices shall be deemed given if delivered receipt confirmed using one of the following methods: registered or certified first class mail, postage prepaid; recognized courier delivery; electronic mail; telecopier or other electronic facsimile transmission.

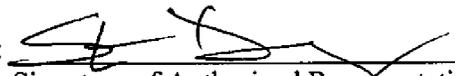
- 10. **Successors.** This Agreement shall inure to the benefit of, and be binding on, the parties' respective successors and assigns, unless otherwise precluded by operation of law.
- 11. **Miscellaneous.** This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and may only be amended or modified by a writing signed by a duly authorized representative of each party. This Agreement may be executed in counterparts, each of which shall be deemed an original. This Agreement replaces and supersedes any prior verbal or written understandings, communications, and representations between the parties regarding the subject matter contained herein. Neither party may assign any rights set forth in this Agreement to any third party without the other's written consent.

IN WITNESS WHEREOF, the parties hereby agree to all of the above terms and have executed this Agreement as of its Effective Date.

**ORANGE COUNTY
VECTOR CONTROL DISTRICT**

**ORANGE COUNTY
EMPLOYEES' RETIREMENT SYSTEM**

By: 
Signature of Authorized Representative

By: 
Signature of Authorized Representative

GERARD GOEDHART
Name of Person Signing (Please print)

STEVE DECAVEY
Name of Person Signing (Please print)

DISTRICT MANAGER
Title of Person Signing

CEO, OERS
Title of Person Signing

AMB



OCERS Board Policy

Withdrawing Employer (Continuing Obligation) Policy

Purpose and Background

From time to time, a participating OCERS employer ceases to provide OCERS' benefits to certain of its employees. *This Withdrawing Employer (Continuing Obligation) Policy* (Policy) is designed to assure that OCERS continues to collect from the employer all contributions necessary to fund all Unfunded Actuarial Accrued Liability (UAAL) attributable to the employer's active, retired and deferred employees covered OCERS' service. Consistent with applicable law and this Policy, OCERS will enter into a Withdrawing Employer (Continuing Obligation) Agreement (Continuing Obligation Agreement) with any such employer.

Policy Objectives

1. The objectives of this policy are, among other things, to ensure compliance with County Employees Retirement Law of 1937, California Government Code sections 31450 et seq., as amended (CERL) and other applicable provisions of law:
 - a. Pursuant to CERL sections 31564.2, 31580.1, 31584, 31585 and other applicable provisions of law, an employer remains liable, and must make the required appropriations and transfers, to OCERS for the employer's share of liabilities attributable to its officers and employees who are and may be entitled to receive retirement, disability and related benefits from OCERS. This obligation continues after the employer withdraws any or all of its officers' employees' service from the OCERS plan until the employer pays all UAAL attributable to its active, retired and deferred officers and employees by reason of their prior service as OCERS' members.
 - b. CERL section 31564.2(d) provides, in part, that "[t]he funding of the retirement benefits for the employees of a withdrawing agency is solely the responsibility of the withdrawing agency or the board of supervisors. Notwithstanding any other provision of the law, no contracting agency shall fail or refuse to pay the employer's contributions required by this chapter within the applicable time limitations. In dealing with a withdrawing district, the board of retirement shall take whatever action needed to ensure the actuarial soundness of the retirement system."
2. The general principle applied in this policy is to establish the funding obligation of withdrawing employers as:
 - a. The value of future benefits to be paid to OCERS members credited with service while employed with the withdrawing employer; *minus*
 - b. The OCERS assets accumulated from contributions of the withdrawing employer and its employees, as determined by OCERS' actuary, and earnings on such contributions.
3. It is the OCERS Board of Retirement's (Board) intent to allow a withdrawing employer to satisfy its funding obligation in a manner that provides the employer reasonable flexibility; however, primary consideration will be given to ensuring the funding obligation of the withdrawing employer is properly determined and satisfied. This will generally require



OCERS Board Policy

Withdrawing Employer (Continuing Obligation) Policy

redetermination of the funding obligation of the employer for several years following the date the employer initiates its withdrawal.

4. This policy covers *only* those withdrawing employers (i) who cease to provide OCERS membership for their active officers and/or employees (i.e., both current actives and new hires), (ii) who are financially viable entities when the withdrawal is initiated, and (iii) who are expected to continue in existence as financially viable entities. This policy does not cover any other situation – whether a withdrawing employer, a terminating employer or otherwise – including, without limitation, an employer that is going out of business by reason of bankruptcy, loss of funding, or merger, or an employer who gradually winds down its active officers and employees' continued participation in OCERS either through attrition or through a decision to have officers and employees hired after a specific date to not become members of OCERS (e.g., to participate in a retirement arrangement other than OCERS).

Policy Guidelines

Absent unique and compelling circumstances or unless otherwise expressly approved by the Board at a duly-noticed meeting, the guidelines for implementing this policy are set forth below.

5. Upon notice that a participating employer seeks to terminate OCERS' membership for its active employees' future service, and on the advice and recommendation of its actuary, OCERS will segregate on its books all assets and liabilities attributable to the employer as determined by OCERS' actuary, and will maintain such separate accounting for the employer until all of its liabilities have been fully satisfied.
6. OCERS and the withdrawing employer will enter into a Continuing Contribution Agreement, the purposes of which are to:
 - a. evidence the withdrawing employer's obligations as of the date the employer initiates its withdrawal, as well as its continuing funding obligations for the ongoing benefits owed to its retired, deferred and disabled officers and employees and their surviving beneficiaries, for their accumulated OCERS service and related benefits;
 - b. provide a funding mechanism acceptable to OCERS for the withdrawing employer to timely satisfy its existing and continuing funding obligations to OCERS, the payment of which must be over a period which is not longer than the period over which OCERS' remaining unfunded liability is being amortized (see CERL section 31564.2(c));
 - c. require the withdrawing employer to provide OCERS with updated employee census and payroll data requested by OCERS in the years following the date the employer initiates its withdrawal;
 - d. provide a mechanism for adjusting the withdrawing employer's obligations and payments due to OCERS based on periodic actuarial experience analysis; and



OCERS Board Policy

Withdrawing Employer (Continuing Obligation) Policy

- e. provide a mechanism by which OCERS will consider the transfer of any Final Surplus, as defined below, to the withdrawing employer or a successor retirement system, as appropriate.
7. Pursuant to the terms of the Continuing Contribution Agreement, OCERS' actuary will determine, and certify to the Board, the withdrawing employer's initial funding obligation for its UAAL calculated as of the date of withdrawal. Absent unique and compelling circumstances, the amortization schedule for payment of the employer's initial funding obligation will not exceed a period of five (5) years.
8. The initial value of the assets used to determine the withdrawing employer's initial funding obligation for its UAAL will be based on the valuation value of assets (VVA) (a smoothed value) allocated to the withdrawing employer determined as of the end of the prior calendar year, adjusted to the date the employer initiated its withdrawal (or later date if the Continuing Contribution Agreement so provides), based upon all of OCERS' then current actuarial assumptions and methodologies, including the use of a pro-rata allocation of UAAL (and VVA) within its rate groups (if any) based on payroll. Alternatively, based on recommendation of OCERS' actuary, the Board may determine VVA allocated to the withdrawing employer be determined using a pro-rata allocation based on the Actuarial Accrued Liabilities (AAL) for the withdrawing employer.

Later values (i.e., those used in "true-ups" described below) will be determined by rolling forward the initial VVA, adding contributions, deducting benefit payments, and crediting earnings at the Total OCERS smoothed (VVA) earnings rate.

9. The present value of future benefits owed to the withdrawing employer's retired, deferred and disabled officers and employees and their surviving beneficiaries (present value of accrued benefits, or "liabilities") will be determined using OCERS' then current actuarial assumptions and methodologies. In determining the present value of accrued benefits, benefit service will be frozen for the withdrawing employer's active employees but, for members who transfer to a system that has reciprocity with OCERS, pay will be projected based on OCERS' then salary growth assumptions.
10. Periodically after the date the employer initiated its withdrawal, in periods not to exceed three (3) years' duration, following an experience analysis, OCERS' actuary will remeasure (true-up), and certify to the Board, any additional obligation of the withdrawing employer for UAAL. In accordance with the terms of the Continuing Contribution Agreement and applicable law, the withdrawing employer is liable for, and must contribute, any new UAAL determined in the true-up experience analysis, based upon an amortization schedule recommended by the actuary and adopted by OCERS.

Absent unique and compelling circumstances, the amortization schedule for payment of the employer's periodic true-up funding obligations will not exceed a period of three (3) years. OCERS will hold any negative UAAL (Surplus) to be applied against any future UAAL of the withdrawing employer.



OCERS Board Policy **Withdrawing Employer (Continuing Obligation) Policy**

- 11. If any surplus remains after the withdrawing employer has satisfied *all* of its UAAL obligations (Final Surplus), OCERS will distribute the Final Surplus in accordance with the terms of the Continuing Contribution Agreement and applicable law.
- 12. Notwithstanding anything to the contrary herein, the OCERS Board reserves the right to pursue any other remedies under applicable law that, depending on the circumstances, may be available to “ensure the actuarial soundness of the retirement system” (CERL section 31564.2(d)). For example, notwithstanding the employer’s obligations under the Continuing Contribution Agreement, if concerns arise regarding the employer’s ongoing existence as a financially viable entity, or if the employer’s funding obligations become so small that the Board, in its sole discretion, determines it is not administratively feasible to continue to accept ongoing payments from the employer, the Board may assess the projected full amount of the employer’s UAAL (as recommended by the fund’s actuary and approved by the Board) using a “risk free” discount rate as determined by OCERS in consultation with its actuary, and require an immediate lump sum payment.

A “risk free” discount rate for purposes of this policy generally refers to the set of market-based interest assumptions used by the Pension Benefit Guaranty Corporation (PBGC) to measure the sufficiency of assets for a corporate employer that is terminating its single-employer defined benefit pension plan. These PBGC rates are generally lower than the expected earnings based discount rate used in OCERS’ actuarial valuation.

Policy Review

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

Policy History

- 14. The Board adopted this policy on February 17, 2015, and revised on December 16, 2019.

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

12/16/19

Date



Memorandum

DATE: October 18, 2021
TO: Members of the Board of Retirement
FROM: Brenda Shott, Assistant CEO Finance and Internal Operations
SUBJECT: CYPRESS RECREATION AND PARKS DISTRICT'S UAAL TRIENNIAL RECALCULATION

Recommendation

Approve the results of the recalculation of Cypress Recreation and Parks District's UAAL obligation as of December 31, 2020 in the amount of \$536,775.

Background/Discussion

Cypress Recreation and Parks District (CRPD) is a subsidiary entity of the City of Cypress (City) and employees of the CRPD were members of OCERS until October 2000. The City was never a participating employer of OCERS and although CRPD employees were officially employed by the CRPD, they worked alongside the City employees and had the same governing body as the City employees. During 2000, the City upgraded their retirement benefits through CalPERS for all City employees and based on discussions with City staff, the City decided to allow the CRPD employees to have the same retirement benefits as the City employees. As a result, all employees of CRPD were terminated on October 12, 2000 and rehired the next day by the City of Cypress which allowed them to become CalPERS members along with the rest of the City employees.

At the time of the termination, it appears that the decision for CRPD to terminate participation in OCERS was not considered or discussed with the Board of Retirement and no agreement between OCERS and CRPD (nor with the City) with regards to the payment of any future Unfunded Actuarial Accrued Liability (UAAL) related to their members existed. As part of the GASB 67 and 68 implementation process, it became evident that there was UAAL that existed with regards to the members who were previously employed by the CRPD. In order for OCERS to pursue collecting the UAAL for these members, OCERS requested that Segal calculate the UAAL for CRPD members as of December 31, 2016. Staff presented this information to the Board of Retirement in November 2017 and received direction to pursue entering into an agreement with the CRPD for the payment of the existing and future UAAL. As a result, OCERS and CRPD entered into a Withdrawing Employer and Continuing Contribution Agreement (Agreement) effective October 15, 2018.

The terms of the Agreement established continuing funding obligations for CRPD, including a funding mechanism and a "true-up" process whereby CRPD pays OCERS in full for the actuarially calculated UAAL every three years (the contractual payment obligations are calculated in connection to the years when the Board of Retirement adopts new actuarial assumptions). Upon execution of the Agreement, CRPD made the required payment of \$739,966 based on the calculation of UAAL as of December 31, 2016 plus accrued interest through October 14, 2018.

Based on the terms of the Agreement, a true-up calculation is to be completed for the UAAL for CRPD as of December 31, 2020. The terms of the Agreement requires CRPD to pay off the recalculated UAAL by December 31, 2023 along with accrued interest at the assumed rate of return through the payment date. Based on Segal's recalculation of the withdrawing liability as of December 31, 2020, CRPD has an unfunded liability of \$536,775. The increase in the liability was primarily due to higher liability for an inactive vested participant who was reported as a non-reciprocal member in the prior valuation, but reported as a reciprocal member in this year's



Memorandum

valuation, as well as higher than expected COLA increases during 2020 and changes in assumptions that were adopted in the December 31, 2020 valuation. The increase was partially offset by an investment gain measured on a smoothed market value basis, lower than expected COLA increases during 2021, and mortality gains.

In accordance with the Agreement, this item requests that the Board of Retirement approve the recalculation of CRPD's UAAL as of December 31, 2020 in the amount of \$536,775. The CRPD has already been provided with a copy of the recalculation of their UAAL.

For reference purposes the following are also attached to this memo:

1. Update of Withdrawal Liability as of December 31, 2020 - CRPD
2. Termination and Continuing Contribution Agreement – CRPD

Submitted by:

A handwritten signature in blue ink that reads "Brenda M. Shott".

Brenda Shott

Assistant CEO, Finance and Internal Operations



Paul Angelo, FSA, MAAA, FCA, EA
Senior Vice President & Actuary
T 415.263.8273
pangelo@segalco.com
Andy Yeung, ASA, MAAA, FCA, EA
Vice President & Actuary
T 415.263.8283
ayeung@segalco.com

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

August 18, 2021

Mr. Steve Delaney
Chief Executive Officer
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)
Update of Withdrawal Liability as of December 31, 2020 – Cypress Recreation and
Parks District (CRPD)**

Dear Steve:

As requested, we have updated the withdrawal liability (or unfunded liability) for CRPD from December 31, 2019 (as provided in our report dated August 5, 2020) to December 31, 2020.¹

Prior Calculation of the CRPD’s Unfunded Actuarial Accrued Liability (UAAL)

In our letter dated August 5, 2020, we calculated the withdrawal liability for CRPD to be \$520,024 as of December 31, 2019 using OCERS’ ongoing actuarial assumptions and methods for both liabilities and assets. In particular, the smoothed valuation value of assets was used as the basis for determining the funding obligation for CRPD. The Withdrawing Plan Sponsor Policy states that the employer must enter into a Continuing Contribution Agreement to pay off the unfunded liability.

Current Analysis and Results

In our current study, we have determined CRPD’s unfunded liability with OCERS as of December 31, 2020.

The calculation of CRPD’s present value of benefits is provided in Exhibit I, while a reconciliation of the changes in the present value of benefits from December 31, 2019 to December 31, 2020 is provided in Exhibit II.

A reconciliation of the change in the CRPD’s allocated assets from December 31, 2019 to December 31, 2020 is provided in Exhibit III.

¹ Under OCERS’ Withdrawing Employer (Continuing Obligation) Policy, an update or true-up of an employer’s withdrawal liability is required at least once every three years.

Mr. Steve Delaney
August 18, 2021
Page 2

A reconciliation of the change in the CRPD's UAAL from December 31, 2019 to December 31, 2020 is provided in Exhibit IV.

The unfunded liability as of December 31, 2020 is \$536,775 as provided in column (A) of the table below. The slight increase in the unfunded liability between the December 31, 2019 valuation and the December 31, 2020 valuation was primarily due to higher liability for an Inactive Vested participant who was reported as a Non-Reciprocal member in the prior valuation but reported as a Reciprocal member in this year's valuation, partially offset by an investment gain measured on a smoothed market value basis, as detailed in Exhibit IV.

The table below summarizes our results in column (A). For reference and comparison purposes, the unfunded liability for CRPD developed using the market value of assets is provided in column (B).

	<u>As of December 31, 2020</u>	
	(A)	(B)
	Valuation Value Basis (smoothed market value)	Market Value Basis (for reference only)
Present Value of Benefits	\$4,748,799	\$4,748,799
Assets	<u>4,212,024</u>	<u>4,475,986</u>
Unfunded Liability	\$536,775	\$272,813

Assumptions

The results in this study were calculated using the actuarial assumptions adopted by the Board for the December 31, 2020, actuarial valuation. That valuation and these calculations were prepared under the supervision of Andy Yeung, ASA, MAAA, FCA, EA.

We are members of the American Academy of Actuaries and we meet the qualification requirements to render the actuarial opinion contained herein.

Please let us know if you have any questions.

Sincerely,



Paul Angelo, FSA, MAAA, FCA, EA
Senior Vice President & Actuary



Andy Yeung, ASA, MAAA, FCA, EA
Vice President & Actuary

JY/bbf
Enclosures

cc: Suzanne Jenike
Brenda Shott

Exhibit I

Cypress Recreation and Parks District's Present Value of Benefits as of December 31, 2020

Demographics

Actives ⁽¹⁾	<u>Tier 1 - Plan A</u>	<u>Tier 2 - Plan B</u>	<u>Total</u>
Number of Actives	-	1	1
Payroll	\$0	\$97,163	\$97,163
Average Payroll	0	97,163	97,163

Inactives

<u>Number</u>			
Termination Vested	-	4	4
Disability Retirement	-	-	-
Service Retirement	5	11	16
Beneficiaries / Survivors	5	1	6

Present Value of Benefits

Actives	\$0	\$63,620	\$63,620
Non-actives ⁽²⁾	<u>2,048,758</u>	<u>2,636,421</u>	<u>4,685,179</u>
Total	\$2,048,758	\$2,700,041	\$4,748,799

⁽¹⁾ As of December 31, 2020, there is 1 active employee with Cypress Recreation and Parks District. The liability associated with this active employee is valued as "active" status in this withdrawal study (in projecting when this member will terminate or retire from the system, the salary he/she will earn when he/she starts collecting benefit, etc.) rather than the terminated vested status as reported by OCERS in the regular December 31, 2020 valuation (in projecting his/her retirement at a fixed age and at a flat annual salary increase used for all reciprocal members).

⁽²⁾ Of the \$4.7 million in liability attributed to the non-actives, \$0.66 million is attributed to the terminated vested members. For terminated vested members reported with a reciprocal status code by OCERS, we have assumed that they have terminated employment with Cypress Recreation and Parks District and have continued to work for another reciprocal employer.

*Exhibit II***Reconciliation of Change in Cypress Recreation and Parks District's Present Value of Benefits**

1. Present Value of Benefits as of December 31, 2019 ⁽¹⁾	\$4,683,618
2. Benefit Payments Made During 2020	324,113
3. Interest at the Assumed Rate of 7.00% Per Annum	<u>316,509</u>
4. Expected Present Value of Benefits as of December 31, 2020 [1. - 2. + 3.]	\$4,676,014
5. Actual Present Value of Benefits as of December 31, 2020 (From Exhibit I)	<u>4,748,799</u>
6. Liability (Gains) / Losses [5. - 4.] ⁽²⁾	\$72,785

⁽¹⁾ From our letter dated August 5, 2020.

⁽²⁾ Includes actuarial experience and changes in actuarial assumptions, if any. See Exhibit IV for detailed breakdown.

Exhibit III

Reconciliation of Cypress Recreation and Parks District's Allocated Assets with OCERS
(From January 1, 2020 to December 31, 2020)

	Year Ending <u>12/31/2020</u>
1. Return on Valuation Value of Assets ⁽¹⁾	9.31%
2. Valuation Value of Assets - Beginning of Year	\$4,163,594
3. Contributions Made	0
4. Benefits Paid	324,113
5. Interest Credited using the Rate in 1.	372,543
6. Valuation Value of Assets - End of Year ⁽²⁾ [2. + 3. - 4. + 5.]	\$4,212,024

⁽¹⁾ The rate of return on the valuation value of assets is shown on page 24 of our December 31, 2020 valuation.

⁽²⁾ If the Valuation Value of Assets had earned 7.00% per year from January 1, 2020 to December 31, 2020, the Valuation Value of Assets as of December 31, 2020 would have been \$4,119,589. The gain from investments was therefore \$92,435.

Reconciliation of Unfunded Liability (From January 1, 2020 to December 31, 2020)

1. UAAL as of December 31, 2019 ⁽¹⁾	\$520,024
2. Interest on UAAL at 7.00%	36,401
3. Contributions Made during 2020	0
4. Gain due to Favorable Investment Returns	-92,435
5. Loss due to Salary Increases Higher than Expected ⁽²⁾	1,011
6. Loss due to Higher than Expected COLA Increases in 2020 ^{(2) (3)}	5,795
7. Gain due to Lower than Expected COLA Increases in 2021 ^{(2) (4)}	-42,919
8. Gain due to Payee Mortality Experience ⁽²⁾	-40,688
9. Loss due to one Inactive Vested Record changed to Reciprocal Status ^{(2) (5)}	201,551
10. Loss due to Other Actuarial Experience ⁽²⁾	-13,874
11. Changes in Actuarial Assumptions ⁽²⁾	<u>-38,091</u>
12. UAAL as of December 31, 2020 ⁽⁶⁾	\$536,775

⁽¹⁾ From our letter dated August 5, 2020.

⁽²⁾ The sum of items 5 through 11 equals the liability losses shown in Exhibit II.

⁽³⁾ Actuarial loss from payment of an April 1, 2020 COLA of 3.00%, which is 0.25% higher than the 2.75% COLA assumption.

⁽⁴⁾ Actuarial gain from payment of an April 1, 2021 COLA of 1.50%, which is 1.25% lower than the 2.75% COLA assumption.

⁽⁵⁾ Based on the reciprocal status reported in the December 31, 2020 valuation data.

⁽⁶⁾ The final UAAL of \$536,775 is slightly less than the \$538,000 previously estimated in the December 31, 2020 regular valuation (see page 86 of December 31, 2020 funding valuation report) because of the difference in liability calculated for the 1 active employee with Cypress Recreation and Parks District as of December 31, 2020. The liability associated with this active employee is valued as "active" status in this withdrawal study (in projecting when this member will terminate or retire from the System, the salary he/she will earn when he/she starts collecting benefit, etc.) rather than the terminated vested status as reported by OCERS in the regular December 31, 2020 valuation (in projecting his/her retirement at a fixed age and at a flat annual salary increase used for all reciprocal members).

WITHDRAWING EMPLOYER AND CONTINUING CONTRIBUTION AGREEMENT

This Withdrawing Employer and Continuing Contribution Agreement ("Agreement") is entered into effective October 15, 2018 (the "Effective Date") by and between the Cypress Recreation and Parks District ("CRPD"), a component unit of the City of Cypress, California ("City") and the Orange County Employees Retirement System ("OCERS"), a public employees' retirement plan established under the County Employees Retirement Law of 1937, California Government Code sections 31450, *et seq.*, as amended ("CERL").

RECITALS

- A. Beginning on or about July 1, 1971, and continuing up to and until October 12, 2000, CRPD was a participating district employer in OCERS pursuant to the provisions of the CERL. During the time CRPD participated in OCERS, all of CRPD's qualified officers and employees were members of OCERS.
- B. The City itself was never a participating employer in the OCERS plan. The City was instead a contract agency in CalPERS.
- C. On October 12, 2000, the City determined that CRPD employees should have the same retirement benefits that City employees were receiving through CalPERS; however at the time, comparable benefits were not available through OCERS. Accordingly, on October 12, 2000, all employees of CRPD were terminated and rehired by the City and made members of CalPERS on and after that date.
- D. All service earned by active, retired and deferred officers and employees of CRPD before October 12, 2000, remains credited with OCERS. All active employees of CRPD became deferred members of OCERS on that date, pursuant to CERL sections 31700 *et seq.*, and may be entitled to reciprocal benefits pursuant to CERL sections 31830 *et seq.* upon retirement or disability.
- E. Pursuant to CERL sections 31564.2, 31580.1 and other applicable provisions of law, CRPD remains liable to OCERS for CRPD's share of liabilities attributable to the CRPD employees who are and may be entitled to receive retirement, disability and related benefits from OCERS.
- F. CERL section 31564.2(d) provides in part as follows:

The funding of the retirement benefits for the employees of a withdrawing agency is solely the responsibility of the withdrawing agency . . . Notwithstanding any other provision of law, no contracting agency shall fail or refuse to pay the employer's contribution required by this chapter or to pay the employer's contribution required by this chapter within the applicable time limitations. In dealing with a withdrawing district, the board of retirement

shall take whatever action needed to ensure the actuarial soundness of the retirement system.

CRPD and OCERS enter into this Agreement for these specific purposes.

- G. A "withdrawing agency" for purposes of this Agreement and CERL section 31564.2(d) is a participating employer in the OCERS plan that (1) ceases to provide OCERS membership for its active employees ; (2) is expected to continue to be a going concern and financially viable entity; and (3) will continue to satisfy its obligation to timely pay all Unfunded Actuarial Accrued Liability attributable to its active, retired and deferred employees and their beneficiaries by reason of their prior service as OCERS' members. CRPD is a withdrawing agency.
- H. OCERS' actuary has determined that the difference between the value of the assets held by OCERS attributable to CRPD and its employees, and the liability for the current and prospective benefits due to CRPD's employees (the "unfunded actuarial accrued liability" or "UAAL") as of December 31, 2016 is \$653,000. The actuary has certified this amount to the OCERS Board of Retirement.
- I. The purposes of this Agreement are (a) to evidence CRPD's continuing funding obligations to OCERS for the ongoing benefits owed to its retired and disabled employees by offsetting accumulated asset reserves attributable to CRPD and its employees against projected future benefits to be paid by OCERS to retired, deferred retired and disabled CRPD employees and their survivors and beneficiaries, (b) to provide a funding mechanism for CRPD to continue to satisfy their funding obligations to OCERS, (c) to provide a mechanism for adjusting CRPD's obligations and payments due to OCERS based on periodic actuarial experience analysis, and (d) to provide a mechanism by which OCERS will consider the transfer of Surplus, as defined below, to a successor retirement system.

AGREEMENT

NOW, THEREFORE, the parties mutually agree to the following terms, conditions and covenants:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference. CRPD specifically represents and warrants the truth of Recitals A, B, and C.
2. Current UAAL Obligation. The current UAAL obligation to OCERS, as of December 31, 2016 on account of CRPD and its employees ("Current UAAL") is \$653,000.
3. Satisfaction of the Current UAAL Obligation. OCERS acknowledges receipt of payment in the amount of \$ 86,966 on October 16 2018, and \$653,000 on October 16 2018 reflecting interest accrued on the balance owing on the Current UAAL through ~~that date~~ October 14, 2018 for a total of \$ 739,966.

4. Satisfaction of Future UAAL Obligations.

- a. As soon as practicable following December 31, 2018, and following the end of every calendar year thereafter, OCERS shall deliver to CRPD a report on the assets and liabilities in the retirement system attributable to CRPD and its employees and any UAAL attributable to the CRPD employees. These reports will be for information purposes only, and shall not impose any mature funding obligation on CRPD at the time of the report. The assets attributable to CRPD and its employees will be credited with the actual rate of investment return earned on the total valuation value of OCERS assets, where such rate will reflect any previously deferred market value gains or losses that are recognized in the valuation value of assets.
- b. Commencing as of December 31, 2020, and every three years thereafter, or in such other intervals as OCERS conducts multi-annual Analysis of Actuarial Experience, OCERS' actuary shall recalculate the then current UAAL obligation based on accumulated assets and liabilities attributable to CRPD and its employees, CRPD's actual experience and demographics and consistent with the actuarial assumptions and methodologies and interest crediting policies then in effect for all active OCERS plan participants as adopted by the OCERS Board of Retirement (the "Recalculation of the UAAL Obligation"). For purposes of the Recalculation of the UAAL Obligation, CRPD's employees shall be treated as if they were a "closed group" and CRPD's attributable assets and liabilities shall be treated as segregated from the remaining assets and liabilities of the retirement system. OCERS shall deliver a report of the results of the Recalculation of the UAAL Obligation to CRPD as soon as such information has been finalized by the actuary and adopted by the Board.
- c. Based on the Recalculation of the UAAL Obligation, in the event that there is any new UAAL obligation required of CRPD, CRPD shall satisfy the obligation to OCERS in full by payments within three (3) years following the effective date of each such Recalculation of the UAAL Obligation, together with all accrued interest thereon at OCERS' then assumed rate. CRPD shall have the right to pre-pay any amount due to OCERS without penalty, and may add additional funds to its account with OCERS in anticipation of future liabilities at any time.
- d. Based on the Recalculation of the UAAL Obligation, in the event that there is any negative UAAL obligation ("Surplus") attributable to the employees of CRPD, such Surplus shall remain in the retirement system as a credit against future UAAL obligations attributable to CRPD and its employees.

5. Continuing Legal Obligations. CRPD's obligations under the CERL, including but not limited to Government Code sections 31564.2, 31564.5, 31580.1, 31585 and 31627.6, shall be continuing, as necessary to discharge the obligation of CRPD to OCERS in a timely manner. In the event either party fails to perform any of the obligations imposed by this Agreement

or at law in a timely manner, the other party may take any legal action appropriate under the circumstances, including seeking injunctive or other equitable relief, on a preliminary or permanent basis.

6. **Hold Harmless and Indemnification.** Each party to this Agreement shall indemnify, defend and hold the other party (including its governing board, trustees, officers, agents and employees) harmless from any claims, losses, injuries, damages or liability of every kind or character, including reasonable attorneys' fees and costs incurred in connection therewith, to the extent caused by its own wrongful acts and/or omissions, including but not limited to any breach of this Agreement. This paragraph shall survive termination of this Agreement and the Expiration Date, as defined below.
7. **Expiration Date.** Once all remaining liabilities to CRPD's employees and their survivors and beneficiaries have been satisfied, OCERS shall transfer any remaining assets attributable to CRPD's account to CalPERS (or other successor qualified plan in which CRPD is then a participating employer) for the benefit of CRPD.
8. **Venue and Choice of Law.** This Agreement is made in Orange County, California. Any legal action taken with respect to this Agreement shall be brought in the Superior Court for the County of Orange, unless otherwise agreed to in writing by the parties. The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of California as they are applied to domiciliaries thereof. In the event any provision of this Agreement is unenforceable as a matter of law, that provision will be deemed to be reformed to reflect as nearly as possible the original intent of the parties as expressed in this Agreement and in accordance with applicable law, and the remaining provisions will stay in full force and effect, so long as the primary intent of the parties still may be accomplished.

9. **Notices.** All notices or other communications required or permitted to be given under this Agreement shall be made in writing and sent to the addresses set forth below:

If to CRPD:

Cypress Recreation and Parks District
5275 Orange Avenue
Cypress, CA 90630
Attention: Executive Director
Fax No.: (714) 229-6682

If to OCERS:

Orange County Employees Retirement System
2223 E. Wellington Avenue, Suite 100
Santa Ana, CA 92701
Attention: Chief Executive Officer
Fax No.: (714) 558-6236

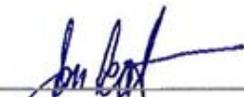
All notices shall be deemed given if delivered receipt confirmed using one of the following methods: registered or certified first class mail, postage prepaid; recognized courier delivery; electronic mail; or facsimile transmission.

10. **Successors.** This Agreement shall inure to the benefit of, and be binding on, the parties' respective successors and assigns, unless otherwise precluded by operation of law.
11. **Miscellaneous.** This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and may only be amended or modified by a writing signed by a duly authorized representative of each party. This Agreement may be executed in counterparts, each of which shall be deemed an original. This Agreement replaces and supersedes any prior oral or written understandings, communications, and representations between the parties regarding the subject matter contained herein. Neither party may assign any rights set forth in this Agreement to any third party without the other party's written consent.

IN WITNESS WHEREOF, the parties hereby agree to all of the above terms and have executed this Agreement as of its Effective Date.

CYPRESS RECREATION AND PARKS DISTRICT

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

By:  _____

By:  _____

Don Peat

Steve Delaney

Printed Name of Person Signing

Printed Name of Person Signing

Board Chair

Chief Executive Officer

Title of Person Signing

Title of Person Signing

a detailed letter which is sent to the member. If the member disagrees with any part of the CEO Determination, the member can request review of the CEO Determination by the Board. The Board will then consider the matter and make a determination; continue the matter to a future meeting of the Board; or refer the matter to a Hearing Officer.

The Administrative Review and Hearing Policy provides that in determining whether to hear and determine the matter or refer the matter to a Hearing Officer, the Board will consider all relevant factors, including, but not limited to, the following:

1. Whether the disputed issues are legal, not factual, in nature;
2. Relevant judicial authority on the disputed legal issue(s);
3. Whether the Board and/or a Hearing Officer has previously ruled on substantively similar issue(s);
4. Whether the Applicant is represented by an attorney;
5. The efficient use of OCERS resources; and
6. The interests of the Applicant in receiving a timely decision.

If the Board chooses to refer the matter to a Hearing Officer, the Administrative Review and Hearing Policy provides that the Board will identify the factual and legal issues to be considered by the Hearing Officer.

Facts

Applicant is receiving a service retirement allowance with a benefit effective date of March 13, 2020. In March 2021, Applicant filed a request for review of the compensation OCERS had excluded in calculating his final average salary and monthly retirement allowance, citing items such as pay associated with the Orange County Sheriff's Department overtime pay codes 2BE and 6FE.

Pay code 2BE is associated with hours the Applicant worked at the Correctional Medical Services Unit ("CMS") which is located at the Anaheim Global Medical Center. Deputy Sheriffs that are assigned to work at the CMS must first report to work at the Theo Lacy Facility, change into work attire, then drive to the CMS, which is a short distance from the jail. To ensure proper coverage at the CMS, each Deputy who works at the CMS is paid a half-hour of overtime as an extension of their regular shift. Only the Deputy Sheriff IIs (and not the Deputy Sheriff Is) that work the CMS shifts receive this extra half-hour of overtime pay per shift. Additionally, only a small fraction of the total number of Deputy Sheriff IIs employed by Orange County Sheriff's Department ("OCSD") work in the jail system, and an even smaller fraction of those Deputy Sheriff IIs work the CMS shift and are thus entitled to the extra half-hour of overtime per shift.

Pay code 6FE is associated with hours the Applicant worked as part of the Platoon schedule established by the OCSD for the jails. Deputy Sheriff IIs that work at the Theo Lacy Facility work a Platoon schedule. Employees work either one of two schedules -- (1) Sunday, Monday, Tuesday and every other Wednesday; or (2) Every other Wednesday, Thursday, Friday and Saturday. Six days of the week, on Sunday, Monday, Tuesday, Thursday, Friday and Saturday, the shift consists of 12.5 hours, 11.5 hours paid as regular hours and one hour of unpaid time for lunch. Wednesday's shift is a 12 hour shift, 11 hours paid as regular time and one hour of unpaid lunch, plus a half-hour extension of the shift, paid as overtime. The six days of 11.5 regular hours plus the 11 regular hours total 80 hours of regular time during a two week pay-period. The half-hour of overtime worked every other Wednesday brings the total hours to 80.5 hours. Thus, during a two week pay-period, the Deputy Sheriff

Ils work 80 hours of regular time and a half-hour hour of overtime. Only a small fraction of the total number of Deputy Sheriff Ils that work for the OCSO are entitled to this extension of the Wednesday schedule resulting in an extra half-hour of overtime pay each pay period.

OCERS CEO's designee, Mr. Lamberson, responded to the request for review of the OCERS Staff's initial benefit determination and issued the CEO Determination in this matter. Mr. Lamberson determined that section 31461 of the Government Code excludes from compensation earnable "overtime" that is not worked by other members in the same grade or class as the member, and therefore both overtime pay codes 2BE and 6FE cannot be included in the Applicant's pension calculation. As described in OCERS Compensation Earnable and Pensionable Determination OAP document, "Overtime" is only includable in the member's final average salary only if the overtime is:

- (i) required to be worked; and
- (ii) ordinarily worked by all others in same grade/class/rate of pay.

In other words, the overtime must be mandatory and regularly scheduled for the entire grade/class/rate of pay.

Applicant disputes the exclusion of two categories of time as follows:

1. Hours worked coded as 2BE: Applicant contends that OCERS improperly excluded pay he earned for working a half-hour extension of each regularly scheduled work shift at the CMS.
2. Hours worked coded as 6FE: Applicant contends that OCERS improperly excluded pay he earned for working a half-hour extension every other Wednesday as part of his regular shift at the Theo Lacey Facility.

OCERS' determined that both categories of pay were properly excluded from "compensation earnable," as defined in California Government Code section 31461 because in both instances the half-hour extensions are "overtime" that is not worked by other members in the same grade or class as the Applicant.

When calculating a retiring member's final average salary OCERS Staff takes into consideration all base salary/wages and pensionable pay items that are reported biweekly by the employer. In addition to the law, Staff relies on the Board's policies and the member's governing MOU to determine compensation earnable for Legacy members¹.

Government Code section 31461 defines compensation earnable. Subdivision (b) of section 31461 lists the items of compensation that are excluded from compensation earnable; and subdivision (b)(3) excludes from compensation earnable "[p]ayments for additional services rendered outside of normal working hours . . ." The California Supreme Court in *Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association* (2020) 9 Cal.5th 1032, 1057–1058, recently reaffirmed that overtime pay is not to be included in compensation earnable. "[C]ompensation earnable has long been held not to include overtime pay. . . . Since 2000, overtime premium pay has been expressly excluded from compensation earnable in most

¹ Applicant is a Legacy member of OCERS.

circumstances by section 31461.6. (Stats. 2000, ch. 966, § 3.)” *Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association* (2020) 9 Cal.5th 1032, 1057–1058.

OCERS Board Resolution 98-001 and OCERS Compensation Earnable Policy were adopted by the OCERS Board to implement the statutory definition of compensation earnable and the decision of the Court in *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483. Resolution 98-001 and the Compensation Earnable Policy set forth the items of compensation that are includable and excludable from compensation earnable. Specifically, in accordance with Resolution 98-001 and the Compensation Earnable Policy, items of compensation to be excluded in the calculation from compensation earnable for retiring Legacy members include the following:

True Overtime (amounts paid for working in excess of the time requires and ordinarily worked by others in the same grade/class.)

Applicant was covered by the Peace Officer Unit and Supervising Peace Officer Unit MOU during his final three years of employment. The MOU specifies that “[o]vertime worked due to an extension of the employee’s regular shift shall be calculated on hours paid in each seven (7) day period . . .”

OCERS Staff performed a comprehensive review of the Applicant’s account. Mr. Lamberson also performed a comprehensive review of Staff’s determination. The salary/wages and pensionable pay items for which Applicant is eligible to receive credit were included when calculating his final average salary. Therefore his monthly retirement allowance was calculated in accordance with the law, OCERS established policies and procedures and the applicable MOU.

Board’s Review and Decision

Staff urges the Board to hear and review this matter at its October 18, 2021 meeting and not refer the matter to a hearing on the grounds that (1) the disputed issues are legal, not factual, in nature; (2) there is established judicial authority supporting OCERS Staff’s determination of the disputed legal issues; (3) the Board has previously rules on an identical issue; (4) the efficient use of OCERS resources; and (5) the Applicant’s interest in receiving a timely decision.

The dispute here is legal, not factual, in nature. It involves, as memorialized in OCERS Board Resolution 98-001 and OCERS Compensation Earnable Policy, the Board’s interpretation of Government Code sections 31461 and 31461.6 defining compensation earnable and expressly excluding overtime pay. Under Government Code section 31533, the Board may refer a matter to a hearing officer whenever it is necessary in order for the Board to make a determination. The role of the Hearing Officer generally is to recommend to the Board proposed findings of fact when the facts are in dispute. (Gov. Code, §31533.) Here, the facts are not in dispute and the law is clear with respect to what items of compensation constitute compensation earnable. In addition, by the Board’s Resolution 98-001 and Compensation Earnable Policy, the Board has clearly enunciated the rules for calculating a member’s final average salary. Applicant claims that specific hours worked as an extension of his regular shift should be included in the calculation, and OCERS’ position is those hours should not. An

administrative hearing before a Hearing Officer is not necessary for this Board to determine that Staff properly applied the law, Resolution 98-001 and the Compensation Earnable Policy to Applicant's benefit determination.

The Board has previously ruled on the exact issue presented by this appeal regarding the pay code 2BE. On May 18, 2020, the Board approved and adopted the Hearing Officer's Recommendation in the Matter of Robert Szewczyk, Jesse Oller and Rodney Morikawa. These Deputy Sheriff IIs worked at the CMS and received pay for the half-hour extension of each of the shifts as did the Applicant here. These three Deputy Sheriff IIs also appealed OCERS Staff's determination that this time constituted overtime and was not properly includable in their compensation earnable. Applicant is now making the same request that the half-hour extension of each of his regular shifts be included in his compensation earnable. After a full hearing and briefing of the issue, the Hearing Officer in the Matter of Robert Szewczyk, Jesse Oller and Rodney Morikawa made the following Recommendation:

Find that the Applicants' pay, earned working a half hour extension of each regularly scheduled work shift at the Correctional Medical Services ("CMS") Unit at the Anaheim Global Medical Center of the Theo Lacey Facility, is properly excluded by OCERS from "compensation earnable," as defined in California Government Code section 31461, because the half hour extension is "overtime" that is not worked by other members in the same grade and class as the Applicants.

The Board's adoption of the Hearing Officer's recommendation in the Matter of Robert Szewczyk, Jesse Oller and Rodney Morikawa is dispositive of the Applicant's request to have the pay from the half-hour extension of his regularly scheduled work shift (coded 2BE) included in his compensation earnable. Applicant's request to have the pay earned for working an extra half-hour every other Wednesday included in his compensation earnable is substantially similar to his request regarding the 2BE pay, therefore, the Board should also decide this issue and not send it to a Hearing Officer.

Under the Board's interpretation of the law and direction, OCERS Staff has calculated thousands of members' final average salaries employing the very same rules regarding overtime hours worked by members; and OCERS Staff followed these same directives of the Board in calculating Applicant's final average salary. Referring this matter, which involves the Board's longstanding interpretation of the CERL and the definition of compensation earnable and Staff's long history of implementing these directives of the Board, to a hearing would not result the efficient use of OCERS' resources. Finally, Applicant has an interest in receiving a timely resolution and decision. Referring this matter to a Hearing Officer is not only unnecessary in this case because of the aforementioned reasons but would also delay a decision for several months.

Staff therefore recommends that the Board affirm at its meeting on October 18, 2021, the calculation of the Applicant's final average salary as accurate and in accordance with the law, Resolution 98-001 and the Board's Compensation Earnable Policy. The Board's decision will be final, subject only to review by a state court in a timely filed Petition for Writ of Mandamus.

Submitted by:



SJ-Approved

Suzanne Jenike
Assistant CEO, External Operations

Enclosures:

Jeffrey Manchester request for Board review dated July 26, 2020

CEO Determination by Jeff Lamberson dated December 8, 2020

Request for Administrative Review filed on March 5, 2021

OCERS Administrative Review and Hearing Policy (applicable to request for review filed on or after August 18, 2020)

OCERS Compensation Earnable Policy

From: [basebaJeff Manchester](#)
To: [Lamberson, Jeff](#)
Subject: [EXTERNAL] appeal of retirement benefit payments
Date: Sunday, July 26, 2020 2:58:03 PM

Good morning Jeff,

My name is Jeffrey W. Manchester. I retired from the Orange County Sheriff Department on March 12, 2020. My benefit effective date is March 13, 2020.

I received a letter from OCERS Retirement Program Specialist Ricardo Serrano, on May 1, 2020. The letter stated if I did not agree with my benefit determination, I should submit a written appeal, to you, within 90 days of my "First Benefit Letter" (letter dated May 1, 2020).

I am appealing my benefit amount, and requesting OCERS approve and include in my compensation earnable the following items of compensation:

Code 2BE

Code 6FE

I do have documentation I would like to submit as part of the appeal process, but as the OCERS offices are closed, am unsure how to go about that. Please accept this email as my formal written appeal of my benefit amount. Could you please also assist me by providing a location, or explain the process, to submit any further correspondence and documentation.

Thank you Jeff

Sincerely,
Jeffrey W Manchester
951-54-2899



Active Participating Employers:

CITY OF SAN JUAN
CAPISTRANO

COUNTY OF ORANGE

ORANGE COUNTY
CEMETERY DISTRICT

ORANGE COUNTY
CHILDREN & FAMILIES
COMMISSION

ORANGE COUNTY
EMPLOYEES
RETIREMENT
SYSTEM

ORANGE COUNTY FIRE
AUTHORITY

ORANGE COUNTY IN-HOME
SUPPORTIVE SERVICES
PUBLIC AUTHORITY

ORANGE COUNTY
LOCAL
AGENCY FORMATION
COMMISSION

ORANGE COUNTY
PUBLIC LAW LIBRARY

ORANGE COUNTY
SANITATION DISTRICT

ORANGE COUNTY
TRANSPORTATION
AUTHORITY

SUPERIOR COURT OF
CALIFORNIA, COUNTY
OF ORANGE

TRANSPORTATION

December 8, 2020

Jeff Manchester
17926 Robusta Dr
Riverside, CA 92503

Re: CEO Appeal Determination

Dear Mr. Manchester:

I am responding to you as the CEO Designee for the OCERS Member Appeal process. This letter is in response to your emailed appeal dated July 26, 2020 regarding your request to have your benefit determination reviewed due to the exclusion of the overtime pay codes 2BE and 6FE. OCERS has laws and policies that govern our retirement plan and determine the types of pay that can be considered when calculating final average salary. California Government Code 31461 defines "compensation earnable" as:

(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.

This government code indicates that "overtime" not worked by other members in the same grade or class is excluded from compensation earnable and therefore cannot be included in your pension calculation. This determination applies to both pay codes in your appeal as the type of overtime coded as 2BE and 6FE. As described in our Comp Earnable and Pensionable Determination OAP document, "Overtime" is only includable if:

- (i) that is required to be worked; and
- (ii) that is ordinarily worked by all others in same grade/class/rate of pay.
- (iii) Overtime must be mandatory and regularly scheduled for the entire grade/class/rate of pay.

I confirmed my understanding of the types of overtime associated with these codes with the OCSD payroll unit.

Therefore, I must deny your request to have pay items 2BE and 6FE included as compensation earnable for purposes of inclusion in your benefit determination calculation.

If you do not agree with this determination by the CEO Designee, you have the right to have this decision reviewed by the OCERS Board. In order to exercise this right, you must submit a written request for an administrative review by completing and submitting the enclosed form within ninety (90) days of the date of this letter. The form and your request for the Board review can be submitted via e-mail to hearings@ocers.org or via USPS at:

Orange County Employees Retirement System (OCERS)
Attn: Clerk of the Hearing Officers
2223 E. Wellington Ave., Suite 100
Santa Ana, CA 92701

Thank you again for your patience.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Lamberson", with a long horizontal flourish extending to the right.

Jeff Lamberson, G.B.A.
Director, Member Services
CEO Designee

Enclosures:
Request for Administrative Review Form
Comp Earnable and Pensionable Determination OAP



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) 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.

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 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.

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.

Pay Item: Element of compensation.

Pensionable Compensation: See Section V.



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

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 and other interpretations issued thereunder.

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 further clarified in OCERS’ Compensation Earnable Policy, elements included in Compensation Earnable are (i) remuneration earned and receivable in cash (under the applicable MOU) by the retiring member, (ii) during the final compensation period, and (iii) for working the ordinary time required of other employees, in the same grade/class, 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



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

- 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 (as defined under Sections 31462 and 31482.1 of the Government Code; hereafter Final Compensation) 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 and Sick Leave and Holiday to the extent (i) was earned (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed -out (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)
- "Overtime" (i) that is required to be worked; and (ii) that is ordinarily worked by others in same grade/class/rate of pay. Overtime must be mandatory and regularly scheduled for the entire grade/class/rate of pay.
- Compensatory Time (excluding "True Overtime" in excess of minimum required reserve)
- "Madera" Pay and additional Compensation for Scheduled Meal Periods

ITEMS EXCLUDED FROM COMPENSATION EARNABLE

As further set out in Resolution 98-001 and clarified in the Compensation Earnable Policy, (i) 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 working the ordinary time required of other employees in the same grade/class shall be excluded from Compensation Earnable, including but not limited to the following items, and others substantially similar to them:

- True Overtime (i.e. amounts paid for working in excess of the time required and ordinarily worked by others in the same grade/class)
- Employer Contributions for Deferred Compensation plan or to Retirement System



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

- 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, 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 (as defined in Section 9(a) of the Compensation Earnable Policy) **do not** include time before January 1, 2001.

Pensionable Compensation

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

ITEMS INCLUDED IN PENSIONABLE COMPENSATION

For PEPPRA 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. 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



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

- Field Training Officer Pay
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive Pay (other than one-time payments based on longevity)

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 and others substantially similar to them:

- Any item of compensation determined by the Board to have been paid in order to increase a member's retirement benefit (pension spiking) or is inconsistent with the requirements of 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.



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

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;
 - 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
 - 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"/>



Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		Qualifier	YES	NO	N/A
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"/>
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"/>



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>
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.

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 Plan Sponsor 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.



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	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 the entire same grade/class/rate of pay	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 in excess of the time required an ordinary worked by others in the same grade/class)	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



REQUEST FOR ADMINISTRATIVE REVIEW

The attached form, called a **Request for Administrative Review**, is for the purpose of requesting the Administrative Review of a CEO Determination under the OCERS Administrative Review and Hearing Policy (the “Policy”)¹. Capitalized terms used in this document are defined in the Policy.

The **Request for Administrative Review** must be filed with OCERS, as described below, ***no later than*** ninety (90) days after the date of the notice of the CEO Determination.

Instructions:

1. Completing the **Request for Administrative Review** form:
 - a. ***You must complete*** Sections 1, 2, and 4; and ***you must sign*** the form in Section 6.
 - b. Complete Section 3 only if the Member is represented by an Attorney.

2. File the **Request for Administrative Review** form by sending it via e-mail to **hearings@ocers.org** or return it to:

Orange County Employees Retirement System (OCERS)
Attn: Clerk of the Hearing Officers
2223 E. Wellington Ave., Suite 100
Santa Ana, CA 92701

Once the **Request for Administrative Review** form has been filed, the Clerk will place the matter on the agenda of a regular meeting of the OCERS Board, which will be no later than two (2) calendar months after the Clerk receives the **Request for Administrative Review**.

The Clerk will provide written notice to the Member and/or the Member’s Attorney of the time and date of the meeting of the Board when the matter will be heard.

¹ The OCERS Administrative Review and Hearing Policy (Disability and Non-Disability Benefits) applies to Requests for Administrative Review and Requests for Administrative Hearing filed on or after August 18, 2020.

**BEFORE THE BOARD OF RETIREMENT OF THE
ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

REQUEST FOR ADMINISTRATIVE REVIEW OF CEO DETERMINATION

Section 1. Applicant's Information

Applicant is:

- The OCERS Member whose benefit is the subject of the CEO Determination
- A person filing on behalf of the OCERS Member whose benefit is the subject of the CEO Determination
- OCERS Employer (Name of Employer: _____)
- A person with an interest in the OCERS Member's pension (e.g., heir, beneficiary, spouse)

Section 2. Member's Information

Member's Name: _____

Member's Address: _____

Member's Telephone Number: _____

Member's E-Mail Address: _____

([] Check here if Member consents to have all documents served via e-mail.)

The OCERS Member is:

- An Active OCERS Member
- A Retired OCERS Member
- A Deferred OCERS Member

If Retired, what type of retirement: Service Retirement Disability Retirement

Section 3. Member's Attorney Information (complete only if an Attorney represents the Member)

Attorney's Name: _____

Attorney's California Bar Number: _____

Attorney's Firm Name: _____

Attorney's Address: _____

Attorney's Phone Number: _____

Attorney's E-Mail Address: _____

Section 4. Details of Requested Administrative Review of CEO Determination:

Applicant and/or Member is contesting (check all that apply):

- Reciprocity determination
- Benefit calculation; includes components of final average salary, years of service credit, plan formula etc.
- Other; Please describe: _____

Date of CEO Determination: _____

Section 5. Reason(s) You Believe the CEO Determination is Incorrect

Provide a short description of why you believe the CEO Determination should be reversed (attach extra pages if necessary):

FILED
Orange County Employees
Retirement System
MAR 5 2021
By B. Singleton, Clerk
of the Hearing Officers

**BEFORE THE BOARD OF RETIREMENT OF THE
ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

REQUEST FOR ADMINISTRATIVE REVIEW OF CEO DETERMINATION

Section 1. Applicant's Information

Applicant is:

- The OCERS Member whose benefit is the subject of the CEO Determination
- A person filing on behalf of the OCERS Member whose benefit is the subject of the CEO Determination
- OCERS Employer (Name of Employer: _____)
- A person with an interest in the OCERS Member's pension (e.g., heir, beneficiary, spouse)

Section 2. Member's Information

Member's Name: JEFFREY W. MANCHESTER

Member's Address: 17926 ROBUSTA DRIVE, RIVERSIDE, CA, 92503

Member's Telephone Number: 951 543 2899

Member's E-Mail Address: jeep4xrls@sbcglobal.net

(Check here if Member consents to have all documents served via e-mail.)

The OCERS Member is:

- An Active OCERS Member
- A Retired OCERS Member
- A Deferred OCERS Member

If Retired, what type of retirement: Service Retirement Disability Retirement

Section 3. Member's Attorney Information (complete only if an Attorney represents the Member)

Attorney's Name: _____

Attorney's California Bar Number: _____

Attorney's Firm Name: _____

Attorney's Address: _____

Attorney's Phone Number: _____

Attorney's E-Mail Address: _____

Section 4. Details of Requested Administrative Review of CEO Determination:

Applicant and/or Member is contesting (check all that apply):

- Reciprocity determination
- Benefit calculation; includes components of final average salary, years of service credit, plan formula etc.
- Other; Please describe: _____

Date of CEO Determination: DECEMBER 8, 2020

Section 5. Reason(s) You Believe the CEO Determination is Incorrect

Provide a short description of why you believe the CEO Determination should be reversed (attach extra pages if necessary):

SEE ATTACHED

Benefit determination to include pay codes 2BE and 6FE

The assessment, definition, and determination of pay codes 2BE and 6FE, by OCERS and its representatives, are grossly incorrect.

Code 2BE

Code 2BE as it relates to the CMS and Hospital shifts, meets every requirement of the definition “compensation earnable,” and as such, should be included in my pension calculation. OCERS, and OCSD Payroll, choose to recognize it as “overtime,” which it is not. It is unequivocally a regularly scheduled 12 hour shift, which is ordinarily worked by all others in the same grade / class / rate of pay. Simply calling it “overtime,” does not make it so, even if the OCSD (Payroll) chooses to pay it as such.

In the matter of the application for retirement for:

Robert Szewczyk, Jesse Oller, and Rodney Morikawa
Case Nos. 0012-119403, 0013-111582, 0014-106996

Cross examination of Diane Ramos, by Mr. Silver, page 259, line 7, begins

- Errs on p. 260 - line 18-21
- Errs on p. 261 – line 20-23
 - Ms. Matsuo failed to correct Mr. Silver
- Mr. Silver errs again on p. 262 – line 2
- Ms. Matsuo stated in p. 268 – line 17-20
 - “one of the stipulations in the AOCDS MOU is that any time.....it’s an extended shift. So any overtime that starts with the number 2 is a mandatory time and a half”
- Mr. Silver misrepresented the 11 hour day, again; p. 275 – line 13-25, and p. 276 – line 1-10

Testimony of Sgt. G. Torres

- p. 60 – line 8-10
 - “just because Ms. Matsuo says it’s overtime doesn’t mean it is”

During court proceedings, Mr. Silver erred in his stipulation

- p. 78 – line 16-19
 - “We’ll stipulate that not all employees in the class of – in the classification of Deputy I or the classification of Deputy II worked these.....this shift”

Ms. Matsuo

- p. 79 – line 25; p. 80 – line 1-25; p. 82 – line 14-15
 - “I won’t stipulate if you include the Deputy Sheriff I’s
 - (this is another example of years of isolating and discriminating against Deputy II’s)

Hearing Officer Kearl – Prejudicially influenced the case hearing by offering, several times, specific wording for OCERS stipulations

- p. 84 – line 11-20

Stated by Mr. Silver to witness (unreadable / Jenike)

- p. 196 – line 1-25; p. 197 – line 1-25
 - “I said that if OCERS had not labeled it as overtime, would OCERS have regarded it as compensation earnable”
- From this point forward, p. 196 thru p. 203 (unreadable / Jenike) becomes a “hostile witness

In the matter of:

The City of Long Beach v. Mansell (1970) 3 Cal. 3d 462

“Manifest injustice would result if the very Governmental Entities whose conduct induced those citizens to settle on the land and were permitted to assert a successful claim of paramount title.” Thus, the case was one of “those exceptional cases” where justice and right require that the Government be bound by an Equitable Estoppel.

Written again, with emphasis [CERL Act of 1937; PEPRA; Deputy Sheriff’s; pension calculation]

“Manifest injustice would result if the very Governmental Entities whose conduct [over a span of 76 years (CERL Act of 1937 to PEPRA Act Jan, 1, 2013)] induced those citizens [Deputy Sheriff’s] to settle on the land [have faith in future retirement benefits] and were permitted to assert a successful claim of paramount title.

Thus, the case was one of “those exceptional cases” where justice and right require that the government [OCERS] be bound by an EQUITABLE ESTOPPEL.

In the matter of:

Longshore v. County of Ventura (1979) 25 Cal. 3d 14;28

“Unique importance of pension rights to an employee’s well-being”

In the matter of:

Rose v. City of Hayward (1981) 126 Cal. App. 3d 926, 179 Cal. Rptr. 287

“The hours worked are not “overtime work” because they are part of the normal hours of work for those employees rather than in excess of such hours”

Code 6FE

Code 6FE, and the refusal to recognize it as compensation earnable, perplexes me. This portion of every Deputies shift is projected in the sign-in time sheets, by the OCSD Payroll, every other Wednesday. Staff members (Deputies) don't even fill in the time sheet for 6FE, but simply acknowledge they are being paid for it, by initialing the entry. 6FE is required to be worked, is ordinarily worked by all others in same grade / class / rate of pay, and is regularly scheduled for the entire grade / class / rate of pay.

(this method of signing in each day was under the old hand written time sheets. I'm aware OCSD has since computerized the sign in process. That doesn't change the fact that 6FE is required)

Therefore, I am requesting an administrative review.

Lined area for text entry, consisting of 20 horizontal lines.

Section 6. Signature

Dated: 3-5-21



Signature of Applicant/Member/Attorney for Member

**Please note: This form will not be accepted unless signed and dated by the Applicant, the Member, or the Member's Attorney. Electronic signature is acceptable.*



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

1. Intent

The Board of Retirement ("Board") of the Orange County Employees Retirement System ("OCERS") intends that this Administrative Review and Hearing Policy ("Policy") will apply to and govern OCERS' Administrative Review and Administrative Hearing processes for Disability Determinations, Benefit Determinations and other final administrative orders or decisions of the Board. Any person who is entitled to a hearing and who does not request one under this Policy will be deemed to have waived the right to a hearing.

Nothing in this Policy will be deemed an acknowledgement by OCERS that any procedure set forth herein, including an administrative hearing, is required by law. The Board retains the right to amend this Policy or vary the process set forth in this Policy in any manner consistent with the law.

2. Definitions

The following terms will have the meanings set forth below.

Administrative Hearing; Hearing: The proceedings before a Hearing Officer or the Board on the merits of a particular Request for Administrative Hearing and related Application.

Administrative Record: The documents and other records relied upon by Staff or a fact-finding body in an Administrative Review or Hearing conducted pursuant to this Policy, including any documents submitted on behalf of an Applicant, documents prepared by OCERS or by independent sources that are received by OCERS, any transcripts or recordings of testimony, or any other documents relevant to an Application.

For purposes of any proceeding following an Administrative Review or Hearing, the Administrative Record also includes written correspondence, Party Pre-Hearing Statements, the Hearing Officer's Proposed Findings of Fact and Recommended Decision, Party objections, hearing transcripts, and other documents relevant to an Application.

Administrative Review: The process described in this Policy (including the Rules) by which a Party may seek an administrative review of a Benefit Determination, CEO Determination or Disability Determination or any other final administrative order or decision of the Board.

Applicant; Member: A member of OCERS, or a person or other entity on behalf of a member of OCERS (including but not limited to the member's surviving spouse), or any person who claims an interest in the pension or allowance of an OCERS member who files an Application or who seeks Administrative Review of a Benefit Determination.

Application: The submittal, including any amendments thereto, filed with OCERS by or on behalf of an Applicant for either: (i) a disability retirement; or (ii) a service retirement.

Benefit Determination: A determination made by Staff in connection with (i) a service retirement Application; (ii) a disability retirement Application with the exception of a Disability Determination; or (iii) an Applicant's benefit (e.g., calculation of the amount of the benefit, benefit effective date, reciprocity determinations).

CEO Determination: A Benefit Determination made by the CEO or the CEO's designee.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Clerk, Clerk to the Hearing Officers. A person or persons designated by the OCERS General Counsel or their designee to fulfill the duties of providing administrative assistance to the Hearing Officers appointed by OCERS.

Consolidation/Consolidated Review or Hearings. Where two or more Requests for Administrative Review or Hearing that have common issues of fact or law are consolidated for Administrative Review or Hearing pursuant to Section 8 of this Policy or Rule 7 of the Rules.

Days: All days are calendar days, unless otherwise provided herein.

Disability Committee, Committee: A committee of the Board, chartered by the Board to review Applications for disability retirement and make recommendations to the Board with respect to Disability Determinations.

Disability Determination: The action taken by the Board in response to a disability retirement Application pursuant to Government Code Section 31724, limited to the following findings: (1) whether the Applicant is permanently incapacitated for performance of their duties in the service; (2) whether the disability was service-connected; and (3) the effective date of the disability retirement. Any other determinations affecting a disability retirement Application, including, but not limited to, timeliness of the Application, ineligibility due to termination for cause, and applicability of a disability offset, are Benefit Determinations pursuant to this Policy and subject to a CEO Determination.

Employer: The public agency who employed the OCERS member whose benefits are at issue in any given matter. The Employer is a Party to an Administrative Review but does not need to participate in an Administrative Review or Hearing. If the Employer initiates an Administrative Review or Hearing, it will act in the role of the Applicant with the corresponding burden of proof.

Expedited Administrative Hearing: An alternative administrative Hearing process, set forth in Rule 6 of the Rules.

Hearing Officer: A referee appointed pursuant to Government Code section 31533 who is either a member of the State Bar selected under the OCERS Hearing Officer Selection and Retention Policy, or a member of the Board.

Medical Witness: A person who by profession is a physician, surgeon, psychologist, optometrist, dentist or podiatrist licensed by the State of California or by such other jurisdiction of the United States in which such person maintains a regular practice in good standing.

Party or Parties: OCERS, an Applicant who seeks an Administrative Review or Hearing under this Policy, the Employer, and any other person who may be affected by the Board's decision and who participates in the Administrative Review or Hearing.

Pre-Hearing Statements: Statements filed by the Parties pursuant to Rule 9 of the Rules.

Proposed Findings of Fact and Recommended Decision: The recommendation of the Hearing Officer to the Board, as set forth in Rule 14 of the Rules.

Request for Administrative Review or Request for Administrative Hearing: The document filed by the Applicant (or in limited cases, the Employer) to seek a review of a decision of the Committee or Staff and initiate the Administrative Review or Administrative Hearing process. Where the Applicant requests a



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Hearing or the Board refers the matter to a Hearing, the document will be referred to as a Request for Administrative Hearing. Where the Applicant seeks review of a Benefit Determination or CEO Determination, the document will be referred to as a Request for Administrative Review.

Respondent: OCERS will always be the primary Respondent. The Employer may, but is not required to respond to the request for Administrative Review or Hearing. Where the Employer initiates a review or hearing, the Applicant may join as a Respondent.

Rules: The "Orange County Employees Retirement System Administrative Rules," attached as an appendix to and made part of this Policy.

Staff: OCERS staff members other than the CEO and the CEO's designee.

3. Disability Determination Process

For Disability Determinations:

- A. Staff will investigate all disability retirement Applications to determine (i) whether the Applicant is permanently incapacitated from the performance of their usual duties; (ii) whether the incapacity arose out of and in the course of employment, and (iii) the appropriate effective date of any disability retirement allowance. In undertaking this investigation, Staff will have the discretion, based on Staff's review of the Application (including the Applicant's treating physicians' medical reports) to determine whether or not to seek further medical examination of the Applicant, expert medical advice, or expert review of Applicant's medical records. Upon completion of the investigation, Staff will make a recommendation to the Committee regarding permanent incapacity, service connection, and effective date.
- B. The Committee will review the disability retirement Application and the Staff recommendation under subsection A, above, at a duly-noticed meeting of the Committee. Staff will give Applicant (and the Applicant's attorney, if any) and the Employer notice of the date and time of the Committee meeting at which they will have the opportunity to be heard by the Committee.
- C. After the Committee reviews the disability retirement Application, the Committee will determine whether to recommend that the Board grant or deny the Application, in full or in part. Staff will notify the Applicant (and Applicant's attorney), and the Employer by email of the Committee's recommendation. They will also be provided with instructions on how to request an Administrative Hearing to challenge any part of the Committee's recommendation. Notice will be effective when the email is sent.
- D. In the event the Committee recommends that the Application be denied in full or in part, the Applicant will have 90 days from the date of the notice required by 3.C., above, to file a Request for Administrative Hearing with the Clerk, as set forth in the Rules. In the event the Committee recommends the Application be granted in full, any other Party including the Employer aggrieved by the recommendation will have ten days from the date of the notice required by 3.C., above, to file a written Request for Administrative Hearing as set forth in the Rules.
- E. Where the Committee recommends (i) a grant of a non-service connected disability retirement, but denial of a service-connected disability retirement; or (ii) a grant of a either a service-connected or



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

non-service connected disability retirement and the Applicant disputes the Committee's recommendation regarding the effective date of disability, the Applicant may request a Hearing on the denial of a service-connected disability or the effective date of disability. In such cases, the issues not disputed will not be at issue in the Hearing. Staff will forward those non-disputed issues to the Board for final action.

- F. If no Request for Administrative Hearing is filed within the time limit set forth in 3.D., above, the Committee's recommendation will be placed on the consent agenda at the next regularly scheduled meeting of the Board for action in accordance with Section 5, below.

4. Benefit Determination Review Process

For Benefit Determinations:

- A. Staff will notify the Member of the Benefit Determination, and the Member may request a CEO Determination within 90 days of the date of the notice of the Benefit Determination. The CEO Determination will be in the form of a written review completed and returned to the Member within 90 days of receipt of the request for a CEO Determination, and will include a synopsis of the Member's request and citation to any authority relied upon by the CEO in making the CEO Determination. In addition, the written review will include instructions regarding how the Member may request review of the CEO Determination by the Board.
- B. The Member will have 90 days from the date of the notice of the CEO Determination provided in 4.A., above, to file a Request for Administrative Review. If no timely Request for Administrative Review is filed, the CEO Determination will be final.

5. Board Action on Disability Determination Upon Recommendation from the Disability Committee

- A. Consent Agenda.** When there has been no timely Request for an Administrative Hearing of the Disability Committee's recommendation under Section 3, above, the Board will consider the Committee's recommendation on the Board's consent agenda.
- B. Removing Items from Consent Agenda/Action.** Any member of the Board may remove an item from the consent agenda to be discussed and voted on separately. If any Board member removes a Disability Determination from the consent agenda, the item will be considered by the Board in closed session as set forth in Section 7, below.
- C. Action on Recommendations from the Disability Committee.** After consideration by the Board, the Board will either (i) adopt the recommendation of the Disability Committee; or (ii) refer the matter to a Hearing Officer for a Hearing (unless a Hearing is waived by the Applicant, in which case the Committee recommendation will be adopted).

6. Board Action on Disability Determinations After Hearing.

Following an administrative Hearing and the Board's receipt of the Hearing Officer's Proposed Findings of



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Fact and Recommended Decision, the Board will consider the matter at a duly-noticed meeting of the Board and take action in accordance with Rule 16 of the Rules.

7. Closed Sessions for Disability Determinations

Except for matters on the Disability Committee's or Board's consent agenda, the Disability Committee or Board will adjourn to a closed session, pursuant to Cal. Gov't Code § 54957(b), to discuss a recommended Disability Determination in connection with an Application for disability retirement, or a Hearing Officer's Proposed Findings of Fact and Recommended Decision in connection with a Disability Determination, unless the Applicant requests the matter be heard in open session.

- A. Closed Session With the Parties Present.** The Committee or the Board will conduct any discussion of an Application, including instances where the Board convenes and conducts its own Hearing, in closed session. Attendance at the closed session will be limited to 1) the Applicant; 2) counsel for the Applicant as well as any individual deemed by the Board Chair to be essential to the Applicant in the matter; 3) any OCERS disability Staff members and/or attorneys acting as advocates for the Staff recommendation or Committee recommendation; 4) Staff necessary to facilitate the Hearing (including the Clerk of the Board and IT Staff to provide technical support); 5) the CEO; 6) the OCERS General Counsel (or their designee); and 7) outside counsel to the Board. Additionally, in the event the Board conducts its own hearing, witnesses called to present testimony may be permitted to attend the closed session to do so.
- B. Closed Session Without Parties.** Before or after the Committee's or Board's consideration of a matter in a closed session under A, above, the Committee or the Board may adjourn to a closed session with only the CEO and the OCERS General Counsel (or their designee) to provide legal advice to the Committee or the Board in connection with the merits of the case and the Board's legal obligations.

8. Board Action on CEO Determination.

- A. Board Review of CEO Determinations.** In the case of a timely Request for Administrative Review of a CEO Determination, the Board will consider the matter at a duly noticed regular meeting of the Board. Staff will make a recommendation to the Board regarding the issues raised in the CEO Determination and the Applicant (or the Applicant's attorney) will have the opportunity to be heard.
- B. Board's Options.** At the meeting, the Board may choose to hear and conduct the review at that meeting, continue it to a later meeting, or refer the matter to a Hearing Officer for a Hearing to be conducted pursuant to the Rules. If the Board chooses to hear and determine the matter, the Board's decision will be final. If the Board chooses to refer the matter to a Hearing, the Board will identify the factual and legal issues to be considered by the Hearing Officer.

In determining whether to hear and determine the matter or refer the matter to a Hearing Officer, the Board will consider all relevant factors, including, but not limited to, the following:

- i. whether the disputed issues are legal, not factual, in nature;



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- ii. relevant judicial authority on the disputed legal issue(s);
- iii. whether the Board and/or a Hearing Officer has previously ruled on substantively similar issue(s);
- iv. whether the Applicant is represented by an attorney;
- v. the efficient use of OCERS resources; and
- vi. the interests of the Applicant in receiving a timely decision.

C. **Consolidation of Reviews.** When review by the Board of two or more CEO Determinations involves common questions of law or fact, the Board may order a Consolidated Review or Consolidated Hearing of the matters. Consolidation may be ordered for limited purposes or for all purposes.

In determining whether to order a Consolidation of the CEO Determinations, the Board will consider all relevant factors, including, but not limited to, the following:

- i. the complexity of the issues involved;
- ii. the potential prejudice to any party, including whether a Consolidation would result in undue delay;
- iii. the avoidance of duplicate or inconsistent orders; and
- iv. the efficient utilization of OCERS resources.

9. Board Action on CEO Determination After a Hearing.

In the case of a CEO Determination referred by the Board to a Hearing, the Board will consider the Hearing Officer's Proposed Findings of Fact and Recommended Decision at a duly-noticed meeting of the Board in accordance with Rule 16 of the Rules. The Board may adopt the Hearing Officer's recommendations or make its own determination based on the Administrative Record and the Board's decision will be final.

10. Policy Review

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

11. Policy History

This Policy was adopted by the Board of Retirement on February 19, 2002. It was amended most recently on August 17, 2020.

Secretary's Certificate

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

08/17/2020

Steve Delaney
Secretary of the Board

Date



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Appendix - Administrative Rules

Rule 1. Definitions

All capitalized terms contained within these Rules will have the meaning set forth in Section 2 of the OCERS Administrative Review and Hearing Policy.

Rule 2. Filing of Documents

A. Administrative Review and Hearing Filing Procedures

1. The "Administrative Hearing Filing Procedures" sets forth the procedures by which the Parties and Hearing Officer will file documents, the Clerk will accept filing of documents, and the Clerk will serve documents on the Parties and the Hearing Officer.
2. The Administrative Hearing Filing Procedures may include forms that the Parties are permitted or required to use in connection with a Hearing.
3. The Clerk will provide the Applicant with a copy of the Administrative Hearing Filing Procedures upon the filing of a Request for Administrative Hearing.

B. Filing of Documents

1. All documents required or permitted to be filed by any Party in connection with a Hearing will be filed with the Clerk.
2. Filing of documents will be done electronically in conformance with the Administrative Hearing Filing Procedures, except that an Applicant (and only the Applicant) may opt to file documents in person, by US Mail or electronically. Applicants that opt for filing documents by US Mail, must inform the Clerk of this in writing. The Clerk will then inform all other Parties and the Hearing Officer that the Applicant has opted to file documents by US Mail.
 - i. Documents filed in person will be deemed filed on the day received by OCERS.
 - ii. Documents filed by US Mail will be deemed filed on the date post-marked on the envelope containing the documents.
 - iii. Documents filed electronically will be deemed filed on the date electronically received by the Clerk.

C. Service of Documents

1. The Clerk will serve on all Parties and the Hearing Officer any documents filed by a Party or the Hearing Officer within one (1) business day of receipt of the documents by the Clerk.
2. Service by the Clerk will be electronic, in conformance with the Administrative Hearing Filing Procedures, except where the Applicant has opted to file by US Mail pursuant to B.2., above, in which case the Clerk will serve documents on the Applicant by US Mail. In that case, the Applicant will be deemed to have received service three (3) days after the date the Clerk deposits the document in the US Mail. Electronic service will be deemed served upon electronic transmission by the Clerk.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Rule 3. Administrative Hearing Request, Scope, and Settlement

- A. Request for Administrative Hearing.** A written Request for Administrative Hearing must be filed with the Clerk within the time frame set forth in Sections 3 and 4 of the Policy. The Request should include a short and plain statement of the grounds for the request.
- B. Referral from the Board.** In the event the Board refers a matter to a Hearing Officer for a Hearing (pursuant to Sections 5.C. or 8 of the Policy), the referral from the Board will be considered the Request for Administrative Hearing, but for all procedural purposes under these Rules, the request will be deemed to have been filed by the Applicant.
- C. Permitted Representatives, Attorneys.** Any Party is entitled, at the Party's expense, to be represented by an attorney at any stage of the proceedings. Such attorney must be a current, active member of the California State Bar in good standing. A Party must file with the Clerk a written notice of the hiring, changing, or dismissal of an attorney. Absent such written designation, OCERS is not obligated to recognize any attorney or other individual claiming to represent a Party.
- D. Burden of Proof.** The Applicant will have the burden of proof by a preponderance of the evidence to establish the right to the benefit sought. Where the Employer filed the Request for Administrative Hearing under Section 3.D. of the Policy, the Employer will have the burden of proof by a preponderance of the evidence to demonstrate that the Committee's recommendation should be overturned, and the Employer will be bound by all of the procedural rules applicable to the Applicant under these Rules.
- E. Scope of Hearing.**
1. The Hearing on a Disability Determination will only address the issues of permanent incapacity, service connection, and effective date. All other issues related to a disability retirement Application are subject to the Benefit Determination process under Sections 4 or 8 of the Policy.
 2. In accordance with Section 8 of the Policy, the Hearing on a CEO Determination will only address the factual and legal issues that are identified by the Board for consideration by the Hearing Officer.
 3. Except as set forth in these Rules, the Hearing Officer will not make a finding or recommendation on any issue that was not raised in the Applicant's Request for Administrative Hearing or included in the Board's referral of the matter to a Hearing. Likewise, the Hearing Officer will not consider any evidence or make a finding or recommendation on any medical condition not included in the disability retirement Application or that was not previously evaluated by Staff, except as provided in subsection 4, below.
 4. If at any time during the Hearing process the Applicant either (i) alleges an injury or disease not listed in the disability retirement Application or (ii) raises an issue that was not previously presented to the Committee, the Hearing process will be suspended by the Hearing Officer and the Application will be treated as an amended Application. The amended Application will be referred back to Staff to be processed. If the Committee subsequently recommends a denial of



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

the amended Application, the matter will be returned to the Hearing Officer who will consider all the medical conditions (those raised in the Application and the amended Application). A new Hearing Date, Pre-Hearing Conference and deadlines for Pre-Hearing Statements will be set in accordance with Rule 8.

- F. **Settlement.** If at any time during the Hearing process it becomes apparent to Staff that a different result is appropriate, Staff may suspend the Hearing and refer a settlement to the Board. If the Board approves a settlement with the Applicant, the Hearing will be dismissed.

Rule 4. Assignment of Hearing Officers

- A. **Assignment of Hearing Officer.** Hearing Officers are selected and placed on the panel pursuant to OCERS' Hearing Officer Selection and Retention Policy. As matters are referred to a Hearing, the Clerk will assign the Hearing Officer on a rotational basis, while ensuring that, to the extent possible, each Hearing Officer on the panel is assigned an equal number of cases. Within fourteen (14) days after the Applicant files a Request for Administrative Hearing, the Clerk will serve notice to all Parties, including the Hearing Officer, indicating the name and address of the Hearing Officer to whom the matter is assigned, which notice will include information regarding the ability to challenge a Hearing Officer as set forth below.
- B. **Challenge/Removal of Hearing Officer.** A Party may object to a Hearing Officer in accordance with the following procedures.
1. **Peremptory Challenge:** Any Party other than OCERS is entitled to one peremptory (without cause) challenge to the assignment of the Hearing Officer. The challenge must be filed with the Clerk within fourteen (14) days of the date of the notice assigning the Hearing Officer. If the Applicant opts for service by US Mail, the time period for filing a challenge will be extended by three (3) days. In the event of a peremptory challenge, the Clerk will re-assign the case to another Hearing Officer selected in the same manner as the first Hearing Officer. In the event no challenge is made to a proposed Hearing Officer, or after the exhaustion of all challenges, the Clerk will notify the Parties that the matter will proceed with the assigned Hearing Officer.
 2. **Removal for Cause:** Any Party, including OCERS, may challenge a Hearing Officer for cause by filing a request at any time, with supporting declarations made under penalty of perjury and any other evidence upon which the Party is relying. Any opposing Party will have fourteen (14) days from the Clerk's service of the challenge for cause on all Parties to file a response to the request to remove for cause. The Clerk will then randomly assign the removal request to another Hearing Officer, who will consider all evidence and arguments for and against removal of the Hearing Officer and file a ruling with the Clerk within thirty (30) days from assignment. Cause for removal will be limited to demonstrated bias against a Party or counsel based on a personal or financial relationship (other than the Hearing Officer's contract with OCERS) that would cause a reasonable person to doubt the Hearing Officer's ability to render an impartial decision. If the request for removal is granted, the Clerk will re-assign the case to another Hearing Officer (other than the Hearing Officer who heard the challenge) in the same fashion as selection of the first Hearing Officer.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

3. **Removal Due to Unforeseen Circumstances:** If the service of a Hearing Officer is discontinued due to unforeseen circumstances, such as death, illness, or termination with or without cause, the Parties other than OCERS are entitled to a peremptory challenge to the new Hearing Officer in accordance with subsection B.1 of this Rule.
 4. **Assignment After Removal Due to Unforeseen Circumstances:** If the service of a Hearing Officer is discontinued due to unforeseen circumstances, such as death, illness, or termination with or without cause, any hearing date will be vacated and the Clerk will assign a new Hearing Officer pursuant to Rule 4.A above and schedule a new Pre-Hearing Conference pursuant to Rule 7, below.
- C. **Recusal of Hearing Officer.** If at any time the Hearing Officer determines that there is cause for their recusal, the Hearing Officer will immediately file with the Clerk a statement of recusal, and the Clerk will reassign the case pursuant to Rule 4.A.

Rule 5. Preparation and Service of Administrative Record

Within sixty (60) days of the filing of a Request for Administrative Hearing, the Clerk will assemble and serve on the Hearing Officer and each Party the initial Administrative Record. Except as provided in Rule 6, a Party may object to the admission of items into evidence or seek to admit additional information into evidence as set forth in these Rules, and the Hearing Officer will decide the admissibility of all evidence.

Rule 6. Expedited Administrative Hearing

- A. **Provisions for Expedited Administrative Hearing.** Expedited Administrative Hearing is an irrevocable waiver of the Applicant's right to the process described in Rules 7 through 12. The goal of the Expedited Administrative Hearing process is to complete the Hearing in less than six months. The Hearing Officer's Proposed Findings of Fact and Recommended Decision will be based only on the Administrative Record and written arguments without in-person testimony or argument.
- B. **Availability of Expedited Administrative Hearing.**
 1. An Expedited Administrative Hearing is only available for those cases that OCERS General Counsel determines the process is appropriate.
 2. The determination as to whether Expedited Administrative Hearing is appropriate will be made in the sole discretion of the OCERS General Counsel, on a case-by-case basis. In doing so, the General Counsel will consider whether: there are any material facts in dispute; whether the introduction of testimonial evidence is likely to clarify the issues; whether there is controlling legal authority; and whether the Applicant's condition is such that time is of the essence in completing the Hearing process.
 3. In the event the General Counsel determines that a matter is appropriate for Expedited Administrative Hearing, the Clerk will notify the Applicant of this determination and the Applicant's right to accept or reject the Expedited Administrative Hearing along with a form in which to do so. The Applicant may file the acceptance or rejection any time prior to the Clerk's service of the Administrative Record on the Parties.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- C. **Timeline.** The Expedited Administrative Hearing will be conducted according to the following timeline.
1. Within fourteen (14) days of the date the Clerk serves the Administrative Record in accordance with Rule 5, each party may lodge with the Clerk any additional written evidence that it seeks to rely on in addition to the Administrative Record.
 2. Within thirty (30) days of the date the Clerk serves the Administrative Record, the Applicant will file a Statement of Issues of not more than five (5) pages setting forth the Applicant's contentions.
 3. Within fourteen (14) days after the Clerk serves Appellant's Statement of Issues on Respondent, Respondent will file a Statement of Issues of not more than five (5) pages setting forth its contentions.
 4. Within sixty (60) days from the date Respondent files its Statement of Issues, the Hearing Officer will file the Proposed Findings of Fact and Recommended Decision in conformance with Rule 14. Notwithstanding the timeframes for objections set out in Rule 14C, objections will be filed within 10 days rather than 20 days, and responses thereto likewise will be filed within 10 days rather than 20 days.

Rule 7. Consolidation of Hearings

In addition to Consolidation by the Board of two or more cases pursuant to Section 8.C. of the Policy, cases may be Consolidated in accordance with this Rule 7, and this Rule 7 will apply to all such Consolidations.

- A. When two or more pending Requests for an Administrative Hearing involve common questions of law or fact, a Hearing Officer, upon request by OCERS or the Applicant, may order the Hearings Consolidated. Consolidation may be ordered for limited purposes or for all purposes.

In determining whether to order Consolidated Hearings, the Hearing Officer will consider all relevant factors, including but not limited to the following:

1. the complexity of the issues involved;
 2. the potential prejudice to any Party, including whether granting Consolidation would unduly delay the resolution of any of the matters involved;
 3. the avoidance of duplicate or inconsistent orders; and
 4. the efficient utilization of OCERS' resources.
- B. Any Party may file a request with the Clerk to Consolidate two or more pending Hearings irrespective of the procedural stages of the affected Hearings, which request will be served by the Clerk on all Parties and the Hearing Officers.
- C. In all cases, the request for Consolidation will be referred to the Hearing Officer first assigned to any of the Hearings. The Hearing Officer may decide the matter on written submittals, or may convene the Parties, either in-person or electronically, to hear further argument on the request for Consolidation. Failure to timely oppose Consolidation will constitute a waiver of objection to an order of Consolidation.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- D. If the Hearing Officer orders the Consolidation, all affected Hearings will be transferred to that Hearing Officer.
- E. Upon Consolidation, all hearing dates will be vacated and the Clerk will schedule a new Pre-Hearing Conference for the Consolidated Hearings. Following the Hearing, the Hearing Officer will have the option of preparing separate Proposed Findings of Fact and Recommended Decisions for each matter that was Consolidated or a single Proposed Findings of Fact and Recommended Decision.
- F. Nothing contained herein will prohibit the Parties from stipulating to Consolidated Hearings. In the event a stipulation is reached, the Parties will file a written stipulation with Clerk, signed by all Parties. The Clerk will then assign the Consolidated Hearings to the first assigned Hearing Officer.

Rule 8. Pre-Hearing Conference

- A. The Clerk will schedule a Pre-Hearing Conference to be held within thirty (30) days of the service of the Administrative Record on the Parties. The Clerk will use best efforts to schedule the Pre-Hearing Conference at a time convenient to all Parties.
- B. The Pre-Hearing Conference will be held telephonically or electronically. The Clerk will arrange for a court reporter to transcribe the conference at OCERS' expense.
- C. At the Pre-Hearing Conference, the Hearing Officer will advise the Applicant (whether or not the Applicant has initiated the matter) of the following:
 1. The Applicant has the right to be represented by an attorney;
 2. Any financial or personal interest that the Hearing Officer has in the case, other than the Hearing Officer's contract with OCERS;
 3. The scope of the Hearing and the issues to be decided consistent with the constraints of Rule 3.E., above;
 4. The Hearing will be conducted as if the Disability Determination or CEO Determination had not taken place. This means the Hearing Officer will consider anew all of the evidence submitted and defenses asserted, without relying on the past findings of the Committee, the Board or the CEO;
 5. The Hearing Officer's purpose in the process is to find the facts relevant to the Applicant's request and provide an impartial recommendation to the Board;
 6. The Applicant has the burden of proof in establishing by a preponderance of the evidence the right to the benefit sought;
 7. The Applicant must identify witnesses and other evidence when filing the Pre-Hearing Statement, and that failure to include in the Pre-Hearing Statement the witnesses and other evidence they intend to rely on could mean that evidence will be excluded unless the Applicant shows that they could not have discovered the information earlier through the exercise of reasonable diligence;



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

-
- 8. The timelines required under these Rules for filing documents and for the Hearing, and the consequences of a failure to meet those deadlines, including that the Applicant's case can be dismissed; and
 - 9. Upon the completion of the Hearing, the matter will be referred to the Board pursuant to these Rules. Upon action by the Board, the decision will be final for all purposes. There will be no requirement for a further written decision from the Board or opportunity for the Board to reconsider its decision. Any Party aggrieved by the Board's decision may petition the Superior Court for judicial review as provided by law. The time for any Party to seek judicial review will be governed by the California Code of Civil Procedure Section 1094.6.
- D. At the Pre-Hearing Conference, each Party will:
- 1. Make a good faith effort to identify the witnesses, both expert and non-expert, that it intends to call;
 - 2. Identify any witnesses it intends to call who cannot either speak or understand English to permit OCERS to arrange a translator for the witnesses in accordance with Rule 10.K.;
 - 3. Indicate whether it will require an opposing Party's Medical Witness to appear in person at the Hearing;
 - 4. Identify any witnesses the Party seeks to depose and, if possible, set mutually convenient dates for any depositions.
- E. No later than the Pre-Hearing Conference, OCERS, through its counsel, will identify any issues related to eligibility of the Applicant such as timeliness of the Application or ineligibility due to termination for cause, which, if correct would moot the Hearing. The Hearing Officer will give the other Parties an opportunity to respond, and may continue the Pre-Hearing Conference to do so. If the Hearing Officer finds in favor of OCERS on the issue of eligibility, the Hearing process will be suspended and the issue of eligibility will be referred to the Board in accordance with Section 8 of the Policy and handled as if it were a CEO Determination.
- F. At the Pre-Hearing Conference, the Hearing Officer will set the date for the Hearing.
- 1. The Hearing Officer will confer with the Parties to determine a mutually agreeable date for the Hearing ("Hearing Date"), as soon as reasonably practicable, but in all cases the first Hearing Date will be set no later than six (6) months after the date of the Pre-Hearing Conference.
 - 2. Each Party will provide a good faith estimate of the amount of time it anticipates the Hearing will last. As much as practicable, the Hearing will continue from day-to-day until complete, and the Hearing Officer will schedule all Hearing Dates to which the Hearing Officer anticipates the Hearing will be continued until complete.
- G. Within five (5) days of the Pre-Hearing Conference, the Clerk will issue a Scheduling Order, which will include the Hearing Date(s) and the dates that each Party's Pre-Hearing Statements are due.
- H. After the Pre-Hearing Conference, the Hearing Officer may continue the Hearing Date only upon a showing of good cause, as set forth in Rule 15 below.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- I. If neither the Applicant nor the Employer, where the Employer has filed an Application on behalf of the Member (and is therefore also treated as an Applicant under these Rules), participates in the Pre-Hearing Conference, the Clerk will file and serve on all Parties and the Hearing Officer an Order to Show Cause why the matter should not be dismissed, and give all Applicants (including the Employer where the Employer has filed an Application on behalf of the Member) five (5) days to respond to the Hearing Officer. Other Parties are permitted, but not required to submit responses. Unless at least one of the Applicants shows good cause why the matter should not be dismissed, the Hearing Officer will dismiss the Hearing, and the matter will proceed as if no Request for Administrative Hearing had been filed in accordance with Section 5 of the Policy.

If the Hearing Officer determines that an Applicant has shown good cause, the Hearing Officer will direct the Clerk to reschedule the Pre-Hearing Conference and the Applicant will be liable to OCERS for any actual costs incurred by OCERS as a result of the delay.

Rule 9. Pre-Hearing Statements

- A. The Applicant will file a Pre-Hearing Statement of up to ten (10) pages no later than sixty (60) days prior to the first Hearing Date.
- B. Respondent will file a Pre-Hearing Statement of up to ten (10) pages no later than thirty (30) days prior to the first Hearing Date.
- C. Any Party may file supplemental Pre-Hearing Statements of up to five (5) pages no later than fourteen (14) days prior to the first Hearing Date.
- D. The Pre-Hearing Statements will include the following:
1. A statement of the issues and contentions of the Party and a brief summary of the evidence to be presented;
 2. A list and copies of any expert's reports, transcripts of depositions of any witnesses, and any other documentary evidence on which the Party will rely, if not already in the Administrative Record;
 3. The names, addresses, and telephone numbers of any non-expert witnesses whose testimony the Party intends to call for oral testimony at the Hearing and a brief description of the content of that testimony; and
 4. The names, addresses, and phone numbers of any expert witnesses whom the Party intends to call for oral testimony at the Hearing and a brief description of the content of that testimony.
- E. If the Applicant disputes the effective date of the disability retirement, the Applicant will raise the effective date as an issue and will state Applicant's contention in the Pre-Hearing Statement.
- F. If the Applicant fails to timely file a Pre-Hearing Statement, the Clerk will file and serve on all Parties and the Hearing Officer an Order to Show Cause why the case should not be dismissed, and give the Applicant five (5) days to respond to the Hearing Officer. Other Parties are permitted, but not required to submit responses. Unless the Applicant shows good cause for the failure to timely file



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

its Pre-Hearing Statement, the Hearing Officer will dismiss Hearing, and the matter will proceed as if no Request for Administrative Hearing had been filed in accordance with Section 5 of the Policy.

If the Hearing Officer determines that the Applicant has shown good cause, the Hearing Officer may allow the Respondent additional time to file its Pre-Hearing Statement or may re-schedule the Hearing within the time requirements of Rule 15. The Applicant will be liable to OCERS for any actual costs incurred by OCERS as a result of the delay.

Rule 10. Depositions and Subpoenas

- A. **Depositions:** Witness depositions may be taken by either Party in the presence of a certified court reporter and will be taken under oath or affirmation. The Party taking the deposition will pay all associated costs. If any Party offers any portion of any deposition testimony into evidence at the Hearing, that Party will provide a full copy of the deposition transcript to each adverse Party and the Hearing Officer free of charge.
- B. **Subpoenas and Related Fees/Costs:**
 - 1. OCERS will issue a subpoena for the personal appearance of a witness at the Hearing or at a deposition, or for the production of documents (subpoena *duces tecum*), in conformance with California Government Code Section 31535, upon the request of any Party filed at least seven (7) days before the date the subpoena is to be issued. Each request will state the witness's full name and the complete address of the witness's place of employment or residence. OCERS will issue the subpoena; however, the requesting Party will be obligated to serve the subpoena and pay all associated witness fees and costs of service and production. The Party requesting oral testimony of an expert witness will in all cases be responsible for any expert witness fees.
 - 2. Any fee disputes between a witness and the requesting Party is independent of any proceeding between the Applicant and OCERS. Those fee disputes will be resolved by the requesting Party and the witness in the California courts, not in this forum. The Hearing Officer has no authority to decide any such dispute.

Rule 11. Conduct of Hearings

- A. All Hearings will be held at the OCERS' office located at 2223 East Wellington Avenue, Santa Ana, California 92701.
- B. The Clerk will arrange for a court reporter to be present. Oral evidence will be taken only on oath or affirmation administered by the Hearing Officer or the court reporter.
- C. A written medical report bearing the signature (including a digital signature) of the Medical Witness will be admissible in evidence as the author's direct testimony, on the express condition that the adverse Party has had the opportunity to require the Medical Witness to be present and to cross-examine the witness at the Hearing, or to depose the witness and have the deposition transcript admitted into evidence.
- D. Each Party will have the right to call and examine witnesses; to introduce exhibits, including reports and depositions of medical witnesses; to cross-examine opposing witnesses on any matter relevant



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which Party first called the witness to testify; and to rebut adverse evidence. If an Applicant does not testify by direct examination, OCERS may call and examine the Applicant.

- E. The Hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence will be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege will be effective to the extent that they are otherwise required by statute to be recognized at the Hearing. Irrelevant and unduly repetitious evidence will be excluded.
- F. Hearsay evidence may be used for the express purpose of supplementing or explaining other evidence but will not be sufficient by itself to support a finding unless it would be admissible over objection in civil actions. This section will not be applicable to written medical reports received into evidence pursuant to Rule 10.C. Every Hearing will proceed as though each Party had made a standing objection to all inadmissible hearsay at the commencement of the Hearing.
- G. The court reporter will lodge with the Clerk the transcript of the Hearing within thirty (30) days of the final Hearing Date.
- H. The record will be closed to new evidence at the conclusion of the final Hearing Date. However, if subsequent to the final Hearing Date, a Party discovers or obtains new evidence that is relevant and not repetitive of other evidence already admitted, that Party may lodge the new evidence with the Clerk and request that the Hearing Officer include it in the Administrative Record. The Hearing Officer may require the Parties to provide declarations and argument about inclusion of the new evidence. If, after showing of good cause as defined under Rule 10.I, the Hearing Officer allows inclusion of the new evidence, the opposing Party will be provided an opportunity to submit rebuttal evidence in accordance with Rule 10.I. No rebuttals of the rebuttal will be permitted.
- I. No Party may submit a medical report or other documentary evidence not included in the Administrative Record or listed in its Pre-Hearing Statement except for purposes of impeachment, unless the Party demonstrates good cause. Likewise, no Party will be permitted to call a witness not listed in its Pre-Hearing Statement, except for purposes of impeachment, unless the Party demonstrates good cause. For purposes of this Rule, "good cause" means that the relevant evidence or witness could not have been previously produced or identified even with the exercise of reasonable diligence. The Party requesting submission of such evidence or witness will file a written request prior to the Hearing, or if unable to do so in the exercise of reasonable diligence, will make an oral request at the Hearing. The request will state the reason the evidence or witness was not timely produced or identified. After providing a reasonable opportunity for each adverse Party to be heard, the Hearing Officer will rule on such a request. If the evidence is allowed to be admitted into evidence, or the witness is allowed to testify, the Parties will have the right to a continuance to engage in further discovery, obtain rebuttal medical evidence, or depose or cross-examine the Medical Witness in order to comply with Rule 10.C. In no event, will good cause permit admission of medical reports or other documentary evidence relating to a new medical condition covered by Rule 3.E.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

-
- J. Each Party will have the right to submit a closing oral argument at the conclusion of the Hearing.
 - K. Use of Interpreter Services.
 1. If an Applicant or a witness does not speak or understand English sufficiently to participate in the proceedings or provide testimony, an interpreter certified to provide interpretation services in administrative hearings will be provided to that Applicant or witness at OCERS's expense. Notice that an Applicant or witness requires interpreting services will be given to OCERS at the Pre-Hearing Conference or be included in the Party's Pre-Hearing Statement. If a Party fails to provide such notice, then the witness may not be called unless good cause is shown, as set forth Rule 10.I.
 2. All interpreters must be certified to provide interpreting services in administrative hearings pursuant to Government Code Section 11435.30. The interpreter must not have had any involvement in the issues of the case prior to the Administrative Hearing.
 3. If an Applicant objects to the interpreter provided by OCERS, the Applicant may supply their own interpreter, provided that the interpreter is certified under Government Code Section 11435.30. However, time for an Applicant to find and hire an interpreter will not be considered good cause to continue the Hearing. OCERS will pay the chosen interpreter the same amount OCERS would have paid an interpreter hired directly by OCERS. The Applicant will be responsible for any amounts charged by the interpreter that are over the amount OCERS would have paid to an interpreter hired directly by OCERS. Fee disputes between the interpreter and the Applicant will not be resolved in this forum, and the Hearing Officer will not have authority to resolve any fee disputes between interpreters and the Parties.

Rule 12. Resolution of Disputes about Depositions and Conduct of Hearings

The Hearing Officer will resolve disputes about depositions and the conduct of the Hearing. A request for resolution of a dispute may be made verbally at a Pre-Hearing Conference, at the Hearing, or by written motion filed with the Clerk at any time prior to the Hearing. The Hearing Officer, in the exercise of sound discretion, may permit written argument or briefs.

Rule 13. Closing Briefs

- A. Each Party will have the right to submit a written closing brief. Unless the Parties waive closing briefs, the Parties will adhere to the following schedule for filing closing briefs:
 1. The Applicant's closing brief will be filed within thirty days (30) of the date the transcript of the Hearing is lodged with the Clerk.
 2. Respondents' closing briefs will be filed within thirty days (30) days of the date the Clerk serves the Applicant's closing brief on the other Parties.
 3. Applicant's reply brief will be filed within fifteen (15) days of the date that the Clerk serves Respondents' closing briefs on the Applicant.
- B. Each Party's closing brief may be supported by facts in the record and citation to law. The Applicant's and Respondents' closing briefs may not exceed fifteen (15) pages and the reply brief



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

may not exceed ten (10) pages unless the Hearing Officer, in the proper exercise of discretion, determines that a longer limit is appropriate under the circumstances. The Hearing Officer may reject briefs exceeding the foregoing limits.

Rule 14. Hearing Officer's Findings of Fact and Recommended Decision

- A. **Time for Filing.** The Hearing Officer will file the Proposed Findings of Fact and Recommended Decision with the Clerk within sixty (60) days of the date that the Applicant's reply brief is due or, if the Parties waived closing briefs, within sixty (60) days of the date the transcript of the Hearing is due (i.e., within 30 days of the final Hearing Date) or actually lodged (if earlier than 30 days after the final Hearing Date).
- B. **Content of Proposed Findings of Fact and Recommended Decision.** The Hearing Officer's Proposed Findings of Fact and Recommended Decision will include a summary of the following: (1) issues raised by the parties; (2) the testimony; (3) all other evidence received by the Hearing Officer; (4) a factual discussion of matters on which the Hearing Officer relied; (5) conclusions of law with citations to legal authority; and (6) recommended decision. The summary of the testimony, plus all other evidence received, will be sufficient to satisfy the requirements of Government Code Section 31534(b).
- C. **Objections/Requests for Clarification.** Within twenty (20) days from the date that the Hearing Officer files the Proposed Findings of Fact and Recommended Decision with the Clerk, any Party may file with the Clerk objections or written requests for clarification to the Hearing Officer's Proposed Findings of Fact and Recommended Decision. The Clerk will serve such objections or written requests for clarification on the Hearing Officer as well as the other Parties. The other Parties will then have twenty (20) days after service to file a response with the Clerk. Within thirty (30) days after the later of: (a) the date that Hearing Officer receives the objections or requests for clarification or (b) an adverse party's response to such objections or requests for clarification, the Hearing Officer will:
1. Affirm the Proposed Findings of Fact and Recommended Decision findings, conclusions, and recommendations as originally submitted without change, or
 2. Make such changes to the Proposed Findings of Fact and Recommended Decision as the Hearing Officer deems appropriate in light of the evidence, the objections or requests for clarification submitted by the Parties, and the responses thereto.

The objections and/or requests for clarification and the response thereto and the Hearing Officer's final Proposed Findings of Fact and Recommended Decision following any objections, will be added to the Administrative Record and submitted for consideration by the Board.

Rule 15. Continuances and Relief from Orders

- A. The deadlines and timelines established in these Rules are for the purpose of expediting the Hearing process as quickly as reasonably possible in order to give certainty to the Applicant in the retirement process. Therefore, delays, continuances, or relief should be granted for documented good cause (as defined hereafter) and any delay should be the absolute shortest necessary under



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

- the circumstances. If the Hearing Officer believes the request is primarily for the purpose of delay or caused by inattention or lack of preparation of a Party, the request should be denied.
- B. Upon the request of a Party, the Hearing Officer may amend or continue the time periods set forth in these rules, but only for good cause shown by the Party seeking the delay.
 - C. Good cause for purposes of this Rule will be only for the following reasons:
 1. The discovery of relevant evidence that, in the exercise of reasonable diligence, could not have been previously produced (in which case there will only be one continuance permitted for each request);
 2. The need to engage in further discovery, obtain rebuttal medical evidence, or depose or cross-examine a Medical Witness (in which case there will only be one continuance permitted for each request), as set forth under Rule 10.I; or
 3. The illness or disability of the Applicant, witness, attorney, or the Hearing Officer which was unknown to the person at the time of the Pre-Hearing Conference (or other time at which the deadline was set) which makes it impossible for the person to participate in the Administrative Hearing process. Relief in these instances will be granted only if the person raises the request as soon as practicable. The Hearing Officer will consider a failure to timely seek relief a waiver by the person.
 - D. If a continuance is sought due to an illness or disability affecting an attorney who will not be able to participate in the process within a reasonably short period of time, then the continuance will be for a maximum of sixty (60) days to secure substitute counsel, and the Clerk will schedule a Pre-Hearing Conference pursuant to Rule 7.
 - E. If a continuance is sought due to an illness or disability affecting the Hearing Officer, and the Hearing Officer cannot proceed within the time period set forth in Rule 17, below, the Hearing Officer will be recused and the Clerk will appoint a new Hearing Officer pursuant to Rule 4 and schedule a new Pre-Hearing Conference pursuant to Rule 7.
 - F. If good cause is found to exist to reschedule a Hearing, the Hearing Officer will order that the Clerk schedule a Pre-Hearing Conference no more than seven (7) days from the date of the Hearing Officer's order and the Hearing Date will be reset no more than ninety (90) days from the date of the Pre-Hearing Conference.
 - G. Until such time as the matter has been referred to the Board, the Hearing Officer may, upon any terms as may be just, relieve a party from an order, or other action taken against that Party through mistake, inadvertence, surprise, or excusable neglect on the part of the Party. Application for this relief will be made within a reasonable time. Once the matter has been placed on the Board agenda, the Hearing Officer will no longer have jurisdiction.

Rule 16. Hearing and Action by the Board

- A. The Clerk will refer to the Board for its consideration the Hearing Officer's Proposed Findings of Fact and Recommended Decision as well as any related objections/requests for clarification,



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

responses thereto, and the Hearing Officer's final Proposed Findings of Fact and Recommended Decision following any objections.

- B. The Clerk will place the matter on the agenda of a regular meeting of the Board which will be no later than two (2) calendar months after the later of the date the Clerk receives the Hearing Officer's Proposed Findings of Fact and Recommended Decision; or the date the Clerk receives the Hearing Officer's final Proposed Findings of Fact and Recommended Decision following any objections or requests for clarification from the Parties.
- C. The Clerk will provide written notice to the Parties and the Hearing Officer of the time and date of the regular meeting where the matter will be placed on the Board's agenda for action. The Parties will have the opportunity to be heard at the Board meeting subject to appropriate time limitations as set out in the OCERS By-laws.
- D. Pursuant to Government Code Section 31534, after reviewing the Hearing Officer's Proposed Findings of Fact and Recommended Decision and any related objections/requests for clarification, the Board may:
 - 1. Approve and adopt the Proposed Findings of Fact and Recommended Decision of the Hearing Officer; or
 - 2. Require a transcript or summary of all testimony, plus all other evidence received by the Hearing Officer; and upon receipt thereof, take such action as the Board in its opinion is indicated by such evidence; or
 - 3. Refer the matter back with or without instructions to the Hearing Officer for further proceedings; or
 - 4. Set the matter for hearing before itself. At such hearing, the Board will hear and decide the matter.
- E. The Hearing Officer's Proposed Findings of Fact and Recommended Decision (and responses to objections/requests for clarification) will be sufficient to satisfy the requirements of Government Code Section 31534(b) and Rule 15.D.2, above.
- F. In any case where the Board makes a decision under Rule 15.D.2 or 15.D.3, above, the Board may approve and adopt the Proposed Findings of Fact and Recommended Decision of the Hearing Officer or prepare its own Findings of Fact and Decision, either itself or through direction to Staff with its approval.
- G. Upon action by the Board, the decision will be final for all purposes. There will be no requirement for a further written decision from the Board or opportunity for the Board to reconsider its decision. Any Party aggrieved by the Board's decision may petition the Superior Court for judicial review as provided by law. The time for any party to seek judicial review will be governed by the California Code of Civil Procedure Section 1094.6. The Clerk will notify the Applicant (and attorney), and the Employer by email of the Board's final action. Notice will be effective when the email is sent.



Applicable to cases filed on or after August 18, 2020

OCERS Board Policy Administrative Review and Hearing Policy (Disability and Non-Disability Benefits)

Rule 17. Dismissal for Failure to Pursue the Administrative Review and Hearing

Except as otherwise provided, if as a result of an Applicant's failure to pursue the case or to comply with any of these Rules, a Hearing is not conducted within one year after the filing of a Request for Administrative Hearing (or the Board's referral of a case to a Hearing Officer), the Hearing Officer will dismiss the Hearing and the matter will proceed as if no Request for Administrative Review or Hearing had been filed in accordance with Section 5 of the Policy.



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 as set forth therein 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 shall 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 the Public Employees Pension Reform Act of 2012 ("PEPRA"), which among other things, effective January 1, 2013, amended Section 31641 to add a list of items of compensation that are expressly excluded from Compensation Earnable. PEPRA also added a new term – Pensionable Compensation – to define the items of compensation to be included in the calculation of the retirement allowances of all 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.



OCERS Board Policy

Compensation Earnable Policy

Policy Objectives

8. The objectives of this policy are to ensure that OCERS fully complies with applicable law 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

9. Compensation Earnable. Compensation Earnable for Legacy members shall be calculated by OCERS in accordance with the following guidelines.
- (a) Pay Items Included in Compensation Earnable. In accordance with Resolution 98-001, (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 other employees in the same grade /class, 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
 - 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 (as defined under Sections 31462 and 31482.1 of the Government Code; hereafter 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 and Sick Leave and Holiday to the extent (i) earned (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) permitted to be cashed-out (pro-rated on a monthly basis) under the applicable MOU, regardless of when actually paid or cashed out



OCERS Board Policy

Compensation Earnable Policy

- Employee Contributions to a Deferred Compensation Plan [already included in Base Wages and Salary, above]
 - "Overtime" (i) that is required to be worked; and (ii) that is ordinarily worked by others in same grade/ class/ rate of pay [Mandatory or Scheduled Overtime]
 - Compensatory Time (excluding "True Overtime" as defined in Section 9(b) below) in excess of minimum required reserve
 - "Madera" Pay (see, Madera Police Officers Association v. Cty 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, (i) 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 working the ordinary time required of other employees in the same grade/class shall be excluded from Compensation Earnable, including but not limited to the following items, and others substantially similar to them:
- True Overtime (i.e., amounts paid for working in excess of the time required and ordinarily worked by others in the same grade/class) [Overtime that does not qualify as Mandatory or Scheduled Overtime]
 - 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, 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 9(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 (as defined in Section 9(a), above) do not include time before January 1, 2001.



OCERS Board Policy

Compensation Earnable Policy

- (c) Calculation of Compensation Earnable. The retiring employee's compensation shall be "regularized" to what would have been received had the employee been paid for a normal work schedule during the Final Compensation Period (as defined in Section 9(a), above). 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. The Staff will then multiply that fraction by the number of paid hours ordinarily required to be worked by others in the same grade/class. The result will be the retiring employee's Compensation Earnable for the Final Compensation Period.

Policy Review

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

Policy History

- 11. The Board of Retirement adopted this policy on March 18, 2019.

Secretary's Certificate

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

03/18/19

Steve Delaney
Secretary of the Board

Date



Memorandum

DATE: October 18, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **OCERS 2022-2024 STRATEGIC PLAN**

Recommendation

Approve OCERS 2022-2024 Strategic Plan.

Background

The proposed 2022-2024 Strategic Plan was developed with prior OCERS Board input using the OCERS Mission, Vision Statement and Values Statements as our guide. The plan is streamlined and focused on the core goals of the organization:

- Fund Sustainability
- Excellent Service and Support
- Risk Management
- Talent Management
- Effective Governance

Each of the goals are supported by objectives that will be pursued by staff to achieve the goals.

Because of the change of this year's OCERS Board Strategic Planning Workshop from in-person to virtual, we did not review the 2022-2024 Strategic Plan document. We did however review the 2022 Business Plan, which was prepared to move forward through the coming calendar year those items most likely to achieve our goals.

The attached 2022-2024 Strategic Plan has retained all prior goals. The "Looking Ahead 5-10 Years" has been modified to reflect the growing likelihood of leveraging technology and putting some effort in to using some forms of Artificial Intelligence in OCERS pension administration process.

This document will continue to be reviewed by the OCERS Board on a quarterly basis to ensure its relevancy.

Submitted by:



S. D. – APPROVED

Steve Delaney
Chief Executive Officer

Orange County Employees Retirement System
2223 East Wellington Avenue | Santa Ana | 92701

2022-2024 STRATEGIC PLAN



MISSION, VISION AND VALUES

MISSION STATEMENT:

We provide secure retirement and disability benefits with the highest standards of excellence.

VISION STATEMENT:

To be a trusted partner providing premier pension administration, distinguished by consistent, quality member experiences and prudent financial stewardship.

VALUES:

- **O**pen and Transparent
- **C**ommitment to Superior Service
- **E**ngaged and Dedicated Workforce
- **R**eliable and Accurate
- **S**ecure and Sustainable

STRATEGIC PLAN

2022-2024 STRATEGIC GOALS

- Fund Sustainability
- Excellent Service and Support
- Risk Management
- Talent Management
- Effective Governance

FUND SUSTAINABILITY

STRENGTHEN THE LONG-TERM STABILITY OF THE PENSION FUND

Objective A: Mitigate the risk of significant investment loss

Objective B: Prudent Use and Security of Resources

EXCELLENT SERVICE AND SUPPORT

ACHIEVE EXCELLENCE IN THE SERVICE AND SUPPORT WE PROVIDE TO OUR MEMBERS AND EMPLOYERS

- Objective A:** Provide accurate and timely benefits
- Objective B:** Provide education to our members and employers
- Objective C:** Continuously improve business processes and procedures to be efficient and effective

RISK MANAGEMENT

CULTIVATE A RISK-INTELLIGENT ORGANIZATION

Objective A: Provide system and data security and a robust business continuity solution

Objective B: Ensure a safe and secure workplace and public service facility

TALENT MANAGEMENT

RECRUIT, RETAIN AND INSPIRE A HIGH-PERFORMING WORKFORCE

- Objective A:** Recruit and retain a high-performing workforce to meet organizational priorities
- Objective B:** Develop and empower every member of the team
- Objective C:** Cultivate a collaborative, inclusive and creative culture

EFFECTIVE GOVERNANCE

IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF THE BOARD AND STAFF BY CLARIFYING ROLES AND RESPONSIBILITIES, IMPROVING OVERSIGHT, CLARIFYING ACCOUNTABILITY AND IMPROVING DECISION MAKING

Objective A: Employ a governance structure that supports a dynamic System

Objective B: Improve the governance and management of OCERS' records

LOOKING AHEAD 5-10 YEARS

Objective A: Investment best practices as fund approaches \$35 billion

Address by developing investment technology and team resources needed to manage the anticipated Portfolio

Objective B: Preparing for the new pension administration system

Address by determining how to maximize current pension administration system while determining level of next generation technology, including Artificial Intelligence (AI) capabilities to be added to new system.

Objective C: Investigate OCERS management/oversight of member medical coverage upon retirement

Objective D: Short Term (Next 5 Years) – Multi-Factor Authentication for Member and Employer Accounts

Objective E: Long Term (Next 10 Years) – Use of Artificial Intelligence and Machine Learning to Detect Fraudulent Activity and Transactions



We provide secure retirement and disability benefits
with the highest standards of excellence.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

www.ocers.org

10 – 2022-2024



Memorandum

DATE: October 5, 2021
TO: Members of the Board of Retirement
FROM: Brenda Shott, Assistant CEO Finance and Internal Operations
SUBJECT: **OCERS 2022 BUSINESS PLAN**

Recommendation

Approve OCERS 2022 Business Plan.

Background/Discussion

The OCERS 2022 Business Plan is presented to the Board for approval. The OCERS 2021 Business Plan is directly linked to the OCERS 2022-2024 Strategic Plan which was developed using OCERS Mission Statement, Vision and Values as its foundation. The Business Plan is a one year plan that lays out initiatives aimed to move the longer term strategic goals and objectives towards completion.

The Business Plan is also an initial planning step in the 2022 budget process. The goals and initiatives included in the Business Plan, if approved by the Board, become directives for staff to finalize 2022 budget requests. The 2022 Business Plan was first reviewed on September 9, 2021 as part of the annual Strategic Planning Workshop. Included with this report is a schedule that includes estimated amounts needed in 2022 to fund specific initiatives being proposed in next year’s Business Plan and a justification of the cost estimates. Actual funding of goals and initiatives are subject to final budget approval by the Board at the regularly scheduled meeting in November.

Prepared by:

 **OCERS B.M.S - Approved**

Approved by:



S.D. – APPROVED

Orange County Employees Retirement System
2223 East Wellington Avenue | Santa Ana | 92701

2022 BUSINESS PLAN



MISSION, VISION AND VALUES

MISSION STATEMENT:

We provide secure retirement and disability benefits with the highest standards of excellence.

VISION STATEMENT:

To be a trusted partner providing premier pension administration, distinguished by consistent, quality member experiences and prudent financial stewardship.

VALUES:

- **O**pen and Transparent
- **C**ommitment to Superior Service
- **E**ngaged and Dedicated Workforce
- **R**eliable and Accurate
- **S**ecure and Sustainable

2022-2024 STRATEGIC GOALS

- Fund Sustainability
- Excellent Service and Support
- Risk Management
- Talent Management
- Effective Governance

FUND SUSTAINABILITY

GOAL: STRENGTHEN THE LONG-TERM STABILITY OF THE PENSION FUND

Business Plan Initiatives

Objective A: Mitigate the Risk of Significant Investment Loss

Executive Lead – Molly Murphy

1. Complete Investment Consultants procurement process

Objective B: Prudent Use and Security of Resources

Executive Lead – Molly Murphy

1. Initiate Custodial Bank Services RFP preparation

EXCELLENT SERVICE AND SUPPORT

GOAL: ACHIEVE EXCELLENCE IN THE SERVICE AND SUPPORT WE PROVIDE TO OUR MEMBERS AND EMPLOYERS

Business Plan Initiatives

Objective A: Provide Accurate and Timely Benefits

Executive Lead – Suzanne Jenike

1. Create comprehensive overview of applicable Memorandum of Understandings (MOU) (\$25,000)
2. Continue to Enhance Cross Training for Member Services Team
3. Continue Evaluation of Existing Forms & Letters
4. Investigate options of enhancing the online calculator to provide disability estimates
5. Evaluate Options for New Imaging System for Member Document Repository and implement if appropriate (\$250,000)

Objective B: Provide Education to our Members and Employers

Executive Lead – Suzanne Jenike

1. Update website to enhance disability related FAQs and include a white board video that counsels on the disability application process.
2. Investigate options for communication OCERS news via email.

3. Continue to create videos, both in-house and white board (\$25,000)
4. Evaluate options for transition *At Your Service* newsletter to be electronic for active/deferred members and only send hard copies to retirees.

Objective C: Continuously Improve Business Processes and Procedures to be Efficient and Effective

Executive Leads – Brenda Shott and Suzanne Jenike

1. Investigate options for enhanced member survey platform (\$10,000)
2. Investigate creating a triage process for disability applications allowing the independent medical examination to be foregone if allowable.
3. Identify, develop and implement V3 Data Validation and Clean Up procedures (\$10,000)
4. Issue a RFP for next generation pension administration system (\$200,000)
5. Execute a pilot project for the use of Robotic Process Automation to streamline routine task (\$350,000)
6. Complete implementation and post-implementation of new ERP/Accounting Software system (\$42,500)
7. Conduct LEAN process on the investment reporting function (\$10,000)
8. Procure and implement a new helpdesk solution for internal use (\$100,000)

RISK MANAGEMENT

GOAL: CULTIVATE A RISK-INTELLIGENT ORGANIZATION

Business Plan Initiatives

Objective A: Enhance Governance of Technology Risks

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Continue implementation plan for security and operational best practice controls (multi-year)
2. Continue to develop and enhance information security policies (year two)
3. Develop and enhance information technology policies (year one of two)
4. Develop executive dashboard and security strategy document to enhance communication of Information Security program
5. Implement project management tools and best practices for use throughout the organization

Objective B: Continuously Assess Technology Environment and Address Risks

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Replace Web Application Firewalls (\$180,000)
2. Continue Phased Implementation of Microsoft 365 (\$100,000)

Objective C: Ensure Compliance with Industry Frameworks and Best Practices

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Implement an Information Security Governance, Risk & Compliance system (\$50,000)
2. Complete a data classification study (year two) (\$100,000)

Objective D: Provide a Robust Business Continuity Solution

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Review implementation of mail services using a 3rd party vendor (\$25,000)
2. Expand the Disaster Recovery and Business Continuity Plan and semi-annual exercise as it relates to remote data recovery

Objective E: Ensure a Safe and Secure Workplace and Public Service Facility

Executive Lead – Brenda Shott

1. Continue to investigate and evaluate long-term options for OCERS headquarters
2. Replace Roof on Existing OCERS Headquarters (\$110,000)

TALENT MANAGEMENT

GOAL: RECRUIT, RETAIN AND INSPIRE A HIGH-PERFORMING WORKFORCE

Business Plan Initiatives

Objective A: Recruit and Retain a Diverse High-Performing Workforce to Meet Organizational Priorities

Executive Leads – Steve Delaney and Cynthia Hockless

1. Review and rewrite where appropriate classification specifications and compensation ranges of County level team members (\$35,000)

Objective B: Develop and empower every member of the team

Executive Lead – Steve Delaney

1. Design and develop a comprehensive training program based on individual needs and career goals that embeds a talent management mindset and creates succession plans across the agency (\$50,000)
2. Develop a comprehensive standardized library of business processes and procedure manuals across the organization (\$330,000)

Objective C: Cultivate a Collaborative, Inclusive and Creative Culture

Executive Lead – Steve Delaney

1. Continue to implement strategies that promote an inclusive workplace (\$47,000)

EFFECTIVE GOVERNANCE

GOAL: IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF THE BOARD AND STAFF BY CLARIFYING ROLES AND RESPONSIBILITIES, IMPROVING OVERSIGHT, CLARIFYING ACCOUNTABILITY AND IMPROVING DECISION MAKING

Objective A: Employ a Governance Structure that Supports a Dynamic System
Executive Lead – Steve Delaney

1. Delegated Authority with regard to Investments and the creation of the Board’s Personnel Committee have both been positive initiatives of Board Governance implemented in recent years. Possible Board review of overall best in class governance continues to be an issue for consideration, but likely in

Objective B: Improve the Governance and Management of OCERS’ Records (multi-year)
Executive Lead – Gina Ratto

1. Implement a Records Management Program that reflects best practices and identifies appropriate retention periods for each category of OCERS records
2. Establish, include within the Records Management Program, and implement (using Microsoft 365) the default rules for automated archival and automated destruction of electronic mail, with limited exceptions from the default rules (e.g., for litigation holds)
3. Establish a process to export and save electronic mail in an alternative format (PDF preferably) for longer retention and in

accordance with the retention period for underlying record category

4. Develop and adopt an Implementation Plan for the Records Management Program
5. Systematically bring each department within OCERS into compliance with the Records Management Program
6. Establish procedures to maintain and audit compliance with the Records Management Program



ORANGE COUNTY EMPLOYEES RETIREMENT
SYSTEM
www.ocers.org

**Orange County Employee Retirement System
Business Plan Initiatives Cost Justification
For the Year 2022**

Business Plan Initiative	Executive Lead	Lead Department	Estimated Cost	Return on Investment or Justification for Cost
Excellent Service and Support				
Objective A: Provide Accurate and Timely Benefits				
1. Create comprehensive overview of applicable Memorandum of Understandings (MOU)	Suzanne Jenike	Member Services	\$ 25,000	The purpose of this initiative is to document, in a consistent format, our interpretation of the employers MOUs. By having a comprehensive overview we will be able to identify areas that require legal interpretation or further discussion for clarification with the employers. We will be able to track the expiration dates and update our documentation as new MOUs are negotiated. We will incorporate this documentation into the final average salary calculation procedure documents to ensure consistent application across the entire team and this documentation will be the driver of future PAS system requirements. We will be making positive steps towards 100% accuracy and the Master Policy and Procedure repository initiatives. The estimate is based on 500 hours x \$45/hour = \$22,500 rounded up to \$25,000.
5. Evaluate Options for New Imaging System for Member Document Repository and implement if appropriate	Suzanne Jenike	Information Technology	\$ 25,000	All of OCERS Member documents are stored within the V3 Pension Application system, but the 3 rd party software required to retrieve and view documents is end of life with no viable upgrades options available. As browser based software and other components evolve, we run the risk of losing our ability to access our member documents if we continue as is. In addition, the functional capabilities we have with our current system are limited, procuring a new solution will enable staff as well as our employer and members advanced functionality and future growth. This is a risk avoidance measure. The loss or inability for staff to access Member documentation would severely affect our ability to provide accurate and timely benefits, and lead to a lack of confidence in the system.
Objective B: Provide Education to our Members and Employers				
3. Continue to create videos, both in-house and white board	Suzanne Jenike	Communications	\$ 25,000	The purpose of these videos is to educate members on our plan provisions. The more electronic tools we provide to our plan participants the better educated they are and we think it is critical to provide multiple platforms (brochures, summary plan descriptions, visual options like Cost estimate based on 5 videos x \$5,000/video.
Objective C: Continuously Improve Business Processes and Procedures to be Efficient and Effective				

10-18-2021 REGULAR BOARD MEETING - A-3 2022 Business Plan

Business Plan Initiative	Executive Lead	Lead Department	Estimated Cost	Return on Investment or Justification for Cost
1. Investigate options for enhanced member survey platform	Suzanne Jenike	Information Technology	\$ 10,000	Getting timely feedback from members is critical to our ability to provide timely and accurate benefits and enhance our process based on their feedback. Based on research, the estimate for this tool is \$7,000-\$10,000.
3. Identify, develop and implement V3 Data Validation and Clean Up procedures	Suzanne Jenike	Information Technology	\$ 10,000	The data validation and clean up processes are critical to ensuring accurate information is in V3 which impacts 100% accuracy as well as drives what is then communicated to the actuary. This is a Management Action Plan to address a recent internal audit. The cost estimate relates to changes in V3 needed to complete the initiative.
4. Issue a RFP for next generation pension administration system	Brenda Shott	Information Technology	\$ 200,000	The existing pension administration system (V3) has been in production for six years. The average expected life of a system is ten years. Procuring and implementing the next generation system is estimated to take 4-5 years. It is now time to begin the process of procuring a new system that will support OCERS Vision 2030 which includes utilizing RPA and AI in our operations. Staff is proposing utilizing a third party consultant to assist in the RFP preparation. The estimated cost for the 2022 initiative was developed using an assumed consultant hourly rate of \$300 x 650 hours (rounded up).
5. Execute a pilot project for the use of Robotic Process Automation to streamline routine tasks	Brenda Shott	Information Technology	\$ 350,000	As part of a long term strategic initiative that has been named "Vision 2030", OCERS is pursuing the use of Artificial Intelligence, Robotics Automation and Machine Learning as tools to make operations more efficient and support the goal of having 100% accuracy. Although the pilot project is not expected to achieve savings, the long term goal of utilizing AI, RPA and ML is expected to contain staffing costs as OCERS continues to grow in the future. In 2022 we begin pursuing this goal by executing a pilot project using RPA. The pilot project will include identification of a automation use cases, designing, building and deployment of the automated use case and developing a operating model to be used for future RPA implementations. The cost estimate is based on preliminary research and quotes received from reputable consultants in this field of business.

Business Plan Initiative	Executive Lead	Lead Department	Estimated Cost	Return on Investment or Justification for Cost
6. Complete implementation and post-implementation of new ERP/Accounting Software system	Brenda Shott	Finance	\$ 42,500	This initiative represents potential carry over and post-implementation costs for last year's business initiative to implement a new ERP/Accounting Software system. The new system will replace our old desktop based software, which is nearing end-of-support, with a cloud-based solution. This solution will integrate processes that are currently being performed by stand-alone software, third parties, manually or are non-existent. The estimated cost for this initiative is based on an estimated 100 hours to assist with post-implementation at \$205/hour (100 hrs x \$205/hour = \$20,500), as well as carryover of project costs from the 2021 budget of \$22,000 as contingency if the project goes past the anticipated live date of 1/1/2022.
7. Conduct LEAN process on the investment reporting function	Brenda Shott	Executive	\$ 10,000	The investment reporting function includes many manual processes that will benefit from a LEAN exercise to identify inefficiencies and redundancies. Eliminating inefficiencies and creating a more streamlined process will optimize resources and free up staff to focus on tasks that provide value to OCERS. The estimated cost of \$10,000 is based on a previous LEAN process performed for Finance's AP function.
8. Procure and implement a new helpdesk solution for internal use	Brenda Shott	Information Technology	\$ 100,000	Implementation of a new helpdesk solution to extend and improve IT service offerings and the means by which users request IT support. Benefits include self-service support, robust IT knowledge base, centralized tracking of all IT work and activities, workflows to standardize and automate recurring tasks, proactive reporting and auditability. The solution could also be leveraged by other departments for managing requests that are processed. The cost estimate is based on preliminary survey of tools available.

Risk Management

Objective B: Continuously Assess Technology Environment and Address Risks

1. Replace Web Application Firewalls	Matt Eakin and Jenny Sadoski	Information Technology	\$ 180,000	These are the firewalls that protect the V3 Member Self-Service (MSS) and Employer Self-Service (ESS) portals. We have an obligation to protect the sensitive Personally Identifiable Information (PII) member data contained within V3. The firewalls are going end-of-life/end-of-support and must be replaced in 2022 or 2023. We have opted to do the replacements in 2022. This is a risk avoidance measure. The average cost of a data breach in 2021 has been calculated to be \$4.24 million.
--------------------------------------	------------------------------	------------------------	------------	---

Business Plan Initiative	Executive Lead	Lead Department	Estimated Cost	Return on Investment or Justification for Cost
2. Continue Phase Implementation of Microsoft 365	Matt Eakin and Jenny Sadoski	Information Technology	\$ 100,000	Phase 2 implementation encapsulates the migration of OCERS SharePoint infrastructure and OCERS documents from our group server to OneDrive online. Migration of these systems to cloud, reduces the need for on-premise hardware and support, enhances accessibility, streamlines data protection and recovery, and automates record retentions rules and compliance controls. Keeping our business applications current with supported versions avoids risks, allowing us to patch and protect our systems from vulnerabilities and continual threat, such as ransomware and denial of service attacks (DDoS), while also providing required functionality and tools needed to perform daily tasks.

Objective C: Ensure Compliance with Industry Frameworks and Best Practices

1. Implement an Information Security Governance, Risk & Compliance system	Matt Eakin	Information Security	\$ 50,000	Security and risk management leaders utilize Governance, Risk & Compliance (GRC) systems to manage and automate IT/InfoSec compliance, inform business decisions, and assess the organization's cybersecurity and IT risk posture. The various functions included in GRC systems include Risk Identification, Risk Profiling, Risk Analysis, Risk Treatment, Risk Life Cycle Management, Regulatory/Legal/Contractual Compliance, Threat/Vulnerability Management, Incident Management, Workflow Management and Board/Senior Executive Reporting. This is primarily a risk avoidance measure, with some benefit to reducing the effort associated with audits, assessments, and reporting. The average cost of a data breach in 2021 has been calculated to be \$4.24 million.
2. Complete a data classification study (year two)	Jenny Sadoski	Information Technology	\$ 100,000	A data classification study is required to create a clear picture of the data used within OCERS systems to provide us with an understanding of what data we have, what is the data source, where it is stored, and how it is used and by whom. This information will allow OCERS to develop data classification and security policies and implement appropriate data protection measures and compliance standards. This is primarily a risk avoidance measure, to identify and secure sensitive personal identifiable information in used at OCERS and implement necessary security controls to prevent data loss or breach. The average cost of a data breach in 2021 has been calculated to be \$4.24 million.

Objective D: Provide a Robust Business Continuity Solution

Business Plan Initiative	Executive Lead	Lead Department	Estimated Cost	Return on Investment or Justification for Cost
1. Review implementation of mail services using a 3rd party vendor	Brenda Shott	Operations Support Services	\$ 25,000	Physical mail processing is a critical function in OCERS operations. As part of the Disaster Recovery and Business Continuity program, the risk of not having either the personnel or physical building available due to an emergency/disaster was identified as high. To mitigate the risk of not being able to process incoming mail, OCERS conducted a pilot project in 2021 where a third party processed OCERS mail and delivered it electronically. The project was successful and deemed a desirable method to reduce the risk of not being able to access or process the mail in an emergency. In addition to the DR/BC benefits, the third party process will free up 1-3 hours per day of OCERS staff time, allowing for more valuable tasks to be performed. The cost estimate is based on preliminary quotes received from reputable vendors.

Objective E: Ensure a Safe and Secure Workplace and Public Service Facility

2. Replace Roof on Existing OCERS Headquarters	Brenda Shott	Operations Support Services	\$ 110,000	The roof of OCERS headquarters has reached end of life and needs to be replaced. The cost is based on an estimate provided by OCERS property manager.
--	--------------	-----------------------------	------------	---

Talent Management

Objective A: Recruit and Retain a Diverse High-Performing Workforce to Meet Organizational Priorities

1. Review and rewrite where appropriate classification specifications and compensation ranges of County level team members	Cynthia Hockless	Human Resources	\$ 35,000	OCERS is presently divided by statute into County employees and OCERS direct employees. This division causes morale challenges which in turn impacts productivity. OCEA support is necessary to get the legislation required to allow OCERS to unify. They have indicated the first step is for OCERS to craft position descriptions reflective of the new requirements of County staff when they transfer to OCERS direct employment. These funds would provide a HR consultant to assist OCERS team in crafting those necessary position descriptions. OCERS currently has 59 budgeted employees or 62% of their workforce classified as County level staff. Accurate and up-to-date job classifications are essential to evaluate work distribution, organize the department, recruit quality and set standards for employee reviews. The cost presented here equates to \$574.00 per County budgeted position. OCERS believes this investment can increase input and productivity for these classifications.
--	------------------	-----------------	-----------	--

Objective B: Develop and empower every member of the team

Business Plan Initiative	Executive Lead	Lead Department	Estimated Cost	Return on Investment or Justification for Cost
1. Design and develop a comprehensive training program based on individual needs and career goals that embeds a talent management mindset and creates succession plans across the agency	Steve Delaney	Human Resources	\$ 50,000	OCERS complexity requires continuous training, not simply in the tasks necessary to complete a retirement benefit calculation, but equally in the leadership skills necessary to guide and oversee this process. The County of Orange has stopped their leadership training program that we previously took advantage of. The Leadership and Organizational Development (LOD) department has created a new program working in conjunction with UCLA to provide the training that will help us meet our mission goals. OCERS has a mandatory benefit that allows all employees to participate in tuition reimbursement up to \$10,000 per employee. OCERS has 96 budgeted employees. This benefit allows OCERS to spend up to \$960,000 annually on tuition reimbursement for their budgeted headcount. In 2021, OCERS spent \$30,000 in tuition reimbursement or 3% of the maximum amount allotted for tuition cost. In 2022, OCERS would like to sponsor up to 10 of their Managers to participate in a yearlong structured UCLA Management Program. The cost of this program is \$5,000 per Manager or 50% of the maximum allowance per employee. OCERS believes this training program will provide their Managers with additional jobs skills and tools to handle an ever-changing workforce.
2. Develop a comprehensive standardized library of business processes and procedure manuals across the organization	Steve Delaney	Executive	\$ 330,000	With the second most complicated public pension system in California, OCERS needs both fully developed business processes, a desk manual of sorts, to ensure consistent application of rules and procedures by all OCERS retirement counselors, while also laying the foundation for programming a new pension administration system that will support OCERS in its goal of 100% accuracy. These dollars will provide for the continued employment of our temporary project manager through 2022, as well as an outside technical writer.

Objective C: Cultivate a Collaborative, Inclusive and Creative Culture

Business Plan Initiative	Executive Lead	Lead Department	Estimated Cost	Return on Investment or Justification for Cost
1. Continue to implement DEI strategies	Steve Delaney	Human Resources	\$ 47,000	<p>A diverse workforce that is valued and included in all decision processes helps create best of class services and procedures for our members. With an amazing number of our team (nearly 90% responding to our initial DEI survey, indicating strong support for this initiative, we wish to continue the good work started by Inclusion Nation in OCERS currently has 96 budgeted positions. This cost represents about \$490.00 per employee. Workplace inclusion and belonging critically impact an employee’s overall work experience. High belonging is linked to a 56% increase in job performance, 75% reduction in sick days, and 50% drop in turnover risk. (Guild survey data) Employee engagement can be directly linked to employee turnover. In 2020, OCERS had a 0% turnover rate. Employee disengagement and turnover can be expensive. According to survey data, employers can spend upwards of 33% of a worker’s salary to replace them. For an employee making \$60,000 a year, this can equate to \$20,000 in turnover cost and productivity loss. OCERS’ investments in training initiatives allow OCERS to focus on retention and employee engagement and assist with avoiding turnover cost.</p>

Total cost of business plan initiatives \$ 2,049,500



Memorandum

DATE: October 18, 2021
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel
SUBJECT: VOTING DIRECTION FOR SACRS BUSINESS MEETING

Recommendation

Give voting direction to OCERS' delegates for the November 12, 2021 SACRS business meeting.

Background/Discussion

SACRS will hold its Business Meeting on November 12, 2021. At the meeting, OCERS, as a member of SACRS, will be asked to vote on matters presented to the membership.

Voting by OCERS at the SACRS business meeting is determined in accordance with the Board's Policy on SACRS Voting Authority. The Policy provides that:

- The Board Chair will be designated as OCERS' primary voting delegate;
- If the Board Chair is unable to attend the SACRS business meeting, the Vice Chair will be designated as the alternate voting delegate;
- If the Board Chair and Vice Chair are both unable to attend the business meeting, the alternate voting delegate will be determined, among the Board members in attendance, alphabetically by the Board member's last name; and
- Finally, the Administrator (CEO) will also be designated as an alternate voting delegate.

At the Board's October 18, 2021 meeting, the Board will be asked to give direction to OCERS' delegates on the matters that will require a vote of the membership at the SACRS business meeting on November 12, 2021.

Attached is the SACRS Board of Directors Proposed Legislation for 2022. The SACRS Board unanimously approved the proposed legislation at its board meeting in September. The proposal is focused on CERE cleanup, and all 20 systems were contacted by the SACRS Legislative Committee to seek their input. To enable SACRS to introduce the proposed legislation in January 2022, the language will need to be voted on by the membership at the November 12 business meeting to accept (yes vote) or decline to carry (no vote).

OCERS Staff supports the proposed legislation.

Attachment

Submitted by:



GMR- Approved

Gina M. Ratto
General Counsel



September 20, 2021

RE: SACRS-Sponsored Legislation in 2022

Dear SACRS Board of Directors,

The SACRS Legislative Committee recommends that SACRS sponsor legislation in 2022 to amend various sections of the County Employees' Retirement Law of 1937 (CERL).

At its September 17, 2021 meeting, the Legislative Committee approved bill language for a CERL Omnibus Bill and recommended approval by the SACRS Board of Directors. If approved by the SACRS membership at the Fall Conference, the bill language can be introduced in January 2022 for consideration during the 2022 legislative session.

The enclosed language reflects the work of Legislative Committee members, in collaboration with system administrators, over the past year to develop non-controversial, technical, and clarifying amendments to the CERL.

A summary matrix and draft bill language are attached.

If you have questions or would like to provide additional feedback, please contact us at dnelsen@acera.org or sterne@sacounty.net.

Respectfully,

/s/

David Nelsen and Eric Stern
Co-Chairs, Legislative Committee

ATTACHMENTS

- Summary Matrix
- Draft Bill Language

As of September 2021

2022 CERL Clean-Up Bill

Issue	Gov Code	Topic	Issue/Justification
1	31452.7	Beneficiaries - Designating Estate	This amendment would allow a member to designate a corporation, trust, or estate to receive his or her last check upon death. This does not allow an estate or trust to receive ongoing payments. Note: Members who choose Option 1 already can designate an estate to receive the balance of contributions.
2	31525	Board of Supervisor approval of Board of Retirement regulations	This amendment would delete the requirement that Board of Retirement regulations must be approved by the Board of Supervisors. This language is a holdover from when CERL systems were managed by a county department, and was adopted prior to the passage on Prop.162 in 1992. Adoption of regulations is part of the BOR's duty to administer the system.
3	31641.4	Prior Service -- Military Reserve Service	This amendment would note a potential federal pre-emption issue regarding purchasing prior military reserve service. Current statute establishes that prior service purchases from another public agency must not yield a pension from that agency. However, 10 U.S.C. § 12736 provides that a period of military service may not be excluded from credit towards a civilian employment pension just because that period also counts towards reservist retirement. Thus, the question arises which statute prevails in a conflict between 10 U.S.C. § 12736 and Section 31641.4. The Ninth Circuit Court of Appeal considered that question in Cantwell v. San Mateo County, 631 F.2d 631 (9th Cir. 1980), and determined that federal law overrides Section 31641.4.
4	31646	Service Purchase for FMLA Leave	This amendment would include all leaves that are covered under the FMLA that are not due to the illness of the member.
5	31646.XX	Furloughs	This amendment would provide boards with authority to prevent temporary mandatory furloughs from impacting member benefits under specified circumstances. Similar to CalPERS statutes (see GC 20968, 20969, 20969.1, 20969.2), but granting more discretion to boards, this proposed new code section may help avoid inequities that can arise because of the timing of temporary mandatory furloughs in relation to members' planned retirements.

As of September 2021

6	31680.2	Post-Retirement Employment	This amendment would add clarifying language that nonsalaried positions and per diems do not count as double dipping for members appointed to boards and commissions under purview of a participating employer of a county system; similar to language of 7522.57 for state boards and commission.
7	31725.7 31760	Disability Retirement: Optional Allowances	This amendment would allow members to change optional allowance if subsequently granted disability retirement, regardless of when the member filed a Disability Retirement application. Currently, Section 31725.7 only allows a benefit option change for members who retired for service after filing a disability retirement application but does not provide the same ability for those who retired for service before filing an application, even though both members may subsequently be granted a disability retirement.
8	31726 31726.5	Nonservice-connected disability	This amendment restructures the sections to provide more clarity; no substantive changes. The sections on the nonservice-connected disability retirement benefit formula distinguish between those retiring on or after age 65 for general and on or after age 55 for safety versus those retiring under these ages in the same section: 31726 and 31726.5.
9	31730	Disability -- Reinstatement	This amendment addresses the scenario in which an employer does not offer to take the employee back who has been found to no longer be incapacitated. The proposed amendment would convert convert the disability retirement into service retirement without adjusting benefit (i.e. actuarial reduction). This conforms to existing practice of several systems. Note: Similar to GC 21193 in which CalPERS only reinstates if the local employer offers to take the employee back.
10	31761 31762 31763 31764	Beneficiary Designation	This amendment would insert the word "natural" in front of the phrase "person having an insurable interest in his or her life" to clarify that the optional retirement settlement death benefit cannot be paid to a fictitious person such as a trust or corporation.
11	31781	Lump Sum Death Benefit	This amendment would add language consistent with other CERL sections that provide direction on the calculation of compensation earnable and pensionable compensation when the member is on a leave of absence during the 12 months immediately preceding the member's death.

As of September 2021

12	31838.5	Concurrent Retirement: Disability	<p>Section 31838.5 prevents windfalls for members who retire for disability from one or more systems. This amendment would clarify that a CERL system must reduce a member's allowance from that system as much as necessary so that the member does not receive a combined allowance that is "greater than the amount the member would have received had all the member's service been with only one entity." The statute currently refers to a pro rata reduction by each system, but some systems (like CalPERS) are not subject to section 31838.5 and do not make any reduction. This may leave the member with the windfall that section 31838.5 is designed to prevent, depending upon how a system calculates its "pro rata" reduction. This statute would make clear that the windfalls section 31838.5 is designed to prevent should always be prevented.</p>
----	---------	-----------------------------------	---

*SACRS Proposed Legislation
CERL Clean-Up Bill 2022: Draft Language*

Issue 1: 31452.7 – Beneficiaries Designating Estate

This amendment would allow a member to designate a corporation, trust, or estate to receive his or her last check upon death. This does not allow an estate or trust to receive ongoing payments. Note: Members who choose Option 1 already can designate an estate to receive the balance of contributions.

Section 31452.7 of the Government Code is amended to read:

(a) Upon the death of any member after retirement, any retirement allowance earned but not yet paid to the member shall, notwithstanding any other provision of law, be paid to the member's designated beneficiary.

(b) Upon the death of any person receiving a survivor's allowance under this chapter, any allowance earned but not yet paid to the survivor shall, notwithstanding any other provision of law, be paid to the survivor's designated beneficiary.

(c) For purposes of this section, "beneficiary" includes, but is not limited to, a corporation, a trust, or an estate.

Issue 2: 31525 – BOR Regulations

This amendment would delete the requirement that Board of Retirement regulations must be approved by the Board of Supervisors. This language is a holdover from when CERL systems were managed by a county department, and was adopted prior to the passage on Prop. 162 in 1992. Adoption of regulations is part of the BOR's duty to administer the system.

Section 31525 of the Government Code is amended to read:

The board may make regulations not inconsistent with this chapter, **the Public Employees' Pension Reform Act of 2013, The California Pension Protection Act of 1992, and any other provisions of law applicable to county retirement systems.**

~~The regulations become effective when approved by the board of supervisors.~~

Issue 3: 31641.4 -- Prior Military Reserve Service

This amendment would note a potential federal pre-emption issue regarding purchasing prior military reserve service. Current statute establishes that prior service purchases from another public agency must not yield a pension from that agency. However, 10 U.S.C. § 12736 provides that a period of military service may not be excluded from credit towards a civilian employment pension just because that period also counts towards reservist retirement. Thus, the question arises which statute prevails in a

*SACRS Proposed Legislation
CERL Clean-Up Bill 2022: Draft Language*

*conflict between 10 U.S.C. § 12736 and Section 31641.4. The Ninth Circuit Court of Appeal considered that question in *Cantwell v. San Mateo County*, 631 F.2d 631 (9th Cir. 1980), and determined that federal law overrides Section 31641.4.*

Section 31641.4 of the Government Code is amended to read:

A member shall receive credit for employment in public service only for such service as he is not entitled to receive a pension or retirement allowance from such public agency. The service for which he elects to contribute and the fact that no pension or retirement allowance will accrue to such member by virtue of his employment in such public agency must be certified to by an officer of the public agency where he rendered such public service or must be established to the satisfaction of the board. **Nothing in this paragraph prohibits a member from receiving credit for a period of federal public service where federal law expressly permits such credit even though the member is already entitled to receive a pension or retirement allowance from that service (*Cantwell v. San Mateo County*, 631 F.2d 631 (9th Cir. 1980)).**

Issue 4: 31646 – Credit for Uncompensated Leave of Absence for Illness; Parental Leave; Conditions

This amendment would include all leaves that are covered under the FMLA that are not due to the illness of the member.

Section 31646 of the Government Code is amended to read:

(a) A member who returns to active service following an uncompensated leave of absence on account of illness may receive service credit for the period of the absence upon the payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(b) (1) A member who returns to active service following an uncompensated leave of absence on account of parental leave may receive service credit for the period of the absence upon the payment of the contributions that the member and the employer would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. For purposes of this subdivision, parental leave is defined as any time, up to one year, during which a member is granted an approved maternity or paternity leave and returns to employment at the end of the approved leave for a period of time at least equal to that leave. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is

*SACRS Proposed Legislation
CERL Clean-Up Bill 2022: Draft Language*

claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(2) This subdivision shall not be operative until the board of supervisors, by resolution adopted by majority vote, makes the provisions applicable to that county and applies it to parental leave that commences after the adoption by the board of supervisors.

(c) (1) A member who returns to active service following an uncompensated leave of absence on account of the serious illness of a family member when the absence is eligible for coverage under the Family Medical Leave Act, 29 U.S.C. section 2601 et. seq., or the California Family Rights Act, Government Code section 12945 et. seq., may receive service credit for the period of the absence upon the payment of the contributions that the member and the employer would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. For purposes of this subdivision, leave on account of illness of a family member is defined as any time, up to one year, during which a member is granted an approved leave to care for a seriously ill family member and returns to employment at the end of the approved leave for a period of time at least equal to that leave. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(2) This subdivision shall not be operative until the board of supervisors, by resolution adopted by majority vote, makes the provisions applicable to that county and applies it to leave that commences after the adoption by the board of supervisors.

Issue 5: 31646.XX – Furloughs

This amendment would provide boards with authority to prevent temporary mandatory furloughs from impacting member benefits under specified circumstances. Similar to CalPERS statutes (see GC 20968, 20969, 20969.1, 20969.2), but granting more discretion to boards, this proposed new code section may help avoid inequities that can arise because of the timing of temporary mandatory furloughs in relation to members' planned retirements.

Section 31646.XX of the Government Code is added to read:

The board may grant members who are subject to a temporary mandatory furlough the same service credit and “compensation earnable” or “pensionable compensation” to which the members would have been entitled in the absence of the temporary mandatory furlough. The board may condition such grant on the receipt of additional member and/or employer contributions that the board

*SACRS Proposed Legislation
CERL Clean-Up Bill 2022: Draft Language*

determines are necessary to fund any benefits granted under this section on an actuarially sound basis.

For the purposes of this section, a “temporary mandatory furlough” refers to time during which a member is directed to be absent from work without pay for up to one quarter of the member’s normal working hours, with such reduced working hours in place for no longer than two years.

Issue 6: 31680.20 – Postretirement Employment

This amendment would add clarifying language that nonsalaried positions and per diems do not count as double dipping for members appointed to boards and commissions under purview of a participating employer of a county system; similar to language of 7522.57 for state boards and commission.

Section 31680.20 of the Government Code is added to read:

A person who is retired under this chapter may serve without reinstatement from retirement or loss or interruption of benefits under this chapter or the Public Employees’ Pension Reform Act of 2013 provided the service is on a part-time state, county, city, district, or other political subdivision board or commission. A retired person whose employment without reinstatement is authorized by this subdivision shall acquire no benefits, service credit, or retirement rights with respect to the employment. Part-time service is limited to less than 20 hours per week, and salary or stipend of the part-time service may not exceed \$60,000 annually.

Issue 7: 31725.7, 31760 – Disability Retirement: Optional Allowances

This amendment would allow members to change optional allowance if subsequently granted disability retirement, regardless of when the member filed a Disability Retirement application. Currently, Section 31725.7 only allows a benefit option change for members who retired for service after filing a disability retirement application but does not provide the same ability for those who retired for service before filing an application, even though both members may subsequently be granted a disability retirement.

Section 31725.7 of the Government Code is amended to read:

(a) At any time after filing an application for disability retirement with the board, the member may, if eligible, apply for, and the board in its discretion may grant, a service retirement allowance pending the determination of his or her entitlement to disability retirement. If he or she is found to be eligible for disability retirement, appropriate

*SACRS Proposed Legislation
CERL Clean-Up Bill 2022: Draft Language*

adjustments shall be made in his or her retirement allowance retroactive to the effective date of his or her disability retirement as provided in Section 31724.

(b) Notwithstanding subdivision (a), this section shall also apply to a member retired for service who subsequently files an application for disability retirement with the board. If he or she is found to be eligible for disability retirement, appropriate adjustments shall be made in his or her retirement allowance retroactive to the effective date of his or her disability retirement as provided in Section 31724.

~~(b)~~(c) This section shall not be construed to authorize a member to receive more than one type of retirement allowance for the same period of time nor to entitle any beneficiary to receive benefits which the beneficiary would not otherwise have been entitled to receive under the type of retirement which the member is finally determined to have been entitled. In the event a member retired for service is found not to be entitled to disability retirement he or she shall not be entitled to return to his or her job as provided in Section 31725.

~~(e)~~(d) If the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary shall be as selected by the member at the time of retirement for service. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall also be binding as to the type of allowance the member receives if the member is awarded a disability retirement.

~~(d)~~(e) Notwithstanding subdivision ~~(e)~~(d), if the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary may be as selected by the member at the time of retirement for service, or as if the member had selected an unmodified allowance. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall not be binding as to the type of allowance the member receives if the member is awarded a disability retirement. A change to the optional or unmodified type of allowance shall be made only at the time a member is awarded a disability retirement and the change shall be retroactive to the service retirement date and benefits previously paid shall be adjusted. If a change to the optional or unmodified type of allowance is not made, the benefit shall be adjusted to reflect the differences in retirement benefits previously received. This paragraph shall only apply to members who retire on or after January 1, 1999.

Section 31760 of the Government Code is amended to read:

(a) Except as provided in subdivisions **(b) and (c)**, until the first payment of any retirement allowance is made, a member or retired member, in lieu of the retirement allowance for the member's life alone, may elect to have the actuarial equivalent of his or her retirement allowance as of the date of retirement applied to a lesser retirement

*SACRS Proposed Legislation
CERL Clean-Up Bill 2022: Draft Language*

allowance payable throughout life in accordance with one of the optional settlements specified in this article.

(b) Notwithstanding subdivision (a), a member who applies for disability and is subsequently granted a service retirement pending a determination of entitlement to disability may change the type of optional or unmodified allowance that he or she elected at the time the service retirement was granted, subject to the provisions of Section 31725.7.

(c) Notwithstanding subdivision (a), a member retired for service who applies for and is subsequently granted a disability retirement may change the type of optional or unmodified allowance that he or she elected at the time the service retirement was granted, subject to the provisions of Section 31725.7.

Issue 8: Sections 31726 and 31726.5: Nonservice-connected disability

This amendment restructures the sections to provide more clarity; no substantive changes. The sections on the nonservice-connected disability retirement benefit formula distinguish between those retiring on or after age 65 for general and on or after age 55 for safety versus those retiring under these ages in the same section: 31726 and 31726.5.

Section 31726 of the Government Code is amended to read:

(a) Upon retirement for ~~non-service~~**nonservice**-connected disability a member who has attained age 65 shall receive his or her service retirement allowance.

(b) Every member under age 65 who is retired for ~~non-service~~**nonservice**-connected disability and who is not simultaneously retired as a member on deferred retirement of the ~~State~~**Public** Employees' Retirement System or a retirement system established under this chapter in another county shall receive a disability retirement allowance which shall be the greater of the following:

~~(a)~~**(1)** The sum to which he or she would be entitled as service retirement; **or**

~~(b)~~**(2)** A sum which shall consist of ~~any of the following~~:

~~(1)~~**(A)** An annuity which is the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

~~(2)~~**(B)** If, in the opinion of the board, his or her disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on his or her part, a disability retirement pension purchased by contributions of the county or district.

~~(3)~~**(C)** If, in the opinion of the board, his or her disability is not due to conviction of a felony or criminal activity which caused or resulted in the member's disability, a disability retirement pension purchased by contributions of the county or district. This paragraph

*SACRS Proposed Legislation
CERL Clean-Up Bill 2022: Draft Language*

shall only apply to a person who becomes a member of the system on or after January 1, 1988.

Section 31726.5 of the Government Code is amended to read:

(a) Upon retirement for nonservice-connected disability a safety member who has attained age 55 shall receive his or her service retirement allowance.

(b) Every safety member under age 55 who is retired for nonservice-connected disability and who is not simultaneously retired as a member on deferred retirement of the Public Employees' Retirement System or a retirement system established under this chapter in another county shall receive a disability retirement allowance which shall be the greater of:

~~(a)~~**(1)** The sum to which he or she would be entitled to as service retirement; or

~~(b)~~**(2)** A sum which shall consist of:

~~(1)~~**(A)** An annuity which is the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

~~(2)~~**(B)** If, in the opinion of the board, his or her disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on his or her part, a disability retirement pension purchased by contributions of the county or district.

~~(3)~~**(C)** If, in the opinion of the board, his or her disability is not due to conviction of a felony or criminal activity which caused or resulted in the member's disability, a disability retirement pension purchased by contributions of the county or district.

~~Paragraph 3~~**Subparagraph (C)** shall only apply to a person who becomes a member of the association on or after January 1, 1988.

Issue 9: 31730 – Disability Reinstatement

This amendment addresses the scenario in which an employer does not offer to take the employee back who has been found to no longer be incapacitated. The proposed amendment would convert convert the disability retirement into service retirement without adjusting benefit (i.e. actuarial reduction). This conforms to existing practice of several systems. Note: Similar to GC 21193 in which CalPERS only reinstates if the local employer offers to take the employee back.

Section 31730 of the Government Code is amended to read as follows:

(a) If the board determines that the beneficiary is not incapacitated, and his or her employer offers to reinstate that beneficiary, his or her retirement allowance shall be

*SACRS Proposed Legislation
CERL Clean-Up Bill 2022: Draft Language*

canceled forthwith, and he or she shall be reinstated in the county service pursuant to the regulations of the county or district for reemployment of personnel.

(b) If the board determines that the beneficiary is not incapacitated, and his or her employer does not offer to reinstate that beneficiary, notwithstanding any requirement of this chapter regarding eligibility therefor, his or her retirement allowance shall be reclassified to a service retirement in the same amount and subject to any applicable future cost of living adjustments. The optional or unmodified type of allowance selected by the beneficiary at the time of retirement for disability shall be binding as to the service retirement.

Issue 10: 31761, 31762, 31763, and 31764 – Optional Retirement Allowances:

This amendment would insert the word “natural” in front of the phrase “person having an insurable interest in his or her life” to clarify that the optional retirement settlement death benefit cannot be paid to a fictitious person such as a trust or corporation.

Sections 31761, 31762, 31763, and 31764 of the Government Code are amended to read:

31761 – Optional settlement 1 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death and, if he or she dies before he or she receives in annuity payments the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her estate or to the natural person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board.

31762 – Optional settlement 2 consists of the right to elect in writing to have a retirement allowance paid to him or her until his or her death, and thereafter to the natural person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement.

31763 – Optional settlement 3 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death, and thereafter to have one-half of his or her retirement allowance paid to the natural person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement.

31764 – Optional settlement 4 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death and thereafter to have other benefits as are approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the natural persons, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement. The designation shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

*SACRS Proposed Legislation
CERL Clean-Up Bill 2022: Draft Language*

Issue 11: 31781 – Death Benefit; Elements

This amendment would add language consistent with other CERL sections that provide direction on the calculation of compensation earnable and pensionable compensation when the member is on a leave of absence during the 12 months immediately preceding the member's death.

Section 31781 of the Government Code is amended to read:

The death benefit shall consist of:

- (a) The member's accumulated contributions.
- (b) An amount, provided from contributions by the county or district, equal to one-twelfth of the annual compensation earnable or pensionable compensation as defined in [Section 7522.34](#), whichever is applicable, by the deceased during the 12 months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed 50 percent of such annual compensation. **The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence.**

Issue 12: 31838.5 – Concurrent Retirement; Disability

Section 31838.5 prevents windfalls for members who retire for disability from one or more systems. This amendment would clarify that a CERL system must reduce a member's allowance from that system as much as necessary so that the member does not receive a combined allowance that is "greater than the amount the member would have received had all the member's service been with only one entity." The statute currently refers to a pro rata reduction by each system, but some systems (like CalPERS) are not subject to section 31838.5 and do not make any reduction. This may leave the member with the windfall that section 31838.5 is designed to prevent, depending upon how a system calculates its "pro rata" reduction. This statute would make clear that the windfalls section 31838.5 is designed to prevent should always be prevented.

Section 31838.5 of the Government Code is amended to read:

No provision of this chapter shall be construed to authorize any member, credited with service in more than one entity and who is eligible for a disability allowance, whether service connected or nonservice connected to receive an amount from one county that, when combined with any amount from other counties or the Public Employees' Retirement System, results in a disability allowance greater than the amount the member would have received had all the member's service been with only one entity.

*SACRS Proposed Legislation
CERL Clean-Up Bill 2022: Draft Language*

In cases of service-connected disability allowances only, the limitation on disability allowances provided for in this section shall apply to service-connected disability allowances payable to those who, after being employed with another county or an entity within the Public Employees' Retirement System, become employed by a second public entity on or after January 1, 1984.

Each entity shall calculate its respective obligations based upon the member's service with that entity and each shall adjust its payment on a pro rata basis. **If, however, another entity does not reduce the amount it pays the member, an entity subject to this section shall reduce the allowance it pays the member by as much as necessary to ensure that the member does not receive a disability allowance greater than the amount the member would have received had all the member's service been with only one entity.**



Memorandum

DATE: October 04, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: PERSONNEL COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON SEPTEMBER 15, 2021

Recommendation

The Personnel Committee recommends the Board of Retirement approve the following items related to the 2022 Staffing Plan at the October 18, 2021 Board meeting:

1. Add two (2) Information Technology Managers to the IT department (Est. cost \$214,000 each or \$428,000).
2. Add a total of ten (10) new positions to the Member Services department (Est. total cost \$1,230,672).
 - a. Two (2) Benefit Analysts - Payroll and QA \$303,362
 - b. Two (2) Retirement Supervisors - QA \$254,566
 - c. Four (4) Senior Retirement Program Specialist (Sr. RPS) - QA \$455,744
 - d. Two (2) Retirement Program Specialist (RPS) - Call Center \$217,000

The costs above include salary and a 55% fringe benefits load factor. The total annual cost related to increasing the OCERS' headcount from 96 to 108 for the positions listed above is \$1,658,672.

Background/Discussion

OCERS is currently undertaking mission-critical business initiatives. Some of the significant projects include the preparation of an upgrade to our pension administration system (V3), improving our benefits calculation process with the goal of achieving 100% accuracy, implementing the benefit and contribution adjustments related to the Alameda decision, and laying the groundwork of the OCERS 2030 Vision plan, which includes the exploration of the use of artificial intelligence and robotic process automation.

The department heads in the Information Technology and Member Services departments propose the following additions to the OCERS' 2022 Staffing Plan:

Information Technology (IT) Department - (2) two IT Managers:

The IT Department currently has two distinct functional areas: Programming/Application Development and Operations. The team members in each area have a unique set of skills and knowledge applicable to responsibilities of the functional area they are assigned. The IT Director oversees both functional areas and is responsible for carrying out OCERS' Strategic Goals and Business Plan initiatives in both areas as well as providing operational assistance for escalated issues and problem resolution. Given OCERS' plans for the use of technology in the future and a current unsustainable workload on the IT Director, additional highly skilled leadership is required in the department. The two proposed IT Managers would be responsible for recommendations and decisions related to the purpose, function, and roles of their functional area, and the



Memorandum

determination of expenditures and resources needed to achieve those goals. The IT Managers would also have an external focus on procuring third-party professional services and providing oversight and project management of IT solutions implementation and process improvements within the Organization. Tasks assigned to the IT Managers in their respective areas include:

- Proactively align IT objectives with OCERS' Strategic Plan and Business Initiatives.
- Drive innovation across the organization by assessing needs within departments, evaluating current and emerging technologies, and recommending solutions to streamline, automate and provide the most efficient use of OCERS assets and resources.
- Oversee IT projects and the implementation of new technologies from initial planning through the timely completion and successful roll out to production.
- Operationalize IT activities and establish core documentation, training, and reporting to ensure standardization, suitability, and completeness in processing and controls.
- Assist in the development of IT annual budget and review and approval of expenses incurred throughout the year.
- Direct technology procurements, contract management, and vendor/professional service engagements to ensure the quality of service, completion of tasks and manage risks associated with OCERS suppliers to achieve business objectives.
- Establish service level agreements and metrics to measure and report on IT activities and support to the organization.
- Work closely with Information Security Department to protect OCERS' assets and operations.

The estimated annual cost for an Information Technology Manager with benefits is approximately \$214,000 or a total of \$428,000 for the two proposed positions.

Member Services Department- 10 New Positions:

The Member Services department has three very large initiatives to work through in 2022. The first and most important is our 100% accuracy goal to eliminate errors from the retirement process. The second is the implementation and completion of the required benefit and contribution adjustments required by the Alameda decision. The third, longer-term project is the preparation of an upgrade to our pension administration system (V3). The following staff additions will be crucial to the success of these three projects/processes.

(2) Benefit Analysts - These positions will be responsible for bringing an auditing background into our retirement processing and quality assurance (QA) departments.

- One Benefit Analyst would help supervise the payroll team in Member Services. They would provide a level of organization and lean process skills that allow them to break down errors and review processes to determine improvements, training needed, and providing team member feedback.
- The second Benefit Analyst would ensure our transactional QA team remains focused on ensuring we meet our 100% Accuracy goals.

The estimated annual cost for a Member Services Benefit Analyst with benefits is approximately \$151,681 or a total of \$303,262 for the two proposed positions.



Memorandum

(2) Member Services Supervisors – The Supervisor positions are responsible for our Transactional QA team as well as our System QA team.

- The Transactional QA team supports our 100% accuracy goal by allocating workloads and supporting our Transactional QA SR. RPS representatives. This team is a critical link for ensuring our processes throughout Member Services meet our 100% accuracy goal. The Member Services Supervisors would provide the payroll RPS team member feedback on errors found during the monthly payroll cycles as well as work through developing solutions to eliminate the errors from our processes.
- The System QA Supervisor role will support the three (3) System QA Sr. RPS representatives that provide testing and implementation of V3 software updates/builds. This team would also be responsible for the testing of changes to V3 needed for the implementation of Alameda decision as well as organizing the business requirement documents for the development of the next generation pension administration system to replace V3.

The estimated annual cost for a Member Services Supervisor with benefits is approximately \$127,283 or a total of \$254,566 for the two proposed positions.

(4) Sr. Retirement Program Specialists – Member Services Sr. Retirement Program Specialists are responsible for enhancing our two (2) Quality Assurance teams (Transactional and System focused) for 2022.

- Three of the proposed Sr. Retirement Program Specialist positions would be responsible for ensuring OCERS achieves the 100% accuracy goal. This group of three team members would be responsible for testing and re-calculating all manual benefit calculations performed by the RPS Payroll Team. The senior quality assurance representatives provide a critical eye and attention to the processes to ensure the 100% accuracy goal is met.
- The fourth new Sr. Retirement Program Specialist is responsible for system-focused quality assurance. With the start of the RFP process for the next generation pension administration system in 2022, as well as the level of work required to test the Alameda implementations, Member Services proposes expanding the current System QA two-member team by adding an additional System QA SR RPS. This expansion will help with the added workloads to test system issues and new functionality when delivered. This team member will also help develop the documentation required for the business requirement documents that are required during the RFP process.

The estimated annual cost for a Member Services Sr. Retirement Program Specialist with benefits is approximately \$113,936 or a total of \$455,744 for the four proposed positions.

(2) Retirement Program Specialists - As part of our 100% accuracy goal, we are developing a completely independent Call Center to support member calls by full-time call center representatives.

- The proposed two new team members will answer all questions from members who call OCERS regarding their account. Currently, we have six team members allocated to this team and based on the call metrics, we require two additional team members to support the expected volume.

The estimated annual cost for a Member Services Retirement Program Specialist with benefits is approximately \$108,500 or a total of \$217,000 for the two proposed positions.



Memorandum

The total annual cost to add 10 (ten) new positions to the Member Services Department is \$1,230,672.

At the October 18, 2021, Board meeting, a summary of the proposed staffing plan will be presented.

The Personnel Committee supports the addition of the twelve (12) new positions and ask that the Board join me in the support of moving the OCERS staffing plan from 96 to 108 budgeted positions. The estimated total annual personnel cost for the additional positions is \$1,658.672, which includes salaries and a 55% benefits load factor.

These changes are well within the Boards authority to approve this amount as it is below the 21 Basis test.

Submitted by:



SD - Approved

Steve Delaney

Chief Executive Officer



2022 STAFFING PLAN

Board Meeting - October 18, 2021

Steve Delaney, Chief Executive Officer



RECOMMENDATIONS

Staffing Recommendations for 2022

The Personnel Committee recommends the Board of Retirement approve the following items related to the 2022 Staffing Plan at the October 18, 2021 Board meeting:

- 1. Add two (2) IT Managers to the Information Technology department (Est. cost \$428,000)**

- 2. Add a total of ten (10) new positions to the Member Services department (Est. total cost \$1,230,672).**
 - a. Two (2) Benefit Analysts (Payroll and QA)**
 - b. Two (2) Retirement Supervisors (QA Depts)**
 - c. Four (4) Senior Retirement Program Specialist (QA Depts)**
 - d. Two (2) Retirement Program Specialist (Call Center)**

The costs above include salaries and a 55% fringe benefits load factor. The total estimated annual cost to increase the OCERS headcount from 96 to 108 is \$1,658,672.



PROPOSED HEADCOUNT



2021 Current Staffing Plan

- Headcount: 96
- OCERS Direct: 37
- County: 56
- Extra Help County: 3



2022 Proposed Staffing Plan

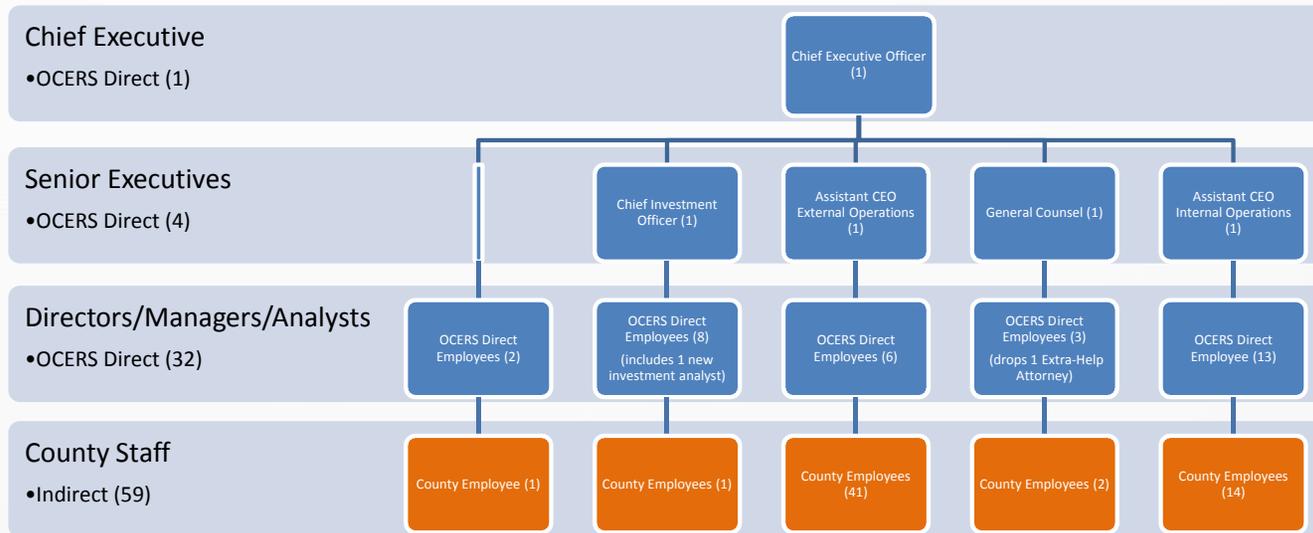
- Headcount: 108
- OCERS Direct: 41
- County: 64
- Extra Help County: 3



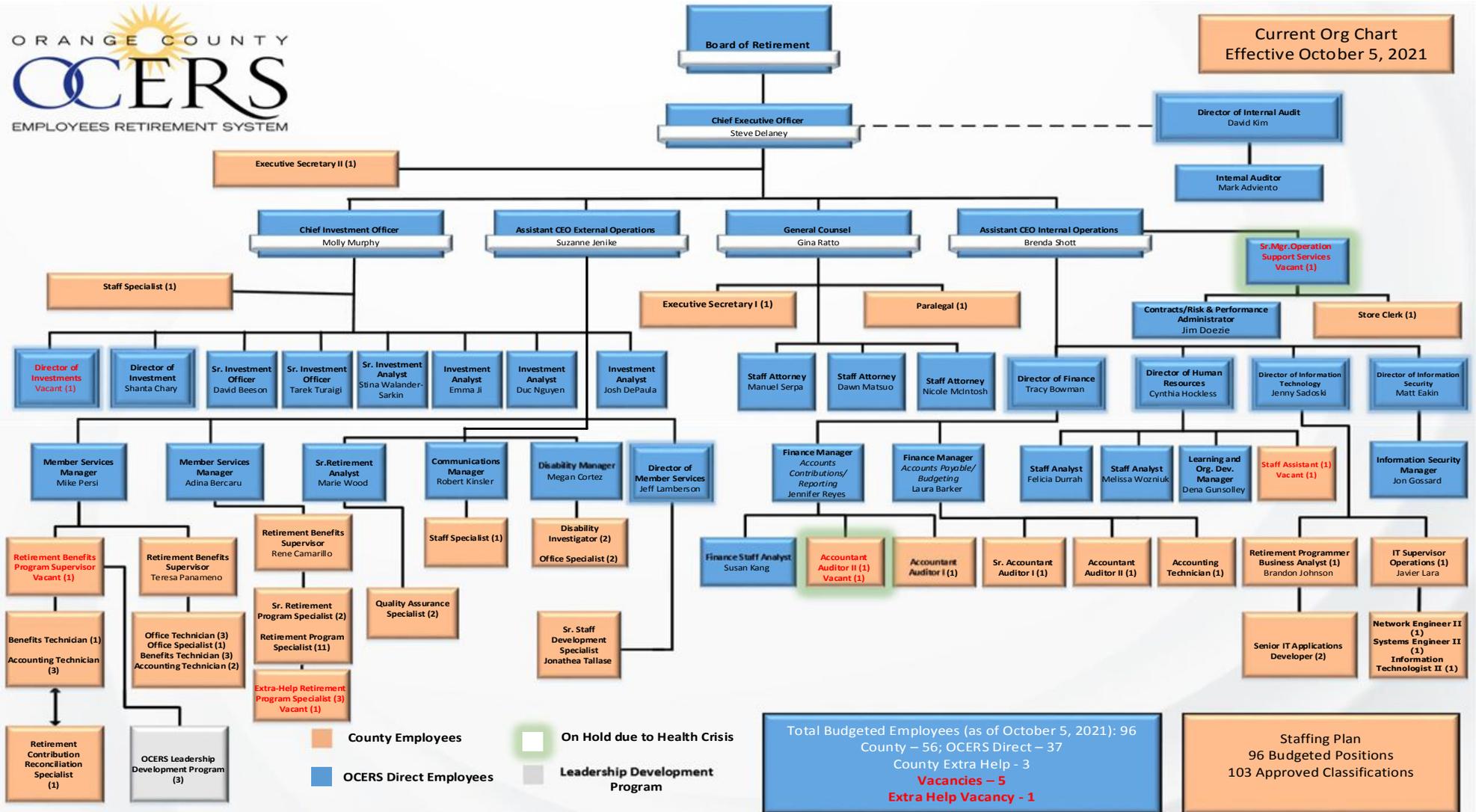


OCERS Organization Chart 2021

(96 team members, 94.5 FTE)



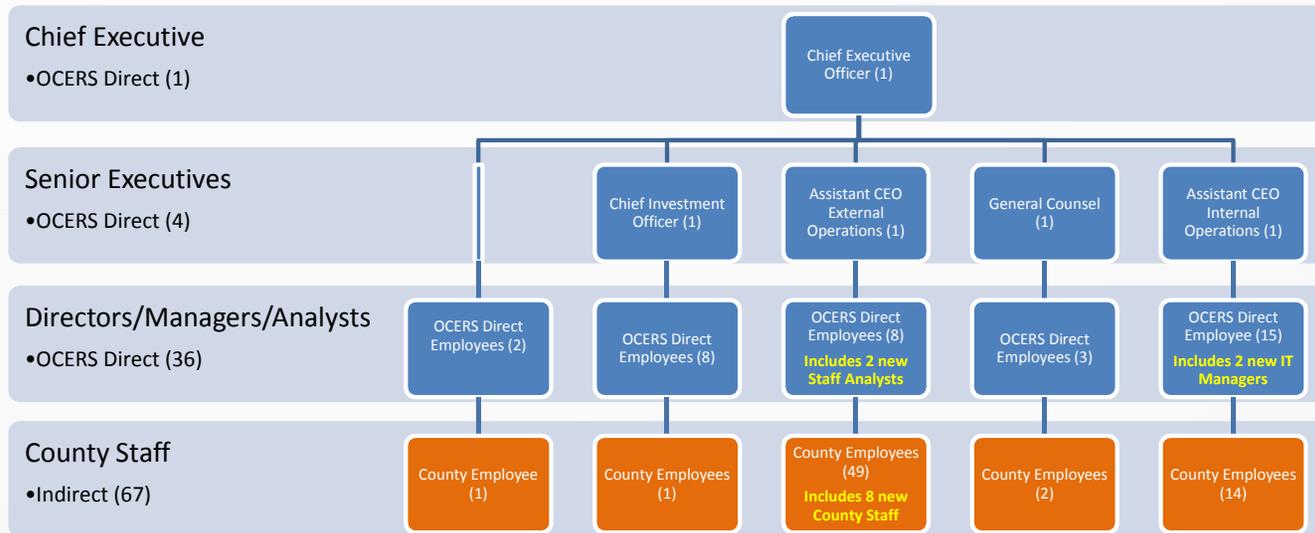
Staffing Plan
 96 Budgeted Positions
 102 Approved Classifications
 (includes 3 Part-time Extra Help in Member Services)





OCERS Proposed Organization Chart 2022

(108 team members, 107.5 FTE)



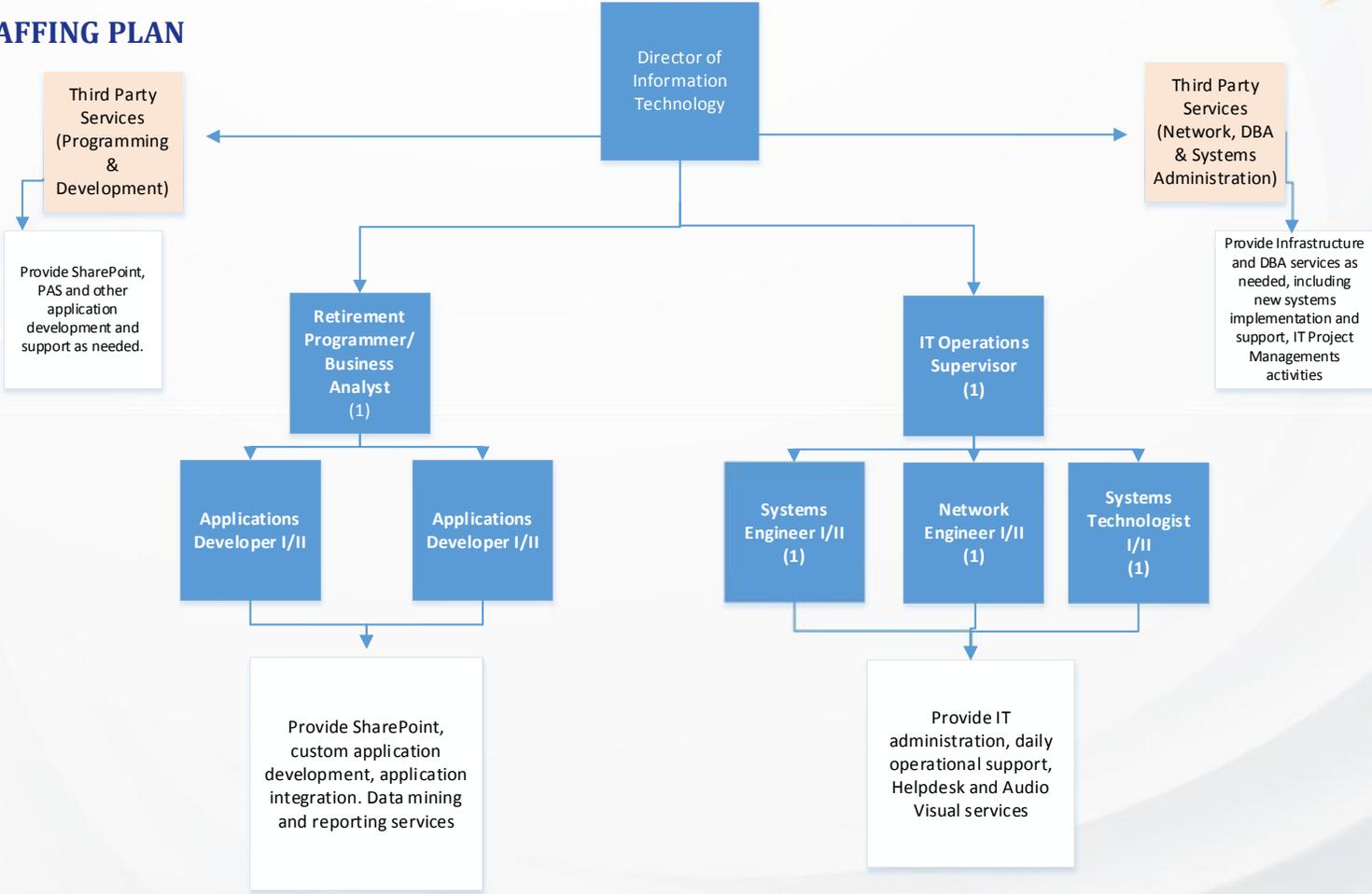
Staffing Plan

108 Budgeted Positions

(includes 3 Part-time Extra Help in Member Services)

INFORMATION TECHNOLOGY DEPARTMENT

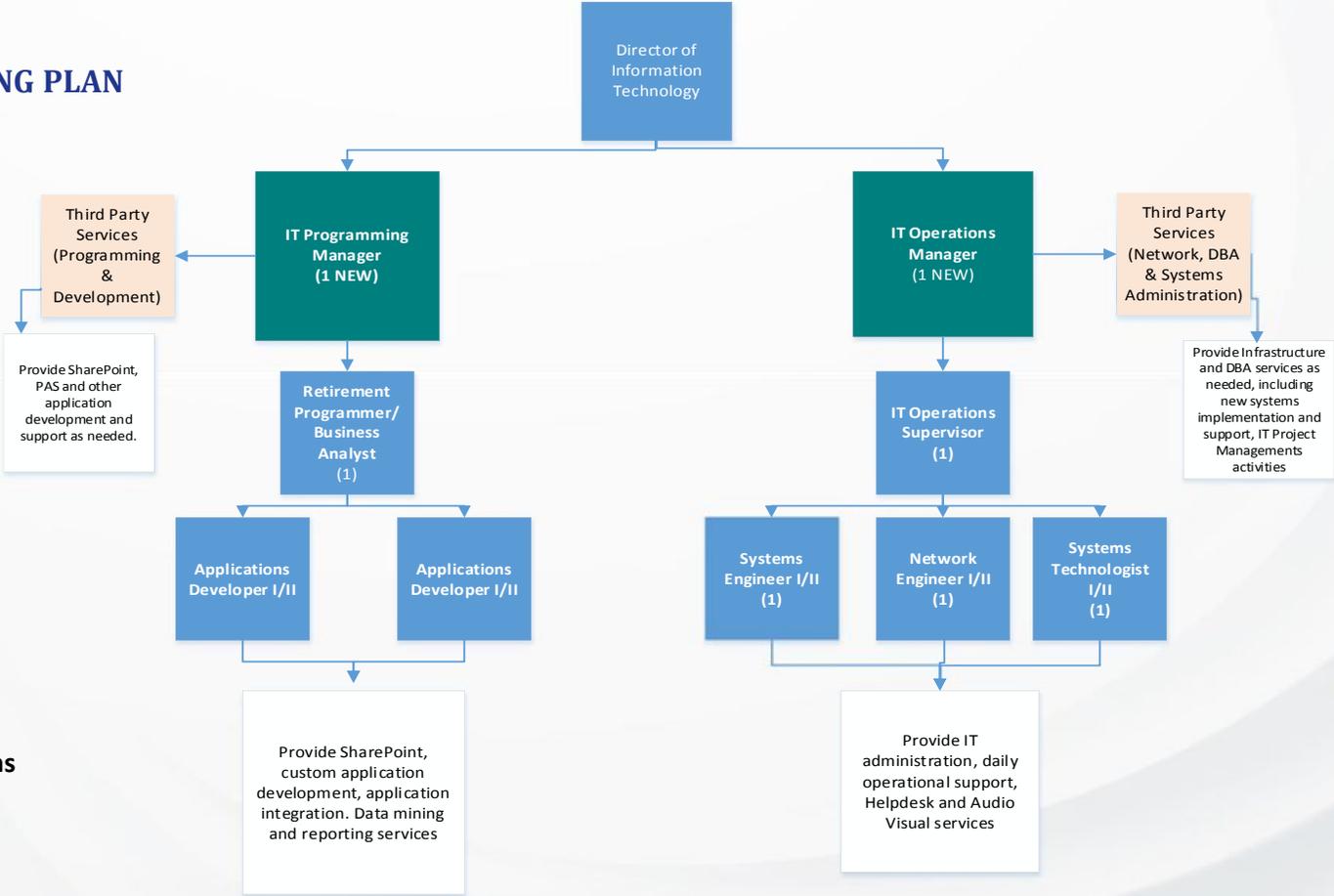
CURRENT STAFFING PLAN



INFORMATION TECHNOLOGY DEPARTMENT

2. Add two (2) new IT Managers to the Information Technology department (Est. cost \$428,000)

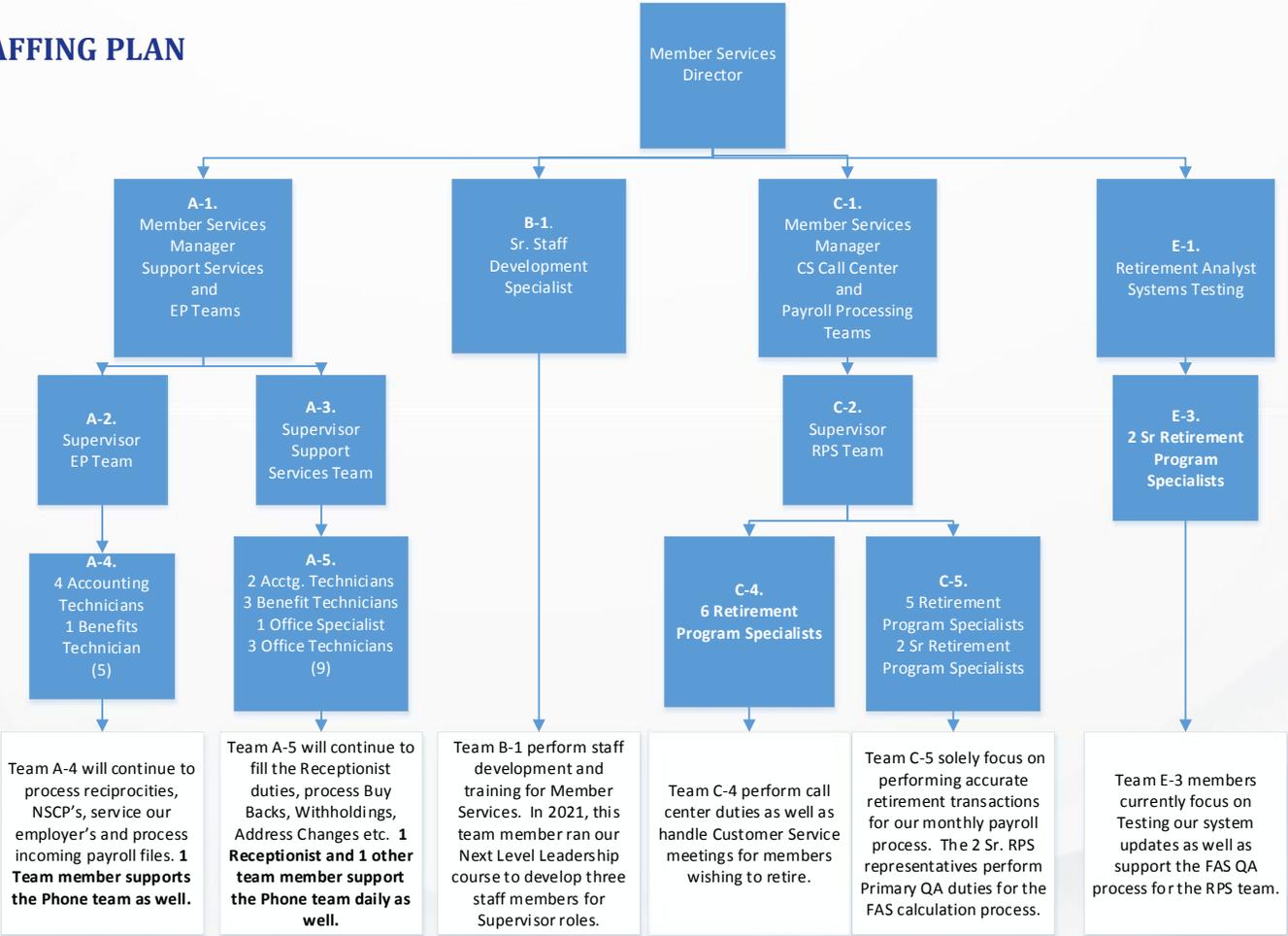
PROPOSED STAFFING PLAN



Proposed Positions

MEMBER SERVICES DEPARTMENT

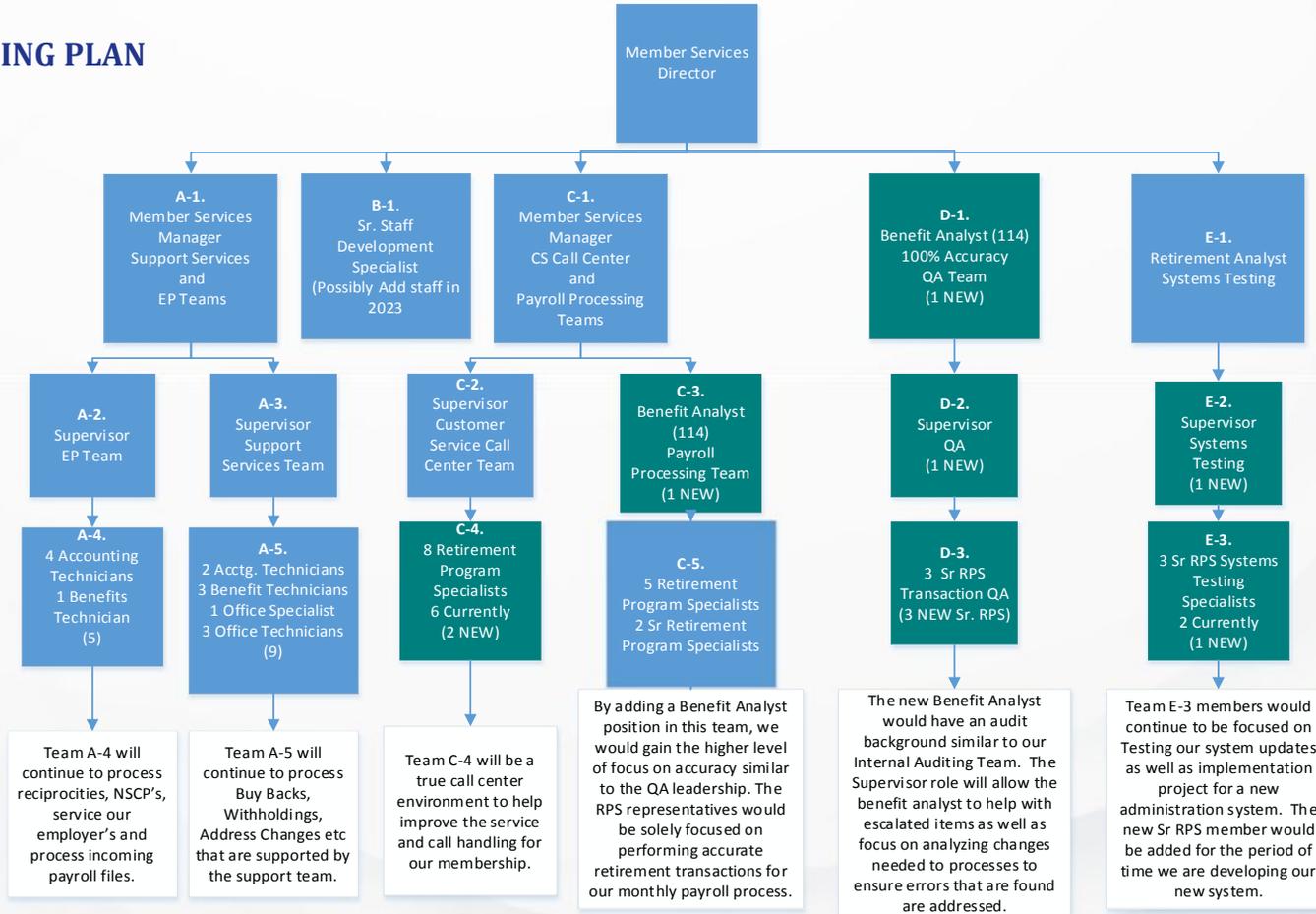
CURRENT STAFFING PLAN



MEMBER SERVICES DEPARTMENT

3. Add a total of ten (10) new positions to the Member Services department (\$1,230,672.10)

PROPOSED STAFFING PLAN



Proposed Positions



RECOMMENDATIONS

Staffing Recommendations for 2022

The Personnel Committee recommends the Board of Retirement approve the following items related to the 2022 Staffing Plan at the October 18, 2021 Board meeting:

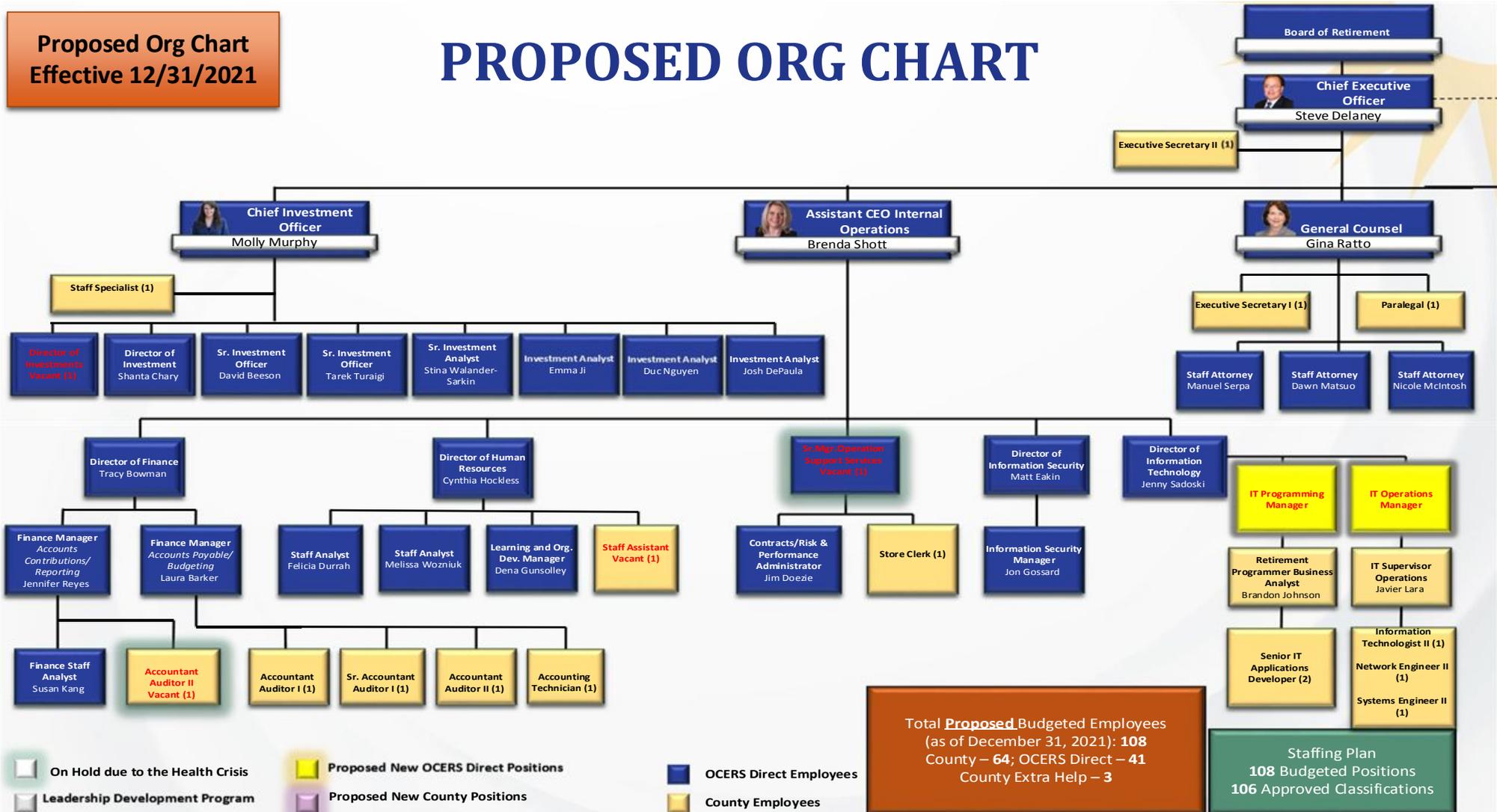
- 1. Add two (2) IT Managers to the Information Technology department (Est. cost \$428,000)**

- 2. Add a total of ten (10) new positions to the Member Services department (Est. total cost \$1,230,672).**
 - a. Two (2) Benefit Analysts (Payroll and QA)**
 - b. Two (2) Retirement Supervisors (QA Depts)**
 - c. Four (4) Senior Retirement Program Specialist (QA Depts)**
 - d. Two (2) Retirement Program Specialist (Call Center)**

The costs above include salaries and a 55% fringe benefits load factor. The total estimated annual cost to increase the OCERS headcount from 96 to 108 is \$1,658,672.

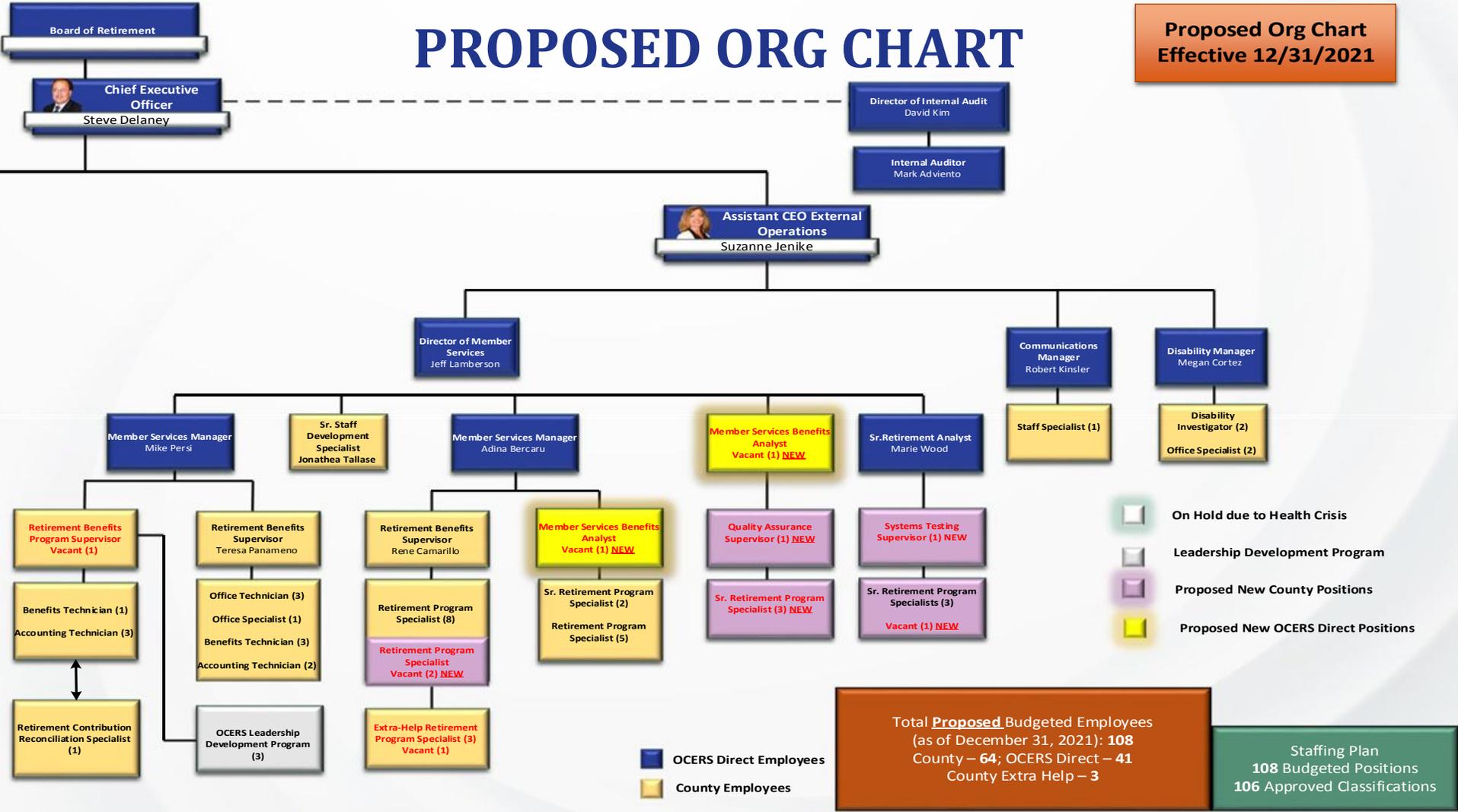
**Proposed Org Chart
Effective 12/31/2021**

PROPOSED ORG CHART



PROPOSED ORG CHART

**Proposed Org Chart
Effective 12/31/2021**





QUESTIONS





APPENDIX





21 Basis Points Test

Orange County Employees Retirement System	
21 Basis Points for Budget Year 2021	
Projected actuarial accrued liability as of December 31, 2020	\$22,980,997,000
21 basis points of projected actuarial accrued liability	48,260,094
FY21 proposed budget amount subject to 21 basis points limitation ¹	<u>20,029,272</u>
Amount under 21 basis points	<u>\$28,230,822</u>
Budgeted amount expressed as basis points of projected actuarial accrued liability-FY21	8.72
Budgeted amount expressed as basis points of projected actuarial accrued liability-FY20	9.04

¹ Reconciliation of amount subject to 21 basis points limitation:

Total FY21 proposed budget	\$ 28,283,900
Less: Investment-related costs	<u>(6,208,728)</u>
Total FY21 proposed administrative budget	22,075,172
Less: IT Capital expenses	-
Computer hardware/software	(698,500)
Information Security-Professional services consulting	(180,000)
InformationTechnology-Professional services consulting	<u>(1,167,400)</u>
FY21 proposed budget amount subject to 21 basis points limitation	<u>\$ 20,029,272</u>

21 Basis Point History					
	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
21 Basis Points	8.55	9.31	8.93	9.04	8.72



Memorandum

DATE: October 18, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **STATE OF OCERS**

Presentation

The annual State of OCERS presentation was originally intended to be considered by the OCERS Board of Retirement in September as part of the Strategic Plan Workshop. With the move to a virtual agenda, and the need to shorten that agenda, this presentation was moved with the Chairs approval to October.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

20115



The Current State of OCERS

An Annual Report

Presented on October 18, 2021

by

Steve Delaney, CEO

The Current State of OCERS



More than \$17.5 billion in assets as of Dec. 2020



The Current State of OCERS

Total Membership (as of Dec. 2020)

47,796

2020	47,796	1.3%
2019	47,196	3.4%
2018	45,629	2.6%
2017	44,471	2.6%
2016	43,485	2.3%
2015	42,427	2.4%
2014	41,418	2.3%
2013	40,486	2.2%
2012	39,618	



The Current State of OCERS

PEPRA (Public Employees Pension Reform Act) - January 2013

Legacy and PEPRA Membership as of December 2020

Active Members		
	Legacy	12,565
	PEPRA	9,266
	Total	21,831
Deferred Members		
	Legacy	4,511
	PEPRA	2,549
	Total	7,060
	Grand Total	28,891

- Between 4% and 5% of Legacy member payroll has been replaced by PEPRA member payroll each year.
- Assuming the trend continues, employer normal costs will decrease by about 0.2% annually until there are no more active Legacy members.



The Current State of OCERS

Total Retirees (as of Dec. 2020)

19,419

2019	18,420
2018	17,674
2017	16,947
2016	16,369
2015	15,810
2014	15,169
2013	14,505
2012	13,947



1.1 active members to retired members

"We provide secure retirement and disability benefits with the highest standards of excellence."



The Current State of OCERS

As of today:

- 100 years young – 17
- Oldest payee – 106 years young
- Number of people who received birthday cards from OCERS to date: 9
- 90-99 years young: 632

Last year's presentation:

- 100 years young – 4
- 90-99 years young – 408



The Current State of OCERS

Benefit Payroll for Calendar Year 2020

\$973,325,000

2019	\$900,902,000
2018	\$828,278,000
2017	\$764,344,000
2016	\$717,976,000
2015	\$675,963,000
2014	\$630,678,000
2013	\$586,284,000
2012	\$541,154,000





The Current State of OCERS

Total Contributions (as of Dec. 2020)

Member Contributions: \$279,384

Employer Contributions: \$659,807

\$939,191,000



The Current State of OCERS

The Promise (as of Dec. 2020)

\$22,904,975,000

2019	\$21,916,730,000
2018	\$20,703,349,000
2017	\$19,635,427,000
2016	\$17,933,000,000
2015	\$17,050,000,000
2014	\$16,413,000,000
2013	\$15,785,000,000
2012	\$15,144,000,000



The Current State of OCERS

THE PROMISE

Actuarial Valuation Date as of December 31	Valuation Value of Assets (a)	Actuarial Accrued Liability (AAL) (b)	Unfunded AAL (UAAL) (b) - (a)	Funded Ratio (%) (a) / (b)	Projected Covered Payroll (c)	UAAL as a Percentage of Projected Covered Payroll (%) [(b) - (a)] / (c)
2011	\$9,064,355,000	\$13,522,978,000	\$4,458,623,000	67.03%	\$1,619,474,000	275.31%
2012	9,469,208,000	15,144,888,000	5,675,680,000	62.52%	1,609,600,000	352.55%
2013	10,417,125,000	15,785,042,000	5,367,917,000	65.99%	1,604,496,000	334.55%
2014	11,449,911,000	16,413,124,000	4,963,213,000	69.76%	1,648,160,000	301.14%
2015	12,228,009,000	17,050,357,000	4,822,348,000	71.72%	1,633,112,000	295.29%
2016	13,102,978,000	17,933,461,000	4,830,483,000	73.06%	1,759,831,000	274.49%
2017	14,197,125,000	19,635,427,000	5,438,302,000	72.30%	1,811,877,000	300.15%
2018	14,994,420,000	20,703,349,000	5,708,929,000	72.43%	1,875,370,000	304.42%
2019	16,036,869,000	21,916,730,000	5,879,861,000	73.17%	1,952,534,000	301.14%
2020	17,525,117,000	22,904,975,000	5,379,858,000	76.51%	1,962,869,000	274.08%



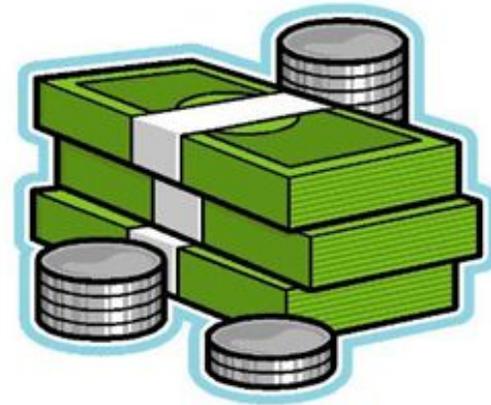
The Current State of OCERS

Fund Assets (as of Dec. 2020)

\$17,525,117,000

2019	\$16,036,869,000
2018	\$14,997,420,000
2017	\$14,197,125,000
2016	\$13,102,978,000
2015	\$12,228,009,000
2014	\$11,450,911,000
2013	\$10,417,125,000
2012	\$9,469,208,000

(Valuation Value of Assets)





The Current State of OCERS

Unfunded Actuarially Accrued Liability

(as of Dec. 2020)

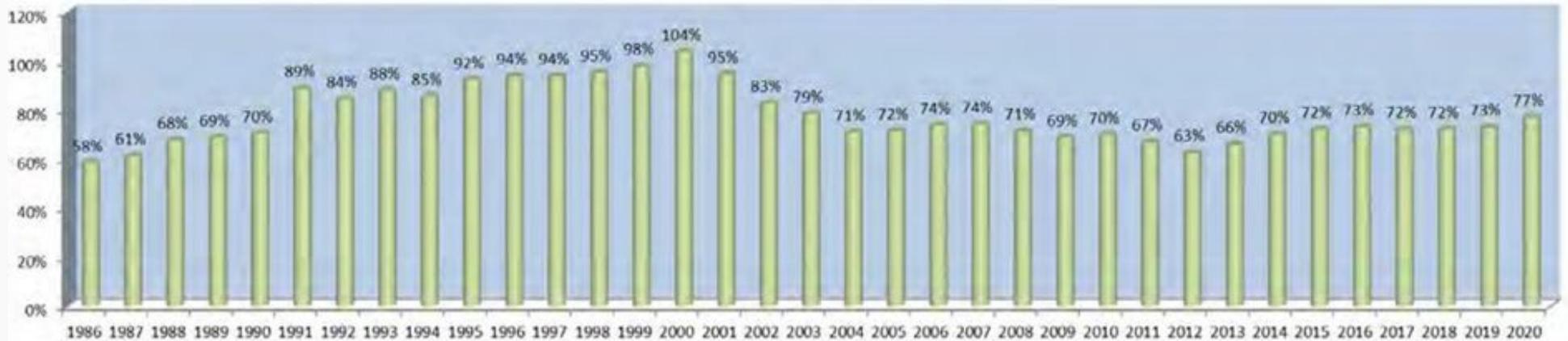
\$5,379,858,000

2019	\$5,879,861,000
2018	\$5,708,929,000
2017	\$5,438,302,000
2016	\$4,830,483,000
2015	\$4,822,000,000
2014	\$4,963,000,000
2013	\$5,367,000,000
2012	\$5,675,000,000



The Current State of OCERS

Funded Ratio by Calendar Years
(Rounded)



(Valuation value) **77%**

The Current State of OCERS

THE OCERS INVESTMENT PROGRAM



- Some thoughts on the OCERS Investment Portfolio through calendar year 2020



The Current State of OCERS

2020 Performance

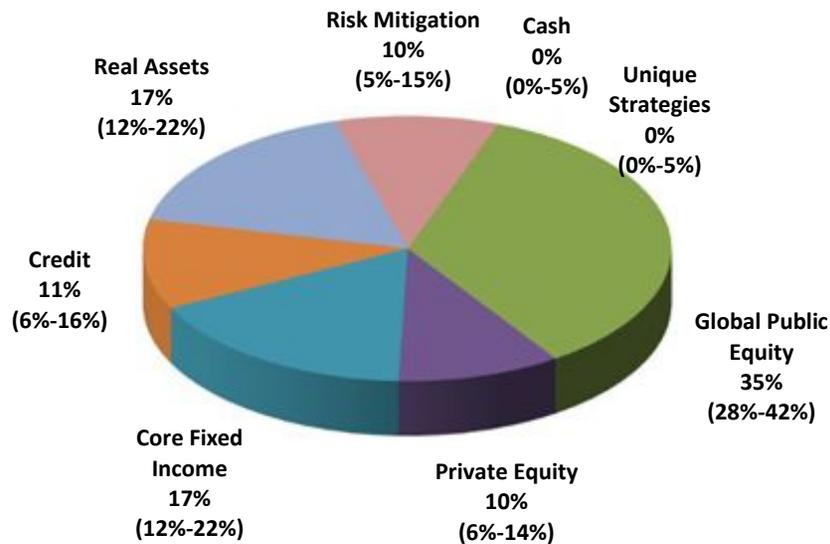
- OCERS' portfolio returned 11.4% net of fees in 2020, outperforming its total plan benchmark of 10.1% and actuarial assumed rate of return of 7.0%
- After OCERS' Investment Committee approved a new asset allocation in April 2020, OCERS' Investment Team rebalanced a large portion of fixed income into equity markets before the Q4 2020 equity rally that benefitted 2020 overall performance
- Global equities experienced a roller coaster year in 2020; OCERS' global equity portfolio declined 22.1% during Q1 2020 when economies began shutting down due to COVID and significantly rallied the rest of 2020 to finish the year up 19.1%
- As the 10-year Treasury declined from 1.9% to 0.9% in 2020, OCERS' fixed income portfolio produced a 9.1% net return



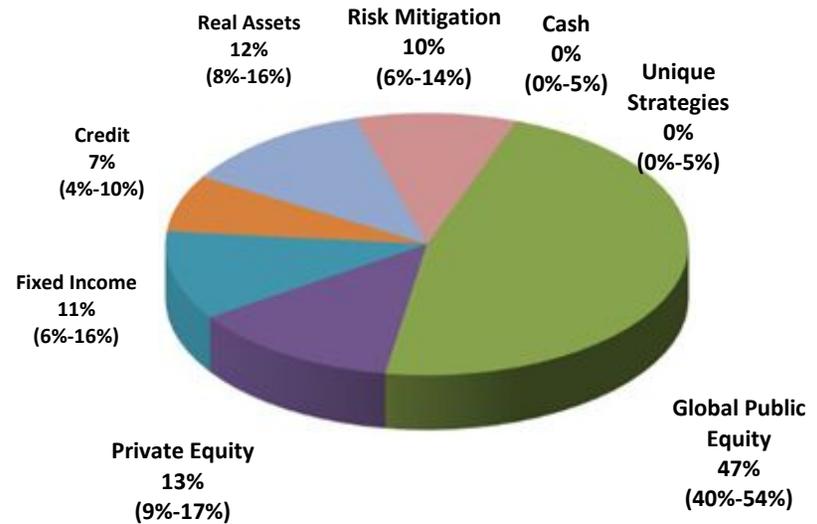
The Current State of OCERS

Asset Allocation Changes

Previous Target Asset Allocation
Prior to April 2020



Current Target Asset Allocation



The Current State of OCERS

OCERS' STAFF





Staffing Summary as of December 31, 2020

Staffing Summary	Total
Budgeted Positions	96
Employees on Staff	89
Vacancies	7
Total New Hires & County Employees Transferred in	5
New Hires (OCERS Direct – <u>2</u> / County – <u>2</u> *EH employees)	4
New Employees Transferred In (County Employees)	1
Third Party Employees:	3
Temporary (Staffing Agency) *2 converted to EH employees	3
Employees Promoted/Reassigned (within Agency)	9



The Current State of OCERS

SUCCESSION PLANNING

“The Board of Retirement will from time to time as determined to be in the best interests of OCERS: Ensure that appropriate succession plans are in place to provide continuity in the OCERS management”

- Section 18(b) OCERS Board of Retirement Charter

The Current State of OCERS

SUCCESSION PLANNING – It's about growing people

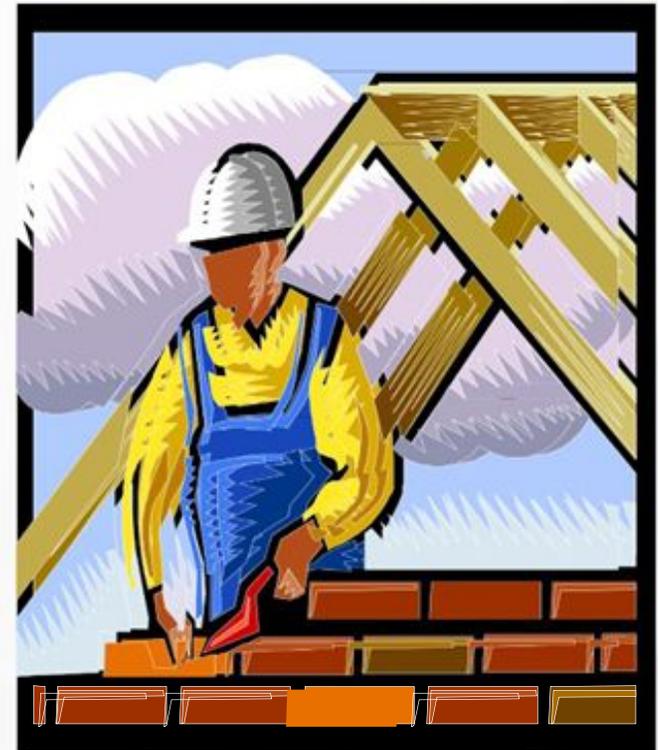
Succession planning is the long term development of staff and skill sets that will serve the agency



The Current State of OCERS

SUCCESSION PLANNING Laying the Foundation

- Determine critical positions
- Identify expected vacancies
- Identify competencies, skills needed for each of those positions
- Assess where current staff stands in meeting those long-term needs





Challenges in 2022 and beyond





Challenges in 2022 and beyond

- **COVID-19 pandemic**
 - Phone system fully functional from home
 - Zero turnover due to COVID process changes
 - Future Hybrid in-person/remote work plan
- **The *Alameda* recalculation**
 - Project manager assisting w/formal plan
- **100% Accuracy goal**
 - Additional staff to assist initially
 - Allows creation of Quality Assurance Unit
 - Leverage of technology long term approach
 - Project Manager assisting with Master Repository of Processes

Challenges in 2022 and beyond

FUNDING LEVEL

76.51%
(December 31, 2020)



Challenges in 2022 and beyond

Improving Mortality and its impact on Liabilities

Age Range	Payee Count
90-99	632
100+	17



Challenges in 2022 and beyond

CYBER SECURITY





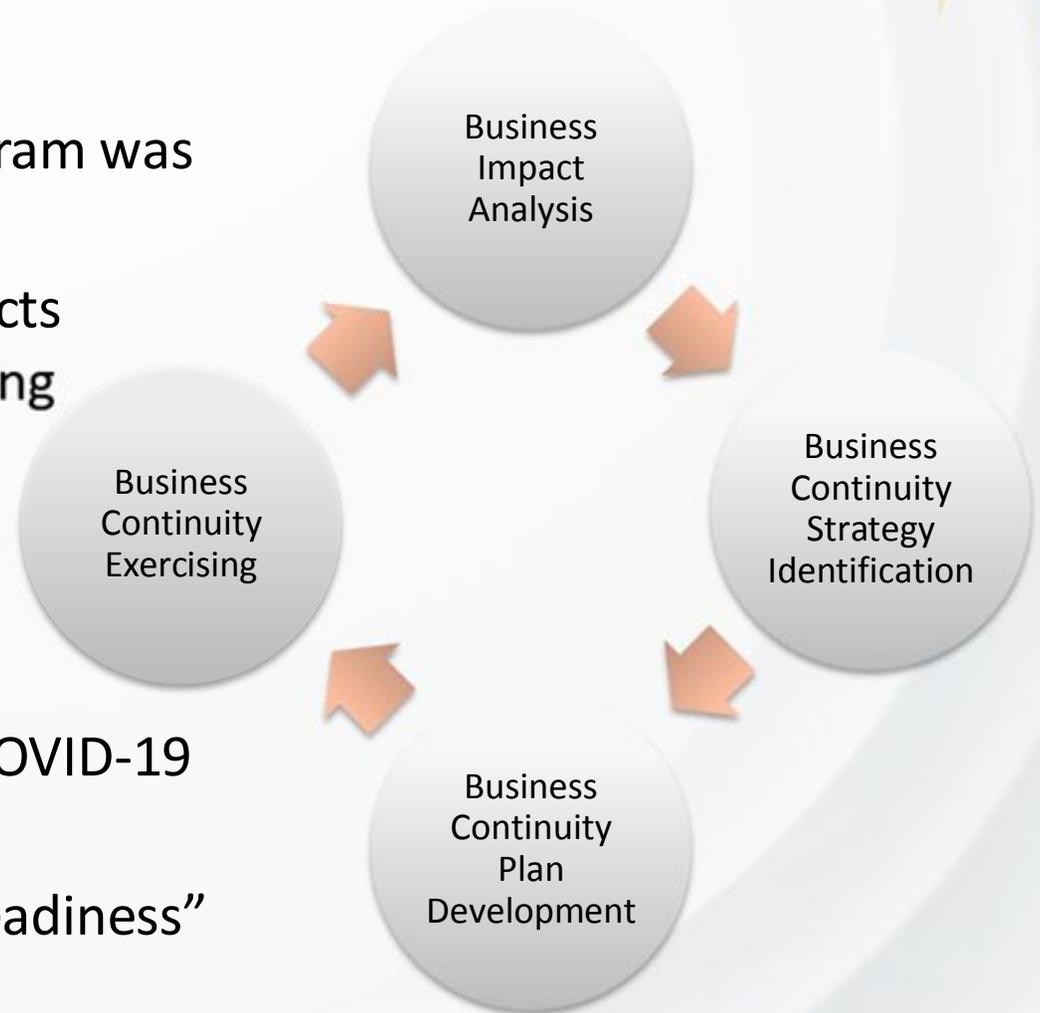
Opportunities in 2022 and Beyond



Opportunities in 2022 and beyond

Business Continuity Program

- OCERS Business Continuity Program was rebooted in 2015
- Crisis Management Team conducts annual tabletop exercises, working through a given scenario to identify plan weaknesses and opportunities for improvement
- Business Continuity Program allowed for quick transition to COVID-19 “new normal”
- OCERS in a state of “practiced readiness” for future events





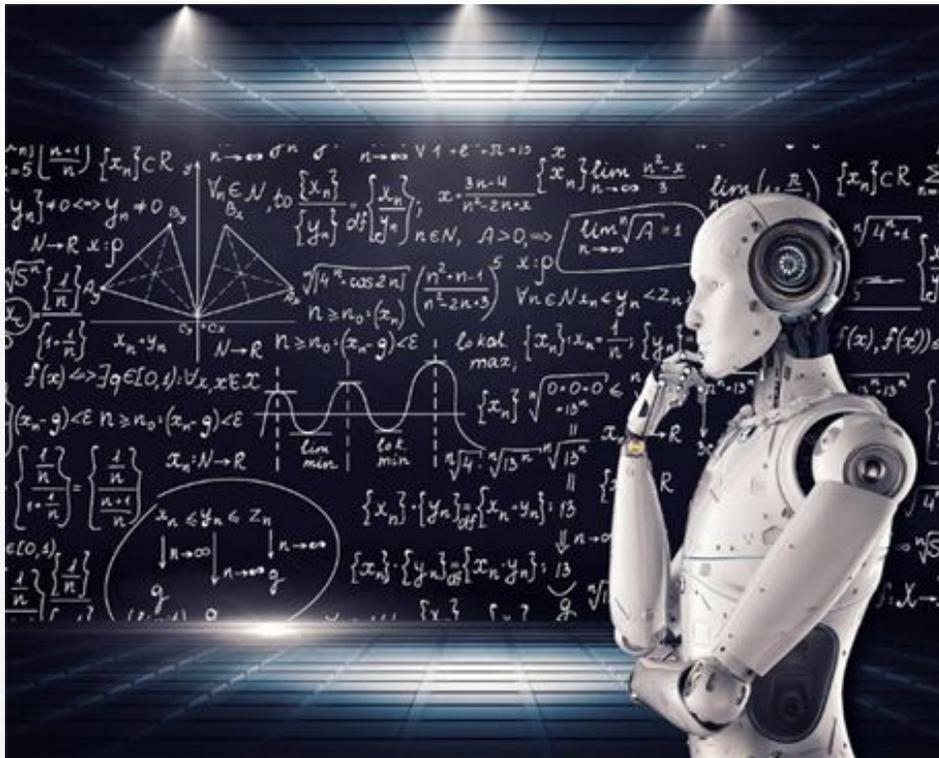
Opportunities in 2022 and beyond

New OCERS Headquarters building determinations



Opportunities in 2022 and beyond

VISION 2030



Artificially Intelligent Pension Administration System (PAS) and Investment Program

- 2022 – RFP for consultant
- 2022 – Initial use cases with V3
- 2022 – 2024 Build new PAS
- 2025 – Launch of new PAS
- 2026-29 – Machine Learning
- 2030 – OCERS includes Artificial Intelligence modules within PAS



Opportunities in 2022 and Beyond

- An oversight Board concerned with volatility
- Conservative assumptions
- 20 year amortization plan
- PEPRA (2013) reduced benefit costs over the long term
- OCERS is still cash flow positive (the hard flip in future)
- Employers' efforts to accelerate the payment of the UAAL:
 - OC Sanitation District
 - OCFA
 - OC Cemetery District
 - OC Public Law Library
 - Children and Families Commission

In summation





Memorandum

DATE: October 18, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **COVID-19 UPDATE**

Presentation

The OCERS staff continues to do a great job meeting the COVID-19 challenge and ensuring that our members receive the services they expect as we fulfil this agency's mission. Rather than provide you with a written report of the agency status prior to the Monday, October 18th meeting of the OCERS Board of Retirement, I will instead provide a verbal update of plan status and challenges at that time. This recognizes the fact that issues impacted by COVID-19 seem to change daily.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

*Orange County Employees Retirement System
Retirement Board Meeting
October 18, 2021
Application Notices*

Member Name	Agency/Employer	Retirement Date
Adams, Larry	OCWR	7/16/2021
Banbury, Norman	Fire Authority (OCFA)	5/7/2021
Bavis, Rachel	County Counsel	7/12/2021
Bellino, Gloria	Health Care Agency	7/2/2021
Bloxom, Anne	Social Services Agency	7/16/2021
Boullion, Donald	Auditor Controller	7/2/2021
Byun, Young	Superior Court	6/8/2021
Caballero, Lucia	Probation	7/16/2021
Carlson, Jeffrey	Fire Authority (OCFA)	8/30/2019
Carter, Sheila	County Executive Office (CEO)	7/16/2021
Casper, Christine	City of San Juan Capistrano	7/15/2021
Chavez, Shirley	Superior Court	7/16/2021
Clouthier, David	Social Services Agency	7/12/2021
Cruz, Elizabeth	Auditor Controller	7/1/2021
Dalnes, Eric	County Executive Office (CEO)	7/2/2021
Dang, Stephanie	Social Services Agency	7/16/2021
D'Angelo, Laura	Superior Court	7/16/2021
Devries, Genevieve	City of San Juan Capistrano	4/28/2021
Diaz, Gloria	Health Care Agency	6/4/2021
Ensley, Randy	Sheriff's Dept	7/19/2021
Escutia, Jaime	OC Public Works	6/12/2021
Evans, Richard	Sheriff's Dept	7/16/2021
Farley, Delbert	OC Public Works	7/9/2021
Flores, Sergio	Superior Court	7/9/2021
Garofalo, Cherie	Superior Court	7/2/2021
Ha, Casie	Auditor Controller	7/12/2021
Ha, Vinh Nhut	OCTA	7/14/2021
Hagler, Karen	Superior Court	7/16/2021
Hernandez, Joey	OCTA	6/26/2021
Ines, Elizabeth	Probation	7/2/2021
Inta, Eppiegene	Probation	7/2/2021
Khau, Huong	Social Services Agency	7/16/2021
Kim, Jeannie	Health Care Agency	7/7/2021
Kwiatkowski, David	John Wayne Airport	7/2/2021
Leak, Anthony	Sanitation District	7/22/2021
Liddington, Stephen	OCTA	6/10/2021
Loveless, Kevin	Sheriff's Dept	7/16/2021
Marasigan, Frederick	Sheriff's Dept	6/30/2021
Mccartney, Leland	OC Community Resources	7/2/2021
Medina, Juana	Superior Court	7/18/2021
Monk, Maura	Fire Authority (OCFA)	7/16/2021
Moore, Ronald	Sheriff's Dept	7/23/2021
Navarro, Arnold	District Attorney	7/8/2021
Navarro, Guillermina	Health Care Agency	7/2/2021
Nguyen, Vu	OCTA	9/5/2018
Noce, Elaine	District Attorney	7/8/2021
Oliver, Bertie	OC Public Works	7/16/2021
Orosco, Al Richard	OCTA	7/19/2021
Pitchford, Darlene	Probation	7/2/2021

Member Name	Agency/Employer	Retirement Date
Prado, Michael	Social Services Agency	7/17/2021
Price, Tony	Health Care Agency	7/16/2021
Probolsky, Brian	OCWR	7/4/2021
Ramos, Francesca	Superior Court	9/26/2020
Risi, Teresa	Superior Court	7/19/2021
Rogers, Shaun	Social Services Agency	7/3/2021
Rosas, Valente	Sheriff's Dept	7/23/2021
Rowley, Brett	Registrar of Voters	7/5/2021
Salgado, Cynthia	OC Community Resources	7/16/2021
Scheidel-Drakodaidis, Alisa	County Executive Office (CEO)	7/6/2021
Shim, Angela	Health Care Agency	7/16/2021
Sohanaki, Roya	Sanitation District	7/16/2021
Steinbach, Cynthia	OC Community Resources	7/16/2021
Swift, Caroline	Superior Court	7/21/2021
Villa, Annette	Health Care Agency	7/16/2021
Watkins, Esther	Social Services Agency	6/5/2021
Wynn, Leslie	Health Care Agency	6/30/2021
Allen, Ricky	OCTA	8/8/2021
Ayers, Sandra	Social Services Agency	8/13/2021
Becker, Theodore	Health Care Agency	7/30/2021
Berg, Elna	Health Care Agency	8/17/2021
Bohan, Lisa	County Executive Office (CEO)	8/13/2021
Brown, Michael	Fire Authority (OCFA)	7/30/2021
Cavileer, Raymond	OC Vector Control District	8/13/2021
Chan, Yau-Hang	OCWR	8/1/2021
Cieply, Jacek	Health Care Agency	8/14/2021
Coggins, Josephine	OCTA	8/4/2021
Collins, Rodney	Sanitation District	8/6/2021
Enriquez, Jeffery	Fire Authority (OCFA)	8/13/2021
Foley, Timothy	Sanitation District	7/30/2021
Fregoso, Manuel	Sheriff's Dept	8/6/2021
Hazard, James	Social Services Agency	7/30/2021
Jackson, Denise	Superior Court	8/20/2021
Johnson, Lisa	Social Services Agency	8/16/2021
Kaliban, Kal	District Attorney	7/30/2021
Kilar, Kathy	OC Public Works	8/13/2021
Lee, Patrick	OC Public Works	8/6/2021
Lopez, Robin	Auditor Controller	7/1/2021
Lownes, Stephen	Health Care Agency	8/13/2021
Lozada, Christina	Sheriff's Dept	8/13/2021
Luege, Carmen	Superior Court	8/1/2021
Mardahl, Paul	Social Services Agency	8/1/2021
Marquez, Anthony	OC Public Works	7/30/2021
Mayer, Kathryn	Social Services Agency	8/13/2021
Miller, Kent	Sheriff's Dept	7/8/2021
Oropeza, Arthur	Probation	7/30/2021
Post, Jerry	Sheriff's Dept	7/2/2021
Ramos, Diane	Sheriff's Dept	8/13/2021
Ries, Donald	OC Public Works	8/4/2021
Teal, Steven	Fire Authority (OCFA)	8/13/2021
Tran, Vinh	OCTA	8/1/2021
Vidal, Esther	Sheriff's Dept	7/30/2021
Vosoughkia, Fataneh	Social Services Agency	8/13/2021
Weiss, Jeffrey	Social Services Agency	8/13/2021
Whitworth, Julie	Superior Court	7/31/2021
Wood, Anthony	Sheriff's Dept	5/22/2021

*Orange County Employees Retirement
Retirement Board Meeting
October 18, 2021
Death Notices*

<i>Active Members</i>	<i>Agency/Employer</i>
Cameros, Romel	Social Services Agency
Carrigan, Sharon	Health Care Agency
Hubbard, Sebastian	OC Public Works
Trinh, Christina	Health Care Agency

<i>Retired Members</i>	<i>Agency/Employer</i>
Aqueche, Luis	Sheriff's Dept
Ash, Tony	OCTA
Avery, Yvonne	Health Care Agency
Bachman, Wyvonne	District Attorney
Bish, Katherine	Health Care Agency
Blount, Maggie	Probation
Brauer, Irene	Superior Court
Brown, Donald	Fire Authority (OCFA)
Bull, Jean	Treasurer - Tax Collector
Canas, John	OC Public Works
Carlson, Mark	OC Public Works
Craig, Harold	OCTA
Devlin, Joseph	OC Public Works
Dudley, Brett	Sheriff's Dept
Duhamel, Gloria	Social Services Agency
Esposito, Bernard	Sheriff's Dept
Fairres, Marshall	Sanitation District
Farrell, Betty	Superior Court
Forbeck, Fred	Assessor
Frazier, Jerry	Probation
French, Barbara	Social Services Agency
Harris, Mary	Social Services Agency
Hefler, John	Sheriff's Dept
Hill, Jimmy	Sheriff's Dept
Ide, Kazuyoshi	Health Care Agency
Jensen, Valerie	Superior Court
Jezak, Nancy	Probation
Johnson, Kathleen	Social Services Agency
Jones, Erma	OCTA
McMillin, Judith	Health Care Agency
Mendez, Julio	Sheriff's Dept
Middleton, Charles	District Attorney
Mitchell, Robert	OCTA
Morales, Robert	OC Public Works
Newe, Carl	Assessor

Newman, Jimmy	Probation
Owens, Glenn	John Wayne Airport
Pelham, Kay	Social Services Agency
Santos, Rustico	Sanitation District
Sasano, Martha	Sheriff's Dept
Scarborough, Elaine	OC Public Works
Shirley, Nancy	Health Care Agency
Sianez, Robert	Health Care Agency
Soldan, Martha	Fire Authority (OCFA)
Storm, Murray	OC Public Works
Tapia, Lina	Social Services Agency
Tapia, Sharon	Superior Court
Tiafau, Brigham	OCTA
Webb, Carl	OCTA
Wilmot, Philip	Fire Authority (OCFA)
Wilson, William	OCTA
Wisniewski, Theresa	OCTA

<i>Surviving Spouses</i>	
Boyer, Joan	
Fitschen, Julia	
Gomes, Angelina	
Ingalls, Nancy	
Jenkins, Barbara	
Love, Mary	
Loya, Carmen	
Odell, Betty	
Overby, Bennette	
Quigg, Mary	
Turner, Fannie	
Williams, Pearl	

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

**BUILDING COMMITTEE MEETING
Tuesday, February 9, 2021
1:00 P.M.**

Members of the Committee

Wayne Lindholm, Chair
Charles Packard, Vice Chair
Adele Tagoloa
Chris Prevatt

MINUTES

Chair Lindholm called the meeting to order at 1:01 p.m.

Recording Secretary 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:

Present: Wayne Lindholm, Chair; Charles Packard, Vice Chair; Adele Tagoloa; Chris Prevatt

Also

Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Anthony Beltran, Visual Technician; Brittany Cleberg, Recording Secretary

Guests via Zoom: Cushman & Wakefield: Lars Platt; Robert Lambert; Brian Booth
Consultant: Mark Smith

CONSENT AGENDA

None

ACTION ITEMS

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

No items were trailed from the Consent Agenda.

Orange County Employees Retirement System
February 9, 2021
Building Committee Meeting – Minutes

INFORMATION ITEMS

I-1 BACKGROUND OF THE BUILDING COMMITTEE AND OCERS HEADQUARTERS PROJECT

Presentation by Brenda Shott, Assistant Chief Executive Officer, Internal Operations, OCERS

I-2 SCOPE AND RESPONSIBILITIES OF THE BUILDING COMMITTEE

Presentation by Brenda Shott, Assistant Chief Executive Officer, Internal Operations, OCERS

I-3 MARKET UPDATE AND OPTIONS FOR THE FUTURE OCERS HEADQUARTERS

Presentation by Cushman Wakefield

WRITTEN REPORTS

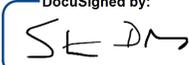
None

COMMITTEE MEMBER/CEO/STAFF/CONSULTANT/COMMENTS

None

The meeting **ADJOURNED** at 2:02 p.m.

Submitted by:

DocuSigned by:

C00D5744FF39463...

Steve Delaney
Secretary to the Committee

Approved by:

DocuSigned by:

3DAD00A9E35B4F2...

Wayne Lindholm
Chair

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

**AUDIT COMMITTEE MEETING
June 4, 2021
1:30 p.m.**

MINUTES

OPEN SESSION

The Chair called the meeting to order at 1:45 pm.

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; Charles Packard

Also Present via Zoom:

David Kim, Director of Internal Audit; Steve Delaney, Chief Executive Officer; Gina Ratto, General Counsel; Brenda Shott, Assistant CEO, Internal Operations; Jenny Sadoski, Director of Information Technology; Tracy Bowman, Director of Finance; Mark Adviento, Internal Auditor; Sonal Sharma-Beeson, Recording Secretary; Anthony Beltran, Audio Visual Technician.

Absent: Jeremy Vallone; Shari Freidenrich

PUBLIC COMMENT

None.

MOTION by Packard, **seconded** by Eley, to approve the Consent items below:

C-1 APPROVE AUDIT COMMITTEE MEETING MINUTES

Audit Committee Meeting Minutes

March 22, 2021

C-2 REQUEST FOR PROPOSAL – FINANCIAL AUDITOR

Recommendation: Staff requests the Audit Committee approve the distribution of a Request for Proposal (RFP) to initiate a search for a financial auditor.

The motion passed **unanimously**.

Audit Committee Meeting
June 4, 2021

A-2 2020 FINANCIAL STATEMENT AUDIT

Presentation by David Bullock and Craig Harner, Macias Gini & O'Connell

Recommendations:

1. Approve OCERS' audited financial statements for the year ended December 31, 2020;
2. Direct staff to finalize OCERS' 2020 Comprehensive Annual Financial Report;
3. Approve the Governmental Accounting Standards Board (GASB) Statement 67 Actuarial Valuation as of December 31, 2020; and
4. Receive and file Macias, Gini & O'Connell LLP's (MGO) "OCERS' Report to the Audit Committee for the Year Ended December 31, 2020" and its "Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards."

MOTION was made by Eley, **seconded** by Packard to approve the above recommendations.

The motion passed **unanimously**.

A-3 GASB 68 VALUATION AND AUDIT REPORT

Presentation by Brenda Shott, Assistant CEO of Internal Operations

Recommendations:

1. Approve OCERS' audited Schedule of Allocated Pension Amounts by Employer as of and for the Year Ended December 31, 2020; and
2. Approve the Governmental Accounting Standards Board (GASB) Statement 68 Actuarial Valuation as of December 31, 2020 for distribution to employers.

MOTION was made by Eley, **seconded** by Packard to approve the above recommendations.

The motion passed **unanimously**.

A-4 CONTINUOUS AUDIT OF FINAL AVERAGE SALARY CALCULATIONS (Q2 2021)

Presentation by David Kim, Director of Internal Audit

Recommendation: Receive and file

MOTION was made by Packard, **seconded** by Eley to approve the above recommendations.

The motion passed **unanimously**.

The Committee took a break at 3:09 pm.

The Committee resumed at 3:24 pm.

The Committee recessed into Closed Session at 3:24 pm.

The Committee resumed at 4:36 pm.

Audit Committee Meeting
June 4, 2021

E-1 THREAT TO PUBLIC SERVICES OR FACILITIES (GOVERNMENT CODE SECTION 54957)

Adjourn into Closed Session pursuant to Government Code section 54957 to consult with *Steve Delaney, CEO, Brenda Shott, Asst. CEO; Matthew Eakin, Director of Information Security; Jenny Sadoski, Director of Information Technology; Jon Gossard, Information Security Manager; and Gina M. Ratto, General Counsel*

Recommendation: Take appropriate action.

The Audit Committee took no reportable action.

INFORMATION ITEMS

- I-1 OPERATIONAL RISK MANAGEMENT ANNUAL REPORT**
Presentation by Brenda Shott, Assistant CEO of Internal Operations
- I-2 STATUS UPDATE OF 2021 AUDIT PLAN**
Written Report
- I-3 MANAGEMENT ACTION PLAN VERIFICATION**
Written Report

COMMITTEE MEMBER COMMENTS

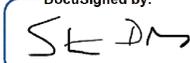
CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

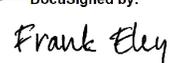
ADJOURNMENT

The Chair adjourned the meeting at 4:38 pm.

Submitted by:

DocuSigned by:

C00D5744FF39463...
Steve Delaney
Secretary to the Board

Approved by:

DocuSigned by:

9F34288D95E2472...
Frank Eley
Chair

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

PERSONNEL COMMITTEE MEETING

Wednesday, June 9, 2021

10:00 AM

Members of the Committee

Roger Hilton, Chair

Shawn Dewane, Vice Chair

Chris Prevatt

MINUTES

Roger Hilton called the meeting to order at 10:02 a.m.

Recording Secretary administered the Roll Call attendance.

All committee members were present.

Attendance was as follows:

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

Present: Roger Hilton, Chair; Shawn Dewane, Vice Chair; Chris Prevatt

Also

Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Molly Murphy, Chief Investment Officer; Gina Ratto, General Counsel; Cynthia Hockless, Director of Human Resources; Anthony Beltran, Visual Technician; and Cammy Torres, Recording Secretary

PUBLIC COMMENTS

None

CONSENT AGENDA

C-1 COMMITTEE MEETING:

Personnel Committee Meeting

May 27, 2021

Recommendation: Approve minutes.

Mr. Hilton *pulled* item C-1.

ACTION ITEMS

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

C-1 COMMITTEE MEETING:

Personnel Committee Meeting

May 27, 2021

Mr. Hilton asked for the Committee members to be updated to the current members on the first page of the minutes.

MOTION by Prevatt, **seconded** by Dewane, to approve the May 27, 2021 minutes with the updated Committee members change.

The motion passed **unanimously**, pursuant to a Roll Call vote, as follows:

<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mr. Dewane			
Mr. Prevatt			
Chair Hilton			

A-2 OCERS COMPENSATION STUDY

Presentation Steve Delaney, CEO; Cynthia Hockless, Director of Human Resources, OCERS; & Igor Shegolev, Senior HR Consultant, CPS HR

After discussion by the Committee, **MOTION** by Dewane, **seconded** by Prevatt, to approve and recommend that the Board approve staff recommendation 3, 4, and 5:

3. Approve an annual adjustment of the salary ranges equal to the Employer Cost Index for Salaries and Wages for the previous 12-month period, as published by the U.S. Department of Labor, Bureau of Labor Statistics, and perform a formal review of the ranges at least every five years to keep the pay structure current
4. Approve a pay philosophy that allows OCERS to administer an annual performance merit based step increase in the amount of 2.75% to progress employees through the salary ranges. Employees will receive salary increases based on the performance rating received in their annual performance evaluation as follows: Meets = Base increase equal to inflation, Exceeds = Base + 1 step of 2.75% and Exceptional = Base + 2 steps or 5.5%.
5. Approve the recommended changes to the OCERS Compensation Policy (previously named OCERS Compensation Philosophy)

The motion passed **3-0**, pursuant to a Roll Call vote, as follows:

<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mr. Dewane			
Mr. Prevatt			
Chair Hilton			

DocuSign Envelope ID: 16ECA75E-D996-42DD-8811-501A370F4259

Orange County Employees Retirement System
June 9, 2021
Personnel Committee Meeting - Minutes

Page 3

COMMITTEE MEMBER/CEO/CONSULTANT/COUNSEL COMMENTS

None

The meeting **ADJOURNED** at 10:43 p.m.

Submitted by:

DocuSigned by:

C00D5744EE39463

Steve Delaney
Secretary to the Committee

Approved by:

DocuSigned by:

E2E579A3004E4B5...

Chris Prevatt
Chair



Memorandum

DATE: October 18, 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

NOVEMBER

- OCERS Administrative Budget for Fiscal Year 2022
- Election of the Vice Chair
- CEO Personnel Review and Compensation Discussion
- General Member Election Outcome

DECEMBER

- Adopt Annual Work Plan for Calendar Year 2022
- REAOC Annual Update

JANUARY

- 2021 Year in Review: Communication Plan
- 2021 OCERS Innovations
- 2021 Disability Statistics
- 2021 Board Education
- Communication Policy Fact Sheet
- Form 700 Filing Requirements

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)								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: October 18, 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 Financial Auditor Services was distributed in July. This RFP is to put into place a Financial Auditor Agreement as the prior vendor agreement with MGO has expired and cannot be extended. We received seven bids that are currently being evaluated.

Submitted by:

Jim Doezie
Contracts, Risk and Performance Administrator



Memorandum

DATE: October 18, 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:

- The following article from the employment firm Korn Ferry, is an interesting overview of what appears to be a rising challenge for many employers – The Great Resignation:
https://www.kornferry.com/insights/this-week-in-leadership/the-great-resignation-forges-on?utm_campaign=09-16-21-twil&utm_source=marketo&utm_medium=email%20&mkt_tok=NDk0LVZVQy00ODIAAAF_jgsZbLUNh3pDuL4r--bdTVQvEZW1DeV74liNDcmmajhahCocrs1EixYOxWuzOPT0D39sfvDMxwYUWMGGPlww9VMkJ-SfECuF0NuKJgm6dmzpkfc

From Robert Kinsler:

- “Changing Energy Landscape Fuels Infrastructure Investing” (Pensions & Investments)
<https://www.pionline.com/alternatives/changing-energy-landscape-fuels-infrastructure-investing>
- “Manhattan West Appoints Reggie Tucker as Managing Director” (Valdosta Daily Times):

https://www.valdostadailytimes.com/news/business/manhattan-west-appoints-reggie-tucker-as-managing-director/article_66c598d8-2e04-5ee3-843b-27585fd0296b.html

- "Ex-OCERS Director of Investments Lands Investment Management Gig" (Institutional Investor):
<https://www.institutionalinvestor.com/article/b1thm8b38g9185/Ex-OCERS-Director-of-Investments-Lands-Investment-Management-Gig>
- "Orange County Employees posts 26.2% return for fiscal year" (Pensions & Investments)
<https://www.pionline.com/pension-funds/orange-county-employees-posts-262-return-fiscal-year>
- "Dalio's Hedge Fund Risks Being Dumped by Pension on Weak Returns" (Bloomberg)
<https://www.bloomberg.com/news/articles/2021-09-02/dalio-s-hedge-fund-risks-being-dumped-by-pension-on-weak-returns>

Attached:

- OCERS Activities for July 2021

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Monthly Team Status July 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 July.

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	41
May	44	47	55
June	52	63	52
July	56	288	71
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	Member		Direct to			Total Calls (monthly)
	Unplanned Recalculations	Satisfaction Approval Rate	Queue Calls Received	Extension Calls	Operator Calls Received	
January	2	100%	2,606	4,867	992	8,465
February	1	100%	2,618	4,839	1,811	9,268
March	1	95%	2,947	5,630	1,599	10,176
April	0	95%	2,830	5,120	1,146	9,096
May	4	95%	2,552	4,731	973	8,256
June	1	95%	2,010	4,601	747	7,358
July	4	95%	1,936	4,375	834	7,172
Grand Total	13	96%	17,499	34,163	8,102	59,791

MEMBER SURVEY RESPONSE

“As a reciprocal member, I found the OCERS process to be easy and painless. I was especially impressed by my customer service representative. They had kept him in the loop on everything. They would return phone calls and contact me upon receipt of any paperwork I had to send in. That was the part I appreciated the most.”

July 2021

“As a member with Reciprocity, I have been working with four retirement systems in total. I really appreciated how detailed OCERS has been throughout the process. The OCERS customer service representative made me feel like they had everything under control. This made the entire process extremely stress free.”

June 2021

“The process was easy to use and follow. He especially liked that his first congratulations on having decided to retire came from his OCERS representative when he came in for his appointment. It reassured him that he was doing the right thing.”

May 2021



Monthly Team Status

July 2021

ACTIVITIES

INVESTMENT TEAM

Mr. Beeson reports on June activity:

As of June 30, 2021, the portfolio year-to-date is up 9.8% net of fees, while the one-year return is up 26.2%. The fund value now stands at \$21.5 billion. The OCERS Investment team continued to work effectively remotely during the coronavirus pandemic in July. OCERS' Investment Team added one new strategy to the portfolio during the month. OCERS committed \$75 million to ISQ Global Infrastructure Fund III within the real assets portfolio. The fund will invest globally in diversified infrastructure assets within power and utilities, digital infrastructure, transport, social infrastructure, and energy. OCERS also closed on its first co-investment in the new co-investment program within private equity. OCERS committed \$10 million to the T-VIII Mercury Co-Invest Fund in a financial services company alongside OCERS' existing private equity manager Stone Point Capital. OCERS' Investment Team transitioned OCERS' \$588 million investment in the BlackRock U.S. Tips Fund into the BlackRock 0-5 Year U.S. Tips Fund. The BlackRock 0-5 Year U.S. Tips Fund has lower duration and is expected to offer better protection against unexpected increases in inflation. OCERS' Investment Team and Meketa completed the risk mitigation asset class review during July. Since its inception in 2017, the risk mitigation program has delivered on its portfolio objectives of protecting against an equity market decline (during Q1 2020) and having a positive return over a cycle. The OCERS Investment Team continues to work on request for proposals (RFPs) for its investment consultants and plans to release the RFPs at the end of August for general/risk consultant, real estate consultant, and an illiquid investment consultant.

UPDATES

OCERS VOLUNTEER PROGRAM

Ms. Hockless shares some inspiring news from an individual who worked alongside us at OCERS as part of her Volunteer Program outreach:

The OCERS Volunteer program took a hiatus in March 2020, due to the decision to transition the majority of its workforce to a telework schedule. Before the hiatus, John Nguyen volunteered in our Human Resources Department. As a volunteer, John supported the department on multiple projects including recruitment, risk, and training initiatives. When John first joined OCERS, he was a recent graduate of California State Long Beach, with a degree in Communication Studies and a minor in Information Systems.

During the hiatus of the Volunteer program, John chose to pursue employment opportunities with the County of Orange. In August 2020, John accepted an Extra-Help Office Specialist position with the Orange County, Clerk-Recorder's Office and in January 2021, John accepted a regular, full-time position with



Monthly Team Status

July 2021

them. Shortly after, John was appointed to a Lead role in the South County Branch office. In his Lead role, John serves as a backup to the supervisor, interprets policies and procedures for customers, and assists with opening and closing the office.

In July, John contacted OCERS to share that he was selected as the Employee of the Month. The Clerk-Recorder's Office recognized John for his dedication to providing excellent customer service. His current supervisor noted that John demonstrates outstanding professionalism and exhibits superior customer service skills. Both customers and his co-workers noted his kind demeanor and positive attitude. John's accomplishments include his ability to organize and prioritize tasks effectively and efficiently and is reliable in supporting his supervisor and team.

OCERS is proud of John and his accomplishment. As an alumnus of the OCERS Volunteer program, OCERS is honored to be a part of John's career journey. The Human Resources Department plans to continue the Volunteer program once normal operations resume at the OCERS headquarters.



100% ACCURACY

As we focus on our goal of 100% accuracy in benefit calculations, we took two important steps to support that goal in July:

1. I formed an Artificial Intelligence/Machine Learning/Robotic Process Automation ad hoc Committee, of internal OCERS staff, charged in this early stage with brainstorming how we might leverage technology in our goal of 100% Accuracy. The Board will hear more about this at the September Strategic Planning Workshop as I lay out what I call "Vision 2030".



Monthly Team Status

July 2021

2. The completion of a Master Repository of Written Processes and Procedures is vital to lay the foundation for any future technology applications to our work. It simultaneously helps us in providing desk manual quality direction to OCERS staff right now, assisting in accuracy and consistency. To that end, we hired a project manager, Ms. Judy Barbuto, to guide these ongoing efforts.

OCERS ADMINISTRATIVE PROCEDURES (OAP)

In a similar vein, we have been working for some years now in the buildup of written administrative procedures, not unlike administrative rules, which are published on the OCERS website. The goal being to assist our stakeholders, be they members or employers, in better understanding how OCERS will administratively handle what are often difficult and unusual situations. With Mr. Fletcher's departure from his temporary position in the Legal Department, Ms. Ratto has assigned Mr. Serpa the task of picking up the baton and carrying on this long term project.



As a reminder you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the October 18 meeting of the OCERS Board of Retirement.



Memorandum

DATE: October 18, 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 convened on January 11, 2021, beginning the two-year legislative session. September 10, 2021 was the last day for each house to pass bills; and October 10, 2021 was the last day for the Governor to sign or veto bills passed by the Legislature before September 10th. **This report is current as of October 1, 2021, and notes the bills that were signed by the Governor on or before October 1, 2021.**

A comprehensive list and summary of the pending bills that staff is monitoring 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)

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: Signed by the Governor and Chaptered by the Secretary of State on 06/28/21. Amendments take effect on 01/01/22.)

SACRS Sponsored Bill

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 and creates the Cash Balance Benefit Program 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, and requires a member to return the total gross distribution amount of all payments for any canceled retirement benefit, including a lump-sum payment. 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 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.

The PERL authorizes certain members of CalPERS who are employed to perform service covered by the Defined Benefit Program of the State Teachers' Retirement Plan to elect to retain coverage by CalPERS for this service under specified conditions, including that the member submit a written election to retain coverage to CalPERS on a prescribed form and that a copy of the form be submitted to CalSTRS. This bill would instead require the member to submit the election to retain coverage to the employer and would delete the requirement that a copy of the form be submitted to CalSTRS. The bill would require the employer to retain a copy of the employee's signed election form and submit the original signed form to PERS.

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.

The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by CalPERS, governs the funding and provision of postemployment health care benefits for eligible retired public employees and their beneficiaries. Under PEMHCA, if specified firefighters and peace officers die as a result of injuries or disease arising in the course of their duties, their uninsured surviving spouses and eligible family members are deemed annuitants, as specified, and may be enrolled in health benefit plans. This bill would authorize, for purposes of the above-described provisions, a notification of the death of any firefighter or peace officer to come from any reliable and verifiable source. The bill would make conforming changes regarding the duties of employers in these circumstances.

(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 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.

(STATUS: **Signed by the Governor and Chaptered by the Secretary of State on 09/16/21.**)

Bills that Would Amend the CERL or PEPR

AB 761 (Chen)

See description, above.

AB 498 (Quirk-Silva)

CERL defines compensation earnable for purposes of its provisions, with particular application to the calculation of final compensation and the determination of pension amounts and other benefits. In this regard, "compensation earnable" by a member means the average compensation as determined by the retirement board, for the period considered based on the average number of days ordinarily worked by persons in the same grade or class of positions during the period, as specified. PEPR prescribes various limitations on public employees, employers, and retirement systems concerning, among other things, the types of remuneration that may be included in compensation that is applied to pensions.

This bill would delete the term "grade" and replace it with the term "group" for purposes of the definition of compensation earnable, as described above. The bill would define the phrase "group or class of positions" for purposes of this definition to mean a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping, and

would specify that a single employee is not a group or class. The bill would state that its changes are declaratory of existing law and would make a declaration of legislative intent in regards to its application. (STATUS: AB 498 was originally introduced as a Computer Science Access Initiative. In the Senate on 09/10/21, the bill was gutted and replaced with language to amend the CERL. It was referred to Com. on RLS on 09/10/21.)

AB 826 (Irwin) Amended in Senate on 08/31/21. Applicable only to Ventura County.

This bill, which would apply only in Ventura County, would provide that compensation and compensation earnable include flexible benefits plan allowances paid by a county or a district on behalf of its employees as part of a cafeteria plan, as specified, if certain requirements are met. Among these conditions, the bill would require that the retirement system included the flexible benefit plan allowance as part of compensation earnable as of July 30, 2020, that the employer and employee paid contributions to the retirement system based on the flexible benefit plan allowance, and that an employer and an employee continues to pay those contributions as employee earns this allowance. The bill would apply these provisions to eligible members who have retired prior to the effective date of the measure and would state that these provisions are declarative of existing law.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Ventura.

The bill would add section 31461.7 to the Government Code, to read:

31461.7.

(a) This section applies only to a county of the thirteenth class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28034, as amended by Chapter 1204 of the Statutes of 1971.

(b) (1) Compensation, as defined in Section 31460, and compensation earnable, as defined in Section 31461, include flexible benefits plan allowances paid by a county or a district on behalf of its employees as part of a cafeteria plan offered pursuant to Section 125 of the Internal Revenue Code if all of the following requirements are met:

(A) The flexible benefit plan allowance is made available to any person in the same grade or class of positions. For purposes of this subdivision, "grade or class of positions" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical, work-related grouping. A single employee shall not be considered a grade or class of positions.

(B) The flexible benefit plan allowance is not expressly excluded from "compensation earnable" pursuant to paragraphs (2) to (4), inclusive, of subdivision (b) of Section 31461.

(C) The retirement system included the flexible benefit plan allowance as part of compensation earnable as of July 30, 2020, and the employer and employee paid contributions to the retirement system based on the flexible benefit plan allowance as of that date.

(D) The employer and employee pay the required contributions to the retirement system as the employee continues to earn the flexible benefit plan allowance.

(2) For employee groups in which the monetary amount of the flexible benefits plan allowance is the same for all employees, regardless of the number of dependents, the entire amount shall be included in compensation earnable. For employee groups in which the monetary amount of the flexible benefits plan allowance varies among employees depending on the number of dependents, the amount included in compensation earnable shall be the amount provided to an employee with no dependents.

(c) This section shall only apply to employees who are not new members, as defined in Section 7522.04.

(d) Paragraphs (1) and (2) of subdivision (b) shall apply to any eligible member who has retired prior to the effective date of this section, as permitted by subdivision (a) of Section 31481.

(e) This section is declarative of existing law.

(STATUS: Introduced 02/16/21 as bill to amend the Public Resources Code. Bill was gutted and replaced with language that would amend the CERL on 06/21/21. **In Senate, read third time, amended to apply only in Ventura County and ordered to second reading on 08/31/21. Read second time and ordered to third reading on 09/01/21. Ordered to inactive file at the request of Senator Limón on 09/08/21.**)

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. PEPRAs generally requires a public retirement system to modify its plan or plans to comply with PEPRAs 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 PEPRAs 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: Signed by the Governor and Chaptered by the Secretary of State on 07/23/21.)

SB 634 (Cortese, Durazo, Laird, Newman, and Ochoa Bogh)

See description, above.

Bills that Would Amend the Brown Act

AB 339 (Lee) Amended in Senate on 08/25/21 and 09/03/21

This bill would, until December 31, 2023, require all open and public meetings of a city council or a county board of supervisors that governs a jurisdiction containing least 250,000 people to include an opportunity for members

of the public to attend via two-way a telephonic option or a two-way internet-based service option, as specified, and would require a city council or county board of supervisors that has, as of June 15, 2021, provided video streaming, as defined, of at least one of its meetings to continue to provide that video streaming. It would also require all open and public 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 or an internet-based service option, as provided. **This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 361 to be operative only if this bill and AB 361 are enacted and this bill is enacted last.**

(STATUS: Read third time in Assembly; passed; ordered to Senate on 06/02/21. **Passed by Senate and ordered to Assembly on 09/09/21. Assembly concurrence in Senate amendments on 09/09/21. Enrolled and presented to the Governor on 09/17/21.)**

AB 361 (R. Rivas) – Amended in Senate on 08/30/21 and 09/03/21

This bill, until January 1, 2024, 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 during a declared state of emergency as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health and safety of attendees, as provided.

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 offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

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. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of 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 make those findings every 30 days thereafter in order to continue to meet under these teleconferencing procedures.

Existing law prohibits a state body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance. This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

The bill would amend provisions of the Bagley-Keene Open Meeting Act to authorize, until January 31, 2022, state bodies to hold public meetings through teleconferencing without compliance with certain requirements of existing law, including the requirements that each teleconference location be accessible to the public. The bill would make similar amendments to the Gloria Romero Open Meetings Act of 2000 applicable to student body organizations of California State University campuses.

This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last. This bill would declare that it is to take effect immediately as an urgency statute.

(STATUS: Signed by the Governor and Chaptered by the Secretary of State on 09/16/21.)

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 has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities.

This bill would remove the notice requirements particular to teleconferencing and would revise the requirements of the Brown Act to would allow for teleconferencing *provided that*:

- Existing provisions regarding the posting of notice of an agenda are met;
- 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;
- 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;
- 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
- 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.)

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 email 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: Passed in Senate and ordered to Assembly on 04/21/21. In Assembly, read first time on 04/22/21. Read second time on 07/08/21. **Read third time, passed and ordered to Senate on 08/23/21. In Senate, ordered to Engrossing and Enrolling on 08/26/21. Enrolled and presented to the Governor on 08/30/21.**)

Bills that Would Amend Other Laws Applicable to OCERS**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: Signed by the Governor and Chaptered by the Secretary of State on 07/09/21.)

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 amend the Bagley-Keene Act (applicable to state bodies) to 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. 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. Read second time; amended; and re-referred to Com. on B & F.I on 04/13/21. Read second time; amended; re-referred to Com. on E.Q on 04/22/21. Re-referred to Com. on APPR on 04/29/21. Held in committee and under submission on 05/20/21.)

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. Read second time and amended on 04/28/21. Ordered third reading on 05/13/21. Read third time; passed; ordered to Senate on 06/01/21. Read first time in Senate on 06/02/21. Referred to Coms. on L, P.E & R and JUD on 06/09/21. From committee: Do pass and re-refer to Com. on JUD on 06/22/21. From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on JUD on 06/29/21. In committee: Set, first hearing; failed passage; and reconsideration granted on 07/13/21.)

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: Passed in Assembly and ordered to the Senate on 05/06/21. Read first time in Senate on 05/19/21. **Read second time on 08/16/21. Read third time, passed and ordered to Assembly on 09/08/21. In Assembly, ordered to Engrossing and Enrolling on 09/08/21. Enrolled and presented to the Governor on 09/15/21.**)

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. Read second time; ordered to third reading on 05/06/21. Ordered to inactive file by author on 06/03/21.)

AB 890 (Cervantes)

This bill would require, until January 1, 2028, the Boards of CalPERS and CalSTRS to provide reports to the Legislature, commencing March 1, 2023, 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, 2022, and be based on information from the prior fiscal year.

(STATUS: Passed Assembly and ordered to Senate on 06/01/21. Read first time in Senate on 06/02/21. **Read second time; ordered to third reading on 08/16/21. Read third time, passed and ordered to the Assembly on 08/26/21. In Assembly, ordered to Engrossing and Enrolling on 08/26/21. Enrolled and presented to the Governor on 09/01/21.**)

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: Introduced and read first time on 02/18/21. 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 and the Judges' Retirement System II, both of which are administered by CalPERS. Existing law establishes the Legislators' Retirement System, also administered by the CalPERS which provides pension and other benefits to those members of the Legislature and specified state and statutory officers who have elected to become members. Existing California constitutional provisions prohibit the provision of retirement benefits to members of the Legislature and, on and after January 1, 2013, the Legislators' Retirement System was closed generally to new members. Federal law limits the amount that a public employee defined benefit plan may pay a participant annually, and requires that this limitation be adjusted by regulation to account for increases in the cost of living. This bill would prohibit the amount payable to a member or a judge under the Legislators' Retirement System, the Judges' Retirement System, and the Judges' Retirement System II, including specified adjustments, from exceeding the federal limits on annual defined benefit plan payments and would incorporate specified provisions of federal law by reference. The bill would also require the retirement allowance of a judge who is a member of the Judges' Retirement System or the Judges Retirement System II, or a person who is a member of the Legislators' Retirement System, to be increased to reflect adjustments to payment limits prescribed by federal law provided that the member's allowance determined without regard to that law equals or exceeds the applicable limit as indexed. The bill, for judges in the Judges' Retirement System II, would also apply this requirement to a monetary payment annuity that is payable to a judge.

(STATUS: **Signed by the Governor and Chaptered by the Secretary of State on 09/24/21.**)

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 pay to the system the full cost of any overpayment of the prior paid benefit. The bill would further require the employing entity to pay a penalty of 20% of the amount calculated as a lump sum of the actuarial equivalent present value representing the difference between the monthly allowance that was based on the disallowed compensation and the adjusted monthly allowance, as specified, for the duration that allowance is projected to be paid by the system to the retired member, survivor, or beneficiary. Under the bill, the employing entity would be required to pay 90% of that penalty as restitution to the affected retired member, survivor, or beneficiary who was impacted by disallowed compensation and 10% of the penalty to the system.

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: **Signed by the Governor and Chaptered by the Secretary of State on 09/27/21.**)

SB 294 (Leyva)

CalPERS and CalSTRS require employees to make contributions to the system based on their creditable compensation, as defined. Existing law entitles an elected officer of an employee organization that is on a compensated leave of absence, as specified, for purposes of service with an employee organization to retirement service credit in STRS and PERS if specified conditions are met. Existing law requires the governing board of a school district, or the governing board of a community college district, to grant any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve in this manner, as specified. Existing law excepts certain employees from these provisions if they are subject to a collective bargaining agreement that expressly provides for a leave of absence without loss of compensation for participation in authorized activities as an elected officer or an unelected member of the public employee organization. Existing law limits the maximum amount of the service credit earned during a compensated leave of absence for the purposes described above to 12 years. This bill would remove the 12-year limitation for service credit earned on a compensated leave of absence for purposes of service with an employee organization, as described above. The bill would state that this leave is in addition to any leave to which public employees may be entitled by other laws or by a memorandum of understanding or collective bargaining agreement. The bill, for purposes of provisions relating to community college districts, would apply its provisions retroactively to service as an elected officer in a public employee organization occurring after August 31, 1978, and would prescribe a process and conditions for receiving service credit in this context. The bill would prescribe the rates at which contributions are to be made for certain provisions. The bill would make conforming changes consistent with its retroactive effect and would make technical changes.

(STATUS: Passed in Senate and ordered to Assembly on 05/03/21. Read first time in Assembly on 05/04/21. Read second time and ordered to third reading on 07/08/21. **Read third time, passed and ordered to Senate on 08/16/21. In Senate, Assembly amendments concurred in and ordered to Engrossing and Enrolling on 08/26/21. Enrolled and presented to the Governor on 08/30/21.**)

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: Signed by the Governor and Chaptered by the Secretary of State on 07/23/21.)

SB 457 (Portatino & Wilk)

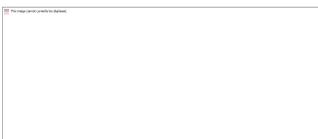
This bill would require the boards of CalPERS and CalSTRS to provide employers that are school districts and cities that participate in the systems an option to elect an investment portfolio that does not contain investment vehicles that are issued or owned by the government of the Republic of Turkey.

(STATUS: Introduced 02/16/21. Read second time; ordered to third reading on 05/20/21. Read third time; passed; ordered to Assembly; read first time in Assembly on 05/24/21. Referred to Com. on P.E & R on 05/28/21.)

Attachments:

Legislative Update
2021 Legislative Calendar

Submitted by:



Gina M. Ratto
General Counsel



**OCERS BOARD OF RETIREMENT
OCTOBER 18, 2021 MEETING**

**LEGISLATIVE UPDATE – ATTACHMENT
2021 - 2022 CALIFORNIA STATE LEGISLATIVE SESSION
BILLS OF INTEREST**

CURRENT AS OF OCTOBER 1, 2021

New or updated information in bold text

AB 339 (Lee) Amended in Senate on 08/25/21 and 09/03/21

This bill would, until December 31, 2023, require all open and public meetings of a city council or a county board of supervisors that governs a jurisdiction containing least 250,000 people to include an opportunity for members of the public to attend via two-way a telephonic option or a two-way internet-based service option, as specified, and would require a city council or county board of supervisors that has, as of June 15, 2021, provided video streaming, as defined, of at least one of its meetings to continue to provide that video streaming. It would also require all open and public 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 or an internet-based service option, as provided. **This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 361 to be operative only if this bill and AB 361 are enacted and this bill is enacted last.**

(STATUS: Read third time in Assembly; passed; ordered to Senate on 06/02/21. **Passed by Senate and ordered to Assembly on 09/09/21. Assembly concurrence in Senate amendments on 09/09/21. Enrolled and presented to the Governor on 09/17/21.)**

AB 361 (R. Rivas) – Amended in Senate on 08/30/21 and 09/03/21

This bill, until January 1, 2024, 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 during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health and safety of attendees, as provided.

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 offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

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. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified.

When there is a continuing state of 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 make those findings every 30 days thereafter in order to continue to meet under these teleconferencing procedures.

Existing law prohibits a state body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance. This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

The bill would amend provisions of the Bagley-Keene Open Meeting Act to authorize, until January 31, 2022, state bodies to hold public meetings through teleconferencing without compliance with certain requirements of existing law, including the requirements that each teleconference location be accessible to the public. The bill would make similar amendments to the Gloria Romero Open Meetings Act of 2000 applicable to student body organizations of California State University campuses.

This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last. This bill would declare that it is to take effect immediately as an urgency statute.

(STATUS: Signed by the Governor and Chaptered by the Secretary of State on 09/16/21.)

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. Read second time and amended on 04/28/21. Ordered third reading on 05/13/21. Read third time; passed; ordered to Senate on 06/01/21. Read first time in Senate on 06/02/21. Referred to Coms. on L, P.E & R and JUD on 06/09/21. From committee: Do pass and re-refer to Com. on JUD on 06/22/21. From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on JUD on 06/29/21. In committee: Set, first hearing; failed passage; and reconsideration granted on 07/13/21.)

AB 498 (Quirk-Silva)

CERL defines compensation earnable for purposes of its provisions, with particular application to the calculation of final compensation and the determination of pension amounts and other benefits. In this regard, "compensation earnable" by a member means the average compensation as determined by the retirement board, for the period considered based on the average number of days ordinarily worked by persons in the same grade or class of positions during the period, as specified. PEPRAs prescribes various limitations on public employees, employers, and retirement systems concerning, among other things, the types of remuneration that may be included in compensation that is applied to pensions.

This bill would delete the term "grade" and replace it with the term "group" for purposes of the definition of compensation earnable, as described above. The bill would define the phrase "group or class of positions" for purposes of this definition to mean a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping, and would specify that a single employee is not a group or class. The bill would state that its changes are declaratory of existing law and would make a declaration of legislative intent in regards to its application.

(STATUS: AB 498 was originally introduced as a Computer Science Access Initiative. In the Senate on 09/10/21, the bill was gutted and replaced with language to amend the CERL. It was referred to Com. on RLS on 09/10/21.)

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: Passed in Assembly and ordered to the Senate on 05/06/21. Read first time in Senate on 05/19/21.

Read second time on 08/16/21. Read third time, passed and ordered to Assembly on 09/08/21. In Assembly, ordered to Engrossing and Enrolling on 09/08/21. Enrolled and presented to the Governor on 09/15/21.)

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. Read second time; ordered to third reading on 05/06/21. Ordered to inactive file by author on 06/03/21.)

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: Signed by the Governor and Chaptered by the Secretary of State on 07/09/21.)

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 has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities.

This bill would remove the notice requirements particular to teleconferencing and would revise the requirements of the Brown Act to would allow for teleconferencing *provided that*:

- Existing provisions regarding the posting of notice of an agenda are met;
- 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;
- 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;
- 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
- 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: Signed by the Governor and Chaptered by the Secretary of State on 06/28/21. Amendments take effect on 01/01/22.)

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 826 (Irwin) Amended in Senate on 08/31/21. Made applicable only to Ventura County

This bill, which would apply only in Ventura County, would provide that compensation and compensation earnable include flexible benefits plan allowances paid by a county or a district on behalf of its employees as part of a cafeteria plan, as specified, if certain requirements are met. Among these conditions, the bill would require that the retirement system included the flexible benefit plan allowance as part of compensation earnable as of July 30, 2020, that the employer and employee paid contributions to the retirement system based on the flexible benefit plan allowance, and that an employer and an employee continues to pay those contributions as employee earns this allowance. The bill would apply these provisions to eligible members who have retired prior to the effective date of the measure and would state that these provisions are declarative of existing law.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Ventura.

The bill would add section 31461.7 to the Government Code, to read:

31461.7.

(a) This section applies only to a county of the thirteenth class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28034, as amended by Chapter 1204 of the Statutes of 1971.

(b) (1) Compensation, as defined in Section 31460, and compensation earnable, as defined in Section 31461, include flexible benefits plan allowances paid by a county or a district on behalf of its employees as part of a cafeteria plan offered pursuant to Section 125 of the Internal Revenue Code if all of the following requirements are met:

(A) The flexible benefit plan allowance is made available to any person in the same grade or class of positions. For purposes of this subdivision, "grade or class of positions" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical, work-related grouping. A single employee shall not be considered a grade or class of positions.

(B) The flexible benefit plan allowance is not expressly excluded from "compensation earnable" pursuant to paragraphs (2) to (4), inclusive, of subdivision (b) of Section 31461.

(C) The retirement system included the flexible benefit plan allowance as part of compensation earnable as of July 30, 2020, and the employer and employee paid contributions to the retirement system based on the flexible benefit plan allowance as of that date.

(D) The employer and employee pay the required contributions to the retirement system as the employee continues to earn the flexible benefit plan allowance.

(2) For employee groups in which the monetary amount of the flexible benefits plan allowance is the same for all employees, regardless of the number of dependents, the entire amount shall be included in compensation earnable. For employee groups in which the monetary amount of the flexible benefits plan allowance varies among employees depending on the number of dependents, the amount included in compensation earnable shall be the amount provided to an employee with no dependents.

(c) This section shall only apply to employees who are not new members, as defined in Section 7522.04.

(d) Paragraphs (1) and (2) of subdivision (b) shall apply to any eligible member who has retired prior to the effective date of this section, as permitted by subdivision (a) of Section 31481.

(e) This section is declarative of existing law.

(STATUS: Introduced 02/16/21 as bill to amend the Public Resources Code. Bill was gutted and replaced with language that would amend the CERL on 06/21/21. **In Senate, read third time, amended to apply only in Ventura County and ordered to second reading on 08/31/21. Read second time and ordered to third reading on 09/01/21. Ordered to inactive file at the request of Senator Limón on 09/08/21.)**

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. PEPRA generally requires a public retirement system to modify its plan or plans to comply with PEPRA 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 PEPRA 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: Signed by the Governor and Chaptered by the Secretary of State on 07/23/21.)

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. 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, until January 1, 2028, the Boards of CalPERS and CalSTRS to provide reports to the Legislature, commencing March 1, 2023, 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, 2022, and be based on information from the prior fiscal year.

(STATUS: Passed Assembly and ordered to Senate on 06/01/21. Read first time in Senate on 06/02/21. **Read second time; ordered to third reading on 08/16/21. Read third time, passed and ordered to the Assembly on 08/26/21. In Assembly, ordered to Engrossing and Enrolling on 08/26/21. Enrolled and presented to the Governor on 09/01/21.**)

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: Introduced and read first time on 02/18/21. 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 and the Judges' Retirement System II, both of which are administered by CalPERS. Existing law establishes the Legislators' Retirement System, also administered by the CalPERS which provides pension and other benefits to those members of the Legislature and specified state and statutory officers who have elected to become members. Existing California constitutional provisions prohibit the provision of retirement benefits to members of the Legislature and, on and after January 1, 2013, the Legislators' Retirement System was closed generally to new members. Federal law limits the amount that a public employee defined benefit plan may pay a participant annually, and requires that this limitation be adjusted by regulation to account for increases in the cost of living. This bill would prohibit the amount payable to a member or a judge under the Legislators' Retirement System, the Judges' Retirement System, and the Judges' Retirement System II, including specified adjustments, from exceeding the federal limits on annual defined benefit plan payments and would incorporate specified provisions of federal law by reference. The bill would also require the retirement allowance of a judge who is a member of the Judges' Retirement System or the Judges Retirement System II, or a person who is a member of the Legislators' Retirement System, to be increased to reflect adjustments to payment limits prescribed by federal law provided that the member's allowance determined without regard to that law equals or exceeds the applicable limit as indexed. The bill, for judges in the Judges' Retirement System II, would also apply this requirement to a monetary payment annuity that is payable to a judge.

(STATUS: **Signed by the Governor and Chaptered by the Secretary of State on 09/24/21.**)

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 email 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: Passed in Senate and ordered to Assembly on 04/21/21. In Assembly, read first time on 04/22/21. Read second time on 07/08/21. **Read third time, passed and ordered to Senate on 08/23/21. In Senate, ordered to Engrossing and Enrolling on 08/26/21. Enrolled and presented to the Governor on 08/30/21.**)

SB 278 (Leyva) Amended in Assembly on 09/03/21

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~~ **pay to the system the full cost of any overpayment of the prior paid benefit. The bill would further require the employing entity to pay a penalty of 20% of the amount calculated as a lump sum of the actuarial equivalent present value representing the difference between the monthly allowance that was based on the disallowed compensation and the adjusted monthly allowance, as specified, for the duration that allowance is projected to be paid by the system to the retired member, survivor, or beneficiary. Under the bill, the employing entity would be required to pay 90% of that penalty as restitution to the affected retired member, survivor, or beneficiary who was impacted by disallowed compensation and 10% of the penalty to the system.**

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 PEPRA 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: **Signed by the Governor and Chaptered by the Secretary of State on 09/27/21.**)

SB 294 (Leyva)

CalPERS and CalSTRS require employees to make contributions to the system based on their creditable compensation, as defined. Existing law entitles an elected officer of an employee organization that is on a compensated leave of absence, as specified, for purposes of service with an employee organization to retirement service credit in STRS and PERS if specified conditions are met. Existing law requires the governing board of a school district, or the governing board of a community college district, to grant any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve in this manner, as specified. Existing law excepts certain employees from these provisions if they are subject to a collective bargaining agreement that expressly provides for a leave of absence without loss of compensation for participation in authorized activities as an elected officer or an unelected member of the public employee organization. Existing law limits the maximum amount of the service credit earned during a compensated leave of absence for the purposes described above to 12 years.

This bill would remove the 12-year limitation for service credit earned on a compensated leave of absence for purposes of service with an employee organization, as described above. The bill would state that this leave is in addition to any leave to which public employees may be entitled by other laws or by a memorandum of understanding or collective bargaining agreement. The bill, for purposes of provisions relating to community college districts, would apply its provisions retroactively to service as an elected officer in a public employee organization occurring after August 31, 1978, and would prescribe a process and conditions for receiving service credit in this context. The bill would prescribe the rates at which contributions are to be made for certain provisions. The bill would make conforming changes consistent with its retroactive effect and would make technical changes.

(STATUS: Passed in Senate and ordered to Assembly on 05/03/21. Read first time in Assembly on 05/04/21. Read second time and ordered to third reading on 07/08/21. **Read third time, passed and ordered to Senate on 08/16/21. In Senate, Assembly amendments concurred in and ordered to Engrossing and Enrolling on 08/26/21. Enrolled and presented to the Governor on 08/30/21.**)

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: Signed by the Governor and Chaptered by the Secretary of State on 07/23/21.)

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. Read second time; amended; and re-referred to Com. on B & F.I on 04/13/21. Read second time; amended; re-referred to Com. on E.Q on 04/22/21. Re-referred to Com. on APPR on 04/29/21. Held in committee and under submission on 05/20/21.)

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. Read second time; ordered to third reading on 05/20/21. Read third time; passed; ordered to Assembly; read first time in Assembly on 05/24/21. Referred to Com. on P.E & R on 05/28/21.)

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 and creates the Cash Balance Benefit Program 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, and requires a member to return the total gross distribution amount of all payments for any canceled retirement benefit, including a lump-sum payment. 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 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.

The PERL authorizes certain members of CalPERS who are employed to perform service covered by the Defined Benefit Program of the State Teachers' Retirement Plan to elect to retain coverage by CalPERS for this service under specified conditions, including that the member submit a written election to retain coverage to PERS on a prescribed form and that a copy of the form be submitted to CalSTRS. This bill would instead require the member to submit the election to retain coverage to the employer and would delete the requirement that a copy of the form be submitted to CalSTRS. The bill would require the employer to retain a copy of the employee's signed election form and submit the original signed form to CalPERS.

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.

The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by CalPERS, governs the funding and provision of postemployment health care benefits for eligible retired public employees and their beneficiaries. Under PEMHCA, if specified firefighters and peace officers die as a result of injuries or disease arising in the course of their duties, their uninsured surviving spouses and eligible family members are deemed annuitants, as specified, and may be enrolled in health benefit plans. This bill would authorize, for purposes of the above-described provisions, a notification of the death of any firefighter or peace officer to come from any reliable and verifiable source. The bill would make conforming changes regarding the duties of employers in these circumstances.

(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 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.

(STATUS: Signed by the Governor and Chaptered by the Secretary of State on 09/16/21.)

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: October 6, 2021
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **THIRD QUARTER 2021 TRAVEL AND TRAINING EXPENSE REPORT**

Written Report

Background/Discussion

In accordance with OCERS' Travel Policy, the Chief Executive Officer is required to submit a quarterly report to the Board of Retirement on conference attendance and related expenditures incurred by OCERS' Board Members and staff. Attached is the Third Quarter 2021 Travel and Training Expense Report that includes all expenses submitted through September 30, 2021.

Submitted by:

The logo for Tracy Bowman's approval. It features the text "ORANGE COUNTY" in a small, sans-serif font above the large, stylized letters "OCERS". To the right of "OCERS" is the text "T.B. - Approved" in a bold, sans-serif font. Below "OCERS" is the text "EMPLOYEES RETIREMENT SYSTEM" in a smaller, sans-serif font. A horizontal line is positioned below the text.

Tracy Bowman
Director of Finance

10-18-2021 REGULAR BOARD MEETING - R-7 Third Quarter 2021 Travel and Training Expense Report

TRAVEL AND TRAINING EXPENSE REPORT
THIRD QUARTER 2021
Submitted Through September 30, 2021**

Name	Trip OR Class Dates	Trip Name	Destination	Trip Type	Mileage	Reg. Fee	Meals	Airfare	Hotel	Trans.	Misc.	2021 YTD Total	2020 Total*
ELEY	11/9-11/12/21	SACRS Fall 2021 Conference	Los Angeles, CA	Conference	-	120.00	-	-	-	-	-	120.00	-
Sub Total						120.00						120.00	
FREIDENRICH	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
	10/25-10/27/21	18th Annual Global ARC Boston	Boston, MA	Conference	-	375.00	-	-	-	-	-	375.00	-
Sub Total						495.00						495.00	170.00
HIDALGO												0.00	-
Sub Total												0.00	50.00
HILTON	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
	6/28/21-7/1/21	OC Legislative Delegation	Washington, D.C.	Meeting	-	-	-	697.96	436.74	-	-	1,134.70	-
Sub Total						120.00		697.96	436.74			1,254.70	6,637.89
OATES	9/26-9/28/21	NCPERS 2021 Public Pension Funding Forum	Scottsdale, AZ	Training	-	695.00	-	-	-	-	-	695.00	-
	9/28-9/30/21	CALAPRS Principles for Trustees 2021	Online	Training	-	500.00	-	-	-	-	-	500.00	-
	11/9-11/12/21	SACRS Fall 2021 Conference	Los Angeles, CA	Conference	-	120.00	-	-	-	-	-	120.00	-
Sub Total						1,315.00						1,315.00	
PACKARD	2/2-2/3/21	NCPERS Fall Conference	Online	Conference	-	300.00	-	-	-	-	-	300.00	-
	3/8-3/9/21	CALAPRS General Assembly 2021	Online	Conference	-	250.00	-	-	-	-	-	250.00	-
Sub Total						550.00						550.00	
PREVATT	2/22-2/24/21	NASRA Winter System Round Table	Online	Conference	-	350.00	-	-	-	-	-	350.00	-
	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
	8/4/21	NASRA Annual Conference 2021	Online	Conference	-	395.00	-	-	-	-	-	395.00	-
	11/9-11/12/21	SACRS Fall 2021 Conference	Los Angeles, CA	Conference	-	120.00	-	-	1,383.82	-	-	1,503.82	-
Sub Total						985.00			1,383.82			2,368.82	515.00
TAGALOA	2/2-2/3/21	NCPERS Fall Conference	Online	Conference	-	300.00	-	-	-	-	-	300.00	-
	3/8-3/9/21	CALAPRS General Assembly 2021	Online	Conference	-	250.00	-	-	-	-	-	250.00	-
	5/10/21	CALAPRS Trustees Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
	8/4/21	NASRA Annual Conference 2021	Online	Conference	-	395.00	-	-	-	-	-	395.00	-
	8/22-9/24/21	NCPERS 2021 Public Pension Funding Forum	New York, NY	Training	-	685.00	-	615.80	706.44	205.88	-	2,212.12	-
	9/28/21	CALAPRS Principles for Trustees 2021	Online	Training	-	500.00	-	-	-	-	-	500.00	-
	10/25-10/27/21	18th Annual Global ARC Boston	Boston, MA	Conference	-	300.00	-	-	-	-	-	300.00	-
	11/9-11/12/21	SACRS Fall 2021 Conference	Los Angeles, CA	Conference	-	120.00	-	-	-	-	-	120.00	-
Sub Total						2,720.00		615.80	706.44	205.88		4,248.12	2,058.45
VALLONE	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
Sub Total						120.00						120.00	
BOARD Total													
DELANEY	2/11/21	CALAPRS Virtual Administrators Round Table	Online	Conference	-	50.00	-	-	-	-	-	50.00	-
	2/22-2/24/21	NASRA Winter System Round Table	Online	Conference	-	350.00	-	-	-	-	-	350.00	-
	3/8-3/9/21	CALAPRS General Assembly 2021	Online	Conference	-	250.00	-	-	-	-	-	250.00	-
	3/18/21	Vitech Conference	Online	Conference	-	40.00	-	-	-	-	-	40.00	-
	3/31/21	NSJ Pro Artificial Intelligence Forum	Online	Training	-	75.00	-	-	-	-	-	75.00	-
	5/10/21	CALAPRS Trustees Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
	6/25/21	CALAPRS Administrators Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	6/28/21-7/1/21	OC Legislative Delegation	Washington, D.C.	Meeting	46.09	-	350.58	646.81	436.74	245.89	-	1,726.11	-
	8/4/21	NASRA Annual Conference 2021	Online	Conference	-	395.00	-	-	-	-	-	395.00	-
	9/22-9/24/21	CALAPRS Administrators Institute 2021	Online	Training	-	500.00	-	-	-	-	-	500.00	-
	10/25-10/27/21	18th Annual Global ARC Boston	Boston, MA	Conference	-	300.00	-	472.00	1,054.67	-	-	1,826.67	-
	10/29/2021	CALAPRS Trustees Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	11/9-11/12/21	SACRS Fall 2021 Conference	Los Angeles, CA	Conference	-	120.00	-	-	476.43	-	-	596.43	-
Sub Total					46.09	2,350.00	350.58	1,118.81	1,967.84	245.89		6,079.21	3,792.60
JENIKE	3/8-3/9/21	CALAPRS General Assembly 2021	Online	Conference	-	250.00	-	-	-	-	-	250.00	-
	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
	6/25/21	CALAPRS Benefits Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	8/4/21	NASRA Annual Conference 2021	Online	Conference	-	395.00	-	-	-	-	-	395.00	-
	8/23/21	CALAPRS Management/Leadership Forum 2021	Online	Training	-	500.00	-	-	-	-	-	500.00	-
Sub Total						1,315.00						1,315.00	916.31
SHOTT	3/8-3/9/21	CALAPRS General Assembly 2021	Online	Conference	-	250.00	-	-	-	-	-	250.00	-
	3/18/21	Vitech Conference	Online	Conference	-	40.00	-	-	-	-	-	40.00	-
	4/14/21	2021 LCW Annual Conference	Online	Conference	-	625.00	-	-	-	-	-	625.00	-
	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
	7/12/21	GFOA Conference	Online	Conference	-	535.00	-	-	-	-	-	535.00	-
	8/4/21	NASRA Annual Conference 2021	Online	Conference	-	395.00	-	-	-	-	-	395.00	-
	9/24-9/25/21	CALAPRS Administrators Institute 2021	Online	Training	-	500.00	-	-	-	-	-	500.00	-
Sub Total						2,465.00						2,465.00	8,798.34
TORRES	Varies	Leadership Development for Executive Assistant	Online	Training	-	170.10	-	-	-	-	-	170.10	-
Sub Total						170.10						170.10	149.00
EXECUTIVE Total					46.09	6,308.10	350.58	1,118.81	1,967.84	245.89		10,029.31	13,656.23

10-18-2021 REGULAR BOARD MEETING - R-7 Third Quarter 2021 Travel and Training Expense Report

TRAVEL AND TRAINING EXPENSE REPORT
 THIRD QUARTER 2021
 Submitted Through September 30, 2021**

Name	Trip OR Class Dates	Trip Name	Destination	Trip Type	Mileage	Reg. Fee	Meals	Airfare	Hotel	Trans.	Misc.	2021 YTD Total	2020 Total*
BEESON	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
Sub Total					-	120.00	-	-	-	-	-	120.00	2,339.42
CHARY	3/16/21	CALAPRS Investments Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
Sub Total					-	170.00	-	-	-	-	-	170.00	-
CLEBERG					-	-	-	-	-	-	-	0.00	-
Sub Total					-	-	-	-	-	-	-	0.00	684.96
DEPAULA	4/23/21	CALAPRS Overview Course in Retirement Plan Admin	Online	Training	-	100.00	-	-	-	-	-	100.00	-
Sub Total					-	100.00	-	-	-	-	-	100.00	-
Jl	2/18/21	A Conversation with Dr. Ben Bemanke	Online	Training	-	20.00	-	-	-	-	-	20.00	-
	Varies	Alternative Investment Series 2021	Online	Training	-	250.00	-	-	-	-	-	250.00	-
Sub Total					-	270.00	-	-	-	-	-	270.00	400.00
MURPHY	3/8-3/9/21	CALAPRS General Assembly 2021	Online	Conference	-	250.00	-	-	-	-	-	250.00	-
	3/16/21	CALAPRS Investments Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
	7/14/21	PIMCO CIO Conference	Los Angeles, CA	Conference	58.52	-	-	-	-	25.20	-	83.72	-
Sub Total					58.52	420.00	-	-	-	25.20	-	503.72	2,999.38
NGUYEN					-	-	-	-	-	-	-	0.00	-
Sub Total					-	-	-	-	-	-	-	0.00	2,720.21
TURAIGI					-	-	-	-	-	-	-	0.00	-
Sub Total					-	-	-	-	-	-	-	0.00	179.52
WALANDER-SARKIN	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
Sub Total					-	120.00	-	-	-	-	-	120.00	3,326.29
INVESTMENTS Total					58.52	1,200.00	-	-	-	25.20	-	1,283.72	12,649.78
KINSLER	4/13/21	CALAPRS Communications Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
Sub Total					-	50.00	-	-	-	-	-	50.00	-
RITCHEY	4/13/21	CALAPRS Communications Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
Sub Total					-	50.00	-	-	-	-	-	50.00	400.00
COMMUNICATIONS Total					-	100.00	-	-	-	-	-	100.00	400.00
MATSUO	2/19/21	CALAPRS Attorneys Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	5/28/21	CALAPRS Attorneys Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	11/9-11/12/21	SACRS Fall 2021 Conference	Los Angeles, CA	Conference	-	120.00	-	-	-	-	-	120.00	-
Sub Total					-	220.00	-	-	-	-	-	220.00	580.00
MCINTOSH	2/19/21	CALAPRS Attorneys Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	11/9-11/12/21	SACRS Fall 2021 Conference	Los Angeles, CA	Conference	-	120.00	-	-	900.68	-	-	1,020.68	-
Sub Total					-	170.00	-	-	900.68	-	-	1,070.68	100.00
RATTO	5/11-5/14/21	SACRS Spring 2021 Conference	Online	Conference	-	120.00	-	-	-	-	-	120.00	-
	6/22-6/25/21	NAPPA Legal Education Conference	Online	Training	-	499.00	-	-	-	-	-	499.00	-
Sub Total					-	619.00	-	-	-	-	-	619.00	2,177.68
SERPA	6/22-6/24/21	NAPPA 2021 Legal Education Conference	Online	Conference	-	499.00	-	-	-	-	-	499.00	-
Sub Total					-	499.00	-	-	-	-	-	499.00	-
SINGLETON	10/8/21	CALAPRS Disability Staff Training	Online	Training	-	100.00	-	-	-	-	-	100.00	-
	11/9-11/12/21	SACRS Fall 2021 Conference	Los Angeles, CA	Conference	-	120.00	-	-	-	-	-	120.00	-
Sub Total					-	220.00	-	-	-	-	-	220.00	-
LEGAL Total					-	1,728.00	-	-	900.68	-	-	2,628.68	2,857.68
GUEVARA	3/30/21	Business Writing	Online	Training	-	256.75	-	-	-	-	-	256.75	-
	4/22/21	Time Management	Online	Training	-	256.75	-	-	-	-	-	256.75	-
Sub Total					-	513.50	-	-	-	-	-	513.50	-
IBARRA	4/23/21	CALAPRS Overview Course in Retirement Plan Admin	Online	Training	-	100.00	-	-	-	-	-	100.00	-
Sub Total					-	100.00	-	-	-	-	-	100.00	-
LAMBERSON	3/18/21	Vitech Conference	Online	Conference	-	40.00	-	-	-	-	-	40.00	-
	8/23/21	CALAPRS Management/Leadership Forum 2021	Online	Training	-	500.00	-	-	-	-	-	500.00	-
	9/17/21	CALAPRS Benefits Round Table	Online	Training	-	50.00	-	-	-	-	-	50.00	-
	Varies	LEAN Six Sigma Black Belt Complete Certificate	Online	Training	-	1,499.00	-	-	-	-	-	1,499.00	-
Sub Total					-	2,089.00	-	-	-	-	-	2,089.00	450.00
LOPEZ	3/30/21	Business Writing	Online	Training	-	256.75	-	-	-	-	-	256.75	-
	4/22/21	Time Management	Online	Training	-	256.75	-	-	-	-	-	256.75	-
Sub Total					-	513.50	-	-	-	-	-	513.50	-
PANAMENO	4/23/21	CALAPRS Overview Course in Retirement Plan Admin	Online	Training	-	100.00	-	-	-	-	-	100.00	-
Sub Total					-	100.00	-	-	-	-	-	100.00	-
PERSI	3/18/21	Vitech Conference	Online	Conference	-	40.00	-	-	-	-	-	40.00	-
Sub Total					-	40.00	-	-	-	-	-	40.00	-
RODRIGUEZ	4/23/21	CALAPRS Overview Course in Retirement Plan Admin	Online	Training	-	100.00	-	-	-	-	-	100.00	-
Sub Total					-	100.00	-	-	-	-	-	100.00	-
RUBIO	4/23/21	CALAPRS Overview Course in Retirement Plan Admin	Online	Training	-	100.00	-	-	-	-	-	100.00	-
Sub Total					-	100.00	-	-	-	-	-	100.00	-
WOOD	8/23/21	CALAPRS Management/Leadership Forum 2021	Online	Training	-	500.00	-	-	-	-	-	500.00	200.00
Sub Total					-	500.00	-	-	-	-	-	500.00	200.00
MEMBER SERVICES Total					-	4,056.00	-	-	-	-	-	4,056.00	650.00

10-18-2021 REGULAR BOARD MEETING - R-7 Third Quarter 2021 Travel and Training Expense Report

TRAVEL AND TRAINING EXPENSE REPORT
THIRD QUARTER 2021
Submitted Through September 30, 2021**

Name	Trip OR Class Dates	Trip Name	Destination	Trip Type	Mileage	Reg. Fee	Meals	Airfare	Hotel	Trans.	Misc.	2021 YTD Total	2020 Total*
BARKER	3/19/21	CALAPRS Accountants Round Table	Online	Conference	-	50.00	-	-	-	-	-	50.00	-
Sub Total						50.00						50.00	1,590.00
BOWMAN	10/19-10/29/21	2021 P2F2 Conference	Online	Conference	-	500.00	-	-	-	-	-	500.00	-
Sub Total						500.00						500.00	1,161.15
DAVEY						-	-	-	-	-	-	0.00	-
Sub Total						-						0.00	400.00
DURIGON						-	-	-	-	-	-	0.00	-
Sub Total						-						0.00	391.75
GUERRERO						-	-	-	-	-	-	0.00	-
Sub Total						-						0.00	702.00
KANG	3/18/21	Vitech Conference	Online	Conference	-	40.00	-	-	-	-	-	40.00	-
	3/19/21	CALAPRS Accountants Round Table	Online	Conference	-	50.00	-	-	-	-	-	50.00	-
		2021 P2F2 Conference	Online	Training	-	1,385.00	-	-	-	-	-	1,385.00	-
Sub Total						1,475.00						1,475.00	872.00
REYES	3/18/21	Vitech Conference	Online	Conference	-	40.00	-	-	-	-	-	40.00	-
Sub Total						40.00						40.00	957.00
FINANCE Total						2,065.00						2,065.00	6,073.90
ACUNA	3/30/21	Business Writing	Online	Training	-	256.75	-	-	-	-	-	256.75	-
	4/22/21	Time Management	Online	Training	-	256.75	-	-	-	-	-	256.75	-
Sub Total						513.50						513.50	599.00
CORTEZ						-	-	-	-	-	-	0.00	-
Sub Total						-						0.00	699.00
DISABILITY Total						513.50						513.50	1,298.00
DURRAH	3/30/21	Business Writing	Online	Training	-	256.75	-	-	-	-	-	256.75	-
	Varies	2-Day Drive Results with Talent training	Online	Training	-	2,100.00	-	-	-	-	-	2,100.00	-
Sub Total						2,356.75						2,356.75	513.20
GUNSOLLEY	3/30/21	Business Writing	Online	Training	-	256.75	-	-	-	-	-	256.75	-
Sub Total						256.75						256.75	8,500.00
WOZNIUK	3/30/21	Business Writing	Online	Training	-	256.75	-	-	-	-	-	256.75	-
	3/31/21	2-Day Drive Results with Talent training	Online	Training	-	3,080.00	-	-	-	-	-	3,080.00	-
Sub Total						3,336.75						3,336.75	-
HUMAN RESOURCES Total						5,950.25						5,950.25	9,013.20
DOEZIE	6/14-6/16/21	PRIMA (Risk) Conference	Online	Conference	-	315.00	-	-	-	-	-	315.00	-
Sub Total						315.00						315.00	375.00
OPERATIONS SUPPORT SERVICES Total						315.00						315.00	375.00
I.T. DEPARTMENT TRAINING						-	-	-	-	-	-	0.00	-
Sub Total						-						0.00	19,305.42
JOHNSON	3/18/21	Vitech Conference	Online	Conference	-	40.00	-	-	-	-	-	40.00	-
Sub Total						40.00						40.00	-
LARA	3/18/21	Vitech Conference	Online	Conference	-	40.00	-	-	-	-	-	40.00	-
Sub Total						40.00						40.00	-
SADOSKI	3/18/21	Vitech Conference	Online	Conference	-	40.00	-	-	-	-	-	40.00	-
Sub Total						40.00						40.00	-
IT Total						120.00						120.00	19,305.42
ADVIENTO	6/23-6/24/21	CSFMO Introduction to Gov. Accounting	Online	Training	-	75.00	-	-	-	-	-	75.00	-
	7/13-7/14/21	CSFMO Investment Accounting	Online	Training	-	150.00	-	-	-	-	-	150.00	-
	8/24/21	IIA Training	Online	Training	-	165.00	-	-	-	-	-	165.00	-
	9/1/21	CSMFO CA Local Budgeting	Online	Training	-	150.00	-	-	-	-	-	150.00	-
	10/19-10/29/21	P2F2 Conference 2021	Online	Conference	-	525.00	-	-	-	-	-	525.00	-
	Varies	Intermediate Governmental Accounting/Financial Reporting	Online	Training	-	150.00	-	-	-	-	-	150.00	-
Sub Total						1,215.00						1,215.00	3,756.20
KIM	1/21/21	Fraud & Financial Crimes in the New Age	Online	Training	-	10.00	-	-	-	-	-	10.00	-
	7/13-7/14/21	CSFMO Investment Accounting	Online	Training	-	150.00	-	-	-	-	-	150.00	-
	8/24/21	IIA Training	Online	Training	-	165.00	-	-	-	-	-	165.00	-
	10/19-10/29/21	P2F2 Conference 2021	Online	Conference	-	525.00	-	-	-	-	-	525.00	-
Sub Total						850.00						850.00	1,220.00
INTERNAL AUDIT Total						2,065.00						2,065.00	4,976.20
EAKIN	3/18/21	Vitech Conference	Online	Conference	-	40.00	-	-	-	-	-	40.00	-
Sub Total						40.00						40.00	2,510.40
GOSSARD						-	-	-	-	-	-	0.00	-
Sub Total						-						0.00	2,555.40
INFORMATION SECURITY Total						40.00						40.00	5,063.80
Total					104.61	30,877.85	350.58	2,432.57	5,395.52	476.97	-	39,638.10	85,752.57

Footnotes:
* Prior year totals only presented for 2021 active staff & Board members. Totals include online training.
** Excludes non-training expenses such as meetings, mileage, strategic planning and tuition reimbursement.



Memorandum

DATE: October 04, 2021
TO: Members of the Board of Retirement
FROM: Cynthia Hockless, Director of Human Resources
SUBJECT: **GENERAL MEMBER ELECTION UPDATE**

Written Report

Background/Discussion:

OCERS contacted the Registrar of Voters, with a request to conduct an election for the position of General Member with a term of office from January 1, 2022, through December 31, 2024.

The following three candidates filed nomination papers by the deadline and were determined, qualified candidates:

1. Kira Rubin, Deputy Public Defender
2. Chris Prevatt, Incumbent
3. Hamid Boroumand, Office Specialist HCA

The Registrar of Voters mailed out ballots to the home of each OCERS General Member on September 27, 2021. A voted ballot must be received in the Registrar of Voters' office by 9:00 A.M., November 02, 2021. Ballots will be tallied at the Registrar of Voters' office on this date. Once the Registrar of Voters completes its tally, the Orange County Board of Supervisors will certify the election on November 16, 2021.

We are currently on schedule and will continue to provide updates as we progress through the process.

Attachment:

OCERS Election Calendar

Submitted by:



C.H. – APPROVED

Cynthia Hockless
Director of Human Resources

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM ELECTION CALENDAR
November 2, 2021
1 GENERAL MEMBER

August 6 and August 20 (E-88 and E-74)	The Orange County Retirement office shall notify the General Members of the Retirement System that an election will be conducted on November 2, 2021. The notice shall include the filing period, qualifications and requirements to be a candidate for General Member of the Orange County Retirement Board of Directors and shall be provided with the payrolls on August 6, 2021 and August 20, 2021.
August 6 (E-88)	The Retirement Office shall provide the number of eligible General Members to the Registrar of Voters' Office.
August 6 (E-88)	The Retirement Office shall provide the Registrar of Voters' Office with Willingness to Serve forms.
August 11 (E-83)	First day the Nomination Petition is available for pick up from the Registrar of Voters' Office. A General Member requires 75 nomination signatures.
September 10 (E-53)	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.
September 13 (E-50)	Random draw will be held to determine the candidate placement on the ballot.
September 17 (E-46)	Retirement Office shall provide the Registrar of Voters with names and addresses of eligible General Members in an electronic format.
September 27 (E-36)	Mailing of ballots begins.
November 2 (E-0)	Tally voted ballots at the Registrar of Voters' Office.
November 16 (E+14)	Certificate of Election on Board of Supervisors' agenda.
January 1 (E+ 60)	Term begins for General Member. Term expires on December 31, 2024.



Memorandum

DATE: October 6, 2021

TO: Members of the Board of Retirement

FROM: Brenda Shott, Assistant CEO, Internal Operations and Jon Gossard, Information Security Manager

SUBJECT: BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN EXERCISE EXECUTIVE SUMMARY

Written Report

Background/Discussion

Recognizing that business continuity and disaster recovery planning is a critical component of meeting our obligation to generate member payments each month and perform other core processes, OCERS engaged the services of Castellan Solutions (formerly Avalution Consulting) in 2015 to assist with the creation of a formal business continuity (BC) and disaster recovery (DR) program. This process consisted of conducting business impact analyses for each of the major departments within OCERS, identifying and prioritizing core business processes, defining recovery time objectives and creating department recovery plans as well as agency-wide crisis management and crisis communication plans. OCERS has a Crisis Management Team (CMT) which meets quarterly to review and discuss BC/DR matters. Additionally, the CMT typically conducts a tabletop exercise annually, in which the BC/DR team role-plays scenarios involving the loss of one or more of the following areas: facility, technology, personnel, and/or critical third-party vendor(s).

However, in 2020 and 2021, in light of the ongoing COVID-19 pandemic and in lieu of a traditional tabletop exercise, the team chose to conduct a facilitated After Action Review (AAR) on Tuesday, July 27, 2021. During the AAR, the CMT identified strengths and opportunities for improvement in the BC/DR program as revealed by its response to the ongoing COVID-19 pandemic. The following strengths of the program and its ongoing response to the COVID-19 pandemic were identified:

- 1) The Dialpad implementation went very well and was well-timed to provide employees with an essential tool for work from home.
- 2) Implementation and adoption of Zoom for internal and external conference calls, meetings, webinars and Board meetings was quick and successful.
- 3) Additional cyber security controls and protocols were implemented quickly.
- 4) Tests to convert incoming postal mail to electronic receipt were generally successful, demonstrating that post mail can be received electronically via a third-party vendor if necessary.
- 5) Communication from management throughout the duration of COVID-19 has been excellent and successfully minimized confusion amongst employees.
- 6) OCERS staff adapted to remote work quickly and has continued to do a great job serving members.
- 7) Staff have reported appreciation for the access to leadership via all hands meetings and strong communication from the executive team.
- 8) Administrative hearings are being held in-person at OCERS headquarters with appropriate safeguards in place and the feedback has been very positive.
- 9) OCERS did not have any staff turnover over a 16-month period despite the challenges presented by COVID-19.



Memorandum

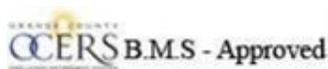
The team identified the following opportunities for improvement:

- 1) There is still a need for staff to be on-site for some functions, including mail processing. There is a pending question around how and how quickly those functions could be converted to remote work if OCERS headquarters were completely unavailable.
- 2) There may be an opportunity to provide more robust digital literacy training to increase employee familiarity and comfort with the equipment they use to do their jobs.
- 3) OCERS should plan and prepare for virtual administrative hearings in case in-person hearings are not possible in the future.
- 4) There may be opportunities to further improve processes and options for members to upload documents electronically to further reduce the volume of incoming mail.
- 5) As part of the financial system transition process, the Finance department is working on improved automated approval processes.
- 6) There may be opportunities to improve remote onboarding processes and/or create hybrid onboarding processes to better accommodate different learning styles.
- 7) A challenge throughout COVID-19 that will continue with the hybrid work model is the reliance on employees' personal internet connectivity.

Action items have been created for each of the opportunities for improvement and will be addressed over the coming months.

In summary, the AAR provided an opportunity for the CMT to reflect on the previous 16 months' efforts and identify well-executed processes as well as those which may be improved in order to ensure OCERS resilience in the face of future disruptive events.

Submitted by:



Brenda Shott
Assistant CEO, Internal Operations



Jon Gossard
Information Security Manager



Memorandum

DATE: October 18, 2021
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant Chief Executive Officer
SUBJECT: **UPDATE ON THE CITY OF SAN JUAN CAPISTRANO'S TRANSITION OF WATER AND SEWER SERVICES**

Written Report

Background/Discussion

On June 17, 2019, the Board approved the City of San Juan Capistrano's request to remain pooled in Rate Group 2 once their water and sewer services were transitioned to a water district. In addition, the City agreed to pay a premium to cover the additional contributions that would otherwise be shifted to the other employers in the pool in order to remain in Rate Group 2.

It is my understanding that the City is in the process of finalizing the transition of their water and sewer services to the Santa Margarita Water District (District) with the expectation that it will be finalized on approximately November 19, 2021. As part of this transition, the City employees responsible for the performance of these duties will become District employees and members of CalPERS. OCERS Team has been assisting the members on their options regarding retirement benefits.

This item is an informational update and there is no action for the Board to take on this matter.

Submitted by:



SJ-Approved

Suzanne Jenike
Assistant CEO, External Operations

Attachment:

June 17, 2019 Board Memo – Request from the City of San Juan Capistrano Regarding Rate Group Pooling



Memorandum

DATE: June 17, 2019
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: REQUEST FROM CITY OF SAN JUAN CAPISTRANO REGARDING RATE GROUP POOLING

Recommendation:

1. That the Board determine that if the City San Juan Capistrano transfers its Water Department employees to a separate special district, then the Board would find that a triggering event will have occurred under the Policy; and
2. That the Board find that exigent circumstances exist under the Policy such that the City may remain pooled in Rate Group 2, provided that the City makes an additional payment of \$6.5 million in a lump sum or level dollar installments.

Background:

On May 20, 2019 the City of San Juan Capistrano [City] asked the Board to consider the actions it might take if the City were to transfer some of the City's employees in the Water Department who are covered under OCERS to a special district covered under CalPERS. [See attached staff memo of May 10, 2019]

In working with Segal, it was determined that a transfer of the Water Department would lead to a decline in the City's OCERS-covered payroll and a corresponding shift of some of the City's pension liabilities to other employers participating in the same rate sharing pool (Rate Group 2). The present value of that shift in liability was tentatively calculated at approximately \$5.3 million based on a list of the affected employees provided by the City in 2018.

The County of Orange, as the primary employer in Rate Group 2, objected to any possible Board-approved outcome that would lead to the City's liabilities being shifted to other employers.

The backdrop to this discussion was the Board's *Declining Payroll* policy [Policy], which in Section 5 addresses actions such as that contemplated by the City, referencing such an action as a "triggering event" that could result in a decision by the Board to depool the employer in response. [Policy attached.]

In May, the Board considered three possible outcomes if the City were to transfer the Department employees:

1. As suggested by the Policy, depool the City, so that any liability implications would remain the City's alone; or
2. [Alternative 1] Allow the City to remain in Rate Group 2, and spread the \$5.3 million in liability proportionately among all the participating rate group employers; or

3. [Alternative 2] Allow the City to remain in Rate Group 2, but require the City to pay an additional premium to prevent the \$5.3 million shift in liability so as to inoculate other participating employers from the impact of the City's proposed movement of the Department.

As more fully explained in the Board's materials in May, the Policy, by its terms, is intended to establish guidelines, and not strict rules, "by which OCERS intends to assure that an employer who experiences an actual or expected material decline in the payroll attributable to its active members will continue to satisfy its obligation to timely pay all unfunded actuarial liability attributable to the employer's active, retired and deferred employees and their beneficiaries by reason of their prior and future service as OCERS' members." The Policy further provides that "[a]bsent exigent circumstances or unless otherwise expressly approved by the Board of Retirement at a duly-noticed public meeting, the procedures and guidelines for implementing this Policy are set forth below." (Emphasis added.)

Section 5 of the Policy states that it "covers only those employers for whom the Board determines, based on a recommendation from OCERS' Chief Executive Officer (CEO), that a *triggering event* as described in this section 4 (sic) has occurred *and* who are not excluded from coverage under this Policy as described in section 5 (sic) and 6 below." (Emphasis in original.) Accordingly, pursuant to the Policy, the Board must (1) determine whether a triggering event as described in the Policy has occurred, and (2) confirm that the employer is not excluded from coverage under the Policy.

The first step of the process is outlined in Section 9 of the Policy, which states that "upon recommendation from the CEO and notice to the affected participating employer, the Board will make a determination at a duly-noticed public meeting regarding (i) whether a triggering event has occurred for the employer..."

From discussion at the Board meeting in May, it appeared the Board would likely conclude the City's proposed action to be a "triggering event" under the Policy, but the Board did not believe depooling was warranted in this scenario where the City would continue as a viable, financially strong, active OCERS participating governmental entity, adding additional personnel, into the future. Trustee comments also indicated the Board considers pooling of participating employers as an important actuarial tool to mitigate against contribution rate volatility. As more fully explained in the materials for the May Board meeting, if the Board determines that the transfer contemplated by the City would be a triggering event under the Policy, the Board has very broad discretion (under the California Constitution, statute and the Policy) to further determine whether the employer should be excluded from coverage under the Policy – that is, whether the employer should remain pooled in light of exigent circumstances.

The OCERS Board ultimately took no action on May 20. The Board instead indicated that it wanted this issue to return on June 17, 2019 with the following two possible options for consideration:

1. Find that if the City transfers the Department it will be a triggering event under the Policy, and determine the City would be depooled; or
2. Find that if the City transfers the Department it will be a triggering event under the Policy, but the City would remain pooled in Rate Group 2 provided the City pays a premium to ensure there would be no cost impact to any other participating employer.

The Board encouraged the County and the City to work together to agree on the amount of premium that would be acceptable to all parties, including the other employers in Rate Group 2.

Discussion:

Working with Segal, it was first determined that the actual present value of the liabilities that would be left unsupported by the City’s reduced OCERS-covered payroll would be \$6,264,000, an increase over the earlier \$5.3 million figure due to an increase in the final number of employees who were identified by the City in 2019 as moving in the event of a Department transfer.

An updated presentation by Segal related to *San Juan Capistrano Rate Group Pooling (Second Meeting)* is attached. While the Segal report indicates that payment of the \$6,264,000 present value amount is all that is “actuarially necessary,” the report also shares some possibilities of an additional premium amount beyond that figure such as had been suggested by Trustee Ball on May 20 when speaking for many on the Board in encouraging the participating employers to discuss what would make them accept a Board decision to keep the City in Rate Group 2 even after a movement of the Department out of City employment.

The Segal presentation was discussed in detail with both City representatives on Friday, June 7, as well as in separate discussions with County representatives. Looking to Slide 12 of the presentation, both the City and the County indicated they could accept the \$6.5 million figure, which would provide some additional premium protection to other participating employers from future changes in assumptions that might have led to additional shared costs due to the Department departure.

Conclusion:

At the June 17 Board meeting, I will ask the Board to make two motions:

1. If the City transfers its Water Department employees to a separate special district, then the Board will find that a triggering event has occurred under the Policy; and
2. The Board finds that exigent circumstances exist under the Policy such that the City may remain pooled in Rate Group 2, provided that the City makes an additional payment of \$6.5 million in a lump sum or level dollar installments.

Attached:

May 10, 2019 Staff Memo

OCERS Declining Payroll Policy

San Juan Capistrano Rate Group Pooling – PowerPoint Presentation by Segal Consulting

Submitted by:



Steve Delaney
Chief Executive Officer



Memorandum

DATE: October 18, 2021
TO: Members of the Board
FROM: Gina M. Ratto, General Counsel
SUBJECT: **BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361**

Recommendation

The Board is asked to make the following findings by the attached Resolution:

- (1) The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
- (2) The Board has determined that one or both of the following circumstances exist:
 - a. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and/or
 - b. State or local officials continue to impose or recommend measures to promote social distancing.

Background/Discussion

In March of 2020, amid rising concern surrounding the spread of COVID-19 throughout communities in the state, Governor Newsom declared a state of emergency and issued a series of Executive Orders that modified certain requirements of the Brown Act. The orders waived several requirements for meetings conducted by teleconference, including the requirement that each teleconference location be accessible to the public, that agendas are posted at all teleconference locations, and that each teleconference location be accessible to the public.

On June 11, 2021, the Governor issued Executive Order N-08-21, rescinding the aforementioned modifications of the Brown Act effective September 30, 2021. On September 16, 2021, Assembly Bill 361 was signed into law as urgency legislation. AB 361 provides local agencies with the ability to meet remotely during proclaimed states of emergency under modifications to the Brown Act that are similar in many ways to the rules and procedures established by the Governor's Executive Orders. On September 20, 2021, the Governor signed an executive order waiving the application of AB 361 until October 1, 2021.

AB 361 amended the Brown Act's teleconference rules and added new provisions for abbreviated teleconferencing procedures that deviate from the traditional teleconferencing procedures during a proclaimed state of emergency, subject to certain requirements specified in the statute.

More specifically, AB 361 amended the Brown Act to add subdivision (e) to Gov't Code § 54953. This subdivision describes the circumstances and procedures for adopting abbreviated teleconferencing procedures during a

proclaimed state of emergency, such as the current continuing COVID-19 pandemic. Subdivision (e)(1) of the statute provides the circumstances and requirements under which a local legislative body may adopt the abbreviated teleconferencing procedures. Once a local legislative body meets the requirements for adopting teleconferencing procedures, subdivision (e)(2) provides the requirements for the abbreviated teleconferencing procedures that the local legislative body must implement.

Adopting Abbreviated Teleconferencing Procedures Under AB 361

A local legislative body, such as OCERS and its standing committees, may elect to use the abbreviated teleconferencing procedures under AB 361 where a state of emergency has been formally proclaimed, **provided that**:

- State or local officials have imposed or recommended measures to promote social distancing at the time the legislative body holds the meeting (Gov't Code § 54953(e)(1)(A)); **or**
- The legislative body holds a meeting for the first time for the purpose of determining by majority vote whether, as a result of proclaimed state of emergency, meeting in person would present imminent risks to the health and safety of attendees (Gov't Code § 54953(e)(1)(B)), **or**
- The legislative body has determined (per previous bullet) that, as a result of the proclaimed state of emergency, meeting in person would continue to present imminent risks to the health or safety of attendees (Gov't Code § 54953(e)(1)(C)).

AB 361 further imposes on local legislative bodies a duty to make factual findings to justify the election to continue to use the abbreviated teleconferencing procedures. (Gov't Code § 54953(e)(3).) Local legislative bodies who wish to consider using AB 361's abbreviated teleconferencing procedures must make the following factual findings within 30 days after teleconferencing for the first time after the expiration of Executive Order N-29-20, and every 30 days thereafter:

- 1) The legislative body has reconsidered the circumstances of the state of emergency; and
- 2) One or both of the following circumstances exist:
 - a. The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - b. State or local officials continue to impose or recommend measures to promote social distancing.

Until January 1, 2024, public retirement boards and their Boards must reconsider the aforementioned circumstances and make factual findings by majority vote that the circumstances continue to exist in order for the local legislative body to elect and continue to use the abbreviated teleconferencing procedures. (Note that AB 361 was designed not only to deal with COVID-19 but also with other types of states of emergency, as defined in Gov't Code § 8625 of the California Emergency State Services Act.) As a "legislative body" under Gov't Code § 54952, we recommend the Board make the requisite findings to proceed with a meeting by teleconference.

Requisite Findings

A state of emergency continues to directly impact the ability of the members of the Board to meet safely in person and both state and local officials continue to impose or recommend measures to promote social distancing. The COVID-19 Prevention Emergency Temporary Standards issued by the California Division of Occupational Safety and Health (Cal/OSHA) (codified at 8 C.C.R. § 3205) recommends physical distancing and requires it under certain circumstances. For example, the regulations require employees not wearing a face covering to be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19. In addition, six feet of distance between people is recommended even when outdoors for those who are unmasked and unvaccinated.

In addition, OSHA has issued guidance on mitigating and preventing the spread of COVID-19 in the workplace that recommends physical distancing in all communal work areas for unvaccinated and otherwise at-risk workers: "[a] key way to protect such workers is to physically distance them from other such people (workers or customers) – generally at least 6 feet of distance is recommended, although this is not a guarantee of safety, especially in enclosed or poorly ventilated spaces."

Moreover, the County of Orange Health Officer's "Orders and Strong Recommendations" (revised August 20, 2021) states that, in general, the older a person is the more important it is to take preventive measures for COVID-19 such as getting vaccinated, practicing social distancing, and wearing a mask when around people who don't live in the same household. The Health Officer recognizes the Center for Disease Control's admonition that anyone infected with COVID-19 can spread it even if they do not have symptoms, and that the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for unvaccinated persons to avoid gathering and practice social distancing, frequently wash hands with soap, wearing face covering and get vaccinated.

Based on the foregoing, I recommend that the Board find that the state of emergency continues to directly impact the ability of the members of the Board to meet safely in person and that state and local officials continue to impose or recommend measures to promote social distancing, and further recommend that the Board adopt the attached Resolution to memorialize such findings.

Attachment**Submitted by:**

GMR- Approved

Gina M. Ratto
General Counsel

RESOLUTION NO. 2021-01

RESOLUTION OF THE BOARD OF THE ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM RATIFYING (1) THE PROCLAMATION OF A LOCAL HEALTH EMERGENCY BY THE COUNTY OF ORANGE HEALTH OFFICER ON FEBRUARY 26, 2020; (2) THE PROCLAMATION OF A LOCAL EMERGENCY BY THE CHAIRWOMAN OF THE ORANGE COUNTY BOARD OF SUPERVISORS ON FEBRUARY 26, 2020; (3) RESOLUTIONS NO. 20-011 AND 20-012 OF THE ORANGE COUNTY BOARD OF SUPERVISORS RATIFYING THE LOCAL HEALTH EMERGENCY AND THE LOCAL EMERGENCY; AND (4) THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR NEWSOM ON MARCH 4, 2020; AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE BOARD FOR THE INITIAL PERIOD OF OCTOBER 18, 2021 THROUGH NOVEMBER 17, 2021, PURSUANT TO BROWN ACT PROVISIONS.

WHEREAS, the Board of the Orange County Employees Retirement System (OCERS Board) is a legislative body under Government Code section 54952; and

WHEREAS, OCERS is committed to preserving and nurturing public access and participation in meetings of the OCERS Board and its committees; and

WHEREAS, all meetings of the OCERS Board and its committees are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the OCERS Board and its committees conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a State of Emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the geographical boundaries within which the OCERS Board and its committees hold their meetings, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in Orange County, specifically, a Local Health Emergency based on an imminent and proximate threat to public health from the introduction of COVID-19 in Orange County was declared by the County of Orange Health Officer on February 26, 2020; a Local Emergency based on the imminent and proximate threat to public health from the introduction of COVID-19 that created conditions of extreme peril to the safety of persons and property within the territorial limits of Orange

County was proclaimed by the Chairwoman of the Board of Supervisors on February 26, 2020; Resolutions No. 20-011 and No. 20-012 of the Orange County Board of Supervisors were adopted on March 2, 2020, ratifying the Local Health Emergency and Local Emergency; and a State of Emergency was proclaimed by Governor Newsom for the State of California on March 4, 2020 based on an outbreak of respiratory illness due to COVID-19; and

WHEREAS, the California Division of Occupational Safety and Health has issued COVID-19 prevention Emergency Temporary Standards requiring any employee not wearing a face covering to be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19; and

WHEREAS, the County of Orange Health Officer's Orders and Strong Recommendations, last revised on August 20, 2021, state that the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for unvaccinated persons to avoid gathering and practice social distancing; and

WHEREAS, the CDC currently recommends that organizations prioritize COVID-19 prevention strategies for indoor settings, and that multiple interventions, including maintaining physical distance and avoiding crowds, should be used concurrently to reduce the spread of disease; and

WHEREAS, the OCERS Board does hereby find that the COVID-19 pandemic has caused, and will continue to cause, conditions of peril to the safety of persons that are likely to be beyond the control of services, personnel, equipment, and facilities of OCERS; and

WHEREAS, in making the aforementioned finding, the OCERS Board acknowledges the proclamation of State of Emergency by the Governor of the State of California; the proclamation of Local Health Emergency by the County of Orange Health Officer; the proclamation of a Local Emergency by the Chairwoman of the Orange County Board of Supervisors; and the ratification of the Local Health Emergency and Local Emergency by the Orange County Board of Supervisors; as well as CalOSHA's prevention Emergency Temporary Standards requiring any employee not wearing a face covering to be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19; the County of Orange Health Officer's Orders and Strong Recommendations for unvaccinated persons to avoid gathering and practice social distancing; and the CDC's recommendation for maintaining physical distance and avoiding crowds; and

WHEREAS, as a consequence of the State of Emergency, Local Health Emergency and Local Emergency, the OCERS Board does hereby find that conditions exist to enable the OCERS Board to conduct its meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that the OCERS Board will comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, members of the public who wish to observe or participate in the meeting may do so via the Zoom application or via telephone, as explained in the agenda for the meeting posted on the OCERS' website and at its business office location at least 72 hours prior to the meeting.

NOW, THEREFORE, THE OCERS BOARD DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Acknowledgement of Proclamation of State and Local Emergency. The OCERS Board hereby acknowledges that a State of Emergency has been proclaimed by the Governor of the State of California effective March 4, 2020; that a Local Health Emergency has been proclaimed by the Orange County Health Officer on February 26, 2020; that a Local Emergency has been proclaimed by the Chairwoman of the Board of Supervisors on February 26, 2020; and that the Local Health Emergency and Local Emergency were ratified by the Orange County Board of Supervisors on March 2, 2020, all of which continue to exist within the geographical boundaries of the territory within which the OCERS Board and its committees hold meetings to conduct business.

Section 3. Determination Regarding Health and Safety Need to Continue Teleconferencing. The OCERS Board finds that the State of Emergency directly impacts the ability of the OCERS Board, its committees, members and staff to meet safely in person, and that state or local officials continue to impose or recommend measures to promote social distancing.

Section 4. Remote Teleconference Meetings. The staff and the OCERS Board are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution will take effect immediately upon its adoption and shall be effective until the earlier of November 17, 2021, or such time the OCERS Board adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the OCERS Board may continue to meet by teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of the Orange County Employees Retirement System this 18th day of October, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:



AB-361 Open meetings: state and local agencies: teleconferences. (2021-2022)

SHARE THIS:



Date Published: 09/17/2021 09:00 P

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body or agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Existing law contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member participating in the public meeting, that each teleconference location be accessible to the public, that members of the legislative body be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authority as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to bring an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by the legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have implemented recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This 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 attend the meeting and address the legislative body, to give notice of the means by which members of the public may attend the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of 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 offering public comments, until access is restored. The bill would specify that actions taken during the disruption are subject to challenge and proceed as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting. The bill would specify that the legislative body must provide an opportunity for the public to address the legislative body and make a comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have implemented recommended measures to promote social distancing, the bill would require a legislative body to make specified findings no later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings effective 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or an online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state legislative body be open and public and all persons be permitted to attend any meeting of a state legislative body. The act requires at least one member of the state legislative body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act regarding teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, that members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state legislative body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or other means, to all members of the public seeking to observe and to address the state body. With respect to a state legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be permitted to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or other means would satisfy any requirement that the state body allow members of the public to attend the meeting and make a public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures to comply with the requirements of the Bagley-Keene Open Meeting Act.

the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Tru the California State University, and authorizes the establishment of student body organizations in connection v operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body orga to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconfe as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding autho law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislativ as defined for purposes of the act, to hold public meetings through teleconferencing and to make public meetings ac telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislativ With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend requirements of existing law, including the requirements that each teleconference location be accessible to the public ; members of the public be able to address the legislative body at each teleconference location. Under the bill, a lei body that holds a meeting through teleconferencing and allows members of the public to observe and address the telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of th to attend the meeting and offer public comment. The bill would require that each legislative body that holds a through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge le bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emerger allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 33 operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings c bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or ena relating to public records or open meetings and contains findings demonstrating that the enactment furthers the const requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public b the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the lii and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 89305.6 is added to the Education Code, to read:

89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requiren

subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements of this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be included in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes of timeframes prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. In any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy the requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be included in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes of the notice and agenda prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment.

to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy the requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and the otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During each teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The legislative body shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are located at different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action by each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members

would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or outside the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision is subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14018.7.35, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan created pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (e) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have implemented recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by a majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. 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 legislative body shall also give notice of the means by which members of the public may access the meeting and offer an opportunity for comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for public comments during the meeting.

opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of a website, or other online platform, not under the control of the local legislative body, that requires registration to log into a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately for each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or other time recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (1), a legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, in addition to, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations.

and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The legislative body shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54950 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are at different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action by each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7, Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority holds a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members who would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or outside the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14018.75, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan created pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (c) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have implemented recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by a majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority

pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risk to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. 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 legislative body shall also give notice of the means by which members of the public may access the meeting and offer comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to participate in a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately for each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or other time recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to restrict public gatherings, including social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (2), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

- (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
- (ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 2).

- (f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all other applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agency shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are located at different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action by each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action regarding salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 1, Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members who would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or outside the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision is subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan created pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, in addition to, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all other applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice of agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agency shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 of the Government Code at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are located at different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action by each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action regarding salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 2 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority c

a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members who would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or outside the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision is subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14018.35, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan created pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access to teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, and expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 5 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Government Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's

access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experienced members of the public who might be able to attend a meeting in a physical location over members of the public who travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a meeting remotely, including from the member's private home or hotel room, this act protects the personal information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services for water, power, and fire protection to their constituents during public health, wildfire, or other states of emergency, it is necessary that this act take effect immediately.

Attachment A

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
March 2, 2020

WHEREAS, Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, non-communicable biologic agent, toxin, or radioactive agent;

WHEREAS, on February 26, 2020, the County's Health Officer declared a local health emergency based on an imminent and proximate threat to public health from the introduction of a novel coronavirus (named "COVID-19") in Orange County.

WHEREAS, under Health and Safety Code Section 101080, the local health emergency shall not remain in effect for more than seven days unless ratified by the Board of Supervisors;

WHEREAS, the Board of Supervisors hereby finds that there continues to exist an imminent and proximate threat to public health from the introduction of COVID-19 in Orange County for reasons set forth in the declaration of local health emergency by County's Health Officer, dated February 26, 2020;

NOW, THEREFORE, BE IT RESOLVED by the Orange County Board of Supervisors that:

1. The local health emergency declared by the County's Health Officer on February 26, 2020 is hereby ratified. Under Health and Safety Code Section 101080, the local health emergency may remain in effect for no more than 30 days from the date of this Resolution.
2. The County's Health Officer is directed to bring for review by the Board of Supervisors the need for continuing the local health emergency no later than the date

coinciding with the expiration of this Resolution

3. The Board of Supervisors delegates authority to the County's Health Officer to terminate the local health emergency, pursuant to Health and Safety Code Section 101080, "at the earliest possible date that conditions warrant the terminations."
4. All County departments and agencies take those actions, measures, and steps deemed necessary to assure the health, safety and welfare of Orange County citizens and property, including requesting mutual aid to the extent such aid is necessary.

///

///

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By 
Deputy
Date 2/27/20

Attachment C

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
March 2, 2020

WHEREAS, Government Code section 8630 and section 3-1-6(a) of the Codified Ordinances of the County of Orange empower the Director of Emergency Services to request the Chair of the Emergency Management Council to proclaim the existence or threatened existence of a local emergency, subject to ratification by the Board of Supervisors within seven days; and

WHEREAS, a novel coronavirus, COVID-19, which causes infectious disease resulting in symptoms of fever, coughing and shortness of breath with outcomes ranging from mild to severe illness and in some cases death, has arisen in China and spread to numerous other countries including the United States; and

WHEREAS, the Centers for Disease Control and Prevention has determined the virus to be a very serious public health threat, yet the method and efficacy of transmission of the virus is not yet fully understood and no vaccine currently exists; and

WHEREAS, Orange County has a population of over 3 million residents, is a major tourist destination, has a high volume airport within its jurisdiction and is a significant destination for business travel all resulting in high volumes of foreign and domestic travelers traveling into and out of the County, which has the potential to result in significant spreading of the disease; and

WHEREAS, the Health Officer of the County of Orange has determined that the County is preparing for an imminent and proximate threat to public health from the virus; and

WHEREAS, communities within the geographic boundaries of Orange County have and will continue to prepare and, as necessary, take significant response actions to any developing contagion and to any other risks that may arise from introduction and possible spread of the virus;

Attachment C

WHEREAS, the above described events are creating conditions of extreme peril and such conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the County, requiring the combined forces of other political subdivisions to combat;
and

WHEREAS, at the request of the Director of Emergency Services, the Chair of the Emergency Management Council, on February 26, 2020, did proclaim the existence of local emergency within the County of Orange; and

WHEREAS, the Board of Supervisors does hereby find that the aforesaid conditions of extreme peril did warrant and necessitate the proclamation of the existence of a local emergency;
and

WHEREAS, the Board of Supervisors also finds a local emergency does exist and shall be deemed to continue to exist until its termination is proclaimed by the Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED that the Orange County Board of Supervisors does hereby ratify the Chair of the Emergency Management Council's February 26, 2020, Proclamation of a Local Emergency.

BE IT FURTHER RESOLVED that all powers, functions, and duties of the emergency organization of the County of Orange shall be vested in such persons as prescribed by federal and state law, by County ordinances and resolutions, and by the Orange County Emergency Plan now in effect.

BE IT FURTHER RESOLVED that all County departments and agencies take those actions, measures, and steps deemed necessary to assure the safety and welfare of Orange County citizens and property, including requesting mutual aid to the extent such aid is necessary.

///

///

Resolution No. _____ Item No. _____
Proclamation of a Local Emergency

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By [Signature]
Deputy
Date 2/27/20

How to Protect Yourself and Others

Accessible version: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

Know how it spreads



- **The best way to prevent COVID-19 is to avoid being exposed to this virus.**
- The virus is thought to spread mainly from person-to-person.
 - » Between people who are in close contact with one another (within about 6 feet).
 - » Through respiratory droplets produced when an infected person coughs, sneezes or talks.
 - » These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.
 - » COVID-19 may be spread by people who are not showing symptoms.

Everyone should

Clean your hands often



- **Wash your hands** often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.
- If soap and water are not readily available, **use a hand sanitizer that contains at least 60% alcohol.** Cover all surfaces of your hands and rub them together until they feel dry.
- **Avoid touching your eyes, nose, and mouth** with unwashed hands.

Avoid close contact



- **Limit contact with people who don't live in your household as much as possible.**
- **Avoid close contact** with people who are sick.
- **Put distance between yourself and other people.**
 - » Remember that some people without symptoms may be able to spread virus.
 - » This is especially important for **people who are at increased risk for severe illness.** <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>.



Cover your mouth and nose with a mask when around others



- **You could spread COVID-19 to others** even if you do not feel sick.
- **Everyone should wear a mask in public settings** and when around people not living in their household, especially when social distancing is difficult to maintain.
 - » Masks should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance.
- **A mask helps prevent a person who is sick** from spreading the virus to others, and offers some protection to the wearer as well.
- Do **NOT** use a facemask meant for a healthcare worker.
- Continue to **keep at least 6 feet between yourself and others**. The mask is not a substitute for social distancing.

Cover coughs and sneezes



- **Always cover your mouth and nose** with a tissue when you cough or sneeze or use the inside of your elbow.
- **Throw used tissues** in the trash.
- Immediately **wash your hands** with soap and water for at least 20 seconds. If soap and water are not readily available, clean your hands with a hand sanitizer that contains at least 60% alcohol.

Clean and disinfect



- **Clean AND disinfect frequently touched surfaces** daily. This includes tables, doorknobs, light switches, countertops, handles, desks, phones, keyboards, toilets, faucets, and sinks. www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/disinfecting-your-home.html
- **If surfaces are dirty, clean them:** Use detergent or soap and water prior to disinfection.
- **Then, use a household disinfectant.** You can see a list of [EPA-registered household disinfectants here](#).



CLAYTON CHAU, MD PhD
DIRECTOR/COUNTY HEALTH OFFICER

REGINA CHINSIO-KWONG, DO
DEPUTY COUNTY HEALTH OFFICER

MATTHEW ZAHN, MD
DEPUTY COUNTY HEALTH OFFICER/MEDICAL DIRECTOR CDCD

405 W. 5TH STREET, 7TH FLOOR
SANTA ANA, CA 92701
www.ocalthinfo.com

**COUNTY OF ORANGE HEALTH OFFICER'S
ORDERS AND STRONG RECOMMENDATIONS**
(Revised September 28, 2021)

In light of the new and recent guidance on COVID1-9 isolation and quarantine issued by Centers for Disease Control (CDC) and Prevention and California Department of Public Health (CDPH), the following **Orders and Strong Recommendations** shall revise and replace the prior Orders and Strong Recommendations of the County Health Officer that were issued on August 20, 2021. The Orders and Strong Recommendations issued on August 20, 2021, are no longer in effect as of September 28, 2021.

Pursuant to California Health and Safety Code sections 101030, 101040, 101470, 120175, and 120130, the County Health Officer for County of Orange orders and strongly recommends the following:

ORDERS

Effective immediately, and continuing until further notice, the following shall be in effect in unincorporated and incorporated territories of Orange County, California:

I. Self-Isolation and Self-Quarantine Orders

- **Self-isolation of Persons with COVID-19.**

Persons with COVID-19 symptoms. All Orange County residents and visitors *with COVID-19 who are symptomatic* (as defined below) shall immediately isolate themselves in their home or another residence. They may discontinue self-isolation under the following conditions:

- At least 10 days have passed since symptom onset; AND

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 2 of 16

- At least 24 hours have passed since resolution of fever without the use of fever-reducing medications; AND
- Other symptoms have improved (except that loss of taste and smell may persist for weeks or months after recovery and need not delay the end of isolation).

Persons without COVID-19 symptoms. All Orange County residents and visitors *with COVID-19 who are asymptomatic* (i.e., they do not have any symptom(s), as defined below) shall isolate themselves immediately in their home or another residence. They may discontinue self-isolation under the following conditions:

- At least 10 days have passed since the first positive COVID-19 PCR or rapid antigen laboratory test.

Additional Considerations.

- A Person who is self-isolated may not leave his or her place of isolation except to receive necessary medical care.
- If a more specific and individualized isolation order is issued by the County Health Officer for any county resident, the resident shall follow the specific order instead of the order herein.
- People who are severely ill with COVID-19 might need to stay in self-isolation longer than 10 days and up to 20 days after symptoms first appeared. People with weakened immune systems may require testing to determine when they can be around others. Talk to your healthcare provider for more information. Your healthcare provider will let you know if you can resume being around other people based on the results of your testing.

This self-isolation order DOES NOT in any way restrict access by first responders to an isolation site during an emergency.

Definition.

- A person is considered to “*with COVID-19*” if the person has:
 - Received a positive COVID-19 PCR or rapid antigen laboratory test result; and/or
 - Exhibits symptoms (as defined below).
- People with COVID-19 have had a wide range of symptoms reported – ranging from mild symptoms to severe illness. Symptoms may appear 2-14 days after exposure to the virus. Anyone can have mild to severe symptoms. People with these symptoms may have COVID-19:

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 3 of 16

- Fever or chills
- Cough
- Shortness of breath or difficulty breathing
- Fatigue
- Muscle or body aches
- Headache
- New loss of taste or smell
- Sore throat
- Congestion or runny nose
- Nausea or vomiting
- Diarrhea

The list above does not include all possible symptoms.

- **Self-Quarantine of Persons Exposed to COVID-19 and Exemptions.**

All Orange County residents and visitors who know that they have been in close contact (within 6 feet of someone for a cumulative total of 15 minutes or more over a 24-hour period) with a person who has, or is suspected to have, COVID-19 and who do not have any symptoms (as defined above) shall take the following actions:

Not Fully Vaccinated Persons

- Stay in their home or another place of residence:
 - For at least 10 days from the date of last contact with a person who has COVID-19 without testing; OR
 - For at least 7 days with a negative COVID-19 diagnostic test result. Diagnostic specimen shall be collected on Day 5 or later from the date of last contact with person with COVID-19.
- The following persons shall quarantine themselves in their home or another place of residence for 14 days from the from the date of last contact with a person who has COVID-19:
 - All persons who reside or work in a high-risk congregate living setting (e.g., skilled nursing facilities, prisons, jails, shelters).
 - All persons who reside or work with severely immunosuppressed persons (e.g., Bone marrow or solid organ transplants, chemotherapy)

All persons quarantined as required above shall also take the following additional actions:

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 4 of 16

- Self-monitor for COVID-19 symptoms through Day 14 from the date of last contact with a person who has COVID-19
 - If any symptoms develop during 14 days after the last date of close contact with a person with COVID-19, they shall immediately self-isolate themselves and contact the Orange County Health Care Agency or their healthcare provider and seek COVID-19 testing.
 - Stay at least 6 feet from others through Day 14;
 - Wear face coverings at all times through Day 14 and adhere to the face covering order (see Section II) below, after Day 14;
 - Avoid crowds through Day 14 after the date of last exposure;
 - Perform frequent hand hygiene; and
 - May not leave their place of quarantine during their quarantine period except to receive necessary medical care or to obtain such other goods or services necessary for their basic subsistence.

Exemptions:

1) **Asymptomatic Fully Vaccinated Persons.** Persons who are fully vaccinated for COVID-19 prior to their close contact with a person with COVID-19 and have not developed any symptoms (as defined above) since their exposure are not required to quarantine.

- People are considered fully vaccinated for COVID-19:
 - 14 days or more after they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna); or
 - 14 days or more after they have received a single-dose vaccine (Johnson and Johnson/Janssen).

2) **Asymptomatic Persons Previously Infected.** If an exposed person tested positive for COVID-19 before their new, recent close contact with a person with COVID-19 and it has been less than 3 months since they started having symptoms from that previous infection (or since their first positive COVID-19 test if asymptomatic), they do not need to quarantine, as long as they have not had any new symptoms since their recent exposure to COVID-19.

All individuals who fall under any of the Exemptions, above, shall also take the following additional actions:

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 5 of 16

- Test for COVID-19 3-5 days after last date of exposure (note: this requirement does not apply to *Asymptomatic Previously Infected Individuals*).
 - If they test positive, they shall immediately self-isolate, as ordered above, and contact their healthcare provider with any questions regarding their care.
 - If they test negative, they shall continue monitoring their symptoms.
- Self-monitor for COVID-19 symptoms through Day 14 and if symptoms occur, immediately isolate as ordered above, they shall immediately self-isolate themselves and contact the Orange County Health Care Agency or their healthcare provider and seek COVID-19 testing.

3) **Quarantine Exemption for Students in both Private and Public Transitional Kindergarten through Grade 12.**

Modified Quarantine.

Unvaccinated students who have close contact (as defined above) to a person with COVID-19 may continue to attend school for in-person instruction if the following conditions are met:

- Both the exposed student and the person with COVID-19 were wearing face covering;
- The exposed student is asymptomatic;
- The exposed student continues to appropriately wear face covering;
- The exposed student is tested for COVID-19 at least twice weekly for ten consecutive days; and
- The exposed student continues to quarantine (i.e., refrains from participation) for all extracurricular activities at school, including sports, and activities within the community setting for 14 consecutive days following exposure. The exposed student may participate in all required instructional components of the school day, except activities where a mask cannot be worn, such as while playing certain musical instruments. Exposed student may also eat meals on campus.

School districts may elect to forego the *Modified Quarantine Exemption* and may instead elect to comply with the General Quarantine Order (10 Day Quarantine), herein.

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 6 of 16

Shortened Quarantine.

When the unvaccinated student has close contact with a COVID-19 person and *either* the unvaccinated student *or* the person with COVID-19 (or *both*) were not wearing a face covering, the exposed student may discontinue self-quarantine at home or another place of residence as follows:

- After Day 10 from the date of last exposure without testing; OR
- After Day 7 if a diagnostic specimen is collected after Day 5 from the date of last exposure and tests negative.

This shortened quarantine may apply ONLY IF the following criteria are met:

- The exposed student remains asymptomatic; and
- The exposed student continues to quarantine (i.e., refrains from participation) for all extracurricular activities at school, including sports, and activities within the community setting for 14 consecutive days following exposure. The exposed student may participate in all required instructional components of the school day, except activities where a mask cannot be worn, such as while playing certain musical instruments. Exposed student may also eat meals on campus.

School districts may elect to forego the 7 Day quarantine and may instead elect to comply with the 10 Day quarantine.

For both Modified and Shortened Quarantine the following also apply:

- The exposed student shall: (i) continue daily self-monitoring for symptoms through Day 14 from last known exposure; and (ii) follow all recommended non-pharmaceutical interventions (e.g., wearing a mask when around others, hand washing, avoiding crowds) through Day 14 from last known exposure.
 - If the exposed student develops any COVID-19 symptoms during this 14-day period, the exposed student shall immediately isolate, get tested for COVID-19 and contact their healthcare provider with any questions regarding their care.
- 4) **Acute Care Hospital Staff Shortage**. Acute care hospitals in collaboration with human resources and occupational health services that determine they are experiencing staff shortage and therefore are unable to provide safe patient care at their facilities may allow the following health care providers to continue to work onsite at their facilities throughout their 14-day exposure

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 7 of 16

period: Asymptomatic health care providers, who are not fully vaccinated for COVID-19 and who have had a higher-risk exposure to COVID-19 but are not known to be infected. These health care providers shall be monitored for symptoms for COVID-19 and shall immediately isolate as consistent with the isolation order above if any symptoms develop (as defined above).

The above self-quarantine orders and exemptions DO NOT in any way restrict access by first responders to a quarantine site during an emergency.

II. **Face-Covering Order:**

- 1) **Wear a Cloth Face-Covering.** To help prevent the spread of droplets containing COVID-19, all County residents and visitors shall wear face coverings in accordance with and as required by the *Guidance for the Use of Face Coverings* issued by CDPH, effective July 28, 2021. The Guidance is attached herein as Attachment “A” and can be found at:
<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>. The Guidance orders, as follows:

Masking Requirements.

Masks are required for **all individuals** in the following indoor settings, regardless of vaccination status:

- On public transit (examples: airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares) and in transportation hubs (examples: airport, bus terminal, marina, train station, seaport or other port, subway station, or any other area that provides transportation)
- Indoors in K-12 schools, childcare
- Emergency shelters [4] and cooling centers

Masks are required for **all individuals**, in the following indoor settings, regardless of vaccination status (and surgical masks are recommended):

- Healthcare settings
- State and local correctional facilities and detention centers
- Homeless shelters
- Long Term Care Settings & Adult and Senior Care Facilities

Additionally, masks are required for unvaccinated individuals in indoor public settings and businesses (examples: retail, restaurants, theaters, family

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 8 of 16

entertainment centers, meetings, state, and local government offices serving the public).

Guidance for Businesses, Venue Operators or Hosts.

In settings where masks are required only for unvaccinated individuals, businesses, venue operators or hosts may choose to:

- Provide information to all patrons, guests and attendees regarding vaccination requirements and allow vaccinated individuals to self-attest that they are in compliance prior to entry.
- Implement vaccine verification to determine whether individuals are required to wear a mask.
- Require all patrons to wear masks.

No person can be prevented from wearing a mask as a condition of participation in an activity or entry into a business.

Exemptions to masks requirements.

The following individuals are exempt from wearing masks at all times:

- Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

Face shields may be considered for members of the public who cannot wear a face covering due to a medical condition or other exemption, although they may not work as well as face coverings in their ability to prevent the spread of COVID-19 to others. A cloth “drape” should be attached to the bottom edge of the face shield and tucked into the shirt to minimize gaps between the face and face shield.

Order and Strong Recommendations of the County of Orange Health Officer
 September 28, 2021
 Page 9 of 16

III. Vaccination and Testing for COVID-19 Orders:

1) COVID-19 Vaccination for Workers and Service Providers of Certain Facilities.

To help prevent transmission of COVID-19, all workers who provide services or work in facilities described below shall comply with the vaccination requirements as set forth in the August 5, 2021, State Health Officer Order. A copy of the State Health Officer Order is attached herein as Attachment "B" and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx>

The State Health Officer Order orders, as follows:

All workers who provide services or work in facilities described below shall have their first dose of a one-dose regimen or their second dose of a two-dose regimen by September 30, 2021:

- General Acute Care Hospitals
- Skilled Nursing Facilities (including Subacute Facilities)
- Intermediate Care Facilities
- Acute Psychiatric Hospitals
- Adult Day Health Care Centers
- Program of All-Inclusive Care for the Elderly (PACE) and PACE Centers
- Ambulatory Surgery Centers
- Chemical Dependency Recovery Hospitals
- Clinics & Doctor Offices (including behavioral health, surgical)
- Congregate Living Health Facilities
- Dialysis Centers
- Hospice Facilities
- Pediatric Day Health and Respite Care Facilities
- Residential Substance Use Treatment and Mental Health Treatment Facilities

Two-dose vaccines include Pfizer-BioNTech or Moderna or vaccine authorized by the World Health Organization. The one-dose vaccine is Johnson and Johnson [J&J]/Janssen.

"Worker" refers to all paid and unpaid individuals who work in indoor settings where (1) care is provided to patients, or (2) patients have access for any purpose. This includes workers serving in health care or other health care settings who have the potential for direct or indirect exposure to patients or SARS-CoV-2 airborne aerosols. Workers include, but are not limited to, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, students and trainees, contractual

Order and Strong Recommendations of the County of Orange Health Officer
 September 28, 2021
 Page 10 of 16

staff not employed by the health care facility, and persons not directly involved in patient care, but who could be exposed to infectious agents that can be transmitted in the health care setting (e.g., clerical, dietary, environmental services, laundry, security, engineering and facilities management, administrative, billing, and volunteer personnel).

Exemption from Vaccination. Workers may be exempt from the vaccination requirements under only upon providing the operator of the facility a declination form, signed by the individual stating either of the following: (1) the worker is declining vaccination based on Religious Beliefs, or (2) the worker is excused from receiving any COVID-19 vaccine due to Qualifying Medical Reasons.

Eligibility for Qualified Medical Reasons Exemption. To be eligible for a Qualified Medical Reasons exemption, the worker must also provide to their employer a written statement signed by a physician, nurse practitioner, or other licensed medical professional practicing under the license of a physician stating that the individual qualifies for the exemption (but the statement should not describe the underlying medical condition or disability) and indicating the probable duration of the worker's inability to receive the vaccine (or if the duration is unknown or permanent, so indicate).

Condition of Entry into Facility for Exempted Workers. If an operator of facility deems a worker to have met the requirements of an exemption, the unvaccinated exempt worker must meet the following requirements when entering or working in such facility:

- Test for COVID-19 with either PCR or antigen test that either has Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services. Testing must occur twice weekly for unvaccinated exempt workers in acute health care and long-term care settings, and once weekly for such workers in other health care settings.
- Wear a surgical mask or higher-level respirator approved by the National Institute of Occupational Safety and Health (NIOSH), such as an N95 filtering facepiece respirator, at all times while in the facility.

- 2) **Requirements for COVID-19 Vaccination Status Verification, COVID-19 Testing, and Masking for Certain Facilities.** To help prevent transmission of COVID-19, all facilities described below shall comply with the State Health Officer Order, effective August 9, 2021. A copy of the State Health Officer Order is attached herein as Attachment "C" and can be found at the following link:

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 11 of 16

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Unvaccinated-Workers-In-High-Risk-Settings.aspx>

Acute Health Care and Long-Term Care Settings:

- General Acute Care Hospitals
- Skilled Nursing Facilities (including Subacute Facilities)
- Intermediate Care Facilities

High-Risk Congregate Settings:

- Adult and Senior Care Facilities
- Homeless Shelters
- State and Local Correctional Facilities and Detention Centers

Other Health Care Settings:

- Acute Psychiatric Hospitals
- Adult Day Health Care Centers
- Adult Day Programs Licensed by the California Department of Social Services
- Program of All-Inclusive Care for the Elderly (PACE) and PACE Centers
- Ambulatory Surgery Centers
- Chemical Dependency Recovery Hospitals
- Clinics & Doctor Offices (including behavioral health, surgical)
- Congregate Living Health Facilities
- Dental Offices
- Dialysis Centers
- Hospice Facilities
- Pediatric Day Health and Respite Care Facilities
- Residential Substance Use Treatment and Mental Health Treatment Facilities

- 3) **Requirements for COVID-19 Vaccine Status Verification and COVID-19 Testing for School Workers in Transitional Kindergarten through Grade 12.** To prevent the further spread of COVID-19 in K-12 school settings, all public and private schools serving students in transitional kindergarten through grade 12 shall comply with the State Health Officer Order, effective August 12, 2021, regarding verification of COVID-19 vaccination status and COVID-19 testing of all workers. A copy of the State Health Officer Order is attached herein as Attachment “D” and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Vaccine-Verification-for-Workers-in-Schools.aspx>

This Order does not apply to (i) home schools, (ii) child care settings, or (iii) higher education.

Order and Strong Recommendations of the County of Orange Health Officer
 September 28, 2021
 Page 12 of 16

- 4) **Local Correctional Facilities and Detention Centers Health Care Worker Vaccination Requirement.** To prevent the further spread of COVID-19 in local correctional facilities and detention centers, all individuals identified in the State Health Officer Order, effective August 19, 2021, regarding obtaining COVID-19 vaccination shall comply with the State Health Officer's Order. A copy of the State Health Officer Order is attached herein as Attachment "E" and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Correctional-Facilities-and-Detention-Centers-Health-Care-Worker-Vaccination-Order.aspx>

IV. Visiting Acute Health Care and Long-Term Care Setting Order:

- **Requirements for Visiting Acute Health Care and Long-Term Care Settings.** To help prevent transmission of COVID-19, all acute health care and long-term care settings shall comply with the indoor visitation requirements set forth in the State Health Officer, effective August 11, 2021. A copy of the State Health Officer Order is attached herein as Attachment "F" and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Requirements-for-Visitors-in-Acute-Health-Care-and-Long-Term-Care-Settings.aspx>

V. Seasonal Flu Vaccination Order:

- 1) **Seasonal Flu Vaccination for Certain County Residents.** All individuals who reside or work in Orange County and fall under one of the following categories, shall obtain the seasonal flu vaccination unless a medical or religious exemption applies: (i) current providers for congregate settings; (ii) current health care providers; and (iii) current emergency responders. However, nothing herein shall be construed as an obligation, on the part of employers, public or private, to require employees obtain the seasonal flu vaccination as a term or condition of employment.
- *Emergency responder* shall mean military or national guard; law enforcement officers; correctional institution personnel; fire fighters; emergency medical services personnel; physicians; nurses; public health personnel; emergency medical technicians; paramedics; emergency management personnel; 911 operators; child welfare workers and service providers; public works personnel; and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency; as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.
 - *Health care provider* shall mean physicians; psychiatrists; nurses; nurse practitioners; nurse assistants; medical technicians; any other person who is employed to provide diagnostic services, preventive services, treatment services or other services that are integrated with and necessary to the provision of patient

Order and Strong Recommendations of the County of Orange Health Officer
 September 28, 2021
 Page 13 of 16

care and, if not provided, would adversely impact patient care; and employees who directly assist or are supervised by a direct provider of diagnostic, preventive, treatment, or other patient care services; and employees who do not provide direct health care services to a patient but are otherwise integrated into and necessary to the provision those services – for example, a laboratory technician who processes medical test results to aid in the diagnosis and treatment of a health condition. A person is not a health care provider merely because his or her employer provides health care services or because he or she provides a service that affects the provision of health care services. For example, IT professionals, building maintenance staff, human resources personnel, cooks, food services workers, records managers, consultants, and billers are not health care providers, even if they work at a hospital of a similar health care facility.

STRONG RECOMMENDATIONS

Effective immediately, and continuing until further notice, the following shall be in effect in unincorporated and incorporated territories in Orange County, California:

1. **For Vulnerable Population.** In general, the older a person is, the more health conditions a person has, and the more severe the conditions, the more important it is to take preventive measures for COVID-19 such as getting vaccinated, social distancing and wearing a mask when around people who don't live in the same household, and practicing hand hygiene. For more information, see <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.
2. **COVID-19 Vaccination for County Residents.** All Orange County residents should receive COVID-19 vaccination in accordance with the Federal Food and Drug Administration (FDA) and CDC guidance unless a medical contraindication applies. Minors, who are eligible to receive COVID-19 vaccination in accordance with the applicable CDC guidelines, should be vaccinated in the presence of their parent or legal guardian.
3. **Seasonal Flu Vaccination for County Residents.** All County residents who are six months of age or older should obtain the seasonal flu vaccination unless a medical or religious exemption applies.
4. **COVID-19 Vaccination and Testing for Emergency Medical Technicians, Paramedics and Home Healthcare Providers.** To help prevent transmission of COVID-19, it is strongly recommended that all Emergency Medical Technicians, Paramedics, and Home Healthcare Providers (including In Home Supportive Services Program workers) are fully vaccinated by September 30, 2021.

Furthermore, it is strongly recommended that all unvaccinated Emergency Medical Technicians, Paramedics, and Home Healthcare Providers (including In Home

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 14 of 16

Supportive Services Program workers) undergo at least twice weekly testing for COVID-19 until such time they are fully vaccinated.

GENERAL PROVISIONS

1. The Orders and Strong Recommendations, above, shall not supersede any conflicting or more restrictive orders issued by the State of California or federal government. If any portion of this document or the application thereof to any person or circumstance is held to be invalid, the remainder of the document, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of the orders and strong recommendations are severable.
2. The Orders contained in this document may be enforced by the Orange County Sheriff or Chiefs of Police pursuant to California Health and Safety Code section 101029, and California Government Code sections 26602 and 41601. A violation of a health order is subject to fine, imprisonment, or both (California Health and Safety Code section 120295).

REASONS FOR THE ORDERS AND STRONG RECOMMENDATIONS

1. On February 26, 2020, the County of Orange Health Officer declared a Local Health Emergency based on an imminent and proximate threat to public health from the introduction of COVID-19 in Orange County.
2. On February 26, 2020, the Chairwoman of the Board of Supervisors, acting as the Chair of Emergency Management Council, proclaimed a Local Emergency in that the imminent and proximate threat to public health from the introduction of COVID-19 created conditions of extreme peril to the safety of persons and property within the territorial limits of Orange County.
3. On March 2, 2020, the Orange County Board of Supervisors adopted Resolutions No. 20-011 and No. 20-012 ratifying the Local Health Emergency and Local Emergency, referenced above.
4. On March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in California as a result of the threat of COVID-19.
5. As of September 24, 2021, the County has reported a total of 295,227 recorded confirmed COVID-19 cases and 5,384 of COVID-19 related deaths.
6. Safe and effective authorized COVID-19 vaccines are recommended by the CDC. According to CDC, anyone infected with COVID-19 can spread it, even if they do NOT have symptoms. The novel coronavirus is spread in 3 ways: 1) Breathing in air when close to an infected person who is exhaling small droplets and particles that contain the virus. 2) Having these small droplets and particles that contain virus land on the eyes, nose, or mouth, especially through splashes and sprays like a cough or sneeze. 3) Touching eyes, nose, or mouth with hands that have the virus on them. See

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 15 of 16

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>.

7. CDC requires face coverings on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States and in U.S. transportation hubs such as airports and stations. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>.
8. The CDPH issued a revised Guidance for the Use of Face Coverings, effective July 28, 2021, available at:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>
9. According to the CDC and CDPH, older adults, individuals with medical conditions, and pregnant and recently pregnant persons are at higher risk of severe illness when they contract COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>; see also <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/PublicHealthGuidanceSelfIsolationforOlderAdultsandThoseWhoHaveElevatedRisk.aspx>.
10. The Orders and the Strong Recommendations contained in this document are based on the following facts, in addition to the facts stated under the foregoing paragraphs: (i) Safe and effective FDA authorized COVID-19 vaccines have become widely available, but many Orange County residents have not yet had the opportunity to be vaccinated, or have not completed their vaccination series to be fully vaccinated; (ii) there are currently limited therapeutic options proven effective that consistently prevents the severe illness associated with COVID-19; (iii) the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for unvaccinated persons to avoid gathering and practice social distancing, frequently wash hands with soap, wearing face covering and get vaccinated; (iv) some individuals who contract COVID-19 have no symptoms or have only mild symptoms and so are unaware that they carry the virus and are transmitting it to others; (v) current evidence shows that the novel coronavirus can survive on surfaces and can be indirectly transmitted between individuals; (vi) older adults and individuals with medical conditions are at higher risk of severe illness; (vii) sustained COVID-19 community transmission continues to occur; (viii) the age, condition, and health of a significant portion of Orange County's residents place them at risk for serious health complications, including hospitalization and death, from COVID-19; (ix) younger and otherwise healthy people are also at risk for serious negative health outcomes and for transmitting the novel coronavirus to others.
11. The orders and strong recommendations contained in this document are necessary and less restrictive preventive measures to control and reduce the spread of COVID-19 in Orange County, help preserve critical and limited healthcare capacity in Orange County and save the lives of Orange County residents.

Order and Strong Recommendations of the County of Orange Health Officer
September 28, 2021
Page 16 of 16

12. The California Health and Safety Code section 120175 requires the County of Orange Health Officer knowing or having reason to believe that any case of a communicable disease exists or has recently existed within the County to take measures as may be necessary to prevent the spread of the disease or occurrence of additional cases.
13. The California Health and Safety Code sections 101030 and 101470 require the county health officer to enforce and observe in the unincorporated territory of the county and within the city boundaries located with a county all of the following: (a) Orders and ordinances of the board of supervisors, pertaining to the public health and sanitary matters; (b) Orders, including quarantine and other regulations, prescribed by the department; and (c) Statutes relating to public health.
14. The California Health and Safety Code section 101040 authorizes the County of Orange Health Officer to take any preventive measure that may be necessary to protect and preserve the public health from any public health hazard during any “state of war emergency,” “state of emergency,” or “local emergency,” as defined by Section 8558 of the Government Code, within his or her jurisdiction. “Preventive measure” means abatement, correction, removal, or any other protective step that may be taken against any public health hazard that is caused by a disaster and affects the public health.
15. The California Health and Safety Code section 120130 (d) authorizes the County of Orange Health Officer to require strict or modified isolation, or quarantine, for any case of contagious, infectious, or communicable disease, when such action is necessary for the protection of the public health.

IT IS SO ORDERED:

Date: September 28, 2021



Clayton Chau MD, PhD
County Health Officer
County of Orange

DECLARATION OF A LOCAL HEALTH EMERGENCY

WHEREAS, Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, non-communicable biologic agent, toxin, or radioactive agent;

WHEREAS, the Centers for Disease Control and Prevention announced on February 25, 2020 that community spread of COVID-19 is likely to occur in the United States;

WHEREAS, based on the Centers for Disease Control and Prevention statements, there is an ongoing risk and likelihood of COVID-19 positive patients being identified in Orange County;

WHEREAS, based on the foregoing, there is an imminent and proximate threat of the introduction of COVID-19 in the County of Orange and a threat to the public health of the County residents;

THEREFORE, the County Health Officer hereby declares a health emergency.



Nichole Quick, MD, MPH
Health Officer

2/26/2020

Date

COUNTY OF ORANGE
STATE OF CALIFORNIA
PROCLAMATION OF A LOCAL EMERGENCY

REQUEST FOR GOVERNOR TO DECLARE A STATE OF EMERGENCY

WHEREAS, in accordance with Government Code Section 8630, a local emergency may be proclaimed by the Board of Supervisors of the County of Orange or by an official so designated by ordinance adopted by the Board of Supervisors; and

WHEREAS, Section 3-1-6(a) of the Codified Ordinances of the County of Orange provides that the Director of Emergency Services shall request the Board of Supervisors to proclaim a local emergency when the Board of Supervisors is in session and the Chair of the Emergency Management Council to so proclaim when the Board of Supervisors is not in session; and

WHEREAS, the Board of Supervisors is not currently in session, and the Director of Emergency Services has requested that the Chair of the Emergency Management Council proclaim a local emergency; and

WHEREAS, a novel coronavirus, COVID-19, which causes infectious disease resulting in symptoms of fever, coughing and shortness of breath with outcomes ranging from mild to severe illness and in some cases death, has arisen in China and spread to numerous other countries including the United States; and

WHEREAS, the Centers for Disease Control and Prevention has determined the virus to be a very serious public health threat, yet the method and efficacy of transmission of the virus is not yet fully understood and no vaccine currently exists; and

WHEREAS, Orange County has a population of over 3 million residents, is a major tourist destination, has a high volume airport within its jurisdiction and is a significant

destination for business travel all resulting in high volumes of foreign and domestic travelers traveling into and out of the County, which has the potential to result in significant spreading of the disease; and

WHEREAS, the Health Officer of the County of Orange has determined that the County is preparing for an imminent and proximate threat to public health from the virus; and

WHEREAS, communities within the geographic boundaries of Orange County have and will continue to prepare and, as necessary, take significant response actions to any developing contagion and to any other risks that may arise from introduction and possible spread of the virus;

WHEREAS, the above described events are creating a condition of extreme peril to the safety of persons and property within the territorial limits of the County of Orange which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the County of Orange, and require the combined forces of other political subdivisions to combat;

IT IS HEREBY PROCLAIMED that a local emergency exists within the geographic area of Orange County;

IT IS FURTHER PROCLAIMED AND ORDERED that as of this date all County departments and agencies take those actions, measures and steps deemed necessary to assure the safety and welfare of Orange County residents and property, including requesting mutual aid to the extent such aid is necessary and utilizing EOC Cal Cards and any other available funding stream to acquire resources determined by the DES or an authorized emergency purchaser as necessary to respond to this declared emergency.

ACCORDINGLY, THE CHAIR OF THE BOARD OF SUPERVISORS ACTING AS THE CHAIR OF THE EMERGENCY MANAGEMENT COUNCIL HEREBY REQUESTS that the Governor declare a State of Emergency and make all relevant funds available to the County of Orange and all eligible community members and businesses, including but not limited to, California Disaster Assistance Act funds and State Private Nonprofit Organizations Assistance Program funds, and that the Governor request that the President of the United States make a Presidential Declaration of Emergency in and for the County of Orange and make all relevant funds available to the County of Orange and all eligible community members and businesses, including, but not limited to, aid provided by the Small Business Administration.

Date: 2/26/20

Signed: 

Michelle Steel,
Chairwoman of the Board of Supervisors Acting as
the Chair of the Emergency Management Council
County of Orange

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and



WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.



IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and



notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The



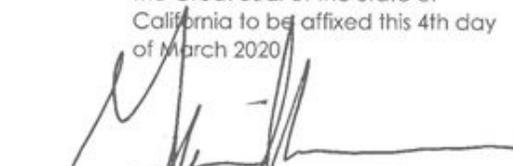
notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

