

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

**REGULAR MEETING
Monday, March 21, 2022
9:30 A.M.**

Pursuant to Assembly Bill 361, signed into law on September 16, 2021 as urgency legislation, Governor Newsom’s Proclamation of a State of Emergency on March 4, 2020, which Proclamation is still in effect; and Board of Retirement Resolution 2022-02, this meeting will be conducted by video/teleconference only, in compliance with Government Code section 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/85657308441</p> <p>Meeting ID: 856 5730 8441 Password: 241251</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> <p>+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> <p>Meeting ID: 856 5730 8441 Password: 241251</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

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.

- 1. Kevin R. Webster

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

February 22, 2022

Recommendation: Approve minutes.

C-3 BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND ADOPTION OF BOARD RESOLUTION 2022-03

Recommendation: That the Board:

(1) Make the following findings pursuant to Government Code section 54953, as amended by AB 361;

- a. The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
- b. The Board has determined that the following circumstances exist:

- i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and
- ii. State or local officials continue to impose or recommend measures to promote social distancing.

and

(2) Adopt Board of Retirement Resolution 2022-03 to reflect such findings.

C-4 OCERS BUILDING COMMITTEE CHARTER

Recommendation: Adopt OCERS Building Committee Charter.

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: JORGE AMBRIZ

Coach Operator, Orange County Transportation Authority (General 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-2: GREGORY ELLIS

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

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as March 26, 2021.

DC-3: RINKY NEMNICH

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

Recommendation: The Disability Committee recommends that the Board:

- Grant Service connected disability retirement.
- Set the effective date as the day after the last day of regular compensation.

DC-4: RYAN RINEHART

Fire Captain, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as the day after the last day of regular compensation.

DC-5: GLENN STEWART

Fire Captain, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as the day after the last day of regular compensation.

DC-6: JOHN SAHM

Firefighter, 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-7: JOHN VU

Senior System Software Analyst, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board:

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

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.

OPEN SESSION

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

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

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-2: GLENN JOHNSON
Correctional Services Technician, Orange County Sheriff’s Department

Recommendation: Approve and adopt the findings and recommendations of the Hearing Officer as set forth in the Summary of Evidence, Findings of Fact, Conclusions of Law, and Recommendations dated January 29, 2022 (Recommendation) wherein the Hearing Officer recommended that the Board grant the Applicant (Glenn Johnson) a non-service connected disability retirement with an effective date of April 2, 2014 on his psychiatric condition, and *deny* service connected disability retirement on both his psychiatric and orthopedic conditions.

OPEN SESSION

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

ACTION ITEMS

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

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

A-2 2022 STAR COLA FINAL APPROVAL
Presentation by Suzanne Jenike, Assistant Chief Executive Officer, External Operations, OCERS

Recommendation: Approve payment of STAR COLA for the period April 1, 2022 through March 31, 2023 in the amount of \$351,903.

R-9 FOURTH QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED DECEMBER 31, 2021

Written Report

R-10 STATE OF MEMBER SERVICES QUALITY REPORT – 2021

Written Report

CLOSED SESSION

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.

CIO COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

BOARD MEMBER COMMENTS

ADJOURNMENT:

NOTICE OF NEXT MEETINGS

**AUDIT COMMITTEE MEETING
March 30, 2022
9:30 A.M.**

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

DISABILITY COMMITTEE MEETING

April 18, 2022

8:30 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

2223 E. WELLINGTON AVENUE, SUITE 100

SANTA ANA, CA 92701

REGULAR BOARD MEETING

April 18, 2022

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: March 21, 2022
TO: Members of the Board of Retirement
FROM: Jonathea Tallase, Member Services Manager
SUBJECT: **OPTION 4 RETIREMENT ELECTION – KEVIN WEBSTER**

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 January 14, 2022. 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:



J. T. – APPROVED

Jonathea Tallase
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

March 7, 2022

Jonathea Tallase
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 Kevin R. Webster**

Dear Jonathea:

Pursuant to your request, we have determined the Option 4 benefits payable to Kevin R. Webster and his ex-spouse based on the unmodified benefit and other information provided in the System’s request dated March 2, 2022.

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	January 14, 2022
Plan of Membership	General Plan B and Safety Plan F
Monthly Unmodified Benefit	Plan B: \$86.30 Plan F: <u>9,178.88</u> Total: \$9,265.18
Ex-Spouse’s Share of Monthly Unmodified Benefit	33.76%
Type of Retirement	Service Retirement

Jonathea Tallase
 March 7, 2022
 Page 2

We calculated the adjustment to the member's unmodified benefit to provide a 33.76% 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:	\$11.43	
Plan B Pension:	45.74	
Plan F Annuity:	1,132.11	
Plan F Pension:	<u>4,947.98</u>	
Total:	\$6,137.26	\$0.00
Monthly benefit payable to ex-spouse ¹	\$2,887.45	\$2,887.45

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.

¹ This is equal to 33.76% of the member's unmodified benefit (i.e., 33.76% * \$9,265.18 or \$3,127.92) 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.

Jonathea Tallase
March 7, 2022
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



March 7, 2022

Kevin R. Webster

Re: Retirement Election Confirmation – Option 4

Dear Mr. WEBSTER:

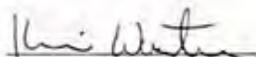
You have elected Option 4 as your retirement option. This option will provide a 33.76% of your monthly benefit, for the life of the benefit, to:

KARI WEBSTER

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

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

I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 33.76% continuance to KARI WEBSTER.

 3/8/22
Member Signature/Date

Sincerely,



Cesar Rodriguez

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

**REGULAR MEETING
February 22, 2022
9:30 a.m.**

MINUTES

Chair Eley called the meeting to order at 9:30 a.m.

Recording Secretary administered the Roll Call attendance.

Attendance was as follows:

Present via Zoom Video conference pursuant to Government Code § 54953, as amended by AB 361:

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

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; Cammy Torres; Recording Secretary

CONSENT AGENDA

MOTION by Mr. Packard, **seconded** by Mr. Lindholm to approve recommendations on all of the following items on the Consent Agenda except for item C-3:

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

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

1. None

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

January 18, 2022

Recommendation: Approve minutes.

C-3 BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND ADOPTION OF BOARD RESOLUTION 2022-02

Recommendation: That the Board (1) make the following findings pursuant to Government Code section 54953, as amended by AB 361;

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

and

(2) Adopt Board of Retirement Resolution 2022-02 to reflect such findings.

Ms. Freidenrich pulled item C-3.

C-4 RETIREE REQUEST TO BE REINSTATED – MARY ANN JOHNSON

Recommendation: Reinstate Ms. Johnson as an active member under the provisions of Government Code Section 31680.4 and 31680.5.

The motion passed **unanimously.**

CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

MOTION by Packard, **seconded** by Lindholm, to approve staff’s recommendation on all of the following items on the Disability/Member Benefits Consent Agenda except for DC-2:

DC-1: JOE BATRIZ
Facility Maintenance Specialist I, Orange County Sheriff's Department (General Member)

Recommendation: The Disability Committee recommends that the Board:

- Grant service connected disability retirement.
- Set the effective date as August 14, 2020.

DC-2: MIHAIL DANCIULESCU
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 November 22, 2019.

Ms. Freidenrich pulled item DC-2.

DC-3: GARY KING
Service Worker, Orange County Transportation Authority (General 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-4: ERIKA OCHOA
Office Specialist, Orange County Social Services Agency (General 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: PAUL SATRAS
Fire Captain, 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 27, 2020.

DC-6: SIMA AZMA
Application Developer I, Orange County Superior Court

Recommendation: the Board approve and adopt the findings and recommendations of the Hearing Officer as set forth in the Proposed Findings of Fact Conclusions and Recommendation dated October 13, 2021 (Recommendation) wherein the Hearing Officer recommended that the Applicant, Sima Azma, request for service connected disability be denied.

The motion passed **unanimously.**

CLOSED SESSION

The Board adjourned into closed session at 9:53 a.m.

The Board reconvened into open session at 10:16 a.m.

OPEN SESSION

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

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

DC-2: MIHAIL DANCULESCU

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 November 22, 2019.

Mr. Eley reported out of closed session:

MOTION by Packard, **seconded** by Prevatt to find the applicant permanently incapacitated from duties of a Sergeant with effective date of November 22, 2019.

The motion passed **unanimously**.

ACTION ITEMS:

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

**C-3 BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB
361, AND ADOPTION OF BOARD RESOLUTION 2022-02**

Recommendation: That the Board (1) make the following findings pursuant to Government Code section 54953, as amended by AB 361;

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

and

(2) Adopt Board of Retirement Resolution 2022-02 to reflect such findings.

Ms. Freidenrich had questions in regards to the “whereas” items in the resolution.

Ms. Ratto and Mr. Delaney responded to Ms. Freidenrich’s concerns.

MOTION by Freidenrich, **seconded** by Lindholm, to approve item C-3:

The motion passed **unanimously**.

A-2 2022 COST OF LIVING ADJUSTMENT

Presentation by Suzanne Jenike, Assistant CEO of External Operations, OCERS; Andy Yeung, and Paul Angelo, Segal

Recommendation: Adjust all applicable benefit allowances by 3% effective April 1, 2022, and bank 1%, in accordance with Government Code section 31870.1, resulting from the 3.83% change to CPI in calendar year 2021 (rounded to 4%).

Ms. Jenike presented item A-2.

Mr. Ron Hinshaw, member of the public, had a question in regards to the CPI calculation.

Mr. Angelo, Segal, stated that OCERS uses a 12 month average when calculating CPI and not a month to month calculation.

MOTION by Dewane, **seconded** by Packard, to adjust all applicable benefit allowances by 3% effective April 1, 2022, and bank 1%, in accordance with Government Code section 31870.1, resulting from the 3.83% change to CPI in calendar year 2021 (rounded to 4%).

The motion passed **unanimously**.

A-3 SACRS BOARD OF DIRECTORS ELECTIONS 2022-2023

Presentation by Gina M. Ratto, General Counsel

Recommendation: Identify one or more nominees for the SACRS Board of Directors election to be conducted on May 13, 2022; and direct staff to submit the nomination(s) to the SACRS Nominating Committee on or before March 1, 2022.

Ms. Ratto presented item A-3.

Ms. Tagaloa indicated she was willing to be considered a nominee for any SACRS Board of Directors positions.

MOTION by Tagaloa, **seconded** by Hidalgo, to direct staff to nominate Ms. Tagaloa for any of the open positions on the SACRS Board of Directors.

The motion passed **unanimously**.

The Board recessed for break at 10:50 a.m.

The Board reconvened from break at 11:07 a.m.

Recording Secretary administered the Roll Call attendance.

A-4 PERSONNEL COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON FEBRUARY 7, 2022
Presentation by Suzanne Jenike, Suzanne Jenike, Assistant CEO of External Operations, OCERS

Recommendation: The Personnel Committee recommends the Board of Retirement approve the following items:

- 1) Approve the addition of two Extra Help positions, classified as a Member Services Manager and a Disability Manager in the External Operations division; and
- 2) Approve an amendment to OCERS' Administrative Budget for Fiscal Year 2022 by transferring \$25,000 from the Services and Supplies category to the Personnel category to account for budgeted costs for the Business Plan initiatives of a comprehensive review of the applicable MOUs for all OCERS Participating Employers being utilized using Extra Help positions instead of a third party consultant.

Ms. Jenike presented item A-4.

MOTION by Lindholm, **seconded** by Prevatt, to approve the Personnel Committee recommendations as presented in item A-4.

The motion passed **unanimously**.

INFORMATIONAL ITEMS

Presentations

I-1 2021 EMPLOYEE, MANAGER AND INNOVATOR OF THE YEAR
Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney presented item I-1. First noting that OCERS Employee of The Year, Ms. Nusa Sio had experienced a family loss and was not able to join the meeting, he promised to return in the summer to allow the Board an opportunity to meet her. He then introduced the two remaining staff awards for 2021.

I-2 ACTUARIAL TOPICS WITH SEGAL
Presentation by, Todd Tauzer, Andy Yeung, and Paul Angelo, Segal

Mr. Angelo, Mr. Tauzer, and Mr. Yeung presented item I-2. They, along with the Board, discussed the following topics:

- OCERS mortality assumption will not be noticeably impacted by COVID 19
- Current mortality expectations for Safety Members
- Why they recommend OCERS not consider early adjustment of the Assumed Earnings Rate despite record earnings

I-3 UPDATE ON FINAL AVERAGE SALARY

Presentation by Suzanne Jenike, Assistant CEO of External Operations, OCERS

Ms. Jenike presented item I-3. She stated that she's in the process of reviewing documents for the past 10 years to determine the potential impact to OCERS. She hopes to have a more concrete report for the Board by the March Regular Board Meeting.

I-4 UPDATE ON STAFFING

Presentation by Cynthia Hockless, Director of Human Resources, OCERS

Ms. Hockless presented item I-4 and gave the Board the quarterly update on staff openings, vacancies and status on filling those positions. She also presented the HR staff and thanked them for their hard work.

I-5 M365 MIGRATION IMPACT TO BOARD MEMBERS

Presentation by Matt Eakin, Director of Cyber Security and Manuel Serpa, Staff Attorney, OCERS

Mr. Eakin presented item I-5. He discussed the M365 transition and impact to the Board.

Mr. Serpa provided brief legal clarifications regarding Board Member use of personal email and/or personal devices for OCERS business.

I-6 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney provided the monthly COVID-19 update. The team plans to return to the office on March 11th.

Written Reports

No written reports were pulled for discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices

February 22, 2022

Death Notices

February 22, 2022

R-2 COMMITTEE MEETING MINUTES

- 12-15-2021 Audit Committee Minutes

R-3 CEO FUTURE AGENDAS AND 2022 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 OVERPAID AND UNDERPAID PLAN BENEFITS – 2021 REPORT
Written Report

R-8 2022 STAR COLA COST POSTING
Written Report

R-9 2021 BUSINESS PLAN – END OF YEAR REPORT
Written Report

R-10 ANNUAL REPORT OF CONTRACTS GREATER THAN \$100,000
Written Report

R-11 2022 POLICY COMPLIANCE REPORT
Written Report

R-12 SUMMARY OF DECISION OF THE FIFTH DISTRICT COURT OF APPEAL IN *O’NEAL V. STANISLAUS COUNTY EMPLOYEES’ RETIREMENT ASSOCIATION, ET AL (CASE NO. F079201)*
Written Report

At Chair Eley’s request Item R-12 will return to the March Regular Board Meeting to allow for a presentation by Mr. Liederman of ReedSmith.

BOARD MEMBER COMMENTS
N/A

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS
N/A

COUNSEL COMMENTS
Ms. Ratto reminded the Board that Form 700 would need to be completed by April 1.

The meeting **ADJOURNED** at 12:53 p.m.

Submitted by:

Approved by:

Orange County Employees Retirement System
February 22, 2022
Regular Board Meeting – Minutes

Page 9

Steve Delaney
Secretary to the Board

Frank Eley
Chairman

**REVISED**

Memorandum

DATE: March 21, 2022
TO: Members of the Board
FROM: Gina M. Ratto, General Counsel
SUBJECT: **BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND ADOPTION OF BOARD RESOLUTION 2022-03**

Recommendation

That the Board:

- (1) Make the following findings pursuant to Government Code section 54953, as amended by AB 361;
 - a. The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
 - b. The Board has determined that the following circumstances exist:
 - i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and
 - ii. State or local officials continue to impose or recommend measures to promote social distancing.

and
- (2) Adopt Board of Retirement Resolution 2022-03 to reflect such findings.

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 teleconference rules of the Brown Act 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 the AB 361 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.)

On February 22, 2022, the Board adopted Resolution 2022-02 to reflect the findings made by the Board pursuant to AB 361. **Staff recommends the Board renew its findings and adopt Resolution 2022-03 in order for the Board and its committees to continue to meet by teleconference.**

Reconsideration of the State of Emergency and Requisite Findings

A state of emergency continues to directly impact the ability of the members of the Board and its committees to meet safely in person and, as more fully set forth below, 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 Emergency Temporary Standards require employers to exclude from the workplace employees who had a close contact ("close contact" means being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period) until certain specified requirements are met, except that employees who were fully vaccinated before the close contact and who do not develop COVID-19 symptoms do not need to be excluded if they wear a face covering and maintain six feet of distance from others at the workplace for 14 days following the last date of close contact. On December 16, the Occupational Safety and Health Standards Board readopted the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards for the second time. The draft emergency standards include important revisions to make the workplace rules consistent with the latest requirements and recommendations from the California Department of Public Health (CDPH). The revised emergency standards were to be effective commencing January 14, 2022; however, as of the date of this memorandum, the final revised emergency standards had not yet been published. A fact sheet about the revised emergency standards is attached to the Resolution.

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." (Emphasis added.) The CDC currently recommends that individuals who are not up to date on their COVID-19 vaccines stay six feet away from others when indoors in public, especially if they are at higher risk of getting very sick from COVID-19.

Moreover, the County of Orange Health Officer's "Orders and Strong Recommendations" (revised [March 11 January 14](#), 2022) states at page [1117](#) that, "[i]n 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, [including boosters](#), **social distancing** and wearing a mask when around people who don't live in the same household..." (emphasis added). The Health Officer also recognizes, at page [1320](#) of the "Orders and Strong Recommendations", the Center for Disease Control's admonition that anyone infected with COVID-19 can spread it even if they do not have symptoms; and [\(at page 14\)](#) 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~~ at-risk persons to complete a COVID-19 vaccination series and receive a booster if eligible, wear well-fitted mask in indoor settings when around others outside of their household, practice social distancing, frequently wash hands with soap ~~...wearing face covering and get vaccinated.”~~ (Emphasis added.)

Based on the foregoing, staff recommends 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. Staff further recommends the Board adopt the attached Resolution 2022-03 to memorialize such findings.

Attachments

Submitted by:

Gina M. Ratto
General Counsel

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**OCERS BOARD OF RETIREMENT
RESOLUTION NO. 2022-03**

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 AND ITS COMMITTEES THROUGH APRIL 18, 2022, 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

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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 employers to exclude from the workplace employees who had a close contact ("close contact" means being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period) until certain specified requirements are met, except that employees who were fully vaccinated before the close contact and who do not develop COVID-19 symptoms do not need to be excluded if they wear a face covering and maintain six feet of distance from others at the workplace for 14 days following the last date of close contact; and

WHEREAS, the County of Orange Health Officer's Orders and Strong Recommendations, last revised on ~~January 13~~ March 11, 2022, state that "the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for at-risk persons to complete a COVID-19 vaccination series and receive a booster if eligible, wear well-fitted mask in indoor settings when around others outside of their household, unvaccinated persons to avoid gathering and practice social distancing, frequently wash hands with soap"; and

WHEREAS, the CDC currently recommends that individuals who are not up to date on their COVID-19 vaccines stay six feet away from others when indoors in public, especially if they are at higher risk of getting very sick from COVID-19; 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 exclusion from the workplace employees who have had a close contact with someone who has 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 unvaccinated persons to maintain physical distance when in public, indoor settings; 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 and its committees to conduct their 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 and its committees 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

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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 and each of its committees 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 April 19, 2022, 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 and its committees 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 21st day of March 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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 to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take 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 of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act 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 that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public 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 authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a 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

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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 the 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 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 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 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.

This 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 to make those findings every 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 other 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 body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state 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 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 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 body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state 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 able 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 otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer 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 in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the 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 organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

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to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a 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 able to address the legislative body at each teleconference location. Under the bill, 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 would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere 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 improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) 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.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional 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 bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation 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.

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 requirements in 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 in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a 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 identified 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 from 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 otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

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(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. As 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 legislative body may satisfy this 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 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 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, as a 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 identified 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 from 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 otherwise 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. As 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 this 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 internet 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:

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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 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 or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and 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 subdivisions (d) and (e). The agenda 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 in 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 of 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 the 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 that 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 call in 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 near 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, 14087.31, 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 licensed 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 (b) 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 imposed or 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 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 public 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 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 log in to 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 on 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 otherwise be 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 timed 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 (b), 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 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, including, 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 or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and 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 subdivisions (d) and (e). The agenda 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 in 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 of 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 the 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 that 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 call in 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 near 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, 14087.31, 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 licensed 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 (b) 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 imposed or 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 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 public 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 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 log in to 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 on 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 otherwise be 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 timed 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 (b), 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 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. 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 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 or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and 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 agenda 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 in 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 of 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 the 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 that 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 call in 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 near 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, 14087.31, 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 licensed 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, including, 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 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 or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and 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 agenda 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 in 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 of 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 the 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 that 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 call in 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 near 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, 14087.31, 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 licensed 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 both 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 agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting 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 54953 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 local 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 public 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 work 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 Education 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 right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings 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 experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot 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 public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private 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 like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

O

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;

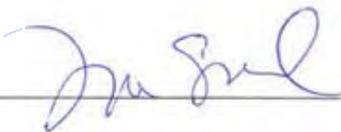
WHEREAS, the above described events are creating a condition of extreme peril to the safety of persons and property within the territorial limits of the County of Orange which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the County of Orange, 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

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.

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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.

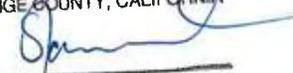
BE IT FURTHER RESOLVED that all County departments and agencies take those actions, measures, and steps deemed necessary to assure the safety and welfare of Orange County citizens and property, including requesting mutual aid to the extent such aid is necessary.

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Resolution No. _____ Item No. _____
Proclamation of a Local Emergency

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By 
Deputy
Date 2/27/20

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



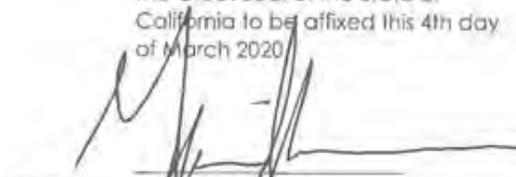
notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

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



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Subchapter 7. General Industry Safety Orders
Introduction

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§3205. COVID-19 Prevention.

NOTE: See Executive Order N-84-20 (2019 CA EO 84-20), issued in response to the COVID-19 pandemic, which suspends certain provisions relating to the exclusion of COVID-19 cases from the workplace.

(a) Scope.

(1) This section applies to all employees and places of employment, with the following exceptions:

(A) Work locations with one employee who does not have contact with other persons.

(B) Employees working from home.

(C) Employees with occupational exposure as defined by section 5199, when covered by that section.

(D) Employees teleworking from a location of the employee's choice, which is not under the control of the employer.

(2) Nothing in this section is intended to limit more protective or stringent state or local health department mandates or guidance.

(b) Definitions. The following definitions apply to this section and to sections 3205.1 through 3205.4.

(1) “Close contact” means being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the “high-risk exposure period” defined by this section. This definition applies regardless of the use of face coverings.

EXCEPTION: Employees have not had a close contact if they wore a respirator required by the employer and used in compliance with section 5144, whenever they were within six feet of the COVID-19 case during the high-risk exposure period.

(2) “COVID-19” means coronavirus disease, an infectious disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

(3) “COVID-19 case” means a person who:

(A) Has a positive “COVID-19 test” as defined in this section; or

(B) Has a positive COVID-19 diagnosis from a licensed health care provider; or

(C) Is subject to a COVID-19-related order to isolate issued by a local or state health official; or

(D) Has died due to COVID-19, in the determination of a local health department or per inclusion in the COVID-19 statistics of a county.

(4) “COVID-19 hazard” means potentially infectious material that may contain SARS-CoV-2, the virus that causes COVID-19. Potentially infectious materials include airborne droplets, small particle aerosols, and airborne droplet nuclei, which most commonly result from a person or persons exhaling, talking or vocalizing, coughing, or sneezing, or from procedures performed on persons which may aerosolize saliva or respiratory tract fluids. This also includes objects or surfaces that may be contaminated with SARS-CoV-2.

(5) “COVID-19 symptoms” means fever of 100.4 degrees Fahrenheit or higher, 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, or

diarrhea, unless a licensed health care professional determines the person's symptoms were caused by a known condition other than COVID-19.

(6) "COVID-19 test" means a viral test for SARS-CoV-2 that is:

(A) Approved by the United States Food and Drug Administration (FDA) or has an Emergency Use Authorization from the FDA to diagnose current infection with the SARS-CoV-2 virus; and

(B) Administered in accordance with the FDA approval or the FDA Emergency Use Authorization as applicable.

(7) "Exposed group" means all employees at a work location, working area, or a common area at work, where an employee COVID-19 case was present at any time during the high-risk exposure period. A common area at work includes bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. The following exceptions apply:

(A) For the purpose of determining the exposed group, a place where persons momentarily pass through while everyone is wearing face coverings, without congregating, is not a work location, working area, or a common area at work.

(B) If the COVID-19 case was part of a distinct group of employees who are not present at the workplace at the same time as other employees, for instance a work crew or shift that does not overlap with another work crew or shift, only employees within that distinct group are part of the exposed group.

(C) If the COVID-19 case visited a work location, working area, or a common area at work for less than 15 minutes during the high-risk exposure period, and the COVID-19 case was wearing a face covering during the entire visit, other people at the work location, working area, or common area are not part of the exposed group.

NOTE: An exposed group may include the employees of more than one employer. See Labor Code sections 6303 and 6304.1.

(8) "Face covering" means a surgical mask, a medical procedure mask, a respirator worn voluntarily, or a tightly woven fabric or non-woven material of at least two layers. A face covering has no visible holes or openings and must cover the nose and mouth. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.

(9) “Fully vaccinated” means the employer has documented that the person received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine. Vaccines must be FDA approved; have an emergency use authorization from the FDA; or, for persons fully vaccinated outside the United States, be listed for emergency use by the World Health Organization (WHO).

(10) “High-risk exposure period” means the following time period:

(A) For COVID-19 cases who develop COVID-19 symptoms, from two days before they first develop symptoms until all of the following are true: it has been 10 days since symptoms first appeared; 24 hours have passed with no fever, without the use of fever-reducing medications; and symptoms have improved.

(B) For COVID-19 cases who never develop COVID-19 symptoms, from two days before until 10 days after the specimen for their first positive test for COVID-19 was collected.

(11) “Respirator” means a respiratory protection device approved by the National Institute for Occupational Safety and Health (NIOSH) to protect the wearer from particulate matter, such as an N95 filtering facepiece respirator.

(12) “Worksite,” for the limited purposes of COVID-19 prevention regulations only, means the building, store, facility, agricultural field, or other location where a COVID-19 case was present during the high-risk exposure period. It does not apply to buildings, floors, or other locations of the employer that a COVID-19 case did not enter.

NOTE: The term worksite is used for the purpose of notice requirements in subsections (c)(3) (B)3. and 4. only.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Prevention Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(1) System for communicating. The employer shall do all of the following in a form readily understandable by employees:

(A) Ask employees to report to the employer, without fear of reprisal, COVID-19 symptoms, possible close contacts, and possible COVID-19 hazards at the workplace.

(B) Describe how employees with medical or other conditions that put them at increased

risk of severe COVID-19 illness can request accommodations.

(C) Provide information about access to COVID-19 testing as described in subsection (c)(5)

(I) when testing is required under this section, section 3205.1, or section 3205.2.

(D) In accordance with subsection (c)(3)(B), communicate information about COVID-19 hazards and the employer's COVID-19 policies and procedures to employees and to other employers, persons, and entities within or in contact with the employer's workplace.

NOTE: See subsection (c)(3)(C) for confidentiality requirements for COVID-19 cases.

(2) Identification and evaluation of COVID-19 hazards.

(A) The employer shall allow for employee and authorized employee representative participation in the identification and evaluation of COVID-19 hazards.

(B) The employer shall develop and implement a process for screening employees for and responding to employees with COVID-19 symptoms. The employer may ask employees to evaluate their own symptoms before reporting to work. If the employer conducts screening indoors at the workplace, the employer shall ensure that face coverings are used during screening by both screeners and employees who are not fully vaccinated and, if temperatures are measured, that non-contact thermometers are used.

(C) The employer shall develop COVID-19 policies and procedures to respond effectively and immediately to individuals at the workplace who are a COVID-19 case to prevent or reduce the risk of transmission of COVID-19 in the workplace.

(D) The employer shall conduct a workplace-specific identification of all interactions, areas, activities, processes, equipment, and materials that could potentially expose employees to COVID-19 hazards. Employers shall treat all persons, regardless of symptoms or negative COVID-19 test results, as potentially infectious.

1. This shall include identification of places and times when people may congregate or come in contact with one another, regardless of whether employees are performing an assigned work task or not, for instance during meetings or trainings and including in and around entrances, bathrooms, hallways, aisles, walkways, elevators, break or eating areas, cool-down areas, and waiting areas.

2. This shall include an evaluation of employees' potential workplace exposure to all persons at the workplace or who may enter the workplace, including

coworkers, employees of other entities, members of the public, customers or clients, and independent contractors. Employers shall consider how employees and other persons enter, leave, and travel through the workplace, in addition to addressing stationary work.

(E) For indoor locations, the employer shall evaluate how to maximize ventilation with outdoor air; the highest level of filtration efficiency compatible with the existing ventilation system; and whether the use of portable or mounted High Efficiency Particulate Air (HEPA) filtration units, or other air cleaning systems, would reduce the risk of COVID-19 transmission.

(F) The employer shall review applicable orders and guidance from the State of California and the local health department related to COVID-19 hazards and prevention. These orders and guidance are both information of general application, including Interim guidance for Ventilation, Filtration, and Air Quality in Indoor Environments by the California Department of Public Health (CDPH), and information specific to the employer's industry, location, and operations.

(G) The employer shall evaluate existing COVID-19 prevention controls at the workplace and the need for different or additional controls. This includes evaluation of controls in subsections (c)(4), (c)(6), and (c)(7).

(H) The employer shall conduct periodic inspections as needed to identify unhealthy conditions, work practices, and work procedures related to COVID-19 and to ensure compliance with employers' COVID-19 policies and procedures.

(3) Investigating and responding to COVID-19 cases in the workplace.

(A) Employers shall have an effective procedure to investigate COVID-19 cases in the workplace. This includes procedures for seeking information from employees regarding COVID-19 cases and close contacts, COVID-19 test results, and onset of COVID-19 symptoms, and identifying and recording COVID-19 cases.

(B) The employer shall take the following actions when there has been a COVID-19 case at the place of employment:

1. Determine the day and time the COVID-19 case was last present and, to the extent possible, the date of the positive COVID-19 test(s) and/or diagnosis, and the date the COVID-19 case first had one or more COVID-19 symptoms, if any were experienced.

2. Determine who may have had a close contact. This requires an evaluation of the activities of the COVID-19 case and all locations at the workplace which may have been visited by the COVID-19 case during the high-risk exposure period.

NOTE: See subsection (c)(9) for exclusion requirements for employees after a close contact.

3. Within one business day of the time the employer knew or should have known of a COVID-19 case, the employer shall give written notice, in a form readily understandable by employees, that people at the worksite may have been exposed to COVID-19. The notice shall be written in a way that does not reveal any personal identifying information of the COVID-19 case. Written notice may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending. The notice shall include the disinfection plan required by Labor Code section 6409.6(a)(4). The notice must be sent to the following:

a. All employees at the worksite during the high-risk exposure period. If the employer should reasonably know that an employee has not received the notice, or has limited literacy in the language used in the notice, the employer shall provide verbal notice, as soon as practicable, in a language understandable by the employee.

b. Independent contractors and other employers at the worksite during the high-risk exposure period.

4. Within one business day of the time the employer knew or should have known of the COVID-19 case, the employer shall provide the notice required by Labor Code section 6409.6(a)(2) and (c) to the authorized representative of any employee at the worksite during the high-risk exposure period.

5. Make COVID-19 testing available at no cost, during paid time, to all employees of the employer who had a close contact in the workplace and provide them with the information on benefits described in subsections (c)(5)(B) and (c)(9)(C), with the following exceptions:

a. Employees who were fully vaccinated before the close contact and do not have COVID-19 symptoms.

b. COVID-19 cases who returned to work pursuant to subsection 3205(c)(10) (A) or (B) and have remained free of COVID-19 symptoms, for 90 days after

the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed symptoms, for 90 days after the first positive test.

6. Investigate whether workplace conditions could have contributed to the risk of COVID-19 exposure and what could be done to reduce exposure to COVID-19 hazards.

(C) Personal identifying information of COVID-19 cases or persons with COVID-19 symptoms, and any employee medical records required by this section or by sections 3205.1 through 3205.4, shall be kept confidential unless disclosure is required or permitted by law. Unredacted information on COVID-19 cases shall be provided to the local health department, CDPH, the Division, and NIOSH immediately upon request, and when required by law.

(4) Correction of COVID-19 hazards. Employers shall implement effective policies and/or procedures for correcting unsafe or unhealthy conditions, work practices, policies and procedures in a timely manner based on the severity of the hazard. This includes, but is not limited to, implementing controls and/or policies and procedures in response to the evaluations conducted under subsections (c)(2) and (c)(3) and implementing the controls required by subsections (c)(6) and (c)(7).

(5) Training and instruction. The employer shall provide effective training and instruction to employees that includes the following:

(A) The employer's COVID-19 policies and procedures to protect employees from COVID-19 hazards, and how to participate in the identification and evaluation of COVID-19 hazards under subsection (c)(2)(A).

(B) Information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. This includes any benefits available under legally mandated sick and vaccination leave, if applicable, workers' compensation law, local governmental requirements, the employer's own leave policies, leave guaranteed by contract, and this section.

(C) The fact that COVID-19 is an infectious disease that can be spread through the air when an infectious person talks or vocalizes, sneezes, coughs, or exhales; that COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth, although that is less common; and that an infectious person may have no symptoms.

(D) The fact that particles containing the virus can travel more than six feet, especially indoors, so physical distancing, face coverings, increased ventilation indoors, and respiratory protection decrease the spread of COVID-19, but are most effective when used in combination.

(E) The employer's policies for providing respirators, and the right of employees who are not fully vaccinated to request a respirator for voluntary use as stated in this section, without fear of retaliation and at no cost to employees. Whenever respirators are provided for voluntary use under this section or sections 3205.1 through 3205.4:

1. How to properly wear the respirator provided;
2. How to perform a seal check according to the manufacturer's instructions each time a respirator is worn, and the fact that facial hair interferes with a seal.

(F) The importance of frequent hand washing with soap and water for at least 20 seconds and using hand sanitizer when employees do not have immediate access to a sink or hand washing facility, and that hand sanitizer does not work if the hands are soiled.

(G) Proper use of face coverings and the fact that face coverings are not respiratory protective equipment. COVID-19 is an airborne disease. N95s and more protective respirators protect the users from airborne disease while face coverings primarily protect people around the user.

(H) COVID-19 symptoms, and the importance of not coming to work and obtaining a COVID-19 test if the employee has COVID-19 symptoms.

(I) Information on the employer's COVID-19 policies; how to access COVID-19 testing and vaccination; and the fact that vaccination is effective at preventing COVID-19, protecting against both transmission and serious illness or death.

(J) The conditions under which face coverings must be worn at the workplace and that face coverings are additionally recommended outdoors for people who are not fully vaccinated if six feet of distance between people cannot be maintained. Employees can request face coverings from the employer at no cost to the employee and can wear them at work, regardless of vaccination status, without fear of retaliation.

(6) Face coverings.

(A) For all employees who are not fully vaccinated, employers shall provide face coverings

and ensure they are worn when indoors or in vehicles.

(B) Employers shall provide face coverings and ensure they are worn by employees when required by orders from the CDPH.

(C) Employers shall ensure that required face coverings are clean and undamaged, and that they are worn over the nose and mouth. Face shields are not a replacement for face coverings, although they may be worn together for additional protection.

(D) When employees are required to wear face coverings under this section or sections 3205.1 through 3205.4, the following exceptions apply:

1. When an employee is alone in a room or vehicle.
2. While eating or drinking at the workplace, provided employees are at least six feet apart and outside air supply to the area, if indoors, has been maximized to the extent feasible.
3. Employees wearing respirators required by the employer and used in compliance with section 5144.
4. Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person.
5. Specific tasks which cannot feasibly be performed with a face covering. This exception is limited to the time period in which such tasks are actually being performed.

(E) Employees exempted from wearing face coverings due to a medical condition, mental health condition, or disability shall wear an effective non-restrictive alternative, such as a face shield with a drape on the bottom, if their condition or disability permits it.

(F) Any employee not wearing a face covering, pursuant to the exceptions in subsections (c) (6)(D)4. or 5., and not wearing a non-restrictive alternative when allowed by subsection (c) (6)(E), shall 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 during paid time and at no cost to the employee. Employers may not use the provisions of subsection (c)(6)(F) as an alternative to face coverings when face coverings are otherwise required by this section.

(G) No employer shall prevent any employee from wearing a face covering when not required by this section, unless it would create a safety hazard, such as interfering with the safe operation of equipment.

(H) When face coverings are not required by this section or by sections 3205.1 through 3205.4, employers shall provide face coverings to employees upon request, regardless of vaccination status.

(I) Employers shall implement measures to communicate to non-employees the face coverings requirements on their premises.

(7) Other engineering controls, administrative controls, and personal protective equipment.

(A) For buildings with mechanical or natural ventilation, or both, employers shall maximize the quantity of outside air provided to the extent feasible, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or maximizing outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.

(B) Employers shall implement cleaning and disinfecting procedures, which require:

1. Identifying and regularly cleaning frequently touched surfaces and objects, such as doorknobs, elevator buttons, equipment, tools, handrails, handles, controls, phones, headsets, bathroom surfaces, and steering wheels. The employer shall inform employees and authorized employee representatives of cleaning and disinfection protocols, including the planned frequency and scope of cleaning and disinfection.
2. Cleaning of areas, material, and equipment used by a COVID-19 case during the high-risk exposure period, and disinfection if the area, material, or equipment is indoors and will be used by another employee within 24 hours of the COVID-19 case.

NOTE: Cleaning and disinfecting must be done in a manner that does not create a hazard to employees. See Group 2 and Group 16 of the General Industry Safety Orders for further information.

(C) To protect employees from COVID-19 hazards, the employer shall evaluate its handwashing facilities, determine the need for additional facilities, encourage and allow time for employee handwashing, and provide employees with an effective hand sanitizer.

Employers shall encourage employees to wash their hands for at least 20 seconds each time. Provision or use of hand sanitizers with methyl alcohol is prohibited.

(D) Personal protective equipment.

1. Employers shall evaluate the need for personal protective equipment to prevent exposure to COVID-19 hazards, such as gloves, goggles, and face shields, and provide such personal protective equipment as needed.
2. Upon request, employers shall provide respirators for voluntary use in compliance with subsection 5144(c)(2) to all employees who are not fully vaccinated and who are working indoors or in vehicles with more than one person. Whenever an employer makes respirators for voluntary use available, under this section or sections 3205.1 through 3205.4, the employer shall encourage their use and shall ensure that employees are provided with a respirator of the correct size.
3. Employers shall provide and ensure use of respirators in compliance with section 5144 when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8, section 332.3.
4. Employers shall provide and ensure use of eye protection and respiratory protection in compliance with section 5144 when employees are exposed to procedures that may aerosolize potentially infectious material such as saliva or respiratory tract fluids.

NOTE: Examples of work covered by subsection (c)(7)(D)4. include, but are not limited to, certain dental procedures and outpatient medical specialties not covered by section 5199.

(E) Testing of symptomatic employees. Employers shall make COVID-19 testing available at no cost to employees with COVID-19 symptoms who are not fully vaccinated, during employees' paid time.

(8) Reporting, recordkeeping, and access.

(A) The employer shall report information about COVID-19 cases and outbreaks at the workplace to the local health department whenever required by law, and shall provide any related information requested by the local health department. The employer shall report all information to the local health department as required by Labor Code section 6409.6.

(B) The employer shall maintain records of the steps taken to implement the written

COVID-19 Prevention Program in accordance with section 3203(b).

(C) The written COVID-19 Prevention Program shall be made available at the workplace to employees, authorized employee representatives, and to representatives of the Division immediately upon request.

(D) The employer shall keep a record of and track all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, the date of the last day at the workplace, and the date of a positive COVID-19 test.

(9) Exclusion of COVID-19 cases and employees who had a close contact. The purpose of this subsection is to limit transmission of COVID-19 in the workplace.

(A) Employers shall ensure that COVID-19 cases are excluded from the workplace until the return to work requirements of subsection (c)(10) are met.

(B) Employers shall exclude from the workplace employees who had a close contact until the return to work requirements of subsection (c)(10) are met, with the following exceptions:

1. Employees who were fully vaccinated before the close contact and who do not develop COVID-19 symptoms; and
2. COVID-19 cases who returned to work pursuant to subsection (c)(10)(A) or (B) and have remained free of COVID-19 symptoms, for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed COVID-19 symptoms, for 90 days after the first positive test.

(C) For employees excluded from work under subsection (c)(9), employers shall continue and maintain an employee's earnings, wages, seniority, and all other employee rights and benefits, including the employee's right to their former job status, as if the employee had not been removed from their job. Employers may use employer-provided employee sick leave for this purpose to the extent permitted by law. Wages due under this subsection are subject to existing wage payment obligations and must be paid at the employee's regular rate of pay no later than the regular pay day for the pay period(s) in which the employee is excluded. Unpaid wages owed under this subsection are subject to enforcement through procedures available in existing law. If an employer determines that one of the exceptions below applies, it shall inform the employee of the denial and the applicable exception.

EXCEPTION 1: Subsection (c)(9)(C) does not apply where the employee received disability

payments or was covered by workers' compensation and received temporary disability.

EXCEPTION 2: Subsection (c)(9)(C) does not apply where the employer demonstrates that the close contact is not work related.

(D) Subsection (c)(9) does not limit any other applicable law, employer policy, or collective bargaining agreement that provides for greater protections.

(E) At the time of exclusion, the employer shall provide the employee the information on benefits described in subsections (c)(5)(B) and (c)(9)(C).

(10) Return to work criteria.

(A) COVID-19 cases with COVID-19 symptoms shall not return to work until:

1. At least 24 hours have passed since a fever of 100.4 degrees Fahrenheit or higher has resolved without the use of fever-reducing medications; and
2. COVID-19 symptoms have improved; and
3. At least 10 days have passed since COVID-19 symptoms first appeared.

(B) COVID-19 cases who tested positive but never developed COVID-19 symptoms shall not return to work until a minimum of 10 days have passed since the date of specimen collection of their first positive COVID-19 test.

(C) Once a COVID-19 case has met the requirements of subsection (c)(10)(A) or (B), as applicable, a negative COVID-19 test shall not be required for an employee to return to work.

(D) Persons who had a close contact may return to work as follows:

1. Persons who had a close contact but never developed any COVID-19 symptoms may return to work when 10 days have passed since the last known close contact.
2. Persons who had a close contact and developed any COVID-19 symptom cannot return to work until the requirements of subsection (c)(10)(A) have been met, unless all of the following are true:
 - a. The person tested negative for COVID-19 using a polymerase chain reaction (PCR) COVID-19 test with specimen taken after the onset of

symptoms; and

b. At least 10 days have passed since the last known close contact; and

c. The person has been symptom-free for at least 24 hours, without using fever-reducing medications.

3. During critical staffing shortages, when there are not enough staff to provide safe patient care, essential critical infrastructure workers in the following categories may return after Day 7 from the date of last exposure if they have received a negative PCR COVID-19 test result from a specimen collected after Day 5:

a. Health care workers who did not develop COVID-19 symptoms;

b. Emergency response workers who did not develop COVID-19 symptoms; and

c. Social service workers who did not develop COVID-19 symptoms and who work face to face with clients in child welfare or assisted living.

(E) If an order to isolate, quarantine, or exclude an employee is issued by a local or state health official, the employee shall not return to work until the period of isolation or quarantine is completed or the order is lifted. If no period was specified, then the period shall be in accordance with the return to work periods in subsection (c)(10)(A), (c)(10)(B), or (c)(10)(D), as applicable.

(F) If no violations of local or state health officer orders for isolation, quarantine, or exclusion would result, the Division may, upon request, allow employees to return to work on the basis that the removal of an employee would create undue risk to a community's health and safety. In such cases, the employer shall develop, implement, and maintain effective control measures to prevent transmission in the workplace including providing isolation for the employee at the workplace and, if isolation is not feasible, the use of respirators in the workplace.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3, 144.6 and 6409.6, Labor Code.

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 74, No. 43.
2. Governor Newsom issued Executive Order N-84-20 (2019 CA EO 84-20), dated December 14, 2020, which suspended certain provisions relating to the exclusion of COVID-19 cases from the workplace.
3. Editorial correction of punctuation errors in subsections (b)(1), (c)(3)(D), (c)(10)(C) and (c)(10)(E) (Register 2021, No. 24).
4. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

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Subchapter 7. General Industry Safety Orders
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§3205.1. Multiple COVID-19 Infections and COVID-19 Outbreaks.

(a) Scope.

(1) This section applies to a workplace covered by section 3205 if three or more employee COVID-19 cases within an exposed group, as defined by section 3205(b), visited the workplace during their high-risk exposure period at any time during a 14-day period.

(2) This section shall apply until there are no new COVID-19 cases detected in the exposed group for a 14-day period.

(b) COVID-19 testing.

(1) The employer shall make COVID-19 testing available at no cost to its employees within the exposed group, during employees' paid time, except:

(A) Employees who were not present at the workplace during the relevant 14-day period(s) under subsection (a).

(B) Employees who were fully vaccinated before section 3205.1 became applicable to the workplace and who do not have COVID-19 symptoms.

(C) For COVID-19 cases who did not develop COVID-19 symptoms after returning to work pursuant to subsections 3205(c)(10)(A) or (B), no testing is required for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed symptoms, 90 days after the first positive test.

(2) COVID-19 testing shall consist of the following:

(A) Immediately upon being covered by this section, testing shall be made available to all employees in the exposed group and then again one week later. Negative COVID-19 test results of employees with COVID-19 exposure shall not impact the duration of any quarantine, isolation, or exclusion period required by, or orders issued by, the local health department.

(B) After the first two COVID-19 tests required by subsection (b)(2)(A), employers shall make COVID-19 testing available once a week at no cost, during paid time, to all employees in the exposed group who remain at the workplace, or more frequently if recommended by the local health department, until this section no longer applies pursuant to subsection (a)(2).

(c) Employers shall make additional testing available at no cost to employees, during employees' paid time, when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8, section 332.3.

(d) The employer shall continue to comply with all applicable provisions of section 3205, and shall also do the following:

(1) Employees in the exposed group shall wear face coverings when indoors, or when outdoors and less than six feet from another person, unless one of the exceptions in subsection 3205(c)(6)(D) applies.

(2) Employers shall give notice to employees in the exposed group of their right to request a respirator for voluntary use under subsection 3205(c)(7)(D)2., if they are not fully vaccinated.

(3) Employers shall evaluate whether to implement physical distancing of at least six feet between persons or, where six feet of physical distancing is not feasible, the use of cleanable solid partitions of sufficient size to reduce COVID-19 transmission.

(e) COVID-19 Investigation, review and hazard correction. The employer shall immediately perform a review of potentially relevant COVID-19 policies, procedures, and controls and

implement changes as needed to prevent further spread of COVID-19. The investigation and review shall be documented and include:

(1) Investigation of new or unabated COVID-19 hazards including the employer's leave policies and practices and whether employees are discouraged from remaining home when sick; the employer's COVID-19 testing policies; insufficient outdoor air; insufficient air filtration; and lack of physical distancing.

(2) The review shall be updated every 30 days that this section continues to apply, in response to new information or to new or previously unrecognized COVID-19 hazards, or when otherwise necessary.

(3) The employer shall implement changes to reduce the transmission of COVID-19 based on the investigation and review required by subsections (e)(1) and (e)(2). The employer shall consider moving indoor tasks outdoors or having them performed remotely, increasing outdoor air supply when work is done indoors, improving air filtration, increasing physical distancing as much as feasible, requiring respiratory protection in compliance with section 5144, and other applicable controls.

(f) In buildings or structures with mechanical ventilation, employers shall filter recirculated air with Minimum Efficiency Reporting Value (MERV) 13 or higher efficiency filters if compatible with the ventilation system. If MERV-13 or higher filters are not compatible with the ventilation system, employers shall use filters with the highest compatible filtering efficiency. Employers shall also evaluate whether portable or mounted High Efficiency Particulate Air (HEPA) filtration units or other air cleaning systems would reduce the risk of transmission and, if so, shall implement their use to the degree feasible.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day.

2. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21).Emergency

expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

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§3205.2. Major COVID-19 Outbreaks.

(a) Scope.

(1) This section applies to any workplace covered by section 3205 if 20 or more employee COVID-19 cases in an exposed group, as defined by section 3205(b), visited the workplace during their high-risk exposure period within a 30-day period.

(2) This section shall apply until there are fewer than three COVID-19 cases detected in the exposed group for a 14-day period.

(b) Employers shall continue to comply with section 3205.1, except that the COVID-19 testing described in section 3205.1(b) shall be made available to all employees in the exposed group, regardless of vaccination status, twice a week or more frequently if recommended by the local health department.

(c) In addition to the requirements of sections 3205 and 3205.1, the employer shall take the following actions:

(1) The employer shall provide a respirator for voluntary use in compliance with subsection 5144(c)(2) to employees in the exposed group and shall determine the need for a respiratory

protection program or changes to an existing respiratory protection program under section 5144 to address COVID-19 hazards.

(2) Any employees in the exposed group who are not wearing respirators required by the employer and used in compliance with section 5144 shall be separated from other persons by at least six feet, except where an employer can demonstrate that six feet of separation is not feasible, and except for momentary exposure while persons are in movement. Methods of physical distancing include: telework or other remote work arrangements; reducing the number of persons in an area at one time, including visitors; visual cues such as signs and floor markings to indicate where employees and others should be located or their direction and path of travel; staggered arrival, departure, work, and break times; and adjusted work processes or procedures, such as reducing production speed, to allow greater distance between employees. When it is not feasible to maintain a distance of at least six feet, individuals shall be as far apart as feasible.

(3) At work stations where an employee in the exposed group is assigned to work for an extended period of time, such as cash registers, desks, and production line stations, and where the physical distancing requirement in subsection (c)(2) is not maintained at all times, the employer shall install cleanable solid partitions that effectively reduce transmission between the employee and other persons.

(4) The employer shall evaluate whether to halt some or all operations at the workplace until COVID-19 hazards have been corrected.

(5) Any other control measures deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8 section 332.3.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day.

2. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21).Emergency

expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

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California Department of Industrial Relations
Division of Occupational Safety & Health

UPDATE - COVID-19 Prevention Emergency Temporary Standards **What Employers Need to Know About the December 16 Standards**

December 16, 2021

On December 16, the Occupational Safety and Health Standards Board readopted the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards (ETS) for the second time. These emergency standards include important revisions to make the workplace rules consistent with the latest requirements and recommendations from the California Department of Public Health (CDPH). The emergency standards take effect on **January 14, 2022**, and apply to most workers in California not covered by the [Aerosol Transmissible Diseases standard](#).

Some important requirements that remain unchanged in the COVID-19 Emergency Temporary Standards:

- Employers must establish, implement, and maintain an effective written COVID-19 Prevention Program that includes:
 - Identifying and evaluating employee exposures to COVID-19 health hazards.
 - Implementing effective policies and procedures to correct unsafe and unhealthy conditions.
 - Allowing adequate time for handwashing and cleaning frequently touched surfaces and objects.
- Employers must provide effective training and instruction to employees on how COVID-19 is spread, infection prevention techniques, and information regarding COVID-19-related benefits that affected employees may be entitled to under applicable federal, state, or local laws.

Important revisions to the COVID-19 Prevention Emergency Temporary Standards include:

Investigating and responding to COVID-19 cases in the workplace

Employers must continue to properly notify employees, employee representatives and any other workers at a worksite of possible COVID-19 exposures within one business day. This section was updated to give employers more clear instructions on how to notify workers who were at the same worksite as the COVID-19 case during the high-risk exposure period.

Face Coverings

Employees who are exempted from wearing a face covering due to a medical or mental health condition, or disability and cannot wear a non-restrictive alternative must physically distance at least six feet from others and either be fully vaccinated or tested at least weekly for COVID-19.

Note: The testing must be during paid time and at no cost to the employee.

(continued on next page)

Testing and Exclusion

- Employers are now required to make COVID-19 testing available at no cost and during paid time to employees who were fully vaccinated before the “close contact” with a COVID-19 case occurred, even if they are asymptomatic.
- During outbreaks and major outbreaks, employers must now make weekly testing (outbreaks) or twice-weekly testing (major outbreaks) available to asymptomatic fully vaccinated employees in the exposed group
- Employees who have recently recovered from COVID-19 and those who are fully vaccinated are not required to be excluded from the workplace after “close contact” but must wear a face covering and maintain six feet of physical distancing for 14 calendar days following the last date of contact.

Return to Work Criteria

The period of time before an employee can return to work after “close contact” or COVID-19 illness has been revised to be consistent with current CDPH guidelines. These time frames will automatically update if CDPH updates their guidelines pursuant to the Governor’s executive order.

Definitions

- “Worksite” now specifically excludes the employee’s personal residence, locations where an employee works alone, and remote work locations chosen by the employee.
- Definitions revised to be more consistent with federal OSHA, including:
 - “COVID-19 test” now includes specific instructions for workers using a test at home with self-read results. The employer or a telehealth professional must observe the test results.
 - “Face coverings” was updated to include more specific detail on the different types of acceptable face coverings.
 - “Fully vaccinated,” now mentions the minimal amount of time workers need to wait between the first and second shot of a two-dose vaccine.

This guidance is an overview, for full requirements see Title 8 sections [3205](#), [3205.1](#), [3205.2](#), [3205.3](#), [3205.4](#)





COVID-19

How to Protect Yourself & Others

Updated Feb. 25, 2022



Get Vaccinated and stay up to date on your COVID-19 vaccines

- [COVID-19 vaccines](#) are effective at preventing you from getting sick. [COVID-19 vaccines](#) are highly effective at preventing severe illness, hospitalizations, and death.
- Getting vaccinated is the best way to slow the spread of SARS-CoV-2, the virus that causes COVID-19.
- CDC recommends that everyone who is eligible [stay up to date on their COVID-19 vaccines](#), including [people with weakened immune systems](#).



Wear a mask

- Everyone ages 2 years and older should properly wear a well-fitting mask indoors in public in areas where the [COVID-19 Community Level](#) is high, regardless of vaccination status.
- Wear a mask with the best fit, protection, and comfort for you.
- If you are in an area with a high [COVID-19 Community Level](#) and are ages 2 or older, wear a mask indoors in public.
- If you are sick and need to be around others, or are caring for someone who has COVID-19, wear a mask.
- If you are at increased risk for severe illness, or live with or spend time with someone at higher risk, speak to your healthcare provider about wearing a mask at medium COVID-19 Community Levels.
- People who have a condition or are taking medications that [weaken their immune system](#) may not be fully protected even if they are up to date on their COVID-19 vaccines. They should talk to their healthcare providers about what additional precautions may be necessary.
 - For more information, see [COVID-19 Vaccines for Moderately or Severely Immunocompromised People](#)

[Wearing a mask over your nose and mouth is required](#) on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States and while indoors at U.S. transportation hubs such as airports and stations. Travelers are not required to wear a mask in outdoor areas of a conveyance (like on open deck areas of a ferry or the uncovered top deck of a bus).



COVID-19 County Check

Find community levels and prevention steps by county.

Select a Location (all fields required)

State	↕	County
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Stay 6 feet away from others

- Inside your home: Avoid close contact with people who are sick, if possible. If possible, maintain 6 feet between the person who is sick and other household members. If you are taking care of someone who is sick, make sure you properly wear a [well-fitting mask](#) and follow other steps to protect yourself.
- Indoors in public: If you are not [up to date on COVID-19 vaccines](#), stay at least 6 feet away from other people, especially if you are at [higher risk of getting very sick](#) with COVID-19.



Avoid poorly ventilated spaces and crowds

- If indoors, [bring in fresh air](#) by opening windows and doors, if possible.
- If you are at [increased risk of getting very sick](#) from COVID-19, avoid crowded places and indoor spaces that do not have fresh air from the outdoors.



Test to prevent spread to others

- You can choose from many different [types of tests](#).
- Tests for [SARS-CoV-2](#)(the virus that causes COVID-19) tell you [if you have an infection](#) at the time of the test. This type of test is called a **viral test** because it looks for viral infection.
- Regardless of the test type you select, a [positive test result](#) means that you have an infection and should [isolate](#) and inform your [close contacts](#) to avoid spreading disease to others.
- Over-the-counter [self-tests](#) are viral tests that can be used at home or anywhere, are easy to use, and produce rapid results. Anyone can use self-tests, regardless of their vaccination status or whether they have symptoms.
- COVID-19 [self-tests](#) are one of many risk-reduction measures, along with vaccination, masking, and physical distancing, that protect you and others by reducing the chances of spreading COVID-19.



Wash 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.
- It's especially important to wash your hands:
 - Before eating or preparing food
 - Before touching your face
 - After using the restroom
 - After leaving a public place
 - After blowing your nose, coughing, or sneezing
 - After handling your mask
 - After changing a diaper
 - After caring for someone sick
 - After touching animals or pets
- 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.



Cover coughs and sneezes

- **If you are wearing a mask:** You can cough or sneeze into your mask. Put on a new, clean mask as soon as possible and wash your hands.
- **If you are not wearing a mask:**
 - Always cover your mouth and nose with a tissue when you cough or sneeze, or use the inside of your elbow and do not spit.
 - 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 high touch surfaces regularly or as needed and after you have visitors in your home. This includes tables, doorknobs, light switches, countertops, handles, desks, phones, keyboards, toilets, faucets, and sinks.
- **If someone is sick or has tested positive for COVID-19, disinfect frequently touched surfaces.**
 - Use a household disinfectant product from [EPA's List N: Disinfectants for Coronavirus \(COVID-19\)](#) [↗](#) according to manufacturer's labeled directions.
 - **If surfaces are dirty, clean them** using detergent or soap and water prior to disinfection.



Monitor your health daily

- **Be alert for symptoms:**
 - Watch for fever, cough, shortness of breath, or [other symptoms of COVID-19](#).
 - **Take your temperature** if symptoms develop.
 - Don't take your temperature within 30 minutes of exercising or after taking medications that could lower your temperature, like acetaminophen.
 - Follow [CDC guidance](#) if symptoms develop.
- Monitoring symptoms is especially important if you are running errands, going into the office or workplace, and in settings where it may be difficult to keep a physical distance of 6 feet.



Follow recommendations for quarantine

- If you come into [close contact](#) with someone with COVID-19: follow CDC's [recommendations for quarantine](#).



Follow recommendations for isolation

- If you [test positive](#) for COVID-19 or have [symptoms](#): follow CDC's [recommendations for isolation](#).



Take precautions when you travel

- Follow CDC's [recommendations for domestic and international travel](#).

Additional Resources

For more information, see:

- [Families with vaccinated and unvaccinated members](#)
- [Improve How Your Mask Protects You](#)
- Information for specific groups of people (link: [COVID-19 Information for Specific Groups of People | CDC](#))



Related Pages

[Prevent Getting Sick](#)

[Symptoms](#)

[How COVID-19 Spreads](#)

[If You Are Sick or Caring for Someone](#)

[People at Increased Risk](#)

[Frequently Asked Questions](#)

[Hand Sanitizer Use](#)

[Quarantine and Isolation](#)

Last Updated Feb. 25, 2022
Content source: [National Center for Immunization and Respiratory Diseases \(NCIRD\)](#), Division of Viral Diseases



REGINA CHINSIO-KWONG, DO
COUNTY HEALTH OFFICER

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**COUNTY OF ORANGE HEALTH OFFICER'S
ORDERS AND STRONG RECOMMENDATIONS**

(Revised March 11, 2022)

In light of recent Face Mask Guidance issued by the California Department of Public Health (CDPH) and certain recent orders issued by the State Public Health Officer regarding COVID-19 vaccine requirements, 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 January 14, 2022. The Orders and Strong Recommendations issued on January 14, 2022, are no longer in effect as of March 11, 2022.

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 of Persons with COVID-19 Order

NOTE: This Self-Isolation Order DOES NOT in any way restrict access by first responders to an isolation site during an emergency.

1. Persons who are symptom-free but test positive for COVID-19.

If you do not have any COVID-19 symptoms (as defined below in this Order) but test positive for COVID-19, you shall immediately isolate yourself in your home or another suitable place for at least 5 days from the date you test positive and may end your self-isolation after day 5:

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- If you continue not having any COVID-19 symptoms and a diagnostic specimen collected on day 5 or later tests negative.
 - While an antigen test, nucleic acid amplification test (NAAT), or LAMP test are acceptable, use of an antigen test is recommended. Use of Over-the-Counter tests are also acceptable to end isolation.
- Exception. If you are unable to test on day 5 or after, choose not to test, or test positive after day 5, you shall continue your self-isolation through day 10 from the date of your positive test and may end your self-isolation after 10 days. If you develop COVID-19 symptoms during the time of your self-isolation, you may still end your self-isolation after 10 days regardless of whether your symptoms are present on Day 11.

All persons who test positive for COVID-19 should continue to wear a well-fitting mask at all times around other people through day 10.

2. Persons who have COVID-19 symptoms.

If you have COVID-19 symptoms, you shall immediately isolate yourself in your home or another suitable place. You may leave isolation if your symptoms resolve within 24 hours without fever reducing agents. If your symptoms persist more than 24 hours, continue to isolate for 10 days from the date of your symptom(s) onset and may end your self-isolation under either of the following conditions:

- If a diagnostic specimen collected as early as the date of your symptom(s) onset tests negative.
 - While an antigen test, nucleic acid amplification test (NAAT), or LAMP test are acceptable, use of an antigen test is recommended. Use of Over-the-Counter tests are also acceptable to end isolation.
- If you obtain an alternative diagnosis from a healthcare provider.
- You are not required to self-isolate for more than 10 days from the date of your COVID-19 symptom(s) onset regardless of whether your symptoms are present on Day 11.

All persons who have COVID-19 symptoms should continue to wear a well-fitting mask at all times around other people through at least Day 10.

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3. Additional Considerations for Self-Isolation.

- 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 5 days and up to 20 days after symptoms first appeared. People with weakened immune systems should talk to their healthcare provider for more information.

NOTE: In workplaces, employers and employees are subject to the Isolation and quarantine requirements as stated in the CalOSHA COVID-19 Emergency Temporary Standards (ETS) or in some workplaces the Cal/OSHA Aerosol transmissible Diseases (ATD) Standard. Information about CalOSHA COVID-19 Emergency Temporary Standards (ETS) can be found at <https://www.dir.ca.gov/dosh/coronavirus>.

COVID-19 Symptom(s).

Whenever the term “symptom” or “*COVID-19 symptom*” is used, it shall mean COVID-19 symptom. 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:

- 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

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- Nausea or vomiting
- Diarrhea
- The list above does not include all possible symptoms.

II. Face-Coverings/Masks:

To help prevent the spread of droplets containing COVID-19, all County residents and visitors are strongly recommended to wear face coverings in accordance with and as required by the Guidance for the Use of Face Coverings issued by CDPH, effective March 1, 2022. The Guidance is attached herein as Attachment "A" and can be found at:

A: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>.

Masks are required for all individuals in the following indoor settings, regardless of vaccination status:

- Public Transit and in transportation hubs- Masks guidance/requirement is subject to Federal Requirements and guidance found at <https://www.cdc.gov/coronavirus/2019-ncov/travelers/face-masks-public-transportation.html>
Examples: airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares) and in transportation hubs (examples: airports, bus terminals, marina, train station, seaport or other port, subway station, or any other area that provides transportation).
- Emergency shelters and cooling and heating centers.
- Healthcare settings (applies to all healthcare settings, including those that are not covered by State Health Officer Order issued on July 26, 2021).
- Local correctional facilities and detention centers.
- Long Term Care Settings & Adult and Senior Care Facilities.

NOTE: In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) as modified by the Governor's Executive Order N-5-22 or in some workplaces the Cal/OSHA Aerosol Transmissible Diseases (ATD) Standard and should consult those regulations for additional applicable requirements.

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NOTE: In accordance with State Health Officer Order, issued on July 26, 2021, and found at <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>, in certain healthcare situations or settings, surgical masks are required.

No person shall 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 this mask order:
 - Persons younger than two years old.
 - 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.

III. Health Care Workers COVID-19 Vaccine Requirement Order:

To help prevent transmission of COVID-19, all workers who provide services or work in facilities described below shall comply with the COVID-19 vaccination and booster dose requirements as set forth in the February 22, 2022, 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:

B: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx>

Facilities covered by this order include:

- General Acute Care Hospitals

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- 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
- The word, "worker," as used in this Order shall have the same meaning as defined in the State Health Officer's Order, dated December 22, 2021.

IV. Requirements and Guidance for Specific Facilities

1. 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, issued on July 26, 2021 and 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:

C: <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>

Facilities covered by this order include:

- Acute Health Care and Long-Term Care Settings:
 - General Acute Care Hospitals
 - Skilled Nursing Facilities (including Subacute Facilities)

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- 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
2. **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:

D: <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>

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This Order does not apply to (i) home schools, (ii) child care settings, or (iii) higher education.

3. 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 December 22, 2021, shall comply with the State Health Officer's Order with regards to obtaining COVID-19 vaccination and booster doses. A copy of the State Health Officer Order is attached herein as Attachment "E" and can be found at the following link:

E: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx>

4. Adult Care Facilities and Direct Care Worker Vaccination Requirements.

To help prevent transmission of COVID-19, all individuals specified below shall comply with the COVID-19 vaccination and booster dose requirements as set forth in the February 22, 2022, State Health Officer Order. A copy of the State Health Officer Order is attached herein as Attachment "F" and can be found at the following link:

F: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Adult-Care-Facilities-and-Direct-Care-Worker-Vaccine-Requirement.aspx>

Individuals covered by this order include:

- All workers who provide services or work in Adult and Senior Care Facilities licensed by the California Department of Social Services;
- All in-home direct care services workers, including registered home care aides and certified home health aides, except for those workers who only provide services to a recipient with whom they live or who are a family member of the recipient for whom they provide services;
- All waiver personal care services (WPCS) providers, as defined by the California Department of Health Care Services, and in-home supportive services (IHSS) providers, as defined by the California Department of Social Services, except for

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those workers who only provide services to a recipient with whom they live or who are a family member of the recipient for whom they provide services;

- All hospice workers who are providing services in the home or in a licensed facility; and
- All regional center employees, as well as service provider workers, who provide services to a consumer through the network of Regional Centers serving individuals with developmental and intellectual disabilities, except for those workers who only provide services to a recipient with whom they live or who are a family member of the recipient for whom they provide services.

5. 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 issued February 7, 2022. A copy of the State Health Officer Order is attached herein as Attachment "G" and can be found at the following link:

G. <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:

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

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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 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. Self-quarantine of Persons Exposed to COVID-19

- If you are known to be exposed to COVID-19 (regardless of vaccination status, prior disease, or occupation), it is strongly recommended to follow CDPH Quarantine guidance found at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Guidance-onIsolation-and-Quarantine-for-COVID-19-Contact-Tracing.aspx>.

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- **K-12 Schools and Child Care**
 - Schools/school districts are advised to follow CDPH COVID-19 Public Health Guidance for K-12 Schools in California, 2021-2022 School Year found at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/K-12-Guidance-2021-22-School-Year.aspx>
 - Child care providers and programs are advised to follow CDPH Guidance for Child Care Providers and Programs found at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Child-Care-Guidance.aspx>.
- In workplaces, employers and employees are subject to the Quarantine requirement as stated in the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) or in some workplaces the Cal/OSHA Aerosol Transmissible Diseases (ATD) Standard.

Exposed to COVID-19 or exposure to COVID-19 mean to be within 6 feet of someone who has COVID-19 for a cumulative total of 15 minutes or more over a 24-hour period.

2. **For Vulnerable Populations.** 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, including boosters, 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>.
3. **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. 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.
CDC Guidance can be found at: <https://www.cdc.gov/coronavirus/2019ncov/vaccines/recommendations/specific-groups.html>

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4. **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.
5. **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) remain up-to-date as defined by CDC with COVID-19 vaccination. CDC Guidance can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/specific-groups.html>
6. Furthermore, it is strongly recommended that all unvaccinated Emergency Medical Technicians, Paramedics, and Home Healthcare Providers (including In Home 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).

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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 March 10, 2022, the County has reported a total of 542,056 recorded confirmed COVID-19 cases and 6,721 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 <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>.
7. The CDPH issued a revised Guidance for the Use of Face Coverings, effective March 1, 2022, available at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>
8. 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->

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[extra-precautions/index.html](#); see also
[https://www.cdph.ca.gov/Programs/CID/DCDC/
Pages/COVID19/PublicHealthGuidanceSelfIsolationforOlderAdultsandThoseWhoHaveElevatedRisk.aspx](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID19/PublicHealthGuidanceSelfIsolationforOlderAdultsandThoseWhoHaveElevatedRisk.aspx).

9. 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 or boosted; (ii) there is limited supply of therapeutic options for high-risk individuals who have a high risk of exposure to COVID-19 or have mild-moderate COVID-19 infection; (iii) the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for at-risk persons to complete a COVID-19 vaccination series and receive a booster if eligible, wear well-fitted mask in indoor settings when around others outside of their household, practice distancing, frequently wash hands with soap (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 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.
10. 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.
11. 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

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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.

12. 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.
13. 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.
14. 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: March 11, 2022



Regina Chinsio-Kwong, DO
County Health Officer
County of Orange



Memorandum

DATE: March 21, 2022
TO: Members of the Board
FROM: Brenda Shott, Assistant CEO, Finance and Internal Operations
SUBJECT: **BUILDING COMMITTEE CHARTER**

Recommendation

Adopt OCERS Building Committee Charter.

Background/Discussion

The Building Committee approved and recommended the Board of Retirement adopt the Building Committee Charter at the August 13, 2021 Committee meeting.

The Building Committee Charter erroneously has not been brought forward to the Board of Retirement for adoption. To rectify this error, Staff reviewed the charter again with the Building Committee on Monday, March 14, 2022. The Committee's original recommendation that the Board adopt the Building Committee Charter is now included on the Board's agenda for the regularly scheduled meeting on March 21, 2022.

The Building Committee Charter is attached

Submitted by:

Brenda Shott, CPA
Assistant CEO, Finance and Internal Operations



OCERS Board Charter Building Committee Charter

Introduction

1. The OCERS Board of Retirement (Board) has established a Building Committee to assist the Board by reviewing reports and making recommendations with respect to the OCERS Headquarters project. The Building Committee is an advisory committee to the Board and its recommendations are subject to final approval by the Board.
2. The Board Chair will appoint members to the Building Committee as provided in OCERS' By-Laws and will designate one member of the committee to serve as committee chair and one member of the committee to serve as committee vice chair.
3. The Building Committee will be comprised of four (4) members of the Board. As provided in OCERS' By-Laws, two members of the Building Committee constitute a quorum.

Duties and Responsibilities

4. The Building Committee will:
 - a. Evaluate options for the future OCERS Headquarters
 - b. Make a recommendation to the Board for the future OCERS Headquarters
 - c. Provide guidance to staff as to the scope, schedule and budget for the OCERS Headquarters project
 - d. Report regularly to the Board on the Committee's activities; and
 - e. Provide guidance and make recommendations to the Board on other projects related to the current and future OCERS Headquarters as may be necessary or desirable to guide or assist the Board and OCERS staff in carrying out their respective duties and responsibilities.

Charter Review

5. The Building Committee will review this Charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the Charter remains relevant and appropriate.

Charter History

6. This Charter was adopted by the Board of Retirement on August 16, 2021.

Secretary's Certificate

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

Steve Delaney, Secretary of the Board

Date



Memorandum

DATE: March 21, 2022
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: 2022 STAR COLA COST FINAL APPROVAL

Recommendation

Approve payment of STAR COLA for the period April 1, 2022 through March 31, 2023 in the amount of \$351,903.

Background/Discussion

STAR COLA stands for Supplemental Targeted Adjustment for Retirees, Cost of Living Adjustment. Unlike the regular COLA the STAR COLA is discretionary and the Board of Retirement has the sole authority to grant or deny the benefit and considers it on an annual basis. The purpose of the STAR COLA is to restore purchasing power for retirees who have lost more than 20% of their purchasing power since retirement due to inflation. The STAR COLA brings those individuals back to 80% of purchasing power. It applies to those who have been retired the longest – currently, those members who retired on or before April 1, 1980.

The projected cost for the period April 1, 2022 through March 31, 2023 is \$351,903. The breakdown between Employers with STAR COLA recipients is as follows:

County	\$349,178 (158 recipients)
UCI (closed to new participants)	\$ 406 (1 recipients)
Orange County Sanitation District	<u>\$ 2, 319 (2 recipients)</u>
Total	\$351,903 (161 total)

The 2022-2023 STAR COLA, if approved, is \$4,516 lower than 2021-2022 and the total number of recipients has declined by 24 payees from 2021 to 2022.

The STAR COLA provides a much needed cushion to the oldest retirees, whose benefit has been most diminished by inflation. In accordance with California Government Code Section 7507, the Board has already disclosed the financial impact of continuing the STAR COLA at the February 22, 2022 Board meeting.

Staff will send letters to each affected Employer after the Board takes action advising of the outcome, and if approved, of the cost to each Employer.

Based on the significant impact discontinuation of STAR COLA would have on the individuals who receive it and the relatively small impact payment would have on contribution rates it is staff's recommendation to approve the STAR COLA for April 1, 2022 through March 31, 2023 in the amount of \$351,903.

Before the Board votes on whether to grant the STAR COLA, the costs must be posted at a separate public meeting, in accordance with Government Code Section 7507. As such, this item is providing the required notice that on March 21, 2022, the Board will consider the granting of the STAR COLA. The total cost is projected to be \$351,903 and applies to 161 payees.

As in the past, the Board will provide each employer with STAR COLA recipients the opportunity to pay their share of the cost in a lump sum, over a period of 12 months or add it to the unfunded liability for that employer.

Submitted by:



S. J. – APPROVED

Suzanne Jenike
Assistant CEO, External Operations



Andy Yeung, ASA, MAAA, FCA, EA
Vice President & Actuary
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San Francisco, CA 94105-6147
segalco.com

Via Email

February 3, 2022

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

**Re: Orange County Employees Retirement System (OCERS)
Supplemental Targeted Adjustment for Retirees Cost-of-Living Adjustment
(STAR COLA) Payment Projections as of April 1, 2022**

Dear Steve:

As requested by the System, we have projected the cost of continuing the STAR COLA benefit over the next ten years from April 1, 2022.

BACKGROUND

The Retirement Board grants a STAR COLA benefit to maintain a minimum of 80% of a retiree's or beneficiary's purchasing power. The STAR COLA benefit is calculated by first taking the balance in a member's COLA bank that is in excess of 20% and multiplying that times the member's benefit.

The 1937 Act allows the Board either to advance fund the STAR COLA benefit subject to the availability of excess earnings above 1% of OCERS' assets or to grant this benefit on an annual basis. We understand that the Board's current policy is to grant this benefit on an annual basis.

RESULTS AND ANALYSIS

On April 1, 2022, only those members who retired on or before April 1, 1980 have COLA banks in excess of 20% and hence are eligible to receive the STAR COLA.

The attached Exhibit A shows a ten-year projection of the STAR COLA benefits, expressed as a percentage of the benefit payable effective April 1 of the next ten years. In Exhibit B, we show the annual benefit payment based on who is eligible for the STAR COLA benefit as of April 1, 2022 (i.e., members who retired on or before April 1, 1980) and those who may become eligible after April 1, 2022. In Exhibit C, we have included a schedule that provides the breakdown of the anticipated STAR COLA benefits from April 1, 2022 to March 31, 2023 based on members who retired from each employer.

Mr. Steve J. Delaney
 February 3, 2022
 Page 2

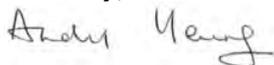
Our projections are based on the following assumptions provided below.

1. The existing 80% purchasing power cap will remain unchanged.
2. In adjusting the purchasing power banks after April 1, 2022, we have used the assumed retiree COLA assumption of 2.75% previously adopted by the Board for the upcoming December 31, 2021 valuation. As OCERS provides a maximum annual COLA of 3.0%, the COLA banks will decrease in the future under the 2.75%¹ retiree COLA assumption (see attached Exhibit A) and thus no other additional members will be expected to become eligible.² We assume that future STAR COLA benefits, adjusted to reflect inflation for the prior calendar year, will be paid commencing April 1 of the subsequent year.
3. Our projections were based on the latest membership data used in the valuation as of December 31, 2020, but updated through mid-January 2022 to exclude those members who have passed away since the prior valuation. For conservatism, we assumed no deaths would have occurred among retirees and beneficiaries from mid-January 2022 to April 1, 2022. Effective April 1, 2022, we applied the life expectancies previously adopted by the Board for the upcoming December 31, 2021 valuation in projecting members who will be entitled to payments in the ten-year period.
4. The projections are based on proprietary actuarial modeling software. Our Actuarial Technology and Systems unit, comprised of both actuaries and programmers, is responsible for the initial development and maintenance of these models. The models have a modular structure that allows for a high degree of accuracy, flexibility and user control. The client team programs the assumptions and the plan provisions, validates the models, and reviews test lives and results, under the supervision of the responsible actuary.

I'm a member of the American Academy of Actuaries and I meet the Qualification Standard of the American Academy of Actuaries to render the actuarial opinion herein.

Please give us a call if you have any questions.

Sincerely,



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

JY/bbf

Enclosures

cc: Suzanne Jenike
 Brenda Shott

¹ It should be noted that 2.75% is assumed to be the average annual COLA during the next ten years. In practice, actual COLAs are granted annually in increments of 0.5% according to the 1937 Act.

² It should be noted that in determining the liabilities for those retirees with COLA banks in the funding valuation, we have been assuming that a COLA of 3.00% would be paid on each April 1 following the date of the valuation until their COLA banks are depleted.

*Exhibit A***Ten-Year Projection of STAR COLA Benefits**

(Expressed as a Percent of the Benefit Payable Effective April 1 of the Year Indicated)

Date of Retirement	April 1, 2022	April 1, 2023	April 1, 2024	April 1, 2025	April 1, 2026	April 1, 2027	April 1, 2028	April 1, 2029	April 1, 2030	April 1, 2031
On or Before 04/01/1972	27.50%	27.25%	27.00%	26.75%	26.50%	26.25%	26.00%	25.75%	25.50%	25.25%
04/02/1972 to 04/01/1974	27.00%	26.75%	26.50%	26.25%	26.00%	25.75%	25.50%	25.25%	25.00%	24.75%
04/02/1974 to 04/01/1975	26.50%	26.25%	26.00%	25.75%	25.50%	25.25%	25.00%	24.75%	24.50%	24.25%
04/02/1975 to 04/01/1976	21.00%	20.75%	20.50%	20.25%	20.00%	19.75%	19.50%	19.25%	19.00%	18.75%
04/02/1976 to 04/01/1977	15.50%	15.25%	15.00%	14.75%	14.50%	14.25%	14.00%	13.75%	13.50%	13.25%
04/02/1977 to 04/01/1978	12.00%	11.75%	11.50%	11.25%	11.00%	10.75%	10.50%	10.25%	10.00%	9.75%
04/02/1978 to 04/01/1979	8.00%	7.75%	7.50%	7.25%	7.00%	6.75%	6.50%	6.25%	6.00%	5.75%
04/02/1979 to 04/01/1980	3.00%	2.75%	2.50%	2.25%	2.00%	1.75%	1.50%	1.25%	1.00%	0.75%

PROJECTED BENEFIT PAYMENTS

The expected benefit payments for the current and new STAR COLA recipients for the next ten years, commencing April 1, 2022, are provided in the following table:

	Benefit Payments		
	(1) Eligible for STAR COLA as of April 1, 2022	(2) Not Yet Eligible for STAR COLA as of April 1, 2022	(1) + (2)
1. April 1, 2022 - March 31, 2023	\$351,903	\$0	\$351,903
2. April 1, 2023 - March 31, 2024	320,965	0	320,965
3. April 1, 2024 - March 31, 2025	290,734	0	290,734
4. April 1, 2025 - March 31, 2026	262,066	0	262,066
5. April 1, 2026 - March 31, 2027	235,392	0	235,392
6. April 1, 2027 - March 31, 2028	210,865	0	210,865
7. April 1, 2028 - March 31, 2029	188,475	0	188,475
8. April 1, 2029 - March 31, 2030	168,109	0	168,109
9. April 1, 2030 - March 31, 2031	149,612	0	149,612
10. April 1, 2031 - March 31, 2032	<u>132,815</u>	<u>0</u>	<u>132,815</u>
Total Benefit Payments	\$2,310,936	\$0	\$2,310,936
Discounted Benefit Payments ⁽¹⁾	\$1,777,056	\$0	\$1,777,056

⁽¹⁾ At 7.00% annual investment return assumption.

*Exhibit C***PROJECTED BENEFIT PAYMENTS BY EMPLOYER**

The expected benefit payments for the current STAR COLA recipients from April 1, 2022 to March 31, 2023 broken down by employer, are provided in the following table:

	Benefit Payments			
	Orange County	U.C.I. (Bi-weekly)	Sanitation District	Total
April 1, 2022 - March 31, 2023	\$349,178	\$406	\$2,319	\$351,903

§31874.3. Determination; application of excess to allowances; effect on subsequent increases

(a)(1) Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds the maximum benefit increase provided in Section 31870, 31870.1, 31870.2, or 31870.3, whichever is applicable, the board of retirement may provide that all or part of the excess percentage increase shall be applied to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3. The board shall determine the amount of the excess to be applied, which amount shall not exceed an amount that can be paid from earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

(2) The supplemental increases in excess of the increases applied to the retirement allowances, optional death allowances, or annual death allowances pursuant to Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances, or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(b)(1) The board of retirement may, instead of taking action pursuant to subdivision

(a), provide supplemental cost-of-living increases, effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, that only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 shall equal or exceed 20 percent as of January 1 of the year in which the board of retirement adopts an increase under this subdivision.

(2) The supplemental increases to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(c)(1) The board of retirement may, instead of taking action pursuant to subdivision (a) or (b), provide supplemental cost-of-living increases, on a prefunded basis and effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 equal or exceed 20 percent as of January 1 of the year in which the board of retirement takes action pursuant to this subdivision.

(2) The supplemental increases to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall become a part of the retirement allowances, optional death allowances, or annual death allowances and shall serve to reduce the accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3, as applicable, by the same percentage as the payment that is made pursuant to this Section.

(3) Before the board of retirement provides benefits pursuant to this subdivision, the costs of the benefits shall be determined by a qualified actuary and the board of retirement shall, with the advice of the actuary, provide for the full funding of the benefits utilizing funds in the reserve against deficiencies established pursuant to Section 31592.2, using surplus earnings that exceed 1 percent of the total assets of the retirement system.

(4) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(d) Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 commencing with Section 31610) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefit Reserve established pursuant to Section 31618. (Amended (as amended by Stats. 1983, Ch. 147, Sec. 2) by Stats. 1983, Ch. 886, Sec. 11) (Amended by Stats. 2000, Ch. 317 (AB 2176), Sec. 4)

CA Govt Code § 7507 (2017)

(a) For the purpose of this section:

(1) "Actuary" means an actuary as defined in Section 7504.

(2) "Future annual costs" includes, but is not limited to, annual dollar changes, or the total dollar changes involved when available, as well as normal cost and any change in accrued liability.

(b) (1) Except as provided in paragraph (2), the Legislature and local legislative bodies, including community college district governing boards, when considering changes in retirement benefits or other postemployment benefits, shall secure the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal cost and any additional accrued liability, before authorizing changes in public retirement plan benefits or other postemployment benefits.

(2) The requirements of this subdivision do not apply to:

(A) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(B) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(c) (1) (A) With regard to local legislative bodies, including community college district governing boards, the future costs of changes in retirement benefits or other postemployment benefits, as determined by the actuary, shall be made public at a public meeting at least two weeks prior to the adoption of any changes in public retirement plan benefits or other postemployment benefits. If the future costs of the changes exceed one-half of 1 percent of the future annual costs, as defined in paragraph (2) of subdivision (a), of the existing benefits for the legislative body, an actuary shall be present to provide information as needed at the public meeting at which the adoption of a benefit change shall be considered. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(B) The requirements of this paragraph do not apply to:

(i) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(ii) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(2) With regard to the Legislature, the future costs as determined by the actuary shall be made public at the policy and fiscal committee hearings to consider the adoption of any changes in public retirement plan benefits or other postemployment benefits. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(d) Upon the adoption of any benefit change to which this section applies, the person with the responsibilities of a chief executive officer in an entity providing the benefit, however that person is denominated, shall acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary. For the adoption of benefit changes by the state, this person shall be the Director of Human Resources.

(e) The requirements of this section do not apply to a school district or a county office of education, which shall instead comply with requirements regarding public notice of, and future cost determination for, benefit changes that have been enacted to regulate these entities. These requirements include, but are not limited to, those enacted by Chapter 1213 of the Statutes of 1991 and by Chapter 52 of the Statutes of 2004.

(Amended by Stats. 2016, Ch. 415, Sec. 4. (AB 2375) Effective January 1, 2017.)



Memorandum

DATE: March 21, 2022
TO: Members of the Board of Retirement
FROM: Manuel Serpa, Staff Attorney
SUBJECT: **SUMMARY OF DECISION OF THE FIFTH DISTRICT COURT OF APPEAL IN *O'NEAL V. STANISLAUS COUNTY EMPLOYEES' RETIREMENT ASSOCIATION, ET AL* (CASE NO. F079201)**

Written Report

Case Summary

On November 8, 2021, the Fifth District Court of Appeal (“DCA”) affirmed the decision of the Stanislaus County Superior Court in favor of defendants Stanislaus County Employees’ Retirement Association (“StanCERA”) and the County of Stanislaus (“County”) in *O’Neal v. Stanislaus County Employees’ Retirement Association, et al.* (Case No. F079201) (“*O’Neal III*”). Though this decision is unpublished, it provides important guidance on the fiduciary duties of retirement system boards in its affirmation of the trial court’s determination that the StanCERA Board had not violated its fiduciary duties of loyalty and prudence in the late 2000s. There are three key points:

1. The retirement board's process of obtaining input from their qualified expert advisors, deliberating about that input, and then ultimately relying on that advice met the duty of prudence.
2. Because the StanCERA Board's five challenged decisions were intended to “enhance the security of vested benefits” they were not violations of the Board’s duties of loyalty or prudence.
3. The DCA found the testimony of StanCERA’s consulting actuary about how the five decisions were made and the consequences for StanCERA and its members to have significant probative value when determining whether the fiduciary duty was met.

Appellants are County employees (“Appellants”) who filed suit after the StanCERA Board, in 2009-2011, made five disputed financial decisions that effectively eliminated nonvested benefits for certain members that had been funded for decades with nonvaluation reserves. These decisions were made in response to the investment losses from the Great Recession and the related financial hardships that threatened layoffs to County employees. These five contested decisions were:

- (1) the 2009 decision to adopt a 30-year level percent of pay amortization schedule for unfunded actuarial accrued liability (UAAL) and subsequent conduct resulting in continuing negative amortization rates;
- (2) the 2009 decision to transfer \$50 million from nonvaluation reserves to valuation funds;
- (3) the 2009 decision to transfer \$10 million from nonvaluation reserves to offset required employer contributions related to UAAL;
- (4) the 2010 decision to transfer \$21.4 million from nonvaluation reserves to offset required employer contributions related to UAAL; and
- (5) the 2011 decision to transfer \$14.3 million from nonvaluation reserves to offset required employer contributions related to UAAL.

According to the DCA in *O'Neal III*, the case presents a straightforward question: Why did the StanCERA Board authorize these five actions? Appellants argued the five actions constituted a breach of fiduciary duty because the StanCERA Board acted to protect the County at the expense of StanCERA's own members in an effective raid on the pension funds. StanCERA argued the Board acted to protect its members and the overall health of the system in a time of crisis. The trial court had held that appellants could not prove the StanCERA Board placed the County's interest ahead of its members and that the Board had acted with proper prudence when making these decisions. The DCA affirmed, finding no reversible error.

While most of the *O'Neal III* decision focuses on and rejects Appellants' claims of procedural errors by the trial court, the opinion includes several important points for trustees of public pension funds. The DCA found that the StanCERA Board's consideration of the County's potential for layoffs resulting from increases in its retirement contributions provided a reasonable basis for taking the five challenged decisions. Each of the five decisions lessened the immediate impact of the retirement contribution increases on the County. The scope of a trustee's fiduciary duty may include consideration of current members' potential job losses, their effect on members' future interest in a pension, and their effect on the overall ability of the plan to continue paying benefits to those already retired. As such, the decisions were not breaches of the Board's fiduciary duty of loyalty to StanCERA members.

The DCA disagreed with Appellants' claim that the decision to adopt a negative amortization schedule could benefit only the employer. On the contrary, a fact finder could conclude that it benefits employees, at least through job retention results. Other benefits, such as reduced volatility and increased preservation of employer contributions in a time of financial crisis could also demonstrate both short- and long-term benefits to the trust. The DCA discussed the testimony of StanCERA's consulting actuary, who testified both as a witness and as an expert. This expert testified that the plan was actuarially sound and confirmed there were no actuarial rules against implementing negative amortization schedules.

The DCA also found substantial evidence that the StanCERA Board's acts did not violate its fiduciary duty of prudence. It pointed out evidence in the record that the County and StanCERA were suffering from a significant financial downturn between 2009 and 2011. The County had written StanCERA to highlight problems in the County's budget and how those problems might affect StanCERA and its members. The StanCERA Board took that information and engaged its experts, both actuarial and legal, to determine what course of action it could take in response. Those experts provided StanCERA with options for reducing the County's required contributions in the short term, which would reduce the massive employer contribution increases and thereby reduce the risk of job losses. The StanCERA Board held public meetings and decided upon the five contested actions after hearing from its experts, its members, and the public.

Appellants' contentions that the StanCERA Board made an error in assessing the situation or made what ultimately resulted in less-than-optimal financial decisions were rejected. Such decisions were within the board's authority, provided it acted in line with its fiduciary responsibilities: "[a] decision made under the proper fiduciary responsibilities does not morph into an improper action merely because, in hindsight, it was not the best decision available." The StanCERA Board had its actuaries regularly report on ongoing losses, the state of the market, and how those major events were affecting employer contribution numbers. The DCA also pointed to expert testimony that the StanCERA Board had "followed a prudent process" by hiring well-qualified and appropriate experts, including an actuarial firm and outside fiduciary counsel. The board considered those expert opinions at public meetings, and ultimately relied on them. As such, the DCA found it reasonable for the trial court to conclude the StanCERA Board met its general duties of prudence in seeking to reduce employer contributions.

Finally, the DCA concluded that the StanCERA's duty of loyalty was met because the money in the nonvaluation reserves did not fund earned benefits and was thus spent at the discretion of the board. Moving these funds to support earned benefits fulfilled the purposes of the StanCERA trust in part by enhancing the security of the vested benefits. It was, therefore, in the best interests of the members and the beneficiaries. Significantly, the collateral benefit the transfer had of lowering employer contributions did not show a violation of the duty of loyalty. Expert testimony compared the effect of the transfer to regularly accepted practices like asset smoothing, where losses are averaged over multiple years to aid employer planning, and limited partnership investments, where returns may be split between the plan and a general partner. Furthermore, the DCA found consideration of members' jobs was consistent with the duty of loyalty. All fulltime employees are members of the retirement system and, thus, should have their interests considered. If the StanCERA Board's actions resulted in the County refusing or being unable to pay its employer contributions, members' interests would be harmed.

In conclusion, the DCA affirmed the trial court's determination that the StanCERA Board had not violated its fiduciary duties of loyalty and prudence to the members of StanCERA.

Submitted by:



MS - Approved

Manuel Serpa
Staff Attorney

O'NEAL V. STANCERA: NO BREACH OF FIDUCIARY DUTY

Update for the
Board of Retirement
Orange County Employees
Retirement System

March 21, 2022

Harvey L. Leiderman
Reed **Smith** LLP



O'NEAL V. STANCERA: A FIDUCIARY DUTY CASE

- True story: 12 years of protracted litigation, lengthy trial, 3 court of appeals' decisions
- The case examined whether the Retirement Board breached its fiduciary duties of loyalty and prudence when it took emergency measures during the Great Recession to mitigate the short-term impact on employer contributions

WHAT HAPPENED

- Financial crisis hit plan and plan sponsors hard; County layoffs, furloughs, wage freezes
- Retirement Board sought advice, options; conducted multiple public sessions, had support of all stakeholders
- Board used massive excess earnings reserves to reduce County contribution rates for three years
- Lengthened UAAL amortization and changed to level % of pay
- Stopped paying optional “supplemental benefits”
- Temporarily eased County’s fiscal burden, preventing further job losses and early retirements
- 3 retirees sued, claiming all actions favored County over members, in breach of fiduciary duty of loyalty, and duty to prudently manage the system

WHAT HAPPENED

- Suit filed in 2009; successful demurrer, but reversed on appeal in 2012, returned to trial court
- Summary judgment granted in 2014, but reversed on appeal in 2017, returned to trial court
- Trial in, 2018; 2019 ruling in favor of STANCERA on all claims
- On appeal, trial court ruling upheld in December, 2021. Petitioners required to pay STANCERA @\$30,000 in costs

WHAT THE APPELLATE COURT RULED

- The Board acted lawfully under CERL; question was, did it breach its fiduciary duty despite acting lawfully?
- There was substantial evidence supporting the trial court's judgment in favor of the Board
- Members' job security is a valid interest for the Board to consider in satisfying its duty of loyalty
- The stability and long-term solvency of the County is in the members' interests
- The Board followed a prudent process and considered all viable options, acting in the long-term best interests of the system
- Trial court had the right to rely on expert actuarial and legal testimony

CURRENT STATUS

- Petition for Supreme Court review filed Jan. 2022; currently under submission
- Petitioners solicited retiree groups to support review
- Petitioners seek review of two issues:
 1. Is member job security a legitimate “interest” a retirement board may consider when assessing its duty to members?
 2. May reserve funds from past “excess earnings” be credited dollar-for-dollar to reduce future employer contributions?



Memorandum

DATE: March 21, 2022
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 fulfill this agency's mission. Rather than provide you with a written report of the agency status prior to the Monday, March 21st 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
March 21, 2022
Application Notices***

<i>Member Name</i>	<i>Agency/Employer</i>	<i>Retirement Date</i>
Amaya, Cenia	Health Care Agency	1/14/2022
Andrews, Thomas	District Attorney	1/1/2022
Arada-Orton, Cristina	Superior Court	1/14/2022
Baker, Charles	Sanitation District	1/14/2022
Bartlett, Terry	OC Community Resources	1/14/2022
Bechtol, Susan	Human Resources Dept	1/11/2022
Belmares, Stella	Probation	1/14/2022
Blanck, Bruce	District Attorney	1/14/2022
Blumberg, William	Fire Authority (OCFA)	1/14/2022
Bonsynat, Somchet	Health Care Agency	1/14/2022
Boyle, Sandra	OCTA	1/16/2022
Brown, Laurence	Superior Court	1/1/2022
Burmood, Kenneth	Sheriff's Dept	1/14/2022
Cades, Michele	Superior Court	1/14/2022
Canul, Rafael	Health Care Agency	12/31/2021
Chavez, Jesusita	Health Care Agency	1/14/2022
Chavez, Ronald	Sheriff's Dept	1/14/2022
Cleveland, Gregory	Fire Authority (OCFA)	11/24/2021
Dinh, Angelica	Sheriff's Dept	1/14/2022
Duncan, Jane	OC Community Resources	12/21/2021
Espinoza, Roberta	OCTA	1/21/2022
Fernandez, Jesus	Sheriff's Dept	12/17/2021
Few, Casey	Sheriff's Dept	12/5/2021
Fino, Doreen	Health Care Agency	1/14/2022
Follo, John	District Attorney	1/14/2022
Garcia, Lydia	OC Community Resources	1/14/2022
Gonzales, Mark	Sheriff's Dept	1/14/2022
Gough, Patrick	OCTA	1/5/2022
Ha, Howard	Health Care Agency	12/31/2021
Hernandez, Cecilia	Social Services Agency	1/14/2022
Hobberlin, Julie	Health Care Agency	1/14/2022
Hollenbeck, Diane	Sheriff's Dept	1/1/2022
Horn, Donald	OC Public Works	1/14/2022
Howery, Jill	Child Support Services	1/14/2022
Howey, Shane	Fire Authority (OCFA)	12/31/2021
Hughes, Martha	Social Services Agency	1/14/2022
Hyams, Michael	Superior Court	1/15/2022
Inouye, Gene	Sheriff's Dept	1/14/2022
Jackson, Shannon	Health Care Agency	12/17/2021
Ju, Barbara	Superior Court	1/18/2022
Klein, Steven	Fire Authority (OCFA)	1/14/2022
Kurimay, Jarrett	Sheriff's Dept	1/14/2022
Lambert, Kevin	Health Care Agency	1/14/2022
Leos, John	Probation	1/14/2022
Lillehoff, Piper	Health Care Agency	12/11/2011
Linares, Isabel	OCERS	1/14/2022
Luong, Khi	OC Community Resources	1/14/2022
Maher, Terrence	Health Care Agency	12/31/2021
Mulock, Christell	Probation	12/17/2021

Member Name	Agency/Employer	Retirement Date
Naqel, Jeffrey	Health Care Agency	1/14/2022
Nakaqawa, Dan	Social Services Agency	12/17/2021
Negron, Mary	Social Services Agency	1/20/2022
Neyra, Isaac	Social Services Agency	1/14/2022
Nguyen, Amy Huong	Child Support Services	12/31/2021
Nguyen, Son	Fire Authority (OCFA)	12/31/2021
Ortega, Reginald	Health Care Agency	1/14/2022
Padore, David	Sheriff's Dept	5/27/2021
Palmer, Hermelinda	Probation	1/14/2022
Preciado-Hernandez, Juanita	OC Community Resources	1/14/2022
Rawlings, William	County Executive Office (CEO)	11/4/2021
Roberson, Darren	Fire Authority (OCFA)	12/31/2021
Roberts, Terri	Sanitation District	12/31/2021
Rodarte, Sara	Auditor Controller	1/1/2022
Saba, George	OCTA	12/31/2021
Sanders, Deborah	OCTA	1/4/2022
Santos, Angela	Social Services Agency	1/14/2022
Sipchen, Pamela	Health Care Agency	1/14/2022
Slimm, Ronald	OC Public Works	1/14/2022
Spurgeon, Tammy	District Attorney	1/14/2022
Stichter, Mark	Sheriff's Dept	1/14/2022
Stinnette, Michael	OCTA	1/6/2022
Stonebrook, Scott	Probation	12/31/2021
Tate, Marquis	Probation	12/27/2021
Tatreau, Wendy	Superior Court	1/14/2022
Tea, Bellavie	Social Services Agency	1/14/2022
Tran, Jennie	Probation	1/14/2022
Truong, Harry	OCTA	1/16/2022
Tuiteleleapaga, Fue	OC Community Resources	1/14/2022
Umemoto, Dawn	Health Care Agency	1/14/2022
Valdez, Maria	Superior Court	1/1/2022
Wagner, Brenda	Probation	1/14/2022
Wilcox, David	OC Community Resources	12/31/2021
Young, Lucille	OC Public Works	1/20/2022

***Orange County Employees Retirement
Retirement Board Meeting
March 21, 2022
Death Notices***

<i>Active Members</i>	<i>Agency/Employer</i>
Depur, Sivakumar	County Executive Office (CEO)
Feinstein, Yourm	OCTA
Kendall, Corey	OCTA
Raab, Deborah	OCTA
Stephens, Robert	Assessor

<i>Retired Members</i>	<i>Agency/Employer</i>
Alfaro, Elizabeth	Health Care Agency
Anderson, Catherine	Superior Court
Anderson, Shirley	UCI
Armstrong, Eileen	OC Public Works
Beard, Sharon	Social Services Agency
Bradley, Robert	Probation
Braun, Linda	Social Services Agency
Capps, Robert	Sheriff's Dept
Cole, Troy	OC Public Works
Curry, Michael	Sheriff's Dept
Fielding, Robin	Superior Court
Foronda, Ernesto	OCWR
Guadan, Ruben	Superior Court
Hamilton, Virgil	John Wayne Airport
Hugo, Janice	OCTA
Klug, Katherine	Social Services Agency
Krahenbill, Leonard	OCTA
Lloyd, Veronica	OC Public Works
Louder, Obadiah	Sheriff's Dept
Mahdavi, Sharri	Health Care Agency
Mayer, Raymond	Sheriff's Dept
Ospino, Frank	Public Defender
Pardee, Lois	Superior Court
Peace, Ron	Superior Court
Pulliam Georgie	Social Services Agency
Rasmussen, Hermila	Social Services Agency
Richards, James	OC Public Works
Schultz, Robert	Fire Authority (OCFA)
Sears, Lucia	Health Care Agency
Smith, Rufus	OC Public Works
Snethen, Eric	District Attorney
Stiver, Claudia	Health Care Agency
Stolte, Richard	OC Public Works
Summers, Wilson	Probation

Talley, Brooks	Public Defender
Tapia Carlson, Marcella	Health Care Agency
Teves, Jose	Sheriff's Dept
Tretter, Farrell	OCTA
Wagner, Robert	Sheriff's Dept
Williams, William	Sheriff's Dept
Young, Terri	Sheriff's Dept
Zavala, Concepcion	Assessor

<i>Surviving Spouses</i>	
Bivens, Velma	
Clow, Rachel	
Crane, George	
Davis, Robert	
Dickson, Robert	
Elenes, Josephine	
Ferrari, Mary	
Gill, Anne	
Gronberg, Virginia	
Harlan, James	
Harper, Ilga	
Hinkson, Jean	
Strayer, Mei-Tsu	
Wallace, Gary	

Governance Committee Meeting
October 28, 2021

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

**GOVERNANCE COMMITTEE MEETING
October 28, 2021
2:00 p.m.**

MINUTES

The Chair called the meeting to order at 2:00 p.m.

Present via Zoom Video conference pursuant to Government Code § 54953, as amended by AB 361:

Frank Eley, Chair; Charles Packard, Vice Chair; Richard Oates; Wayne Lindholm

Also present via Zoom:

Steve Delaney, Chief Executive Officer; Gina Ratto, General Counsel; Suzanne Jenike, Assistant CEO, External Operations; Brenda Shott, Assistant CEO, Internal Operations; Manuel Serpa, Staff Attorney; Anthony Beltran, Audio Visual Technician; Cammy Torres, Recording Secretary

CONSENT AGENDA

C-1 APPROVE GOVERNANCE COMMITTEE MEETING MINUTES

Governance Committee Meeting Minutes

March 19, 2021

MOTION by Mr. Oates, **seconded** by Mr. Lindholm, to approve the Minutes.

The motion passed **unanimously**.

ACTION ITEMS

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

No items were trailed from the Consent Agenda.

A-2 TRIENNIAL REVIEW OF THE PROCUREMENT AND CONTRACTING POLICY

Presentation by Brenda Shott, Assistant Chief Executive Officer, Internal Operations

Recommendation: Approve and recommend the Board adopt the proposed revisions to the Procurement and Contracting Policy.

Governance Committee Meeting
October 28, 2021

Proposed revisions to the Procurement and Contracting Policy were presented by Ms. Shott and discussed by the Committee members.

MOTION by Mr. Packard, **seconded** by Mr. Oates to approve and recommend the Board adopt the proposed revisions to the Procurement and Contracting Policy as presented.

The motion passed **unanimously**.

A-3 TRIENNIAL REVIEW OF THE WRITE OFF POLICY AND REVIEW OF PROPOSED REVISIONS TO THE OVERPAID AND UNDERPAID PLAN BENEFITS POLICY AND THE OVERPAID AND UNDERPAID PLAN CONTRIBUTIONS POLICY

Presentation by Suzanne Jenike, Assistant Chief Executive Officer, External Operations

Recommendation: Approve and recommend the Board adopt the proposed revisions to the following policies:

- (1) Write Off Policy
- (2) Overpaid and Underpaid Plan Benefits Policy
- (3) Overpaid and Underpaid Plan Contributions Policy

Proposed revisions to the Write Off Policy, the Overpaid and Underpaid Plan Benefits Policy and the Overpaid and Underpaid Plan Contributions Policy were presented by Ms. Jenike and discussed by the Committee members.

MOTION by Mr. Packard, **seconded** by Mr. Lindholm to approve and recommend the Board adopt the proposed revisions to the Write Off Policy, the Overpaid and Underpaid Plan Benefits Policy, and the Overpaid and Underpaid Plan Contributions Policy as presented.

The motion passed **unanimously**.

A-4 REVIEW OF THE PROPOSED NEW RECORDS MANAGEMENT POLICY

Presentation by Gina M. Ratto, General Counsel

Recommendation: Approve and recommend the Board adopt a new Records Management Policy as presented, with such revisions as are necessary to update the Member Services Division portion of the Record Retention Schedule.

Manuel Serpa presented the Committee with a new Records Management Policy.

After discussion by the Committee, **MOTION** by Mr. Packard, **seconded** by Mr. Oates to approve and recommend the Board adopt a new Records Management Policy as presented, with such revisions as are necessary to update the Member Services Division portion of the Record Retention Schedule. In addition, staff will consider whether Insurance Policies should be retained indefinitely, and will reflect any necessary revisions to the Retention Schedule prior to presenting the policy to the Board.

The motion passed **unanimously**.

Governance Committee Meeting
October 28, 2021

A-5 OCERS ADMINISTRATIVE PROCEDURE (OAP) – YEARS OF SERVICE CREDIT CALCULATION

Presentation by Suzanne Jenike, Assistant Chief Executive Officer, External Operations

Recommendation: Adopt, and recommend the Board adopt, the OCERS Administrative Procedure (OAP) on years of service credit calculations.

Ms. Jenike presented the OCERS Administrative Procedure (OAP) on years of service credit calculations to the Committee.

After discussion by the Committee, **MOTION** by Mr. Packard, **seconded** by Mr. Oates to adopt and recommend the Board adopt, the OCERS Administrative Procedure (OAP) on years of service credit calculations as presented.

The motion passed **unanimously**.

INFORMATION ITEMS

I-1 REVIEW OF NEW PAY ITEMS PURSUANT TO THE PAY ITEM REVIEW POLICY

Presentation by Suzanne Jenike, Assistant Chief Executive Officer, External Operations

Ms. Jenike presented this agenda item to the Committee.

COMMITTEE MEMBER COMMENTS

N/A

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

Mr. Delaney introduced Claudia Perez to the Board. She will assist the Executive Department.

COUNSEL COMMENTS

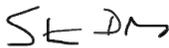
N/A

ADJOURNMENT

The meeting adjourned at 3:23 p.m.

Submitted by:

Approved by:

DocuSigned by:

C00D5744EE39463
Steve Delaney
Secretary to the Board

DocuSigned by:

9F34288D95E2472...
Frank Eley, Chair



Memorandum

DATE: March 21, 2022
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **CEO FUTURE AGENDAS AND 2022 OCERS BOARD WORK PLAN**

Written Report

AGENDA TOPICS FOR THE OCERS BOARD OF RETIREMENT

APRIL

Annual Fiduciary Training
Brown Act Training
SACRS Board of Directors Election
CIO Comments

MAY

Preliminary December 31, 2021 valuation
Review of OCERS Multiple Plans

JUNE

OCERS 2022 Business Plan and 2022-2024 Strategic Plan: Mid-year Review
Strategic Planning Workshop – Proposed Agenda
December 31, 2021 Actuarial Valuation – Final Approval
CIO Comments

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

OCERS RETIREMENT BOARD - 2022 Work Plan

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep (Offsite)	Oct	Nov	Dec
System Oversight	Receive Quality of Member Services Report (I)	STAR COLA Posting (I)	Approve 2022 STAR COLA (A)	SACRS Board of Directors Election (A)	Preliminary December 31, 2021 Valuation (I)	Mid-Year Review of 2022 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 2023 Administrative Budget and Investment (Workshop) (I)	Review 3rd Quarter Budget to Actuals Financial Report (I)	
	Receive OCERS Innovation Report (I)	Approve 2023 COLA (A)	Quarterly 2022-2024 Strategic Plan Review (A)			Approve December 31, 2021 Actuarial Valuation & Funded Status of OCERS (A)	Actuarial Review: Risk Assessment (I)	Receive OCERS by the Numbers (I)	Annual OCERS Employer Review (I)	Approve 2023-2025 Strategic Plan (A)	Approve 2023 Administrative (Operating) Budget (A)	
						Approve 2021 Comprehensive Annual Financial Report (A)	Approve Early Payment Rates for Fiscal Year 2022-24 (A)	Receive Evolution of the UAAL (I)		Approve 2023 Business Plan (A)	Annual CEO Performance Review and Compensation (A)	
						Quarterly 2022-2024 Strategic Plan Review (A)		Employer & Employee Pension Cost Comparison (I)				
											Adopt 2023 Board Meeting Calendar (A)	
Board Governance				Brown Act Training (biannual) (I)				Sexual Harassment Prevention Training (I)				Adopt Annual Work Plan for 2023 (A)
				Fiduciary Training (I)								Vice-Chair Election (A)
												Receive 2023 Board Committee Assignments (A)
Regulation / Policies	Communication Policy Fact Sheet (I)											
Compliance	Status of Board Education Hours for 2021 (I)			Form 700 Due (A)		Receive Financial Audit (I)			State of OCERS (I)			

(A) = Action (I) = Information



Memorandum

DATE: March 21, 2022
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 2021. This RFP is to put into place a Financial Auditor Agreement as the prior vendor agreement with MGO has expired and cannot be extended. Interviews with the finalists were conducted during the Audit Committee meeting held on December 15 2021. A vendor was selected and approved by the Board of Retirement on January 18, 2022. It is pending execution of a vendor contract.

Submitted by:



JD - Approved

 Jim Doezie
 Contracts, Risk and Performance Administrator



Memorandum

DATE: March 21, 2022
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:

Robert Kinsler:

- <https://newsantaana.com/adios-putin-orange-county-to-divest-from-russia/>

Steve Delaney:

- This article addresses the funded status of Riverside County, which participates inside CalPERS. It caught my attention as they are almost exactly equivalent to OCERS in funded status, but, with two big differences – They got to that funded status only after selling more than \$700 million in bonds (so in addition to a CalPERS payment, they have a bond payment), and the article notes they won't reach 100% funded status until 2040, whereas OCERS is presently looking at approximately 2032. <https://mynews1a.com/business/2022/03/01/report-countys-unfunded-pension-gap-gradually-closing/>
- A detailed article that helps explain yet another feature of the future that is racing our way <https://www.polygon.com/22959860/metaverse-explained-video-games>

- *Email Chain: February 15, 2022*
Board charter - "internal financial and operating controls"

Good afternoon Ms. Freidenrich,

I copied Mr. Kim, and he provided further detail which indicates how OCERS is meeting that Board Charter requirement. (See below).

I like your suggestion that any such future reports include a statement that they meet the Board Charter directive, to ensure there is no question.

(Note too, I earlier indicated that I was copying the AUDIT committee on these exchanges, actually I have been more appropriately copying the GOVERNANCE committee as that is where the question was raised.)

STEVE DELANEY | Chief Executive Officer | Orange County Employees Retirement System (OCERS)

P: (714) 558-6222 | C: (714) 697-8291 | *: sdelaney@ocers.org | 2223 E. Wellington Ave., Suite 100 | Santa Ana, CA 92701

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

From: Kim, David

Sent: Tuesday, February 15, 2022 11:38 AM

To: Delaney, Steve <sdelaney@ocers.org>

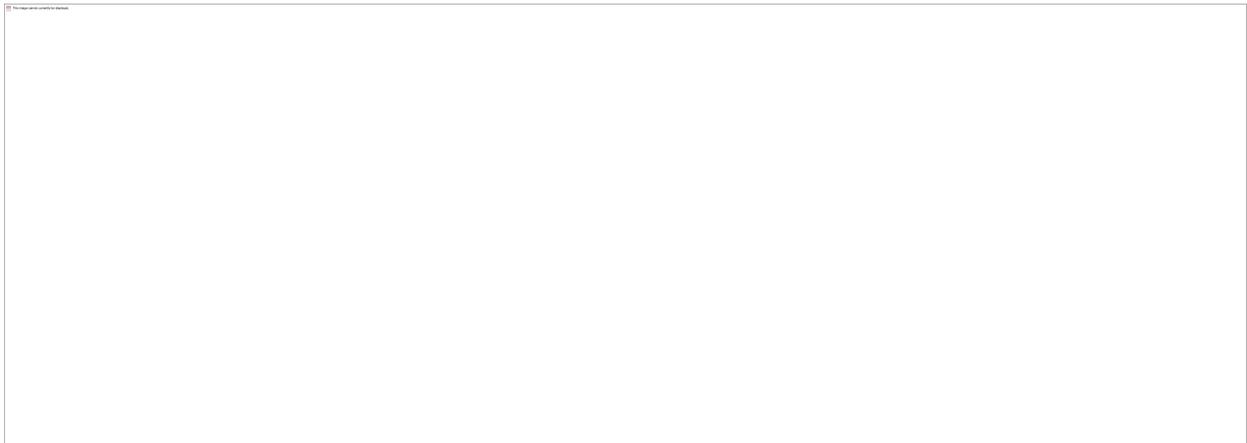
Subject: RE: Board charter - "internal financial and operating controls"

Hi Steve,

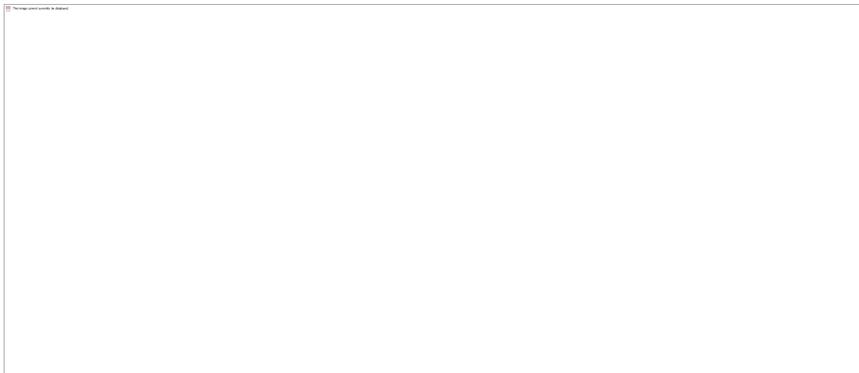
I believe we are doing what Ms. Freidenrich suggests, with support from the Assistant CEO.

The external auditor meets with senior management alone, without Internal Audit.

The external audit results are then presented to the Audit Committee with an introduction from the Assistant CEO



The full external audit report is then presented to the OCERS Board as an action item, with presentation normally being by the Assistant CEO and team:



Thank you

David Kim | Director of Internal Audit | 714.569.4809

From: Freidenrich, Shari <Shari.Freidenrich@ttc.ocgov.com>
Sent: Tuesday, February 15, 2022 11:26 AM
To: Delaney, Steve <sdelaney@ocers.org>; Freidenrich, Shari <sfreidenrich@ocers.org>
Cc: Hidalgo, Arthur <ahidalgo@ocers.org>; Tagaloa, Adele <atagaloa@ocers.org>; Oates, Richard <roates@ocers.org>; Kim, David <dkim@ocers.org>; Ratto, Gina <gratto@ocers.org>
Subject: [EXTERNAL] RE: Board charter - "internal financial and operating controls"

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks. That is great news!

I think that since it is a Board requirement, if we are using the Audit Committee to help us accomplish it, the Board should be receiving a written report from the Director of Internal Audit (that can first go to the Audit Committee) that identifies their opinion on the effectiveness of the internal financial and operational control policies along with the dates that they met with management including any information that would further document that this is done and that this is intended to meet the Board's Charter requirements.

Thanks.

Shari

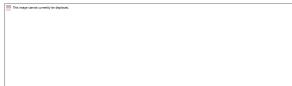
Shari Freidenrich, CPA

Orange County Treasurer

Shari.Freidenrich@ttc.ocgov.com

Phone: 714-834-7625

Fax: 714-834-2912



From: Delaney, Steve <sdelaney@ocers.org>

Sent: Tuesday, February 15, 2022 10:56 AM

To: Freidenrich, Shari <sfreidenrich@ocers.org>

Cc: Hidalgo, Arthur <ahidalgo@ocers.org>; Tagaloo, Adele <atagaloo@ocers.org>; Oates, Richard <roates@ocers.org>; Kim, David <dkim@ocers.org>; Ratto, Gina <gratto@ocers.org>

Subject: Board charter - "internal financial and operating controls"

Good morning Ms. Freidenrich,

I wanted to follow up on your question raised yesterday during the Governance Committee meeting regarding the Board Charter, specifically Section 23.c:

23. The Board will annually:

c. Review OCERS internal financial and operating controls.

You asked if this was in fact being done, so I met with David Kim, Internal Audit this morning, and he confirms this is being accomplished annually by means of the external audit process.

Pointing to the Audit Committee Charter, he notes near identical language is used when outlining the “Financial Reporting Process”, the process which engages the external auditor:

5. The Audit Committee’s key areas of responsibility are:

a. Law and Ethics: The Audit Committee will provide the policy and framework for compliance laws and regulations, mechanisms for assessment of compliance...

b. Financial Reporting Process: The Audit Committee will:

1. Monitor management’s processes for the reporting of all financial information, including management’s review with the external auditor regarding their scope, plan, duties, responsibilities, and the timing and engagement fee of the annual financial audit;
2. Resolve disagreements between the internal auditor, external auditor, and /or management regarding financial reporting and internal control risks identified in the audit;
3. Review the audited financial statements with the external auditor and senior management;
4. Review management letters with management;
5. Review the findings or comments of regulatory agencies concerning financial statements or other information regarding OCERS;
6. Review the external auditor’s assessments of the appropriate application of accounting principles by OCERS management;
7. Review all matters required to be disclosed by accounting standards, including significant changes in those standards; and
8. Meet with senior management, at least annually, to discuss the effectiveness of the internal financial and operational control policies.

At the completion of the annual external audit over the “Financial Reporting Process”, the OCERS senior management team, as per Section 5.b.8, provides our management response, and answers any queries from the Audit Committee members.

While the Board Charter does not make it as clear as the Audit Committee Charter that the “operating controls” referenced are those related to financial reporting, it appears to be the case.

Mr. Kim does note that the OCERS Internal Audit team does review “operating controls” and reports on such in any of their process audits.

I am copying the Audit Committee members so they are kept equally informed (and will add this to the March 2022 Board Communications document).

Please let me know if I can provide further detail.

Attached:

- January 2022 Summary

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Monthly Team Status

January 2022

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 January.

MEMBER SERVICES MONTHLY METRICS

Retirement Applications Received					2022 Customer Service Statistics						
Month	2019	2020	2021	2022	Month	Unplanned Recalculations	Member Satisfaction Approval Rate	Calls Received via Call Center	Calls Direct to Extension	Calls Received by Operator	Total Calls (monthly)
Jan	265	240	117	346	January	0	98%	3,004	5,402	1,060	9,466
Feb	193	152	91		February						
Mar	112	95	51		March						
Apr	41	37	39		April						
May	41	43	52		May						
Jun	50	59	49		June						
Jul	52	262	64		July						
Aug	61	190	59		August						
Sep	42	117	70		September						
Oct	59	51	67		October						
Nov	49	48	95		November						
Dec	68	66	93		December						
Grand Total	1033	1360	847	364	Grand Total	0	98%	3,004	5,402	1,060	9,466

MEMBER SURVEY RESPONSE

"I wanted to take a moment to send a note of positive feedback and accolades. I called in December to inquire when it would make sense to apply for my retirement benefit. I called during my lunch hour and was sure that I would get a voicemail and to my surprise one of your representatives answered the phone and spent his time educating, getting me up-to-speed on my login, and walking me through the process. They were thorough, patient and really helpful. After examining and listening, we realized that I was needing to initiate the process by January 11, 2022. I am not sure why I had been anxious about it but they made me feel at ease with the process that seemed so straightforward. I initiated my retirement process a few minutes ago. I know that there is an eight-step process but feel more confident about this journey, thanks to your customer service representative. Please give them my regards and share my appreciation. Congratulations and great job for hiring such a rock star in customer service!"

January 2022

"I called last week to start my retirement and I got a hold of a representative who was such a great help. They went far beyond the call of duty and went out of their way to help me. I had very specific questions regarding my situation and this representative helped me through it and was really very patient. I just want to thank you for having an employee like that on duty to make me feel at ease in this somewhat stressful time. Thank you very much and give that representative a thumbs up."

December 2021

"I would like to submit a compliment and recognize one of your customer service representatives for their efforts to assist me with understanding the 415 Pension CAP process. They were very professional, listened carefully to my questions, and followed up with answers in a very timely manner. This team member is a fantastic representative for OCERS. I was so impressed that I had to send this message indicating how pleased I was with their assistance. Thank You."

November 2021



Monthly Team Status

January 2022

ACTIVITIES

NEW SOFTWARE IN FINANCE

Ms. Tracy Bowman reports:

On January 3, 2022, OCERS went live with its new Enterprise Resource Planning (ERP) software and it has had an immediate positive impact. The new system includes automated electronic workflows for invoice approvals, reducing the need for sending and receiving multiple emails for approvals, and eliminated/reduced the need to create and maintain hard copies of supporting documentation. The next step of the project will be to implement ACH payments instead of issuing checks for vendor payments, and integrate an expense management software package that will automatically capture receipts and process expense reports. This phase of the project is anticipated to be completed by the end of Q1 2022.

INVESTMENT TEAM

Mr. David Beeson reports:

OCERS' portfolio returned 3.0% net of fees in December, bringing the 2021 performance to 16.6% for the year. The fund value began 2021 at \$19.3 billion and ended the year at \$22.4 billion. The OCERS Investment Team continued to work effectively remotely during the COVID pandemic in January. OCERS' Investment Team closed on two new private equity funds, two private equity co-investments, and one private credit fund during January. The OCERS Investment Team conducted Zoom interviews with the finalists for general consultant, private equity consultant, real assets consultant, and real estate consultant. The final round interviews focused on a technology demonstration from the finalists and a case study to showcase each firm's due diligence capabilities. The RFP consultant finalists will present at the March 21st Investment Committee Meeting. Finally, OCERS' Investment Team began working on the 2021 Year in Review presentation with Meketa, Aksia TorreyCove, and Townsend. The Year in Review presentation focuses on 2021 accomplishments, highlights the 2021 OCERS Investment Team activities, and previews 2022 initiatives.

UPDATES

ALAMEDA RECALCULATION

The team continues to make progress on the *Alameda* implementation. We are working on testing the automated process provide by ViTech that will allow us to remove the affected pay items from the member's V3 accounts. Once we are satisfied the testing of the import, we will implement the changes to our production system and review the impact on member accounts. We will continue to make sure the



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January 2022

members are fully informed of the status of the implementation and when they may expect to see their benefit recalculation and contribution refunds if required later this year.

100% ACCURACY

Internal Audit has completed Q4 testing of 134 Final Average Salary calculations out of 154 total applications in the final quarter of 2021. Internal Audit determined Member Services had a 1.5% error rate for the Q42021. While we have a way to go, it was promising that after implementing the quality controls fully in the third quarter of 2021, Member Services finished 2021 with two months of 100% Accurate benefits (August and October) and reduced the error rate for the quarter from 6% to 1.5%.

VISION 2030

The AI ad hoc team confirmed that there will be three RFPs released as part of this effort. Likely in March 2022, an RFP to conduct initial "use cases" where Robotic Process Automation (RPA) will be demonstrated. An RFP for an AI "futurist", an expert who can lay out a general work plan over the next eight years would follow. Late 2022 we would anticipate an RFP to begin the development of our successor Pension Administration System.

Finding that AI efforts in the USA public pension field are rare, we looked to see what we could learn from the private sector, specifically the Insurance Industry. On January 13 the committee was introduced by a rep of The Insurance Innovation Reporter newsletter to a representative of OZ Digital Consulting, who works with insurance funds in RPA. The conversation was helpful, and we will continue to look for opportunities to learn from the private sector.



As a reminder, you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the March 21 meeting of the OCERS Board of Retirement.



Memorandum

DATE: March 21, 2022
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel
SUBJECT: LEGISLATIVE UPDATE

Written Report

State Legislative Update

The California Legislature reconvened for the second year of the 2021-22 Legislative Session on Monday, January 3rd. February 18th was the last day to introduce new legislation.

A comprehensive list and summary of the pending bills that staff is monitoring during the second year of the 2021-2022 legislative session is attached. **New or updated information since the last report to the Board in October 2021 are indicated in bold text.**

SACRS Sponsored Bills

The SACRS membership approved the SACRS proposed legislation (annual CERL housekeeping bill) at the Fall Conference last November¹. Most of the proposals in the approved SACRS Sponsored Bill have been placed into the annual omnibus committee cleanup bill. (See AB 1824 below.) The remaining proposals, while not controversial, will need to be placed in a policy bill because they are more than “technical cleanup” amendments suitable for an omnibus bill. AB 1971 has been introduced for this purpose. (See AB 1971 below.)

Bills that Would Amend the CERL or PEPRA

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. PEPRA 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.

¹ The proposed legislation was approved by the OCERS Board at its October 18, 2021 meeting.

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. AB 498 passed out of the Assembly and was ordered to the Senate on 05/27/21. 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)

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.

The bill would add section 31461.7 to the Government Code, to read:

(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 1824 (Cooper, Voepel, Calderon, Cooley, O'Donnell, and Seyarto) – SACRS Sponsored Bill

Amended 02/28/22. Amendments strike a PERL section. No changes to the CERL amendments.

This bill represents the annual omnibus bill to propose technical “housekeeping” amendments to the CERL, the PERL, and Education Code provisions applicable to CalSTRS.

With respect to the CERL, the bill would make the following changes:

1. The CERL requires, upon the death of a member, the payment of a retirement allowance earned but not yet paid to a member to be paid to the member’s designated beneficiary. The CERL requires, upon the death of a person receiving a survivor’s allowance, the payment of any allowance earned but not yet paid to the survivor to be paid to the survivor’s designated beneficiary. This bill would amend Government Code section 31452.7 to include a corporation, a trust, or an estate in the definition of “beneficiary” for purposes of these provisions.
2. The CERL restricts the types of employment for which members may receive credit for service and restricts credit for other employment in public service based upon whether the member is entitled to receive a pension or retirement allowance from another public agency. If a member elects to contribute to obtain credit for other employment in another public agency, the CERL requires certification, as specified, of the fact that pension or retirement allowance will not accrue to the member by virtue of the member’s employment. This bill would amend Government Code section 31641.4 to specify that the provisions described above do not prohibit a member from receiving credit for a period of federal public service if federal law expressly permits the credit even though the member is already entitled to receive a pension or retirement allowance from that service.
3. The CERL prescribes a process for purposes of establishing a date of retirement with reference to safety members. Further, the CERL authorizes a safety member to be retired upon the occurrence of certain events and the filing, with the retirement board, of a written application setting forth the date upon which the member desires their retirement to become effective. The CERL prohibits this date from being

more than 60 days after the date of filing the application. This bill would amend Government Code sections 31663.25 and 31663.26 to revise the restrictions on the above-described effective retirement date to prohibit the retirement date from being earlier than the date the application is filed with the board or more than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

4. The CERL authorizes the payment of a death benefit upon the death of a member while in service. It further prescribes the components of the death benefit, which are a member's accumulated contributions and an amount, provided from contributions by a county or district, calculated pursuant to a specified method, not to exceed 50% of annual compensation earnable or pensionable compensation of the deceased. This bill would amend Government Code sections 31761, 31762, 31763, 31764 and 31781 to require, in connection with the calculation of the death benefit, that the computation for any absence be based on the compensation of the position held by the member at the beginning of the absence.
5. The bill would also make non-substantive style and technical changes to the CERL. (Government Code sections 31726 and 31726.5.)

(STATUS: Introduced 02/07/22. Referred to Com. on P.E. & R on 02/18/22. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R. Read second time and amended on 02/28/22. Re-referred to Com. on P.E. & R on 03/01/22. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E. & R. Read second time and amended on 03/07/22.)

AB 1971 (Cooper) – SACRS Sponsored Bill

The CERL authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension and other benefits to county and district employees. CERL generally vests responsibility for management of a retirement system created pursuant to its provisions in a board of retirement. The CERL authorizes retirement boards to make regulations that are not inconsistent with the CERL provisions, and these regulations become effective when approved by the applicable county board of supervisors. This bill would specify other provisions with which the above-described regulations are required to be consistent and would remove the requirement of approval by the board of supervisors as a necessary condition for them to become effective.

(STATUS: Introduced 02/10/22. Referred to Com. on P.E & R on 02/18/22.)

Bills that Would Amend the Brown Act

AB 1944 (Lee)

The Ralph M. Brown Act (the Brown Act), requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. 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 that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public 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 authorities, as defined.

The Brown Act was amended in response to the COVID pandemic to allow, until January 1, 2024, local agencies to use teleconferencing without complying with the aforementioned teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would further amend the Brown Act (without a sunset provision) to specify that when the legislative body has elected to allow members to participate via teleconferencing, and a member of a legislative body elects to teleconference from a location that is not public, the address does not need to be identified in the notice and agenda or be accessible to the public. However, this bill would require all open and public meetings of a legislative body that elects to use teleconferencing to provide a video stream accessible to members of the public and an option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option. (STATUS: Introduced on 02/10/22. Referred to Com. on L. GOV on 02/18/22.)

AB 2449 (B. Rubio)

The Brown Act, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health. This bill would authorize a local agency to use teleconferencing without complying with those specified teleconferencing requirements if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction, provided that the legislative body complies with all of the following: (1) the legislative body gives notice of the meeting and posts agendas as otherwise required by the Brown Act; (2) all members of the legislative body attending the meeting by teleconference participate only through both audio and visual technology; (3) the legislative body allows members of the public to access the meeting; and (4) the agenda provides an opportunity for members of the public to address the legislative body directly.

Additionally, in each instance in which notice of the time of the 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 public 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, and an opportunity for members of the public to attend and address the legislative body at the in-person location of the meeting.

(STATUS: Introduced 02/17/22. Referred to Com. on L. GOV on 03/03/22.)

AB 2647 (Levine)

The Brown Act requires the meetings of the legislative body of a local agency to be conducted openly and publicly, with specified exceptions. Current law makes agendas of public meetings and other writings

distributed to the members of the governing board disclosable public records, with certain exceptions. Current law requires a local agency to make those writings distributed to the members of the governing board available for public inspection at a public office or location that the agency designates. This bill would instead require a local agency to make those writings distributed to the members of the governing board available for public inspection at a public office or location that the agency designates or post the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(STATUS: Introduced 02/18/22.)

SB 1100 (Cortese)

The Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Existing law requires every agenda for regular meetings of a local agency to provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body. Existing law authorizes the legislative body to adopt reasonable regulations to ensure that the intent of the provisions relating to this public comment requirement is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Existing law authorizes the members of the legislative body conducting the meeting to order the meeting room cleared and continue in session, as prescribed, if a group or groups have willfully interrupted the orderly conduct of a meeting and order cannot be restored by the removal of individuals who are willfully interrupting the meeting.

This bill would authorize the members of the legislative body conducting a meeting to remove an individual for willfully interrupting the meeting. The bill, except as provided, would require removal to be preceded by a warning, either by the presiding member of the legislative body or a law enforcement officer, that the individual is disrupting the proceedings and a request that the individual curtail their disruptive behavior or be subject to removal. The bill would similarly require a warning before clearing a meeting room for willful interruptions by a group or groups. The bill would define "willfully interrupting" to mean intentionally engaging in behavior during a meeting of a legislative body that substantially impairs or renders infeasible the orderly conduct of the meeting in accordance with law. The term would include failure to comply with a reasonable regulation adopted in accordance with existing law after a warning and request in accordance with the bill, as applicable.

(STATUS: Introduced 02/16/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/16/22. Referred to Coms. on GOV. & F and JUD on 02/23/22.)

Bills that Would Amend Other Laws Applicable to OCERS

AB 1993 (Wicks, Aguir-Curry, Low, and Akilah Weber)

Existing law, the California Fair Employment and Housing Act (FEHA), establishes the Department of Fair Employment (department) and Housing within the Business, Consumer Services, and Housing Agency and sets forth its powers and duties relating to the enforcement of civil rights laws with respect to housing and employment. Existing federal law, the Federal Food, Drug, and Cosmetic Act, authorizes the United States Secretary of Health and Human Services to approve new drugs and products, including vaccines, for introduction into interstate commerce, and authorizes the secretary to authorize vaccines for use in an emergency upon declaring a public health emergency. On February 4, 2020, the secretary determined that there is a public health emergency and declared circumstances exist justifying the authorization of emergency use of drugs and biological products. The secretary subsequently authorized the emergency use of 3 vaccines for the prevention of COVID-19, and on August 23, 2021, the secretary approved a vaccine for the prevention of COVID-19.

The California Emergency Services Act authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. On March 4, 2020, the Governor declared a state of emergency relating to the COVID-19 pandemic. Pursuant to this authority, the Governor issued several executive orders requiring individuals in specified employment, health care, school, or other settings to provide proof of a COVID-19 vaccination status, unless specified exceptions are met.

This bill would require an employer to require each person who is an employee or independent contractor, and who is eligible to receive the COVID-19 vaccine, to show proof to the employer, or an authorized agent thereof, that the person has been vaccinated against COVID-19. This bill would establish an exception from this vaccination requirement for a person who is ineligible to receive a COVID-19 vaccine due to a medical condition or disability or because of a sincerely held religious belief, as specified, and would require compliance with various other state and federal laws. The bill would require proof-of-vaccination status to be obtained in a manner that complies with federal and state privacy laws and not be retained by the employer, unless the person authorizes the employer to retain proof. This bill would require, on January 1, 2023, each employer to affirm, in a form and manner provided by the department, that each employee or independent contractor complied with these provisions, and would require the employer to affirm that each new employee or independent contractor is in compliance at the time of hiring or contracting with that person. The bill would require the department to impose a penalty of an unspecified amount on an employer for any violation of these provisions.

The bill would apply to both private and public employers, and defines “public employer” as (1) the state and every state entity, including, but not limited to, the Legislature, the judicial branch, the University of California, and the California State University; and (2) a political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, charter city, charter county, school district, community college district, powers authority, joint powers agency, and any public agency, authority, board, commission, or district.

This bill would repeal these provisions when the federal Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices determines that COVID-19 vaccinations are no longer necessary for the health and safety of individuals. This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. This bill would declare that its provisions are severable.

(STATUS: Introduced 02/10/22.)

SB 1328 (McGuire and Cortese) – DIVESTMENT BILL

This bill would prohibit the boards of specified state and local public retirement systems from investing public employee retirement funds in a company with business operations in Russia or Belarus or a company that supplies military equipment to Russia or Belarus, as defined. The bill would require those boards to contract with a research firm or firms to determine those companies with business operations in those countries, and to conduct their own review of companies with business operations in those countries, as specified. The bill would require the boards to determine whether a company has business operations in Russia or Belarus or supplies military equipment to Russia or Belarus. The bill, except as specified, would require the board to notify companies determined to have business operations with those countries, and request the company to take substantial action, as defined and specified. If the company fails to complete substantial action, the bill would prohibit the board from making additional or new investments in that company, and would require the board to liquidate the investments of the board in that company, as specified. The bill would also require the board, on or before January 1, 2023, and every year thereafter, to file a specified report with the Legislature. The bill would provide that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

(STATUS: Introduced 02/18/22. Read first time. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/18/22. Referred to Com. on RLS on 03/02/22. From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS on 03/03/22.)

Other Bills of Interest

AB 1795 (Fong)

The Bagley-Keene Open Meeting Act requires state bodies to allow all persons to attend meetings and provide an opportunity for the public to address the state body regarding any item included in its agenda, except as specified. This bill would require state bodies, subject to existing exceptions, to provide all persons the ability to participate both in-person and remotely, as defined, in any meeting and to address the body remotely.

(STATUS: Introduced on 02/07/22. Referred to Com. on G.O on 02/18/22.)

SB 931 (Leyva)

Current law prohibits a public employer from deterring or discouraging public employees or applicants to be public employees from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. Current law generally vests jurisdiction over violations of these provisions in the Public

Employment Relations Board. This bill would authorize an employee organization, as described, to bring a claim before the Public Employment Relations Board alleging that a public employer violated the above-described provisions.

(STATUS: Introduced 02/07/22. Read first time; referred to Com. on RLS. for assignment; Art. IV. Sec. 8(a) of the Constitution dispensed with; Joint Rule 55 suspended 02/07/22. **Referred to Coms. on L., P.E & R and JUD on 02/16/22.**)

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: Passed out of Assembly and ordered to Senate on 06/01/21. Read first time in Senate on 06/02/21. 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 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.

(STATUS: Passed out of Assembly and ordered to Senate on 01/27/22. Read first time in Senate and ordered to Com. on RLS. for assignment on 01/27/22.)

AB 1667 (Cooper)

CalSTRS is administrated by the Teachers' Retirement Board. Current law also creates the Cash Balance Benefit Program, which is administered by the 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 generally authorizes the board, in its discretion and upon any terms it deems just, to correct the errors or omissions of any member or beneficiary of the Defined Benefit Program, and of any participant or beneficiary of the Cash Balance Benefit

Program, if specified facts exist. This bill would state the intent of the Legislature to enact legislation related to CalSTRS, including, among other things, in connection with employee liability for system errors in payments, guidance provided by the system later determined to be erroneous, changes to interpretations of creditable compensation laws by the system, and system audits.

(STATUS: Introduced 01/19/2022.)

AB 1722 (Cooper)

The PERL, until January 1, 2023, provides a state safety member of CalPERS who retires for industrial disability a retirement benefit equal to the greatest amount resulting from 3 possible calculations. In this regard, the benefit amount is based on an actuarially reduced service retirement, a service retirement allowance, if the member is qualified, or 50% of the member's final compensation, plus an annuity purchased with their accumulated contributions, if any. This bill would delete the termination of these provisions on January 1, 2023, thereby making them operative in perpetuity. By providing that a continuously appropriated fund may be spent for a new purpose, this bill would make an appropriation.

(STATUS: Introduced 01/27/22. Referred to Com. on P.E & R on 02/03/22.)

AB 1801 (Nazarian)

Current law requires present, future, and former board members of CalPERS or CalSTRS, jointly and individually, state officers and employees, specified research firms, and investment managers under contract with these retirement systems to be indemnified from the General Fund and held harmless by the State of California from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, and against all liability, losses, and damages that those persons or entities may sustain by reason of a decision to restrict, reduce, or eliminate certain types of investments. This bill would make non-substantive changes to those provisions.

(STATUS: Introduced 02/07/22.)

AB 1877 (Fong)

Current law limits the postretirement compensation of a member of the CalSTRS Defined Benefit Program to an amount calculated by CalSTRS, as specified. If the member's postretirement compensation exceeds this amount, the law requires the member's retirement allowance to be reduced by the amount of excess compensation. Current law, however, permits members retired for service from CalSTRS to perform member activities without being subject to the compensation limit under certain limited conditions and circumstances. This bill would exempt from the postretirement compensation limit the compensation of a member retired for service who was a classroom teacher who has returned to work to fulfill a critical need in a position due to a teacher shortage in the area of special education. The bill would require a local school district, county office of education, or other local educational agency exercising this exemption to submit specified documentation, certified under penalty of perjury, to substantiate a retired member's eligibility.

(STATUS: Introduced 02/08/22. Referred to Com. on P.E & R on 02/18/22.)

AB 2443 (Cooley)

Current law establishes the Judges' Retirement System II, which CalPERS administers. Current law authorizes a judge who is a member of the system and who retires upon attaining both 65 years of age and 20 or more years of service, or upon attaining 70 years of age with a minimum of 5 years of service, to elect from

specified retirement benefits, including a monthly pension. This bill would make nonsubstantive changes to the provisions authorizing a judge to elect retirement benefits described above.

(STATUS: Introduced 02/17/22.)

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: Passed out of the Senate; ordered to Assembly on 05/24/21. Referred to Com. on P.E & R on 05/28/21.)

SB 868 (Cortese)

Current law creates the Teachers' Retirement Fund and establishes within that fund a segregated account named the Supplemental Benefit Maintenance Account. Current law continuously appropriates funds in the Supplemental Benefit Maintenance Account for expenditure for the purpose of restoring the purchasing power of the allowances of retired members and nonmember spouses, disabled members, and beneficiaries, and prescribes various schedules pursuant to which these allowances are augmented. This bill would prescribe additional benefits to be paid quarterly from the Supplemental Benefit Maintenance Account, beginning July 1, 2023, to retired members and nonmember spouses, disabled members, and beneficiaries, to be made pursuant to a specified schedule. By providing for additional payments to be made from a continuously appropriated fund, this bill would make an appropriation. The bill would require the amount of these increases to be determined on July 1, 2023, as specified, and would require that amount to be increased each year commencing on July 1, 2024, but not compounded. The bill would specify that these increases are not part of the base allowance, are payable only to the extent that funds are available from the Supplemental Benefit Maintenance Account, and would state the extent to which these payments would be vested.

(STATUS: Introduced 01/24/22. Referred to Com. on L., P.E & R on 02/02/22. **Art. IV. Sec. 8(a) of the Constitution dispensed with. Joint Rule 55 suspended on 02/07/22.**)

SB 1114 (Newman)

This bill would amend the PERL to make a nonsubstantive change to the definition of "employer".

(STATUS: Introduced 02/16/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/16/22. Referred to Com. on RLS on 02/23/22.)

SB 1168 (Cortese)

The PERL provides that upon the death of a member after retirement and while receiving a retirement allowance from CalPERS, the sum of \$500 shall be paid to the person's beneficiary, to be provided from contributions by the state or contracting agency, as the case may be. This bill would require the CalPERS board to determine the average benefit paid under various CalPERS provisions upon the death of a member, as provided, and would require the board, beginning on July 1, 2023, to increase the \$500 beneficiary payment described above annually in a specified amount until the beneficiary payment reaches the average benefit paid, as calculated by the board.

(STATUS: Introduced 02/17/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/17/22. Referred to Com. on L., P.E & R on 03/2/22.)

SB 1173 (Gonzalez)

This bill would prohibit the boards of CalPERS and CalSTRS from making new investments or renewing existing investments of public employee retirement funds in a fossil fuel company, as defined. The bill would require the boards to liquidate investments in a fossil fuel company on or before July 1, 2027. The bill would provide that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

(STATUS: Introduced 02/17/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/17/22. Referred to Coms. on L., P.E & R and JUD on 03/02/22.)

SB 1343 (Leyva)

The Charter Schools Act of 1992 authorizes the establishment and operation of charter schools. Existing law authorizes charter schools to elect to make CalSTRS and CalPERS available to qualifying employees. This bill would require charter schools authorized on and after January 1, 2023, to participate in CalSTRS and CalPERS. The bill would generally require CalSTRS, the Cash Balance Benefit Program, and CalPERS to apply to charter schools in the same manner as the systems and program apply to other public schools. For the purpose of paying contributions on behalf of a charter school, the bill would require a county superintendent, district superintendent, or other employing agency that reports directly to CalSTRS, upon state apportionment to a charter school, to draw requisitions against the funds of the charter school in amounts equal to the estimated contributions required to be paid by the charter school to CalSTRS, as specified, and pay them to the system. The bill would prohibit these requisitions from exceeding an estimated 3 months of contributions to be paid by the charter school. The bill would require the estimated amount to be determined by the county superintendent, district superintendent, or other employing agency. The bill would create similar requirements and prohibitions for purposes of requisitions related to the Cash Balance Benefit Program and CalPERS. By depositing additional moneys in continuously appropriated funds, this bill would make appropriations.

Existing law requires a county superintendent, district superintendent, chancellor of a community college district, or other employing agency that reports directly to CalSTRS to draw requisitions for contributions required pursuant to specified provisions in favor of the system. Existing law requires employers participating in CalSTRS to contribute monthly a specified percentage of the creditable contribution upon which member contributions are based in connection with funding the liability for benefits related to accumulated and unused sick leave. This bill would require that the monthly contributions for benefits related to accumulated and unused sick leave be subject to the above-described requisition process.

(STATUS: Introduced 02/18/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/18/22. Referred to Coms. on L., P.E & R and ED on 03/2/22.)

SB 1402 (Umberg)

Current law authorizes a member of CalSTRS to receive creditable service for certain types of service outside the system, including military service, and distinguishes in this regard between service performed before membership and after becoming a member. Current law authorizes receipt of credit for specified military or Merchant Marine service occurring prior to membership and prescribes requirements and limits in this connection. Current law requires, in this context, that the member contribute sufficient funds to cover the total cost of military service credit, as specified. Current law limits the application of this authorization to receive premembership service credit to specified service in the Armed Forces of the United States or in the Merchant Marine of the United States prior to January 1, 1950. This bill would delete the requirement that the service subject to the authorization described above have occurred prior to January 1, 1950.

(STATUS: Introduced 02/18/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/18/22.)

SB 1420 (Dahle)

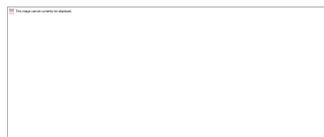
This bill would require that an agency participating in CalPERS that increases the compensation of a member who was previously employed by a different agency to bear all actuarial liability for the action, if it results in an increased actuarial liability beyond what would have been reasonably expected for the member. The bill would require, in this context, that the increased actuarial liability be in addition to reasonable compensation growth that is anticipated for a member who works for an employer or multiple employers over an extended time. The bill would require, if multiple employers cause increased liability, that the liability be apportioned equitably among them. The bill would apply to an increase in actuarial liability, as specified, due to increased compensation paid to an employee on and after January 1, 2023.

(STATUS: Introduced 02/18/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/18/22.)

Attachments:

Legislative Update
2022 Legislative Calendar

Submitted by:



Gina M. Ratto
General Counsel



**OCERS BOARD OF RETIREMENT
MARCH 21, 2022 MEETING**

**LEGISLATIVE UPDATE – ATTACHMENT
2021 - 2022 CALIFORNIA STATE LEGISLATIVE SESSION
BILLS OF INTEREST**

New or updated information in bold text

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: Read first time in Senate on 06/02/21. 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. 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. Passed out of the Assembly and ordered to the Senate on 05/27/21. 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 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. (STATUS: Passed out of the Assembly and ordered to the Senate on 01/27/22. Read first time in Senate and ordered to Com. on RLS. for assignment on 01/27/22.)

AB 826 (Irwin)

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 retired prior to the effective date of the measure and would state that these provisions are declarative of existing law.

The bill would add section 31461.7 to the Government Code, to read:

(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 1667 (Cooper)

CalSTRS is administered by the Teachers' Retirement Board. Current law creates the Cash Balance Benefit Program, which is also administered by the 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 generally authorizes the board, in its discretion and upon any terms it deems just, to correct the errors or omissions of any member or beneficiary of the Defined Benefit Program, and of any participant or beneficiary of the Cash Balance Benefit Program, if specified facts exist. This bill would state the intent of the Legislature to enact legislation related to CalSTRS, including, among other things, in connection with employee liability for system errors in payments, guidance provided by the system later determined to be erroneous, changes to interpretations of creditable compensation laws by the system, and system audits.

(STATUS: Introduced 01/19/2022.)

AB 1722 (Cooper)

The PERL, until January 1, 2023, provides a state safety member of CalPERS who retires for industrial disability a retirement benefit equal to the greatest amount resulting from 3 possible calculations. In this regard, the benefit amount is based on an actuarially reduced service retirement, a service retirement allowance, if the member is qualified, or 50% of the member's final compensation, plus an annuity purchased with their accumulated contributions, if any. This bill would delete the termination of these provisions on January 1, 2023,

thereby making them operative in perpetuity. By providing that a continuously appropriated fund may be spent for a new purpose, this bill would make an appropriation.

(STATUS: Introduced 01/27/22. Referred to Com. on P.E & R on 02/03/22.)

AB 1795 (Fong)

The Bagley-Keene Open Meeting Act requires state bodies to allow all persons to attend meetings and provide an opportunity for the public to address the state body regarding any item included in its agenda, except as specified. This bill would require state bodies, subject to existing exceptions, to provide all persons the ability to participate both in-person and remotely, as defined, in any meeting and to address the body remotely.

(STATUS: Introduced on 02/07/22. **Referred to Com. on G.O on 02/18/22.**)

AB 1801 (Nazarian)

Current law requires present, future, and former board members of CalPERS or CalSTRS, jointly and individually, state officers and employees, specified research firms, and investment managers under contract with these retirement systems to be indemnified from the General Fund and held harmless by the State of California from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, and against all liability, losses, and damages that those persons or entities may sustain by reason of a decision to restrict, reduce, or eliminate certain types of investments. This bill would make nonsubstantive changes to those provisions.

(STATUS: Introduced 02/07/22.)

AB 1824 (Cooper, Voepel, Calderon, Cooley, O'Donnell, and Seyarto) – SACRS Sponsored Bill

Amended 02/28/22. Amendments strike a PERL section. No changes to the CERL amendments.

This bill represents the annual omnibus bill to propose technical “housekeeping” amendments to Education Code provisions applicable to CalSTRS, the PERL and the CERL.

With respect to the CERL, the bill would make the following changes:

1. The CERL requires, upon the death of a member, the payment of a retirement allowance earned but not yet paid to a member to be paid to the member’s designated beneficiary. The CERL requires, upon the death of a person receiving a survivor’s allowance, the payment of any allowance earned but not yet paid to the survivor to be paid to the survivor’s designated beneficiary. This bill would amend Government Code section 31452.7 to include a corporation, a trust, or an estate in the definition of “beneficiary” for purposes of these provisions.
2. The CERL restricts the types of employment for which members may receive credit for service and restricts credit for other employment in public service based upon whether the member is entitled to receive a pension or retirement allowance from another public agency. If a member elects to contribute to obtain credit for other employment in another public agency, the CERL requires certification, as specified, of the fact that pension or retirement allowance will not accrue to the member by virtue of the member’s employment. This bill would amend Government Code section 31641.4 to specify that the provisions described above do not prohibit a member from receiving credit for a period of federal public

service if federal law expressly permits the credit even though the member is already entitled to receive a pension or retirement allowance from that service.

3. The CERL prescribes a process for purposes of establishing a date of retirement with reference to safety members. Further, the CERL authorizes a safety member to be retired upon the occurrence of certain events and the filing, with the retirement board, of a written application setting forth the date upon which the member desires their retirement to become effective. The CERL prohibits this date from being more than 60 days after the date of filing the application. This bill would amend Government Code sections 31663.25 and 31663.26 to revise the restrictions on the above-described effective retirement date to prohibit the retirement date from being earlier than the date the application is filed with the board or more than 60 days after the date of filing the application or more than a number of days that has been approved by the board.
4. The CERL authorizes the payment of a death benefit upon the death of a member while in service. It further prescribes the components of the death benefit, which are a member's accumulated contributions and an amount, provided from contributions by a county or district, calculated pursuant to a specified method, not to exceed 50% of annual compensation earnable or pensionable compensation of the deceased. This bill would amend Government Code sections 31761, 31762, 31763, 31764 and 31781 to require, in connection with the calculation of the death benefit, that the computation for any absence be based on the compensation of the position held by the member at the beginning of the absence.
5. The bill would also make non-substantive style and technical changes to the CERL. (Government Code sections 31726 and 31726.5.)

(STATUS: Introduced 02/07/22. Referred to Com. on P.E & R on 02/18/22. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E & R. Read second time and amended on 02/28/22. Re-referred to Com. on P.E & R on 03/01/22. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E & R. Read second time and amended on 03/07/22.)

AB 1877 (Fong)

Current law limits the postretirement compensation of a member of the CalSTRS Defined Benefit Program to an amount calculated by CalSTRS, as specified. If the member's postretirement compensation exceeds this amount, the law requires the member's retirement allowance to be reduced by the amount of excess compensation. Current law, however, permits members retired for service from CalSTRS to perform member activities without being subject to the compensation limit under certain limited conditions and circumstances. This bill would exempt from the postretirement compensation limit the compensation of a member retired for service who was a classroom teacher who has returned to work to fulfill a critical need in a position due to a teacher shortage in the area of special education. The bill would require a local school district, county office of education, or other local educational agency exercising this exemption to submit specified documentation, certified under penalty of perjury, to substantiate a retired member's eligibility.

(STATUS: Introduced 02/08/22. Referred to Com. on P.E & R on 02/18/22.)

AB 1944 (Lee)

The Ralph M. Brown Act (the Brown Act), requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. 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 that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public 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 authorities, as defined.

The Brown Act was amended in response to the COVID pandemic to allow, until January 1, 2024, local agencies to use teleconferencing without complying with the aforementioned teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would further amend the Brown Act (without a sunset provision) to specify that when the legislative body has elected to allow members to participate via teleconferencing, and a member of a legislative body elects to teleconference from a location that is not public, the address does not need to be identified in the notice and agenda or be accessible to the public. However, this bill would require all open and public meetings of a legislative body that elects to use teleconferencing to provide a video stream accessible to members of the public and an option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option. (STATUS: Introduced on 02/10/22. Referred to Com. on L. GOV on 02/18/22.)

AB 1971 (Cooper) – SACRS Sponsored Bill

The CERL authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension and other benefits to county and district employees. CERL generally vests responsibility for management of a retirement system created pursuant to its provisions in a board of retirement. The CERL authorizes retirement boards to make regulations that are not inconsistent with the CERL provisions, and these regulations become effective when approved by the applicable county board of supervisors. This bill would specify other provisions with which the above-described regulations are required to be consistent and would remove the requirement of approval by the board of supervisors as a necessary condition for them to become effective.

(STATUS: Introduced 02/10/22. Referred to Com. on P.E & R on 02/18/22.)

AB 1993 (Wicks, Aguir-Curry, Low, and Akilah Weber)

Existing law, the California Fair Employment and Housing Act (FEHA), establishes the Department of Fair Employment (department) and Housing within the Business, Consumer Services, and Housing Agency and sets forth its powers and duties relating to the enforcement of civil rights laws with respect to housing and employment. Existing federal law, the Federal Food, Drug, and Cosmetic Act, authorizes the United States Secretary of Health and Human Services to approve new drugs and products, including vaccines, for introduction into interstate commerce, and authorizes the secretary to authorize vaccines for use in an emergency upon declaring a public health emergency. On February 4, 2020, the secretary determined that there is a public health emergency and declared circumstances exist justifying the authorization of emergency use of drugs and biological products. The secretary subsequently authorized the emergency use of 3 vaccines for the prevention of COVID-19, and on August 23, 2021, the secretary approved a vaccine for the prevention of COVID-19.

The California Emergency Services Act authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. On March 4, 2020, the Governor declared a state of emergency relating to the COVID-19 pandemic. Pursuant to this authority, the Governor issued several executive orders requiring individuals in specified employment, health care, school, or other settings to provide proof of a COVID-19 vaccination status, unless specified exceptions are met.

This bill would require an employer to require each person who is an employee or independent contractor, and who is eligible to receive the COVID-19 vaccine, to show proof to the employer, or an authorized agent thereof, that the person has been vaccinated against COVID-19. This bill would establish an exception from this vaccination requirement for a person who is ineligible to receive a COVID-19 vaccine due to a medical condition or disability or because of a sincerely held religious belief, as specified, and would require compliance with various other state and federal laws. The bill would require proof-of-vaccination status to be obtained in a manner that complies with federal and state privacy laws and not be retained by the employer, unless the person authorizes the employer to retain proof. This bill would require, on January 1, 2023, each employer to affirm, in a form and manner provided by the department, that each employee or independent contractor complied with these provisions, and would require the employer to affirm that each new employee or independent contractor is in compliance at the time of hiring or contracting with that person. The bill would require the department to impose a penalty of an unspecified amount on an employer for any violation of these provisions.

The bill would apply to both private and public employers, and defines “public employer” as (1) the state and every state entity, including, but not limited to, the Legislature, the judicial branch, the University of California, and the California State University; and (2) a political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, charter city, charter county, school district, community college district, powers authority, joint powers agency, and any public agency, authority, board, commission, or district.

This bill would repeal these provisions when the federal Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices determines that COVID-19 vaccinations are no longer necessary for the health and safety of individuals. This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. This bill would declare that its provisions are severable. (STATUS: Introduced 02/10/22.)

AB 2443 (Cooley)

Current law establishes the Judges' Retirement System II, which CalPERS administers. Current law authorizes a judge who is a member of the system and who retires upon attaining both 65 years of age and 20 or more years of service, or upon attaining 70 years of age with a minimum of 5 years of service, to elect from specified retirement benefits, including a monthly pension. This bill would make nonsubstantive changes to the provisions authorizing a judge to elect retirement benefits described above.

(STATUS: Introduced 02/17/22.)

AB 2449 (B. Rubio)

The Brown Act, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health. This bill would authorize a local agency to use teleconferencing without complying with those specified teleconferencing requirements if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction, provided that the legislative body complies with all of the following: (1) the legislative body gives notice of the meeting and posts agendas as otherwise required by the Brown Act; (2) all members of the legislative body attending the meeting by teleconference participate only through both audio and visual technology; (3) the legislative body allows members of the public to access the meeting; and (4) the agenda provides an opportunity for members of the public to address the legislative body directly.

Additionally, in each instance in which notice of the time of the 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 public 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, and an opportunity for members of the public to attend and address the legislative body at the in-person location of the meeting.

(STATUS: Introduced 02/17/22. Referred to Com. on L. GOV on 03/03/22.)

AB 2647 (Levine)

The Brown Act requires the meetings of the legislative body of a local agency to be conducted openly and publicly, with specified exceptions. Current law makes agendas of public meetings and other writings

distributed to the members of the governing board disclosable public records, with certain exceptions. Current law requires a local agency to make those writings distributed to the members of the governing board available for public inspection at a public office or location that the agency designates. This bill would instead require a local agency to make those writings distributed to the members of the governing board available for public inspection at a public office or location that the agency designates or post the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(STATUS: Introduced 02/18/22.)

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: Passed out of the Senate; ordered to Assembly on 05/24/21. Referred to Com. on P.E & R on 05/28/21.)

SB 868 (Cortese)

Current law creates the Teachers' Retirement Fund and establishes within that fund a segregated account named the Supplemental Benefit Maintenance Account. Current law continuously appropriates funds in the Supplemental Benefit Maintenance Account for expenditure for the purpose of restoring the purchasing power of the allowances of retired members and nonmember spouses, disabled members, and beneficiaries, and prescribes various schedules pursuant to which these allowances are augmented. This bill would prescribe additional benefits to be paid quarterly from the Supplemental Benefit Maintenance Account, beginning July 1, 2023, to retired members and nonmember spouses, disabled members, and beneficiaries, to be made pursuant to a specified schedule. By providing for additional payments to be made from a continuously appropriated fund, this bill would make an appropriation. The bill would require the amount of these increases to be determined on July 1, 2023, as specified, and would require that amount to be increased each year commencing on July 1, 2024, but not compounded. The bill would specify that these increases are not part of the base allowance, are payable only to the extent that funds are available from the Supplemental Benefit Maintenance Account, and would state the extent to which these payments would be vested.

(STATUS: Introduced 01/24/22. Referred to Com. on L., P.E & R on 02/02/22. **Art. IV. Sec. 8(a) of the Constitution dispensed with. Joint Rule 55 suspended on 02/07/22.**)

SB 931 (Leyva)

Current law prohibits a public employer from deterring or discouraging public employees or applicants to be public employees from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. Current law generally vests jurisdiction over violations of these provisions in the Public Employment Relations Board. This bill would authorize an employee organization, as described, to bring a claim before the Public Employment Relations Board alleging that a public employer violated the above-described provisions.

(STATUS: Introduced 02/07/22. Read first time; referred to Com. on RLS. for assignment; Art. IV. Sec. 8(a) of the Constitution dispensed with; Joint Rule 55 suspended 02/07/22. **Referred to Coms. on L., P.E & R and JUD on 02/16/22.**)

SB 1100 (Cortese)

The Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Existing law requires every agenda for regular meetings of a local agency to provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body. Existing law authorizes the legislative body to adopt reasonable regulations to ensure that the intent of the provisions relating to this public comment requirement is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Existing law authorizes the members of the legislative body conducting the meeting to order the meeting room cleared and continue in session, as prescribed, if a group or groups have willfully interrupted the orderly conduct of a meeting and order cannot be restored by the removal of individuals who are willfully interrupting the meeting.

This bill would authorize the members of the legislative body conducting a meeting to remove an individual for willfully interrupting the meeting. The bill, except as provided, would require removal to be preceded by a warning, either by the presiding member of the legislative body or a law enforcement officer, that the individual is disrupting the proceedings and a request that the individual curtail their disruptive behavior or be subject to removal. The bill would similarly require a warning before clearing a meeting room for willful interruptions by a group or groups. The bill would define "willfully interrupting" to mean intentionally engaging in behavior during a meeting of a legislative body that substantially impairs or renders infeasible the orderly conduct of the meeting in accordance with law. The term would include failure to comply with a reasonable regulation adopted in accordance with existing law after a warning and request in accordance with the bill, as applicable.

(STATUS: Introduced 02/16/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/16/22. Referred to Coms. on GOV. & F and JUD on 02/23/22.)

SB 1114 (Newman)

This bill would amend the PERL to make a nonsubstantive change to the definition of "employer".

(STATUS: Introduced 02/16/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/16/22. Referred to Com. on RLS on 02/23/22.)

SB 1168 (Cortese)

The PERL provides that upon the death of a member after retirement and while receiving a retirement allowance from CalPERS, the sum of \$500 shall be paid to the person's beneficiary, to be provided from contributions by the state or contracting agency, as the case may be. This bill would require the CalPERS board to determine the average benefit paid under various CalPERS provisions upon the death of a member, as provided, and would require the board, beginning on July 1, 2023, to increase the \$500 beneficiary payment described above annually in a specified amount until the beneficiary payment reaches the average benefit paid, as calculated by the board.

(STATUS: Introduced 02/17/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/17/22. Referred to Com. on L., P.E & R on 03/2/22.)

SB 1173 (Gonzalez)

This bill would prohibit the boards of CalPERS and CalSTRS from making new investments or renewing existing investments of public employee retirement funds in a fossil fuel company, as defined. The bill would require the boards to liquidate investments in a fossil fuel company on or before July 1, 2027. The bill would provide that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

(STATUS: Introduced 02/17/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/17/22. Referred to Coms. on L., P.E & R and JUD on 03/02/22.)

SB 1328 (McGuire and Cortese) Amended 03/03/22

This bill would prohibit the boards of specified state and local public retirement systems from investing public employee retirement funds in a company with business operations in Russia or Belarus or a company that supplies military equipment to Russia or Belarus, as defined. The bill would require those boards to contract with a research firm or firms to determine those companies with business operations in those countries, and to conduct their own review of companies with business operations in those countries, as specified. The bill would require the boards to determine whether a company has business operations in Russia or Belarus or supplies military equipment to Russia or Belarus. The bill, except as specified, would require the board to notify companies determined to have business operations with those countries, and request the company to take substantial action, as defined and specified. If the company fails to complete substantial action, the bill would prohibit the board from making additional or new investments in that company, and would require the board to liquidate the investments of the board in that company, as specified. The bill would also require the board, on or before January 1, 2023, and every year thereafter, to file a specified report with the Legislature. The bill would provide that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

(STATUS: Introduced 02/18/22. Read first time. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/18/22. Referred to Com.

on RLS on 03/02/22. From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS on 03/03/22.)

SB 1343 (Leyva)

The Charter Schools Act of 1992 authorizes the establishment and operation of charter schools. Existing law authorizes charter schools to elect to make CalSTRS and CalPERS available to qualifying employees. This bill would require charter schools authorized on and after January 1, 2023, to participate in CalSTRS and CalPERS. The bill would generally require CalSTRS, the Cash Balance Benefit Program, and CalPERS to apply to charter schools in the same manner as the systems and program apply to other public schools. For the purpose of paying contributions on behalf of a charter school, the bill would require a county superintendent, district superintendent, or other employing agency that reports directly to CalSTRS, upon state apportionment to a charter school, to draw requisitions against the funds of the charter school in amounts equal to the estimated contributions required to be paid by the charter school to CalSTRS, as specified, and pay them to the system. The bill would prohibit these requisitions from exceeding an estimated 3 months of contributions to be paid by the charter school. The bill would require the estimated amount to be determined by the county superintendent, district superintendent, or other employing agency. The bill would create similar requirements and prohibitions for purposes of requisitions related to the Cash Balance Benefit Program and CalPERS. By depositing additional moneys in continuously appropriated funds, this bill would make appropriations.

Existing law requires a county superintendent, district superintendent, chancellor of a community college district, or other employing agency that reports directly to CalSTRS to draw requisitions for contributions required pursuant to specified provisions in favor of the system. Existing law requires employers participating in CalSTRS to contribute monthly a specified percentage of the creditable contribution upon which member contributions are based in connection with funding the liability for benefits related to accumulated and unused sick leave. This bill would require that the monthly contributions for benefits related to accumulated and unused sick leave be subject to the above-described requisition process.

(STATUS: Introduced 02/18/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/18/22. Referred to Coms. on L., P.E & R and ED on 03/2/22.)

SB 1402 (Umberg)

Current law authorizes a member of CalSTRS to receive creditable service for certain types of service outside the system, including military service, and distinguishes in this regard between service performed before membership and after becoming a member. Current law authorizes receipt of credit for specified military or Merchant Marine service occurring prior to membership and prescribes requirements and limits in this connection. Current law requires, in this context, that the member contribute sufficient funds to cover the total cost of military service credit, as specified. Current law limits the application of this authorization to receive premembership service credit to specified service in the Armed Forces of the United States or in the

Merchant Marine of the United States prior to January 1, 1950. This bill would delete the requirement that the service subject to the authorization described above have occurred prior to January 1, 1950.

(STATUS: Introduced 02/18/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/18/22.)

SB 1420 (Dahle)

This bill would require that an agency participating in CalPERS that increases the compensation of a member who was previously employed by a different agency to bear all actuarial liability for the action, if it results in an increased actuarial liability beyond what would have been reasonably expected for the member. The bill would require, in this context, that the increased actuarial liability be in addition to reasonable compensation growth that is anticipated for a member who works for an employer or multiple employers over an extended time. The bill would require, if multiple employers cause increased liability, that the liability be apportioned equitably among them. The bill would apply to an increase in actuarial liability, as specified, due to increased compensation paid to an employee on and after January 1, 2023.

(STATUS: Introduced 02/18/22. Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement on 02/18/22.)

2022 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 10-21-21

DEADLINES

JANUARY							
	S	M	T	W	TH	F	S
Interim Recess							1
Wk. 1	2	3	4	5	6	7	8
Wk. 2	9	10	11	12	13	14	15
Wk. 3	16	17	18	19	20	21	22
Wk. 4	23	24	25	26	27	28	29
Wk. 1	30	31					

FEBRUARY							
	S	M	T	W	TH	F	S
Wk. 1			1	2	3	4	5
Wk. 2	6	7	8	9	10	11	12
Wk. 3	13	14	15	16	17	18	19
Wk. 4	20	21	22	23	24	25	26
Wk. 1	27	28					

MARCH							
	S	M	T	W	TH	F	S
Wk. 1			1	2	3	4	5
Wk. 2	6	7	8	9	10	11	12
Wk. 3	13	14	15	16	17	18	19
Wk. 4	20	21	22	23	24	25	26
Wk. 1	27	28	29	30	31		

APRIL							
	S	M	T	W	TH	F	S
Wk. 1						1	2
Wk. 2	3	4	5	6	7	8	9
Spring Recess	10	11	12	13	14	15	16
Wk. 3	17	18	19	20	21	22	23
Wk. 4	24	25	26	27	28	29	30

MAY							
	S	M	T	W	TH	F	S
Wk. 1	1	2	3	4	5	6	7
Wk. 2	8	9	10	11	12	13	14
Wk. 3	15	16	17	18	19	20	21
No Hrgs.	22	23	24	25	26	27	28
Wk. 4	29	30	31				

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 3** Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 14** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the odd-numbered year (J.R. 61(b)(1)).
- Jan. 17** Martin Luther King, Jr. Day.
- Jan. 21** Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year. (J.R. 61(b)(2)).
Last day to submit **bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to pass bills introduced in that house in the odd-numbered year (J.R. 61(b)(3)) (Art. IV, Sec. 10(c)).

- Feb. 18** Last day for bills to be **introduced** (J.R. 61(b)(4), J.R. 54(a)).
- Feb. 21** Presidents' Day.

- Apr. 1** Cesar Chavez Day observed.
- Apr. 7** **Spring Recess** begins upon adjournment (J.R. 51(b)(1)).
- Apr. 18** Legislature reconvenes from Spring Recess (J.R. 51(b)(1)).
- Apr. 29** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).
- May 6** Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 13** Last day for **policy committees** to meet prior to May 31 (J.R. 61(b)(7)).
- May 20** Last day for **fiscal committees** to hear and report to the **floor** bills introduced in their house (J.R. 61 (b)(8)).
Last day for **fiscal committees** to meet prior to May 31 (J.R. 61 (b)(9)).
- May 23 – 27** **Floor session only.** No committee may meet for any purpose except for Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(10)).
- May 27** Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).
- May 30** Memorial Day.
- May 31** Committee meetings may resume (J.R. 61(b)(12)).

*Holiday schedule subject to final approval by Rules Committee.

OVER

2022 TENTATIVE LEGISLATIVE CALENDARCOMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 10-21-21

JUNE							
	S	M	T	W	TH	F	S
Wk. 4				1	2	3	4
Wk. 1	5	6	7	8	9	10	11
Wk. 2	12	13	14	15	16	17	18
Wk. 3	19	20	21	22	23	24	25
Wk. 4	26	27	28	29	30		

June 15 Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)).**June 30** Last day for a legislative measure to qualify for the Nov. 8 General Election ballot (Elections Code Sec. 9040).

JULY							
	S	M	T	W	TH	F	S
Wk. 4						1	2
Summer Recess	3	4	5	6	7	8	9
Summer Recess	10	11	12	13	14	15	16
Summer Recess	17	18	19	20	21	22	23
Summer Recess	24	25	26	27	28	29	30
Wk. 1	31						

July 1 Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)).**Summer Recess** begins upon adjournment, provided Budget Bill has been passed (J.R. 51(b)(2)).**July 4** Independence Day.

AUGUST							
	S	M	T	W	TH	F	S
Wk. 1		1	2	3	4	5	6
Wk. 2	7	8	9	10	11	12	13
No Hrgs.	14	15	16	17	18	19	20
No Hrgs.	21	22	23	24	25	26	27
No Hrgs.	28	29	30	31			

Aug. 1 Legislature reconvenes from **Summer Recess** (J.R. 51(b)(2)).**Aug. 12** Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).**Aug. 15 – 31 Floor session only.** No committee may meet for any purpose except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(16)).**Aug. 25** Last day to **amend** bills on the floor (J.R. 61(b)(17)).**Aug. 31** Last day for each house to pass bills (Art. IV, Sec 10(c), J.R. 61(b)(18)).**Final Recess** begins upon adjournment (J.R. 51(b)(3)).**IMPORTANT DATES OCCURRING DURING FINAL RECESS****2022**

Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).

Oct. 2 Bills enacted on or before this date take effect January 1, 2023. (Art. IV, Sec. 8(c)).

Nov. 8 General Election.

Nov. 30 Adjournment *sine die* at midnight (Art. IV, Sec. 3(a)).

Dec. 5 2023-24 Regular Session convenes for Organizational Session at 12 noon. (Art. IV, Sec. 3(a)).

2023

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

*Holiday schedule subject to final approval by Rules Committee.



Memorandum

DATE: March 21, 2022
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **FIRST QUARTER REVIEW OF OCERS 2022-2024 STRATEGIC PLAN**

Written Report

Background

For more than a decade OCERS has been working with and modifying the use of a multi-year strategic plan. The formal plan was completely revamped four years ago and we continue that format for this Strategic Plan which covers the period of January 1, 2022 through December 31, 2024.

OCERS presently has three primary day-to-day work goals:

Maintain 100% accuracy in benefit calculations

Complete the recalculation of those members impacted by the ALAMEDA court decision

Advance the VISION 2030 goal of attaining a pension system that leverages Artificial Intelligence, ensuring data integrity while removing human interaction with the calculations themselves.

The core goals of the organization as outlined in the 2022-2024 Strategic Plan assist in those first two work goals:

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

The issue of VISION 2030 is addressed in the final section looking out 5-10 years, and serves as a “parking lot” of sorts to capture important objectives for advancing agency goals that may not be immediately relevant. In particular, the future advancement of Artificial Intelligence is called out, as its impact could have significant relevance to our long term goals. An AI ad hoc Committee of internal staff has been formed and have had many learning conversations with AI pension pioneers not only in the USA but in Canada and the Netherlands as well. I would anticipate that in the coming year (2023) we will see certain portions of VISION 2030 moving into the next three year iteration.

A reminder, the Strategic Plan is not allowed to age. At the Board’s direction we review this document every quarter to ensure it continues relevant and reflective of the OCERS Board’s direction.

Attached: 2022-2024 Strategic Plan

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Memorandum

DATE: March 21, 2022
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **FOURTH QUARTER 2021 BUDGET TO PRELIMINARY ACTUALS REPORT**

Written Report

Highlights

Fourth Quarter Target: 100% Used /0% Remaining

	Actuals to Date	Annual Budget	Budget \$ Remaining	Budget % Remaining
Administrative Budget				
Personnel Costs	\$ 15,654,802	\$ 16,254,052	\$ 599,250	3.7%
Service and Supplies	9,242,962	11,517,848	2,274,886	19.8%
Capital Expenditures	-	782,000	782,000	100.0%
Grand Total	\$ 24,897,764	\$ 28,553,900	\$ 3,656,136	12.8%

Background/Discussion

The Board of Retirement approved OCERS' Administrative Budget for Fiscal Year 2021 (FY21) on November 16, 2020, for \$28,283,900 to fund administrative expenses. On February 16, 2021, the Board of Retirement approved an amendment to increase the budget for Services and Supplies by \$50,000. This amendment was related to the 2021 Business Plan initiative to procure and implement a new Enterprise Resource Planning (ERP) system and increased the original amount budgeted for this project from \$150,000 to \$200,000. Subsequently, on June 21, 2021, a second budget amendment was approved to increase the budget for Personnel Costs by \$220,000. This amendment was a result of outcomes from the 2021 Business Plan initiative to complete the OCERS compensation study and implement recommendations as appropriate, including a 5% mid-year pay adjustment with the implementation of new salary ranges and pay structure for OCERS Direct employees. A third budget amendment, approved by the Board of Retirement on August 16, 2021, resulted in the transfer of \$112,000 from the Services and Supplies budget to the Capital Expenditures budget to fund additional costs needed to complete the Boardroom audio/visual equipment project. This budget amendment did not increase the overall administrative budget. These three budget amendments result in a total amended administrative budget of \$28,553,900.

OCERS' budgeting authority, which is regulated by California Government Code Sections 31580.2 and 31596.1, includes a provision that limits the OCERS' budget for administrative expenses to twenty-one hundredths of one percent of the accrued actuarial liability of the retirement system. This provision (commonly referred to as the 21 basis points test) excludes investment related costs and expenditures for computer software, hardware and related technology consulting services. The approved amended FY21 administrative budget represents 8.83 basis points of the projected actuarial accrued liability.

The Chief Executive Officer, or the Assistant CEO, has the authority to transfer funds within the three broad categories of the budget: 1) Personnel Costs, 2) Services and Supplies, and 3) Capital Expenditures. Funds may not be transferred from one broad category to another without approval from the Board of Retirement.

Administrative Summary

For the year ended December 31, 2021, year-to-date actual administrative expenses were \$24,897,764 or 87.2% of the \$28,553,900 amended administrative budget and below budget at the end of the year by approximately \$3.7 million. A summary of all administrative expenses and explanations of significant variances are below:

Summary of all Administrative Expenses For the Year Ended December 31, 2021

	Actuals to Date	Amended Annual Budget	% of Budget Used	Amended Budget vs. Actuals (Over)/Under
Personnel Costs	\$ 15,654,802	\$ 16,254,052	96.3%	\$ 599,250
Services and Supplies				
Bldg. Prop. Mgmt./Maintenance	651,173	680,000	95.8%	28,827
Due Diligence	874	100,000	0.9%	99,126
Equipment Lease	35,575	49,500	71.9%	13,925
Equipment/Software Expenses	671,733	1,086,500	61.8%	414,767
Infrastructure Maintenance	884,534	854,700	103.5%	(29,834)
Legal Services	848,173	960,000	88.4%	111,827
Meetings & Mileage	10,278	57,500	17.9%	47,222
Membership/Periodicals	97,998	119,395	82.1%	21,397
Office Supplies	28,946	95,000	30.5%	66,054
Postage	76,094	184,000	41.4%	107,906
Printing	63,069	77,000	81.9%	13,931
Professional Services	5,500,007	6,463,113	85.1%	963,106
Telephone	155,705	205,000	76.0%	49,295
Training	218,803	586,140	37.3%	367,337
Services and Supplies	9,242,962	11,517,848	80.2%	2,274,886
Administrative Expense-Sub Total	24,897,764	27,771,900	89.7%	2,874,136
Capital Expenditures*	-	782,000	0.0%	782,000
Administrative Expense Total	\$ 24,897,764	\$ 28,553,900	87.2%	\$ 3,656,136

*Capital expenditures represent purchases of assets to be amortized in future periods.

Personnel Costs

Personnel Costs as of December 31, 2021, were approximately \$15.7 million or 96.3% of the annual amended budget for this category and under budget by \$599,250. Personnel Costs are under budget due to positions that were budgeted for the year which remain vacant, including a Senior Manager of Operations Support Services, Retirement Benefits Supervisor, Accountant Auditor and Staff Assistant. Additionally, during the third quarter, the Managing Director of Investments position became vacant and remained vacant through the fourth quarter. Annual leave expense and liability accounts adjust each quarter based on the annual leave balances of OCERS employees. The annual leave liability and the associated expense for the year increased by approximately \$271,000. Personnel costs are within budget for the year.

Services and Supplies

Expenditures for services and supplies were approximately \$9.2 million or 80.2% of the annual amended budget for this category. The positive variance of \$2,274,886 between the annual amended budget and year-to-date actuals in this category is primarily due to the following:

- Building Property Mgmt./Maintenance costs utilized 95.8% of the annual amended budget and were lower than the budget by \$28,827. Due to the ongoing COVID-19 pandemic, the majority of OCERS team members continue to work remotely, resulting in lower overall building costs for maintenance, and cleaning services. These lower expenses were offset by slightly higher costs for utilities. Maintenance costs do not occur evenly and will fluctuate throughout the year. This category is within budget for the year.
- Due Diligence costs incurred are at \$874, which is significantly lower than the annual amended budget of \$100,000. All investment team travel, including some training, is in this category. The lower than budgeted cost is due to limited travel and in-person meetings for the year due to the continued COVID-19 pandemic. Due diligence meetings are primarily held by telephone or video conference.
- Equipment Lease expenditures are at 71.9% of the annual amended budget, and lower than budgeted by \$13,925. The lower than budgeted cost is attributed to the reduction in the use of the office copiers and printing fewer copies as the majority of employees continue to work remotely.
- Equipment/Software expense utilized 61.8% of the annual amended budget, and lower than budgeted by \$414,767. The lower than expected expenditures is due to the timing of several projects budgeted for the year that have not been implemented, including software implementations for information security and information technology that have been postponed to 2022, and re-budgeted in the 2022 annual budget. The new accounting software project began incurring costs in the third quarter and implementation continued through the fourth quarter.
- Infrastructure Maintenance costs are at 103.5% of the annual amended budget, which is higher than budgeted by \$29,834. The higher than budgeted costs are primarily related to an increase in the monthly licensing and support for V3 by \$7,500 beginning in May of this year. The increase was larger than expected resulting in an additional \$43,250 over the anticipated cost for this item. Other infrastructure maintenance services renew throughout the year, and some subscription costs increased while others decreased. Also included in this category are various costs associated with

software and hardware support services that are utilized on an as-needed basis. The CEO or Assistant CEO has the authority to move budget dollars within the Services and Supplies category to cover any shortfall and although this category is over the annual amended budget, there are sufficient funds available in other Services and Supplies categories to offset this shortage.

- Legal Services are at 88.4% of the annual amended budget and are lower than budgeted by \$111,827. Legal services for investments, litigation and tax counsel are utilized on an as-needed basis. Investment legal services for the year are lower than the annual amended budget by approximately \$132,000. General board, tax counsel and outside counsel services are slightly under the annual amended budget by approximately \$5,000. Legal fees and costs associated with the implementation of the *Alameda* case (*Alameda County Deputy Sheriffs Association et al v. Alameda County Employees Retirement Association and Board of Retirement of ACERA (S247095)*) have been a primary use of these legal services. Other on-going litigation costs are over the annual amended budget by approximately \$25,000. Total legal fees are within the annual amended budget for the year.
- Meetings and Mileage costs are \$10,278 or 17.9% of the total annual amended budget, and under budget by \$47,222. This category represents expenditures primarily related to Board and Committee meetings, which have continued to be held remotely due to the ongoing COVID-19 pandemic. This category also includes team member meetings and some, very limited, in-person meetings have resumed. Some team members have returned to the office, but the majority are still working remotely. This category is within budget for the year.
- Memberships/Periodical expense is at 82.1% of the annual amended budget, and under budget by \$21,397. This category included costs that were budgeted, but not used as of year-end.
- Office Supplies utilized are at 30.5% of the annual amended budget and lower than budget by \$66,054. As the majority of OCERS team members continued to work remotely for the year, fewer office supplies were required.
- Postage is at 41.4% of the annual amended budget and lower than budget by \$107,906. The costs incurred include postage for the quarterly newsletters and mailing of retiree 1099s, along with regular daily usage. Postage usage fluctuates based on current needs, such as additional mailings to members. During 2021, only one additional mailing to selected members was sent. OCERS has also discontinued the practice of printing ACH remittance advices, which are available online using the member portal. Fewer additional mailings and the discontinued mailing of remittance advices has resulted in a significant postage savings.
- Printing Services is at 81.9% of the annual amended budget and under budget by \$13,931. Printing costs primarily include the costs for the quarterly newsletters, an additional mailing concerning the *Alameda* Case and the Comprehensive Annual Financial Report.
- Professional Services utilized for the year represent 85.1% of the annual amended budget and are lower than budget by \$963,106 due to several consulting and professional services projects incurring little to no costs for the year. Some of the professional services that were budgeted, but not used, included a governance consultant; production of white board and animated videos; architect/design consultant to assist with planning and design of the future OCERS headquarters; data classification study and mobile app/enhanced self-service portal; as well as internal audit consulting and information security consultants. The Office 365 migration consulting began incurring costs in the second half of the year. Additionally, in the Legal Department administrative hearing costs came in below budget. This was offset by other areas of professional services that were over budget, including

investment consultant fees for unbudgeted co-investment opportunities totalling \$172,500, and medical panel reviews that were over budget by approximately \$158,000.

- Telephone expenditures were 76.0% of the amended budget and \$49,295 under budget. Monthly telephone expenses incurred for cellular and mobile services are averaging less than originally anticipated.
- Training expense is at 37.3% of the annual amended budget and under budget by \$367,337. Training costs are significantly below the annual amended budget since the majority of travel-related training and conferences for the year were cancelled or postponed due to the COVID-19 pandemic. Current training and conferences are primarily remote and are typically less expensive than in-person training or conferences. Conferences requiring travel have begun as various training organizations are resuming in-person participation in addition to remote participation. The September Strategic Planning meetings were originally scheduled to be in-person, but were held remotely as a precaution due to the Delta-variant of the coronavirus. Additional areas of savings include fewer team members requesting tuition reimbursement and lower than expected executive coaching training costs.

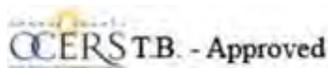
Capital Expenditures

As of the end of the year, no expenditures for capital projects have been incurred. At the August 16, 2021, Board meeting, the Board approved increasing the Boardroom audio/visual equipment project from \$350,000 to \$532,000. The \$182,000 increase was funded by utilizing \$70,000 budgeted in the Capital Projects category for a roof replacement that was postponed until 2022 and transferring \$112,000 from the line item for mobile app/enhanced self-service portal under the Services and Supplies category that was not spent in 2021. The audio/visual improvements are included as part of the re-opening plan of the OCERS headquarters building and were expected to be completed by the end of the year. Supply chain issues caused the project to be delayed and has been re-budgeted in 2022. The capital expenditures budget also included project costs of \$250,000 for a new enterprise backup solution to enhance recovery of on premise and cloud systems, which has also been delayed until 2022.

Conclusion:

As of the end of the year, the actual administrative expenses are at 87.2% of the annual amended budget. As actual administrative expenses are under the annual amended budget, OCERS complies with the 21 basis point test.

Submitted by:

The logo features the text "OCERS TB - Approved" in a stylized font. Above the text is a small graphic of a sun or light source. Below the text, there is a horizontal line.

Tracy Bowman
Director of Finance



Memorandum

DATE: March 21, 2022
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **FOURTH QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED DECEMBER 31, 2021**

Written Report

Background/Discussion

The attached financial statements reflect the unaudited financial activity for the year ended December 31, 2021. These reports are preliminary and do not reflect the reclassification of certain investments for financial reporting purposes and timing/market differences between investment manager statements and custodian bank statements. These, and other potential year-end adjustments that may result from the upcoming year-end audit, will be recorded if it is determined to have a material impact in the final Annual Comprehensive Financial Report (ACFR). The ACFR, the official financial statements of OCERS, will be available on our website, www.ocers.org, after the anticipated completion of the audit at the end of June 2022.

Summary

Statement of Fiduciary Net Position (Unaudited)

As of December 31, 2021, the net position restricted for pension, other postemployment benefits and employer is \$22.2 billion, an increase of \$2.9 billion, or 15.1%, from December 31, 2020. The change is a result of an increase in total assets of \$2.9 billion and a decrease in total liabilities of \$22.9 million as described below:

The \$2.9 billion increase in total assets can be attributed to a \$3.1 billion increase in investments at fair value, offset by decreases of \$157.3 million in total cash and short-term investments, a \$15.1 million decrease in total receivables and a \$2.6 million decrease in capital assets.

The decrease of \$157.3 million in cash and short-term investments consists of a decrease of \$112.9 million in cash and cash equivalents due to the timing of investing employee and employer contributions received during year end and a decrease of \$44.4 million in securities lending collateral due to a decrease in lending activity in the securities lending program.

The decrease of \$15.1 million in the receivables balance is primarily related to the timing of pending security sales, which decreased by \$24.8 million, offset by an increase in contributions receivables of \$12.6 million.

Investments at fair value increased \$3.1 billion, or 15.9%, from December 31, 2020 to December 31, 2021. For the total plan, the one-year performance outperformed the peer median during the year, resulting in the top 32% ranking of the peer group, driven by public equity, private equity, and real assets. On a risk-adjusted return basis,

OCERS ranked in the top 11% of the peer group. Global public equities performed strong globally despite the COVID-19 Omicron variant and inflation concerns. Sectors that were hit hard in 2020 recovered as global economic recovery broadened throughout the year. Private equity came into the crisis in a well-funded position. The strong exit environment led to significant distributions to OCERS, which helped enhance performance numbers. The private equity one year return ranked in the top 34% of the peer group. The increase in private equity is also due to 26 new private equity investment managers being added since December 31, 2020. 2021 was a difficult year for the bond market due to fear of inflation and investors looking for higher yield assets. The fixed income portfolio outperformed the benchmark and peer group in 2021. OCERS had a reduced duration of the TIPS portfolio, which helped during high expected inflation. High yield bonds outperformed government and investment grade bonds in the credit investment category. Despite recent yields spike and fear of inflation, financing conditions remain accommodative due to government support, coronavirus vaccines and positive economic views. Real estate and energy helped boost the strong performance of real assets in 2021. The increase in risk mitigation is primarily due to an increase in cash flow for this investment type. Unique strategies increased due to the addition of one new investment manager.

The decrease in capital assets of \$2.6 million from the prior year represents depreciation expense, of which \$2.2 million is attributed to the Pension Administration System Solution (PASS) Project.

Total liabilities decreased \$22.9 million, or -3%, from December 31, 2020 to December 31, 2021, primarily due to a decrease of \$44.4 million in obligations under the securities lending program, as previously discussed. The decrease was offset by an increase in unearned contributions of \$10.6 million due to increases in prepaid employer contributions received for the 2021-2022 prepayment program compared to the prior year's prepayment program.

Statement of Changes in Fiduciary Net Position (Unaudited)

The ending net position restricted for pension, other postemployment benefits and employer as of December 31, 2021 increased by \$2.9 billion or 15.1%, when compared to the same period ending December 31, 2020. The change is primarily the result of the comeback of the market after the downturn in 2020 caused by the COVID-19 pandemic.

Total additions to fiduciary net position increased 25.3 % or \$809.3 million from the previous year. Net investment income for the year ended December 31, 2021 is \$3 billion versus \$2.2 billion for the year ended December 31, 2020, an increase of \$764.1 million or 34.4%. Most of the increase is due to the net appreciation in fair value of investments, which increased \$656.3 million compared to the prior year. The year-to-date return on the investment portfolio as of December 31, 2021 was 16.6%, compared to an annual return of 11.4% as of December 31, 2020. Many investment categories reported higher year-to-date returns for December 2021 when compared to December 2020 as the world returned to normal after the pandemic. Private equities saw a year-to-date return of 50.2% for December 2021 versus a year-to-date return of 16.2% in December 2020. Real assets saw a year-to-date return of 19.1% for December 2021 versus a year-to-date loss of -6% in December 2020. Total investment management fees increased by \$19.2 million in December 2021 with the addition of over 20 new investment managers since December 2020.

Total contributions increased \$45.2 million over the prior year mainly due to employer contributions which increased \$53.3 million over the prior year. This increase was offset by decreases of \$8.1 million in employee contributions to the pension plan. The decrease in employee contributions can be attributed to a decrease of nearly 4% of County of Orange's active employees as a result of the Voluntary Incentive Program Separation and Retirement Incentives Program offered by the County to eligible employees in the fall of 2020 as a way to manage revenue reductions that occurred because of the COVID-19 pandemic. In addition, the decrease in employee contributions can also be attributed to the reduction and/or gradual phase-out of employee reverse pick-up rates for various OCEA represented employees, which were offset by an increase to employer contributions. Increases to employer contributions can also be attributed to an increase in employer contribution rates.

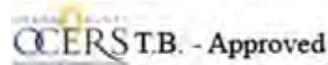
Total deductions from fiduciary net position increased 7.2%, or \$74.4 million, from the previous year. Participant benefits increased by \$70.3 million, which is expected due to the continued and anticipated growth in member pension benefit payments, both in the total number of OCERS' retired members receiving a pension benefit and an increase in the average benefit received. In December 2021, there were 19,542 payees with an average benefit payment of \$4,487 compared to 19,142 payees with an average benefit payment of \$4,343 in December 2020. Death benefits and members withdrawals and refunds increased as changes in these categories will fluctuate from year to year based on the occurrence of these events.

Other Supporting Schedules

In addition to the basic financial statements for the year ended December 31, 2021, the following supporting schedules are provided for additional information pertaining to OCERS:

- Total Plan Reserves
- Schedule of Contributions
- Schedule of Investment Expenses
- Schedule of Administrative Expenses
- Administrative Expense Compared to Projected Actuarial Accrued Liability (21 basis points test).

Submitted by:



OCERS T.B. - Approved

Tracy Bowman
Director of Finance



Orange County Employees Retirement System

Unaudited Financial Statements

For the Year Ended December 31, 2021

Orange County Employees Retirement System

Unaudited Financial Statements For the Year Ended December 31, 2021

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Statement of Fiduciary Net Position (Unaudited)

As of December 31, 2021

(with summarized comparative amounts as of December 31, 2020)

(Dollars in Thousands)

	Pension Trust Fund	Health Care Fund- County	Health Care Fund- OCFA	Custodial Fund - OCTA	Total Funds	Comparative Totals 2020
Assets						
Cash and Short-Term Investments						
Cash and Cash Equivalents	\$ 360,327	\$ 8,057	\$ 990	\$ 494	\$ 369,868	\$ 482,766
Securities Lending Collateral	190,457	4,259	523	-	195,239	239,640
Total Cash and Short-Term Investments	550,784	12,316	1,513	494	565,107	722,406
Receivables						
Investment Income	14,567	326	40	-	14,933	19,813
Securities Sales	63,590	1,422	175	-	65,187	89,992
Contributions	25,981	-	-	-	25,981	13,354
Foreign Currency Forward Contracts	-	-	-	-	-	555
Other Receivables	6,737	151	19	-	6,907	4,434
Total Receivables	110,875	1,899	234	-	113,008	128,148
Investments at Fair Value						
Global Public Equity	10,432,150	233,259	28,649	14,932	10,708,990	8,982,043
Private Equity	3,136,972	70,141	8,615	-	3,215,728	2,353,755
Core Fixed Income	2,359,057	52,748	6,479	6,031	2,424,315	2,381,374
Credit	1,583,359	35,403	4,348	-	1,623,110	1,545,445
Real Assets	2,137,654	47,797	5,871	-	2,191,322	2,065,857
Risk Mitigation	1,933,836	43,240	5,311	-	1,982,387	1,782,656
Absolute Return	-	-	-	-	-	480
Unique Strategies	72,541	1,622	199	-	74,362	55,283
Total Investments at Fair Value	21,655,569	484,210	59,472	20,963	22,220,214	19,166,893
Capital Assets, Net	11,067	-	-	-	11,067	13,713
Total Assets	22,328,295	498,425	61,219	21,457	22,909,396	20,031,160
Liabilities						
Obligations Under Securities Lending Program	190,457	4,259	523	-	195,239	239,640
Securities Purchased	120,148	2,686	330	-	123,164	118,326
Unearned Contributions	304,504	-	-	-	304,504	293,948
Foreign Currency Forward Contracts	920	21	3	-	944	371
Retiree Payroll Payable	85,356	4,718	874	-	90,948	86,428
Other	18,415	412	51	-	18,878	17,848
Total Liabilities	719,800	12,096	1,781	-	733,677	756,561
Net Position Restricted for Pension, Other Postemployment Benefits and Employer	\$21,608,495	\$ 486,329	\$ 59,438	\$ 21,457	\$22,175,719	\$19,274,599

Statement of Changes in Fiduciary Net Position (Unaudited)

For the Year Ended December 31, 2021

(with summarized comparative amounts for the Year Ended December 31, 2020)

(Dollars in Thousands)

	Pension Trust Fund	Health Care Fund- County	Health Care Fund- OCFA	Custodial Fund - OCTA	Total Funds	Comparative Totals 2020
Additions						
Contributions						
Employer	\$ 698,791	\$ 41,049	\$ 16,773	\$ -	\$ 756,613	\$ 703,342
Employee	271,334	-	-	-	271,334	279,384
Employer OPEB Contributions	-	-	-	605	605	613
Total Contributions	970,125	41,049	16,773	605	1,028,552	983,339
Investment Income						
Net Appreciation in Fair Value of Investments	2,675,947	61,508	6,093	2,051	2,745,599	2,089,332
Dividends, Interest, & Other Investment Income	355,933	7,959	977	667	365,536	238,581
Securities Lending Income						
Gross Earnings	1,160	26	3	-	1,189	1,770
Less: Borrower Rebates and Bank Charges	(227)	(5)	(1)	-	(233)	(904)
Net Securities Lending Income	933	21	2	-	956	866
Total Investment Income	3,032,813	69,488	7,072	2,718	3,112,091	2,328,779
Investment Fees and Expenses	(124,435)	(2,782)	(342)	(3)	(127,562)	(108,378)
Net Investment Income	2,908,378	66,706	6,730	2,715	2,984,529	2,220,401
Total Additions	3,878,503	107,755	23,503	3,320	4,013,081	3,203,740
Deductions						
Participant Benefits	1,030,234	37,262	5,999	-	1,073,495	1,003,169
Death Benefits	1,055	-	-	-	1,055	932
Member Withdrawals and Refunds	14,449	-	-	-	14,449	11,547
Employer OPEB Payments	-	-	-	1,419	1,419	1,383
Administrative Expenses	21,473	23	24	23	21,543	20,494
Total Deductions	1,067,211	37,285	6,023	1,442	1,111,961	1,037,525
Net Increase	2,811,292	70,470	17,480	1,878	2,901,120	2,166,215
Net Position Restricted For Pension, Other Postemployment Benefits and Employer, Beginning of Year	18,797,203	415,859	41,958	19,579	19,274,599	17,108,384
Ending Net Position Restricted For Pension, Other Postemployment Benefits and Employer	\$ 21,608,495	\$ 486,329	\$ 59,438	\$ 21,457	\$ 22,175,719	\$ 19,274,599

Total Plan Reserves

For the Year Ended December 31, 2021

(with summarized comparative amounts for the Year Ended December 31, 2020)

(Dollars in Thousands)

	2021	2020
Pension Reserve	\$ 11,361,687	\$ 10,683,714
Employee Contribution Reserve	3,715,463	3,494,518
Employer Contribution Reserve	3,114,767	2,866,443
Annuity Reserve	2,332,253	2,160,090
Health Care Reserve	545,767	457,817
Custodial Fund Reserve	21,457	19,579
County Investment Account (POB Proceeds) Reserve	167,745	160,378
OCSD UAAL Deferred Reserve	13,433	13,433
Contingency Reserve	903,147	-
Contra Account	-	(581,373)
Total Net Position Restricted for Penion, Other Postemployment Benefits and Employer	<u>\$ 22,175,719</u>	<u>\$ 19,274,599</u>

Schedule of Contributions

For the Year Ended December 31, 2021

(with summarized comparative amounts for the Year Ended December 31, 2020)

(Dollars in Thousands)

	2021		2020	
	Employee	Employer	Employee	Employer
Pension Trust Fund Contributions				
County of Orange	\$ 204,560	\$ 538,486	\$ 212,913	\$ 502,901
Orange County Fire Authority	29,624	97,706 ¹	28,291	99,179 ¹
Orange County Superior Court of California	15,275	37,645	16,179	34,813
Orange County Transportation Authority	10,212	30,263	10,329	28,893
City of San Juan Capistrano	705	8,867 ²	773	2,337
Orange County Sanitation District	8,398	8,607	8,329	8,481
UCI Medical Center & Campus	-	3,276 ³	-	3,068 ³
Orange County Employees Retirement System	1,155	3,301	1,202	2,899
Transportation Corridor Agencies	750	867	748	865
Orange County Department of Education	-	346 ³	-	286 ³
Orange County Cemetery District	182	243	168	207
Orange County In-Home Supportive Services Public Authority	129	174	124	165
Orange County Local Agency Formation Commission	48	197	43	158
Orange County Children & Families Commission	137	199	121	151
Orange County Public Law Library	159	134	164	135
Contributions Before Prepaid Discount	271,334	730,311	279,384	684,538
Prepaid Employer Contributions Discount	-	(31,520)	-	(24,731)
Total Pension Trust Fund Contributions	271,334	698,791	279,384	659,807
Health Care Fund - County Contributions	-	41,049	-	41,559
Health Care Fund - OCFA Contributions	-	16,773⁴	-	1,976
Custodial Fund - OCTA OPEB Contributions	-	605	-	613
Total Contributions	\$ 271,334	\$ 757,218	\$ 279,384	\$ 703,955

¹ Unfunded actuarial accrued liability payments were made in 2021 for \$14.6 million and 2020 for \$21.6 million for the Orange County Fire Authority.

² Unfunded actuarial accrued liability payments were made in 2021 for \$6.5 million for the City of San Juan Capistrano.

³ Unfunded actuarial accrued liability payments have been made in accordance with a separate 20-year level dollar payment schedule to include liabilities for employee benefits related to past service credit.

⁴ Unfunded actuarial accrued liability payments were made in 2021 for \$14.3 million for the Orange County Fire Authority Health Care Fund.

Schedule of Investment Expenses

For the Year Ended December 31, 2021

(with summarized comparative amounts for the Year Ended December 31, 2020)

(Dollars in Thousands)

	2021	2020
Investment Management Fees*		
Global Public Equity		
U.S. Equity	\$ 3,157	\$ 2,935
International Equity	9,726	6,654
Emerging Markets Equity	5,648	4,756
Total Global Public Equity	<u>18,531</u>	<u>14,345</u>
Core Fixed Income		
U.S. Fixed Income	2,648	2,683
Total Core Fixed Income	<u>2,648</u>	<u>2,683</u>
Credit		
Emerging Markets Debt	3,102	2,935
Corporate Credit	749	1,424
Opportunistic Credit	3,041	3,916
Private Credit	4,693	3,202
Total Credit	<u>11,585</u>	<u>11,477</u>
Real Assets		
Real Estate	12,296	11,860
Real Return		
Timber	97	509
Agriculture	958	1,259
Infrastructure	7,183	3,929
Energy	6,421	5,635
Total Real Return	<u>14,659</u>	<u>11,332</u>
Total Real Assets	<u>26,955</u>	<u>23,192</u>
Absolute Return		
Direct Hedge Fund	1	6
Total Absolute Return	<u>1</u>	<u>6</u>
Private Equity	24,656	22,280
Risk Mitigation	12,843	14,083
Unique Strategies	1,308	-
Short-Term Investments	374	272
Total Investment Management Fees	<u>98,901</u>	<u>88,338</u>
Other Fund Expenses¹	<u>22,656</u>	<u>14,638</u>
Other Investment Expenses		
Consulting/Research Fees	2,162	1,930
Investment Department Expenses	2,773	2,332
Legal Services	468	538
Custodian Services	580	580
Investment Service Providers	19	19
Total Other Investment Expenses	<u>6,002</u>	<u>5,399</u>
Security Lending Activity		
Security Lending Fees	238	212
Rebate Fees	(5)	692
Total Security Lending Activity	<u>233</u>	<u>904</u>
Custodial Fund - OCTA Investment Fees and Expenses	<u>3</u>	<u>3</u>
Total Investment Expenses	<u>\$ 127,795</u>	<u>\$ 109,282</u>

* Does not include undisclosed fees deducted at source.

¹ These costs include, but are not limited to, foreign income tax and other indirect flow-through investment expenses such as organizational expenses in limited partnership structures.

Schedule of Administrative Expenses

For the Year Ended December 31, 2021

(with summarized comparative amounts for the Year Ended December 31, 2020)

(Dollars in Thousands)

	2021	2020
Pension Trust Fund Administrative Expenses		
Expenses Subject to the Statutory Limit		
Personnel Services		
Employee Salaries and Benefits	\$ 13,286	\$ 12,843
Board Members' Allowance	15	15
Total Personnel Services	<u>13,301</u>	<u>12,858</u>
Office Operating Expenses		
Depreciation/Amortization	2,577	2,534
Professional Services	2,037	1,145
General Office and Administrative Expenses	1,485	1,430
Rent/Leased Real Property	<u>687</u>	<u>640</u>
Total Office Operating Expenses	<u>6,786</u>	<u>5,749</u>
Total Expenses Subject to the Statutory Limit	<u>20,087</u>	<u>18,607</u>
Expenses Not Subject to the Statutory Limit		
Information Technology Professional Services	676	1,014
Actuarial Fees	275	415
Equipment / Software	303	249
Information Security Professional Services	<u>132</u>	<u>143</u>
Total Expenses Not Subject to the Statutory Limit	<u>1,386</u>	<u>1,821</u>
Total Pension Trust Fund Administrative Expenses	21,473	20,428
Health Care Fund - County Administrative Expenses	23	22
Health Care Fund - OCFA Administrative Expenses	24	22
Custodial Fund - OCTA Administrative Expenses	<u>23</u>	<u>22</u>
Total Administrative Expenses	<u>\$ 21,543</u>	<u>\$ 20,494</u>

Administrative Expense Compared to Projected Actuarial Accrued Liability

For the Year Ended December 31, 2021

(Dollars in Thousands)

Projected Actuarial Accrued Liability (AAL) as of 12/31/21	\$ 23,948,779
Maximum Allowed for Administrative Expense (AAL * 0.21%)	50,292
Actual Administrative Expense ¹	<u>20,087</u>
Excess of Allowed Over Actual Expense	<u>\$ 30,205</u>
Actual Administrative Expense as a Percentage of Projected Actuarial Accrued Liability as of 12/31/21	0.08%
Actual Administrative Expense as a Percentage of Projected Actuarial Accrued Liability as of 12/31/20	0.08%
¹ Administrative Expense Reconciliation	
Administrative Expense per Statement of Changes in Fiduciary Net Position	\$ 21,473
Less: Administrative Expense Not Considered per CERL Section 31596.1	<u>(1,386)</u>
Administrative Expense Allowable Under CERL Section 31580.2	<u>\$ 20,087</u>



Memorandum

DATE: March 21, 2022
TO: Members of the Board of Retirement
FROM: Jeff Lamberson G.B.A., Director of Member Services
SUBJECT: STATE OF MEMBER SERVICES QUALITY REPORT – 2021

Written Report

Background

In accordance with the Board of Retirement Charter, Monitoring and Reporting, section 23(e), the Board *will annually review the quality of services delivered to OCERS members*. This report serves to inform the Board of the efforts made during the COVID-19 Pandemic to deliver quality service with the highest standards of excellence to our members. The *Member Services Customer Service* policy provides specific quantifiable goals for measuring customer service levels and is used as a guide to drive the initiatives the Member Services team undertakes to ensure quality service is provided to our members on a daily basis. Metrics associated to these goals are reported to the CEO on a monthly basis and the goals are monitored regularly to ensure ongoing achievement of optimal customer service levels.

In addition, the updates to information on the website, improvements made to enhance the member portal, transition to virtual pre-retirement seminars, and the implementation of our DialPad phone system are all integral in our commitment to providing superior service to our members. The Member Services Department achieved the following Quality Goals during 2021:

- **Customer Interactions** – positive responses to surveys- goal is 95% positive; **GOAL ACHIEVED**

Positive Responses average 96% positive (in the 12-month period of 01/01/2021-12/31/2021)
- **Benefit Recalculations** – Unplanned benefit recalculations should be less than 5% of the total; **GOAL ACHIEVED**

Unplanned Recalculations= 2.05% (in the 12-month period of 1/1/2021-12/31/2021)

*Unplanned recalculations are defined as a recalculation of a member account required based on errors found during a OCERS Internal Audit review or via an external audit/member requested review.
- **Payroll initiations** – 1st Benefit payment within one full month of separation; **GOAL ACHIEVED**

All payments initiated on the first full month following the member's benefit effective date
- **Benefit Estimates** – Estimates are available 24/7 via member self-service portal; **GOAL ACHIEVED**

Website provides instantaneous estimates via a public facing calculator as well as member specific estimates accessible via the secure member portal

- **Initiate Retirement Electronically** - Retirements can be initiated electronically via member self-service portal; **GOAL ACHIEVED**
96.4% of all retirement applications in 2021 were submitted via the online member portal
- **Member Statements are available real time 24/7** – Statements are available via member self-service portal; **GOAL ACHIEVED**

Submitted by:



J.L. Approved

Jeff Lamberson G.B.A.,
Director of Member Services



OCERS Board Policy

Member Services Customer Service Policy

Background

1. The Board's mission is to provide the highest quality of customer service to OCERS members, retirees and beneficiaries, in a cost effective and prudent manner.

Policy Objectives

2. Establish measurable goals to manage the customer service levels provided by Member Services staff to plan participants.

Policy Guidelines

3. Develop quantifiable goals for measuring customer service levels:
 - a. Customer interactions – positive responses to surveys – goal is 95% positive;
 - b. Benefit Recalculations – unplanned benefit recalculations should be less than 5% of the total;
 - c. Payroll initiations within one full month of separation;
 - d. Benefit estimates are available real time 24/7 via member self-service portal;
 - e. Retirement can be initiated electronically via member self-service portal;
 - f. Member Statements are available real time 24/7 via member self-service portal; and
 - g. Member calls are returned the same business day or within 24 hours. Staff will update their voicemail messages to indicate approximate turnaround time in situations when it is known that greater than 24 hours is needed to return calls.
4. Regularly monitor goals to ensure ongoing achievement of customer service levels.
5. Annually evaluate goals and make adjustments as needed.

Policy Review

6. The Board shall review this policy at least every 3 years to ensure that it remains relevant and appropriate.

Policy History

7. This policy was adopted by the Board of Retirement on November 16, 2015 and revised October 15, 2018.



OCERS Board Policy

Member Services Customer Service Policy

Secretary's Certificate

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



Steve Delaney
Secretary of the Board

10/15/18

Date