



Meeting Date  
**11/06/13**  
Agenda Item  
**#12**

**MEMORANDUM**

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**To:** Members of the Board of Retirement  
Contra Costa County Employees' Retirement Association

**Date:** October 29, 2013

**Subject:** Proposed Legislation Making CCCERA a Separate District

The Settlement Agreement entered into between CCCERA and the County, and approved by the Superior Court, provides that the parties will jointly seek legislation that separates CCCERA from the County and makes it an autonomous district participating in CCCERA, with its own employees who will continue to be members of the retirement system. In concert with the County Counsel's Office, we have prepared the enclosed draft text of a bill to accomplish these purposes. The bill adds and amends various sections of the County Employees Retirement Law of 1937. Once approved by the parties, we will jointly seek a sponsor in the Legislature and proceed to take all steps to secure passage of the bill in the coming legislative session.

In August, the County HR Department provided copies of the draft legislation to the two bargaining units that represent employees presently working at CCCERA, asking them to review and approve of the proposed legislation. We have had a series of communications with AFSCME, leading to additional language they sought in the bill to provide for a smooth transition between the County and CCCERA as the employer of their members. That language is acceptable to us as counsel. We are authorized to represent to the Board that AFSCME is satisfied with the language of the bill in its present form and will support its passage in the Legislature. We have not heard back from Local 21 as of this date.

We will review the proposed bill with the Board in open session at the November 7, 2013 Board meeting and seek Board approval to proceed to find a sponsor and move the bill through the Legislature. We recommend that the Board approve the proposed bill in its present form.

c: Marilyn Leedom, CEO

## CCCERA PROPOSED LEGISLATION

### SECTION 1. Section 31522.9 is added to the Government Code, to read:

31522.9. (a) *The board of retirement may appoint a retirement administrator and such other personnel as are required to accomplish the necessary work of the board. The board may authorize the administrator to make any such appointments on its behalf. Notwithstanding any other provision of law, the personnel so appointed shall not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement, including those set forth in any memoranda of understanding executed by the board of retirement and recognized employee organizations.*

(b) *Sections 31522.1 and 31522.2 shall not be applicable to any retirement system electing to appoint personnel pursuant to this section.*

(c) *The retirement system electing to appoint personnel pursuant to this section shall be a "public agency" for purposes of the Meyers-Milias-Brown Act, Government Code Sections 3500 et seq.*

(d) *The compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2, except as provided in Sections 31529.5, 31529.9 and 31596.1.*

(e) *The board of retirement and the board of supervisors may enter into such agreements as they determine are necessary and appropriate in order to carry out the provisions of this section.*

(f) *The retirement system, upon the effective date of this section, shall retain, for a 90 day transition employment period, non-probationary employees who, upon the effective date of this section, were covered by a county memorandum of understanding and employed by the county at the retirement system's facilities, providing that neither just cause exists to terminate such employee nor legitimate grounds exist to lay off any such employees. If at any time during such 90 day period the retirement system determines that a layoff of such employees is necessary, the retirement system shall retain such employees by seniority within job classification. The terms and conditions of employees retained pursuant to this subdivision shall be subject to those terms and conditions established by any memoranda of understanding executed by the board of retirement and recognized employee organizations applicable to such employees.*

(g) *Subject to the employees' rights under the Meyers-Milias-Brown Act, the retirement system, upon the effective date of this section, shall recognize as the exclusive collective bargaining representative of the employees retained pursuant to subdivision (f) of this section the employee organization that previously represented those employees when employed by the county. The initial terms and conditions for those employees shall be as previously established by the county memorandum of understanding applicable to such employees.*

(h) *This section shall apply only in Contra Costa County.*

**SECTION 2. Section 31468 (l)(3) is added to the Government Code, to read:**

*31468 (l)(3) "District" also includes the retirement system established under this chapter in Contra Costa County.*

**SECTION 3. Section 31529.9 is amended to read:**

31529.9. (a) In addition to the powers granted by Sections 31522.5, 31522.9, 31529, 31529.5, 31614, and 31732, the board of retirement and the board of investment may contract with the county counsel or with attorneys in private practice or employ staff attorneys for legal services.

(b) Notwithstanding Sections 31522.5, 31522.7, 31522.9, 31529.5, and 31580, the board shall pay, from system assets, reasonable compensation for the legal services.

(c) This section applies to any county of the 2nd class, 7th class, 9th class, 14th class, 15th class, or the 16th class as described by Sections 28020, 28023, 28028, 28030, 28035, 28036, and 28037.

(d) This section shall also apply to any other county if the board of retirement, by resolution adopted by majority vote, makes this section applicable in the county.

**SECTION 4. Section 31557.3 is amended to read:**

31557.3. On the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, any personnel appointed pursuant to Section 31522.5, 31529.9 or 31522.9 who had previously been in county service shall continue to be members of the system without interruption in service or loss of credit. Thereafter, each person entering employment with the district shall become a member of the system on the first day of the calendar month following his or her entrance into service.

**SECTION 5. Section 31580.2 of the Government Code is amended to read:**

31580.2 (a) In counties in which the board of retirement, or the board of retirement and the board of investment, have appointed personnel pursuant to Section 31522.1, 31522.5, 31522.7, or 31522.9, the respective board or boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the retirement fund. The expense incurred in any year may not exceed the greater of either of the following:

(1) Twenty-one hundredths of 1 percent of the accrued actuarial liability of the retirement system.

(2) Two million dollars (\$2,000,000), as adjusted annually by the amount of the annual cost-of-living adjustment computed in accordance with Article 16.5 (commencing with Section 31870).

(b) Expenditures for computer software, computer hardware, and computer technology consulting services in support of these computer products shall not be considered a cost of administration of the retirement system for purposes of this section.