

Memorandum

Date: November 30, 2011

To: Board of Retirement
Marilyn Leedom, Chief Executive Officer

From: Karen Levy, General Counsel

Subject: Filling of Retirement Board Vacancies
Alternate Seventh (Safety) Member – Govt. Code Section 31523 (eff. 1/1/2012)



Update

Senate Bill 203 was enacted, adding new provisions to the County Employees Retirement Law of 1937 ("CERL") regarding filling a vacancy of the Retirement Board's alternate seventh (safety) seat. The provisions can be found in Government Code section 31523 (see attached copy) and become effective on January 1, 2012. The law states regarding filling a vacancy of the alternate seventh (safety) member position that the Retirement Board "shall cause an election to fill the vacancy to be held at the earliest possible date." The candidates for the position are limited to the safety group not represented by the incumbent seventh board member. Currently, the incumbent seventh (safety) board member is from the firefighters' group (Section 31470.4), therefore the candidates for the vacant alternate safety seat are limited to members from the sheriff and deputy sheriffs' group (Section 31470.2). In the event there are no candidates from the sheriffs' group, then candidates may be from a safety group other than firefighters and sheriffs. The successful candidate for the alternate safety position would serve for the duration of the current term (i.e., until 6/30/2013).

Recommendation

In light of this change in the law, the CCCERA Board of Retirement should cause an election to be held at the earliest possible date in order to fill the vacancy of the alternate seventh safety member.



Sections 6 and 7 of Senate Bill No. 203, approved by the Governor on July 26, 2011
(Effective January 1, 2012)

SEC. 6. Section 31523 of the Government Code is repealed.

SEC. 7. Section 31523 is added to the Government Code, to read:

31523. (a) **In the event of a vacancy in the second, third, seventh, eighth, or alternate seventh member position on the board of retirement, the board shall cause an election to fill the vacancy to be held at the earliest possible date**, except as provided in Sections 31520.3 and 31520.5. The vacancy in the second, third, or eighth member position on the board of retirement shall be filled for the duration of the current term except that, if the remaining portion of the current term is six months or less on the date of the election, a single election may be held to fill the vacancy for the remainder of the current term and to fill the position for the succeeding term. With respect to a vacancy in the seventh member position, candidates shall be a safety member from a group which is not represented by an incumbent alternate seventh member. **With respect to the alternate seventh member position, the candidates shall be limited to the group under Section 31470.2 or 31470.4, or any other eligible safety member in a county if there is no eligible candidate from the groups under Sections 31470.2 and 31470.4 that is not represented by an incumbent seventh board member. The successful candidate shall serve for the duration of the current term.**

(b) If there is a vacancy with respect to the alternate retired member, the board of retirement shall, by majority vote, appoint a replacement alternate member in the same manner as prescribed in Sections 31520.3 and 31520.5 for the initial appointment of an alternate retired member, who shall serve until the expiration of the current term of the current eighth member.

(c) If an election has been called on the expiration of the term of office of any member or alternate member, or to fill a vacancy for the second, third, seventh, eighth, or alternate seventh member of a board of retirement, and only one candidate has been duly nominated in accordance with the rules established for the holding of that election, the board of supervisors shall order that no election be held and shall direct the clerk to cast a unanimous ballot in favor of the candidate.

(Emphasis added.)