

BOARD OF RETIREMENT MINUTES 7-15-10

PRESENT

- Les Robbins, Chair
- Simon S. Russin, Vice Chair
- Yves Chery, Secretary
- Edward L. Blecksmith
- William de la Garza
- Ed C. Morris (Alternate Retired)
- Mark J. Saladino

ABSENT

- William R. Pryor

STAFF ADVISORS AND PARTICIPANTS

- Gregg Rademacher, Chief Executive Officer
- Janice Golden, Assistant Executive Officer
- Robb Van Der Volgen, Chief Counsel
- Cynthia Lau, Legislative Affairs Officer
- Johanna M. Fontenot, Senior Staff Counsel
- Fern M. Billingsy, Senior Staff Counsel
- Jason Hong

1. CALL TO ORDER

The meeting was called to order by Chair Robbins at 9:00 a.m., in the Board Room of Gateway Plaza.

2. PLEDGE OF ALLEGIANCE

Mr. Saladino led the Board Members and staff in reciting the Pledge of Allegiance.

3. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JUNE 10, 2010

A motion was made by Mr. Morris, seconded by Mr. Chery, to approve the minutes of the regular meeting of June 10, 2010, as amended. The motion passed unanimously.

4. OTHER COMMUNICATIONS

1. For Information

1. June 2010 All Stars

Mr. Rademacher announced the eight winners for the month of June, (Joshua Wong, Mami Kwan, Dana Brooks, Clarence Malone, Cynthia Leshay, John Slattery, Blanca Medina, and Debra Delgado) for the Employee Recognition Program. Charlotte Nakhla was the winner of LACERA's Web Watcher Award. Vladimir Meyliker, Brenda Grundy, Mary Arochi, and Roger Mac Eachern were the winners of LACERA's RideShare Program.

2. Chief Executive Officer's Report Memo dated July 7, 2010)

Mr. Rademacher provided a brief overview of his Chief Executive Officer's Report.

Mr. Rademacher reported on his June trip to Sacramento to meet with Senate Committee Members to educate them on AB 1902 and testify in front of the Senate Committee the following week. AB 1902 passed unanimously out of the Senate Committee and the entire Senate. It is now before the Governor for signature. Mr. Rademacher thanked Joe Ackler, Cynthia Lau and Nick Dinger for all their outstanding efforts in helping to get this bill through.

The Board of Supervisors adopted new LACERA contribution rates to be effective no later than September 30th. The employer rate will increase to reflect the market losses sustained in 2008/2009. The rates are increasing from approximately 12% to just over 14%. There is no change to the employee rates at this time.

Mr. Rademacher reminded the board that he will be attending the NASRA Conference and combining that time with a family vacation. He will be out of the office beginning August 6th through the 18th. Mr. Hill will be in charge of LACERA during that time.

5. NON-CONSENT AGENDA

1. Recommendation as submitted by Gregg Rademacher, Chief Executive Officer: Approve attendance of Board Members, and staff as designated by the Chief Executive Officer, at the NEOGOV's 9th Annual Training Conference to be held in Las Vegas, Nevada from September 28 - October 1, 2010; and approve reimbursement of all travel costs incurred in accordance with LACERA's Education and Travel Policy. (Memo dated June 24, 2010.)

A motion was made by Mr. Saladino, seconded by Mr. Russin, to approve the recommendation.

The motion passed unanimously.

2. Recommendation as submitted by Cynthia Lau, Legislative Affairs Officer: That the Board continue its "support" position on AB 609 which provides budgetary relief and stability by basing the amount that can be spent on administrative expenses as a percentage of system liabilities. (Memo dated June 29, 2010.)

AB 609

The Board of Retirement adopted a "support" position on July 9, 2009 on Assembly Bill 609, a two-year bill sponsored by SACRS. The purpose of this bill is to provide administrative budget limitation relief to '37 Act systems by shifting from an asset-based cap to a more stable liability-based cap.

Existing law provides that the annual budget for administrative expenses of a '37 Act retirement system may not exceed eighteen hundredths of 1% (0.18%) of the total assets of the retirement system.

Additionally, under a provision that is effective until January 1, 2013, retirement systems may increase their budget when they incur expenses for software, hardware, and computer technology consulting services.

The bill, as amended on June 22, 2010, would provide that:

1. The annual budget for administrative expenses of a '37 Act retirement system may not exceed twenty-five hundredths of 1% (0.25%) of the accrued actuarial liability of the retirement system. In addition, expenditures for legal services or costs of litigation shall not be considered a cost of administration of the retirement system under this section.

(Unlike other '37 Act systems, LACERA's expenditures for legal services and costs of litigation that can be excluded from the budget limit would still be limited to 0.01% of system assets, pursuant to Section 31529.1.)

2. The maximum amount a system may spend on administration in years up to January 1, 2013 when the system incurs expenses for software, hardware, and computer technology consulting services is as follows:

- a. Twenty-five hundredths of 1% (0.25%) of the accrued actuarial liability of the retirement system plus \$1 million; or,
- b. Twenty-three hundredths of 1% (0.23%) of the accrued actuarial liability of the retirement system.

In summary, there appears to be a drafting error on the section addressing the maximum amount a system may spend in years when there are expenses for computer technology. An amendment to the bill is anticipated.

A liability-based budget limitation is intended to be more reflective of a system's administrative costs, as opposed to basing a limit on system assets. Therefore, staff recommends that your Board continue to support AB 609.

A motion was made by Mr. Morris, seconded by Mr. Saladino, to continue its "support" position on AB 609.

The motion passed unanimously.

3. Recommendation as submitted by Cynthia Lau, Legislative Affairs Officer: That the Board adopt a "support" position on AB 1354 which makes the necessary changes to CERL to bring it into compliance with federal law. (Memo dated July 1, 2010.)

AB 1354

SACRS has been reviewing CERL for areas where the '37 Act may not comply precisely with federal laws. AB 1354 is a two-year bill sponsored by SACRS which makes changes to bring it into compliance. The language for AB 1354 has been recently finalized. The bill addresses requirements due to enactment of the Heroes Earnings Assistance and Relief Tax Act of 2008 (known as HEROES Act or HEART Act) which applied retroactively to deaths on or after January 1, 2007. The HEROES Act requires LACERA to treat military personnel who died while performing qualified military service as if the member had resumed employment (i.e. an active death). Service for vesting purposes would also be credited to a member who dies while performing qualified military service for the period of his or her qualified military service. The bill also provides clarification related to the application of IRC Section 415 limits to cost-of-living adjustments. This clarification is consistent with LACERA's current operations.

A motion was made by Mr. de la Garza, seconded by Mr. Morris, to take a "support" position on AB 1354.

The motion passed unanimously.

4. Recommendation as submitted by Cynthia Lau, Legislative Affairs Officer: That the Board continue its "support" position on AB 1987, which would address pension "spiking" and "double dipping". (Memo dated July 6, 2010.)

AB 1987

Assembly Bill 1987 prohibits pension “spiking” and requires a 180-day (six month) bona fide separation for members who retired from service on or after January 1, 2011.

The bill, as amended on June 1, 2010, no longer requires that information obtained during audits of employer records be kept confidential, makes other technical changes and further addresses retirees who return to work after retirement. The bill specifies that:

1. A retiree whose employment, without reinstatement, is authorized shall not acquire service credit or retirement rights with respect to that employment.
2. A retiree who violates the prohibition would be required to:
 - a. Reimburse the retirement system for any retirement allowance received during the period or periods of employment that are in violation of law, and
 - b. Pay to the retirement system an amount equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment, plus interest.
 - c. Contribute toward the reimbursement of the retirement system for administrative expenses incurred to the extent the retired member is determined by the executive officer to be at fault.
3. A county or district that employs a retired member in violation of the prohibition would be required to:
 - a. Pay to the retirement system an amount equal to the employer.
 - b. contributions that would otherwise have been paid during the period or periods of time that the retired member is employed in violation of this prohibition, plus interest.
 - c. Contribute toward the reimbursement of the retirement system for administrative expenses incurred to the extent the county or district is determined by the executive officer of the system to be at fault.

The Board of Retirement adopted a “support” position on May 6, 2010.

A motion was made by Mr. Chery, second by Mr. Morris, to continue its “support” position on AB 1987.

The motion passed unanimously.

6. PUBLIC COMMENT

Mr. Hong spoke on behalf of his spouse Ms. Hong requesting that the Board rescind her retirement date and reclassify her 1982-84 Plan E time to Plan D.

7. GOOD OF THE ORDER

(For discussion purposes only.)

8. EXECUTIVE SESSION

1. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION. Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the California Government Code.

1. Claim of Young Hee Hong

The Board met in Executive Session to discuss the above anticipated litigation with its legal counsel. The Board reconvened in open session, at which time Mr. Van Der Volgen reported

that the Board met in Executive Session pursuant to Subdivision (b) of Section 54956.9 of the California Government Code to discuss the claim of Young Hee Hong.

The Board denied the administrative appeal to reclassify Ms. Hong's 1982 Plan E time to Plan D and granted Ms. Hong's request to rescind her retirement. In addition, the Board denied Ms. Hong's tort claim for damages.

Green Folder Information

(Information distributed in each Board Member's Green Folder at the beginning of the meeting.)

1. LACERA Legislative Report — Bills Amending CERL. (Dated July 12, 2010)
2. LACERA Legislative Report — Other. (Dated July 12, 2010)
3. LACERA Legislative Report — PERS/STRS Bills. (Dated July 12, 2010)

9. ADJOURNMENT

 **PROVIDE** | Our services begin the moment a new hire becomes a LACERA member and continue throughout the member's career to retirement... and beyond.

8/24/10