



Donald C. Kendig, CPA
Retirement Administrator

Steven J. Jolly, Chair
Dr. Rod Coburn, III, Vice Chair
Laura P. Basua
Gregory Baxter
Vicki Crow
Paul Dictos, CPA
Robert Dowell
Eulalio Gomez
Mary Ann Rogozinski, Alternate

DATE: April 6, 2016
TO: Board of Retirement
FROM: Donald C. Kendig, CPA
Retirement Administrator

STAFF CONTACT: Elizabeth Avalos
Executive Assistant

SUBJECT: Consideration of State Association of County Retirement Systems (SACRS) Items – RECEIVE AND FILE; APPROPRIATE ACTION

Discussion

Submitted for your consideration are the SACRS Spring 2016 Conference Information, SACRS Voting Proxy, and SACRS Legislation: Assembly Bill (AB) 1853.

- Conference Information - The Spring 2016 Conference will be held on May 10-13, 2016 at the Westin South Coast Plaza in Costa Mesa, CA. Conference registration information was provided via email on March 17, 2016, and is attached. Please see Elizabeth Avalos for more details and to confirm your attendance.
- SACRS Voting Proxy – SACRS requests voting delegate and alternate voting delegate. Form attached.
- SACRS Legislation: Assembly Bill 1853 – Legislation that would allow the 1937 Act system to modernize their operating authority structure has been introduced. Some adjustments will need to be made to the bill before it is heard by the Assembly PERS Committee, but the core of the bill is in place.

The business packet will be provided next month.

Fiscal and Financial Impacts

None from the receiving and filing of this item and the designation of voting and alternate voting delegates.

Recommended Actions

1. Designate a voting delegate and alternate voting delegate.

Attachment(s)

1. Conference Information
2. SACRS Voting Proxy
3. SACRS Legislation: Assembly Bill 1853



To: SACRS Administrators
From: Sulema H. Peterson, SACRS
Re: SACRS Spring Conference 2016 – Conference Information

SACRS Spring Conference 2016 is being held at the Westin South Coast Plaza Hotel in Costa Mesa, May 10-13, 2016.

Please be reminded that SACRS offers Ethics Training at the conference on Tuesday, May 10th from 3 - 5 pm. Be sure to remind Trustees & Staff of the Ethics training requirement. Pre-registration for the class is mandatory.

In this packet, we've provided the following information to assist your System's administrative staff with:

- Hotel Information
- Transportation Information
- Conference Registration Information
- Hotel Rooming List & Payment Instructions
- Voting Proxy & What's New Deadlines/Form's

Looking forward to seeing you in May - Please don't hesitate to contact me at Sulema@sacrs.org or 916.441.1850 for questions, assistance or additional information.

Best,

Sulema

Sulema H. Peterson
SACRS Administrator



HOTEL INFORMATION

HOST HOTEL:

The Westin South Coast Plaza Hotel
686 Anton Boulevard
Costa Mesa, CA 92626
(714) 540-2500

SACRS CONFERENCE ROOM RATE:

\$226.00 per night (not including Tax & Service fees)

To make your Staff & Trustee hotel reservations at The Westin South Coast Plaza Hotel please follow the directions below:

- 1. Complete the hotel rooming list form.**
- 2. Send rooming list, no later than March 24, 2016, to both of the following;**

Nana Cho

714-662-6654

Nana.cho@westin.com

Amber Caldera

714-662-6610

Amber.caldera@westin.com

****If you have already made reservations online or called in, please provide us with the confirmation numbers on the hotel rooming list document.**

All rooming lists must be submitted no later than Noon – March 24, 2016. SACRS cannot guarantee rooms at The Westin South Coast Plaza Hotel to those Systems that do not meet this deadline.

Each System will have a 10-room block held for them (25 rooms for Los Angeles County). **Each System Administrator must provide names to the hotel by March 24, 2016.** Due to high attendance, our room block is expected to fill up fast. All reservations made after the room block has been filled or after the deadline will be at The Westin South Coast Plaza Hotel normal hotel “rack” rate and on a space-available basis.

PARKING:

Self-Parking: \$10 Daily and \$20 overnight rate for hotel guests (SACRS discounted rate)

Valet Parking: \$32 overnight rate for hotel guests

CHECK-IN/CHECK-OUT:

Guest accommodations are available at 3:00 pm on arrival and reserved until Noon on departure day. Attendees wishing special consideration for early arrival/late check-out should contact the hotel prior to arrival to avoid fees.



TRANSPORTATION INFORMATION

- **John Wayne Airport-Orange County - SNA**

Airport Phone: +1 949 252 5200

This hotel provides shuttle service from SNA upon request. Guests may call the hotel once they arrive and are at baggage claim. Please call (714) 540-2500 to request a pick up. Shuttles run on the ½ hour.

- **Los Angeles International Airport - LAX**

Airport Phone: +1 310 646 5252

This hotel does not provide shuttle service from LAX



CONFERENCE REGISTRATION INFORMATION

CONFERENCE REGISTRATION FEE:

System Members (Trustees & Staff) \$120.00 per attendee

CONFERENCE REGISTRATION:

Online registration is now open; please visit the SACRS.ORG website to register your System's attendees. Conference brochures will be mailed to your System; you may also complete a paper form for each attendee and mail along with payment to – SACRS, Attn: Sulema Peterson 1415 L Street, Suite 1000, Sacramento, CA 95814.

CANCELLATION:

- **Conference Cancellation Policy**

In order to receive a Conference Registration refund, you must cancel your registration by April 1, 2016. Please email cancellation to: Sulema@sacrs.org

- **SACRS Hotel Cancellation Policy**

Any Hotel Room cancellations made within 21 days of the conference will incur a fee of \$50 per cancellation. Name changes between same system staff/trustees will not incur the fee nor will medically necessary cancellations. If you need to cancel any of your room nights at any time, please contact SACRS at (916) 441-1850 rather than the hotel. Your room(s) will be given to other SACRS members who are on our waiting list. Cancellations must be received via email.

CONFERENCE ATTIRE:

All sessions and social functions at SACRS Spring Conference 2016 are business casual.

WEATHER:

The average temperature for the Anaheim area in May 2016, attendees should plan on

- Daytime Highs: 66 F
- Evening Lows: 58 F



SACRS VOTING PROXY FORM

The following are authorized by the _____ County Retirement Board to vote on behalf of the County Retirement System at the upcoming SACRS Conference (*if you have more than one alternate, please attach the list of alternates in priority order*):

_____ Voting Delegate

_____ Alternate Voting Delegate

These delegates were approved by the Retirement Board on ____ / ____ / ____.

The person authorized to fill out this form on behalf of the Retirement Board:

Signature: _____

Print Name: _____

Position: _____

Date: _____

Please send your system's voting proxy by **April 1, 2016** to Sulema H. Peterson, SACRS Administrator at Sulema@sacrs.org.

SACRS MEMORANDUM

March 31, 2016

Attn: SACRS Administrators
From: Raymond McCray, SACRS Nominating Committee Chair
SACRS Nominating Committee
Re: SACRS Board of Directors Elections 2016-2017 – Final Ballot

Per SACRS Bylaws, Article VI ~ Section 2 – Election, Qualification and Term of Office

“The officers of SACRS shall be regular members of SACRS. The officers shall be elected by majority vote of the quorum of delegates and alternate delegates present at the first meeting in each calendar year and shall hold office for one (1) year and until a successor is elected.”

Per SACRS Bylaws, Article VI ~ Section 4 - Officer Elections

“...The Board of any regular member County Retirement System may submit write-in candidates to be included in the Nominating Committee’s final ballot provided the Nominating Committee receives those write-in candidates prior to March 25th. The Nominating Committee will report a final ballot to each regular member County Retirement System prior to April 1.

The Administrator of each regular member County Retirement System shall be responsible for communicating the Nominating Committee’s recommended ballot and final ballot to each trustee and placing the election of SACRS Officers on his or her Board agenda. The Administrator shall acknowledge the completion of these responsibilities with the Nominating Committee...”

Below is the final ballot for the upcoming election. As in the past, a voting delegate may entertain a motion to vote by individual officer positions or by complete ballot. Please be sure to authorize your voting delegate to vote either way.

The elections will be held at the upcoming SACRS Spring Conference May 10-13, 2016 at the Westin South Coast Plaza Hotel in Costa Mesa. Elections will be held during the Annual Business meeting on Friday, May 13, 2016.

Please distribute the ballot to all standing/eligible board members for approval and authorization for your voting delegate. As stated above, Administrators are required to send acknowledgement of completion to our office at sulema@sacrs.org.

Continued

SACRS Nominating committee recommended 2016-2017 final ballot:

- President Dan McAllister, San Diego CERA
- Vice President Gabe Rodrigues, Contra Costa CERA
- Treasurer Larry Walker, San Bernardino CERA
- Secretary Art Goulet, Ventura CERA

If you have any questions or require assistance, please contact me directly at 209-468-2163 or raym1@sbcglobal.net. Thank you for your prompt attention to this timely matter.

Sincerely,

Raymond McCray

Raymond McCray, San Joaquin County
SACRS Nominating Committee Chair

CC: SACRS Board of Directors
SACRS Nominating Committee Members
Sulema H. Peterson, SACRS Administrator

RMC:shp



FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

Steven J. Jolly, Chair
Dr. Rod Coburn, III, Vice Chair
Laura P. Basua
Greg Baxter
Alan Cade, Jr.
Vicki Crow
Robert Dowell
Eulalio Gomez
Mary Ann Rogozinski, Alternate

Donald C. Kendig, CPA
Retirement Administrator

DATE: March 16, 2016

TO: Board of Retirement

FROM: Donald C. Kendig, CPA
Retirement Administrator

SUBJECT: SACRS Legislation: Assembly Bill (AB) 1853 – RECEIVE AND FILE

Background and Discussion

Legislation that would allow the 1937 Act systems to modernize their operating authority structure has been introduced. A copy of AB 1853 is attached. Some adjustments will need to be made to the bill before it is heard by the Assembly PERS Committee, but the core of the bill is in place. A list of the anticipated changes can be found below.

A “white paper” on AB 1853 is also attached. It is intended to be the “long” version of the basic what/why/how of the bill. A “short” version is also attached. The three main themes:

1. This is something that is long overdue. The 21st century global economy is far more dynamic and volatile than the financial world of 1937 when the enabling legislation was written. The retirement system’s assets under management are greater, there are more participants, and the benefit plans and rules are more complex and intertwined. The legislation will give the systems the authority to meet their fiduciary responsibilities and allow the governing retirement board to determine what is necessary to meet their local system’s needs.
2. The legislation gives every system the flexibility to evolve at their own pace, without having to come to the legislature every time a positive change is warranted. Five of the 20 systems have already modernized their operating authority to meet changing investment and operating environments and now all systems could determine if and how they might want to add expertise to improve things like risk management and strengthen their in-house investment team.
3. The legislation maintains strong governance, local accountability, effective transparency and public oversight provisions that require public meetings and open records. There are provisions that protect the rights of employers, employees, and the public. And any decision to modernize the operations of a pension system will be made by the local retirement board with elected and appointed representatives of the local stakeholders.

Each system is empowered to consider how, when and with whom to discuss the bill based on the particular circumstances of each. The goal is to come to a mutually beneficial operating structure to fulfill the fiduciary responsibility of the retirement systems. FCERA staff will monitor this bill and come to the Board to discuss stakeholder outreach options, once there is more certainty of outcome.

Per the discussion at the Fall SACRS Conference, this legislation will be formally considered by the member systems at the May conference. Please bring your questions, suggestions and concerns.

Anticipated Amendments to AB 1853:

- Amend Section 31557.3 to include Section 31522.7 and Section 31522.75 – Section 31557.3 addresses retirement system membership for employees when a retirement system moves to one of the alternative operating authority models. The proposed change would fix the omission of Section 31522.7, which was not added to this section when it was put on the books. New Section 31522.75 should be added as well since it will be the ‘trigger’ section both for systems moving to one of the operating authority models and systems already under an alternative operating authority section that want to move to another one.
- In Section 31522.75 add the following language found in subdivision (d) to subdivision (e): “subject to any subsequent revisions the retirement board may make pursuant to regulations governing terms and conditions of employment, and when applicable, the provisions of a subsequent memorandum of understanding or bargaining agreement covering the employee.”
- Section 31522.75(g)(1) states that the retirement system shall honor the continuous service of an employee regardless of employer. Similar language should be added to Section 31522.75(g)(4) (A) so that the county is required to honor it for the “other benefits” referenced in that section like eligibility/terms for active employment or retiree health care. In other words, any provisions the county might make for better benefits or lower cost based on length of service should be applicable to retirement system personnel that participate in those programs.
- Section 31468 subdivision (l)(5) it states that “‘District’ also includes a retirement system established under this chapter at the time that the board of retirement, by resolution, makes this section applicable to the retirement system in that county”. This should probably read subdivision, not section, because the section is already applicable to all ’37 Act systems and it allows us to define what districts we will accept into system membership, like public agencies, public corporations, etc.
- Likewise Section 31522.75, subdivision (a) it should read “(a) Any retirement system established under this chapter, including a retirement system that, at the time of the enactment of this section, is operating pursuant to Section 31522.5, 31522.7, or 31522.9, may elect to make this section, subdivision (l)(5) of Section 31468, and Section ...”. Also in subdivision (l) it should read “This section shall not be construed as to modify any authority, or to require any subsequent action by, a retirement system that has made subdivision (l)(5) of Section 31468 and Section ...”

- Throughout the sections it references a memoranda of understanding or the memoranda of understanding. The preceding article is singular, but memoranda is plural. We should either drop the article or change to memorandum. Examples include Section 31522.75(d), (f), (g)(1), (2) and (3).
- In Section 31522.75(g)(4)(A) the second sentence should have “retirement board” and “county” reversed so that it reads: “The county shall contract with the retirement board to administer the county benefit plans and programs for retirement system employees...” Also later in that same sentence, given the previous change, “the retirement board “ should be inserted between “and” and “shall” so that it reads: “... and the retirement board shall provide the employer cost for participating in the program.”

Staff would like to thank Richard Stensrud, CEO of Sacramento County Employees’ Retirement Association and Chair of the SACRS Legislative Committee for the information provided above.

Fiscal and Financial Impacts

Unknown at this time.

Recommended Action

1. Receive and file and participate in SACRS discussions.

Attachments

1. AB 1853
2. White Paper, “Long” Version Summary
3. Short Version Summary

ASSEMBLY BILL

No. 1853

Introduced by Assembly Member Cooper

February 10, 2016

An act to amend Sections 31468, 31522.5, 31522.7, 31522.9, 31528, 31529.9, 31535, and 31580.2 of, and to add Section 31522.75 to, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1853, as introduced, Cooper. County employees' retirement: districts: retirement system governance.

The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to their employees. CERL defines a district for these purposes, includes specified county retirement systems within that definition, and permits a district to participate in CERL retirement systems. CERL generally provides that the personnel of a county retirement system are county employees, subject to county civil service provisions and salary ordinances, but also authorizes the boards of retirement in specified counties to adopt provisions providing for the appointment of personnel who are to be employees of the retirement system, as well as other administrative provisions that reflect the independence of the retirement system from the county.

The California Public Employees' Pension Reform Act of 2013 (PEPRA) requires a public retirement system, as defined, to modify its plan or plans to comply with the act and establishes new retirement formulas that a public employer offering a defined benefit pension plan for employees first hired on or after January 1, 2013, may not exceed. PEPRA authorizes individuals who were employed by any public

employer before January 1, 2013, and who became employed by a subsequent public employer for the first time on or after January 1, 2013, to be subject to the retirement plan that would have been available to employees of the subsequent employer who were first employed by the subsequent employer on or before December 31, 2012, if the individual was subject to reciprocity, as specified.

This bill would authorize the retirement board of any retirement system operating under CERL to elect, by resolution, to be a district under the law. The bill would authorize a board to adopt, by resolution, specified administrative provisions that would classify various personnel of the retirement system as employees of the retirement system and not employees of the county. In regard to county employees who would become retirement system employees, the bill would prescribe requirements in connection with their compensation and employment benefits and status. These provisions would include maintaining their county retirement benefits that would otherwise be reduced under PEPRA, keeping their employment classifications, and affording employees the opportunity to continue participation in group health and dental plans, among other plans and programs. The bill would also prescribe requirements regarding labor negotiations and the continuity of labor agreements. The bill would grant a retirement system electing these provisions the authority to adopt the regulations and enter into the agreements necessary to implement them. The bill would authorize retirement systems currently operating under alternative administrative structures also to adopt these provisions. The bill would make various technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 31468 of the Government Code is
- 2 amended to read:
- 3 31468. (a) “District” means a district, formed under the laws
- 4 of the state, located wholly or partially within the county other
- 5 than a school district.
- 6 (b) “District” also includes any institution operated by two or
- 7 more counties, in one of which there has been adopted an ordinance
- 8 placing this chapter in operation.

1 (c) "District" also includes any organization or association
2 authorized by Chapter 26 of the Statutes of 1935, as amended by
3 Chapter 30 of the Statutes of 1941, or by Section 50024, which
4 organization or association is maintained and supported entirely
5 from funds derived from counties, and the board of any retirement
6 system is authorized to receive the officers and employees of that
7 organization or association into the retirement system managed
8 by the board.

9 (d) "District" also includes, but is not limited to, any sanitary
10 district formed under Part 1 (commencing with Section 6400) of
11 Division 6 of the Health and Safety Code.

12 (e) "District" also includes any city, public authority, public
13 agency, and any other political subdivision or public corporation
14 formed or created under the constitution or laws of this state and
15 located or having jurisdiction wholly or partially within the county.

16 (f) "District" also includes any nonprofit corporation or
17 association conducting an agricultural fair for the county pursuant
18 to a contract between the corporation or association and the board
19 of supervisors under the authority of Section 25905.

20 (g) "District" also includes the Regents of the University of
21 California, but with respect only to employees who were employees
22 of a county in a county hospital, who became university employees
23 pursuant to an agreement for transfer to the regents of a county
24 hospital or of the obligation to provide professional medical
25 services at a county hospital, and who under that agreement had
26 the right and did elect to continue membership in the county's
27 retirement system established under this chapter.

28 (h) "District" also includes the South Coast Air Quality
29 Management District, a new public agency created on February
30 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400)
31 of Part 3 of Division 26 of the Health and Safety Code.

32 (1) Employees of the South Coast Air Quality Management
33 District shall be deemed to be employees of a new public agency
34 occupying new positions on February 1, 1977. On that date, those
35 new positions are deemed not to have been covered by any
36 retirement system.

37 (2) No retirement system coverage may be effected for an
38 employee of the South Coast Air Quality Management District
39 who commenced employment with the district during the period
40 commencing on February 1, 1977, and ending on December 31,

1 1978, unless and until the employee shall have elected whether to
2 become a member of the retirement association established in
3 accordance with this chapter for employees of Los Angeles County
4 or the retirement association established in accordance with this
5 chapter for employees of San Bernardino County. The election
6 shall occur before January 1, 1980. Any employee who fails to
7 make the election provided for herein shall be deemed to have
8 elected to become a member of the retirement association
9 established in accordance with this chapter for the County of Los
10 Angeles.

11 (3) The South Coast Air Quality Management District shall
12 make application to the retirement associations established in
13 accordance with this chapter for employees of Los Angeles County
14 and San Bernardino County for coverage of employees of the South
15 Coast Air Quality Management District.

16 (4) An employee of the South Coast Air Quality Management
17 District who commenced employment with the district during the
18 period commencing on February 1, 1977, and ending on December
19 31, 1978, and who has not terminated employment before January
20 1, 1980, shall be covered by the retirement association elected by
21 the employee pursuant to paragraph (2). That coverage shall be
22 effected no later than the first day of the first month following the
23 date of the election provided for in paragraph (2).

24 (5) Each electing employee shall receive credit for all service
25 with the South Coast Air Quality Management District. However,
26 the elected retirement association may require, as a prerequisite
27 to granting that credit, the payment of an appropriate sum of money
28 or the transfer of funds from another retirement association in an
29 amount determined by an enrolled actuary and approved by the
30 elected retirement association's board. The amount to be paid shall
31 include all administrative and actuarial costs of making that
32 determination. The amount to be paid shall be shared by the South
33 Coast Air Quality Management District and the employee. The
34 share to be paid by the employee shall be determined by good faith
35 bargaining between the district and the recognized employee
36 organization, but in no event shall the employee be required to
37 contribute more than 25 percent of the total amount required to be
38 paid. The elected retirement association's board may not grant that
39 credit for that prior service unless the request for that credit is
40 made to, and the required payment deposited with, the elected

1 retirement association's board no earlier than January 1, 1980, and
2 no later than June 30, 1980. The foregoing shall have no effect on
3 any employee's rights to reciprocal benefits under Article 15
4 (commencing with Section 31830).

5 (6) An employee of the South Coast Air Quality Management
6 District who commenced employment with the district after
7 December 31, 1978, shall be covered by the retirement association
8 established in accordance with this chapter for employees of San
9 Bernardino County. That coverage shall be effected as of the first
10 day of the first month following the employee's commencement
11 date.

12 (7) Notwithstanding paragraphs (2) and (4) above, employees
13 of the South Coast Air Quality Management District who were
14 employed between February 1, 1977, and December 31, 1978, and
15 who terminate their employment between February 1, 1977, and
16 January 1, 1980, shall be deemed to be members of the retirement
17 association established in accordance with this chapter for the
18 employees of Los Angeles County commencing on the date of
19 their employment with the South Coast Air Quality Management
20 District.

21 (i) "District" also includes any nonprofit corporation that
22 operates one or more museums within a county of the 15th class,
23 as described by Sections 28020 and 28036 of the Government
24 Code, as amended by Chapter 1204 of the Statutes of 1971,
25 pursuant to a contract between the corporation and the board of
26 supervisors of the county, and that has entered into an agreement
27 with the board and the county setting forth the terms and conditions
28 of the corporation's inclusion in the county's retirement system.

29 (j) "District" also includes any economic development
30 association funded in whole or in part by a county of the 15th class,
31 as described by Sections 28020 and 28036 of the Government
32 Code, as amended by Chapter 1204 of the Statutes of 1971, and
33 that has entered into an agreement with the board of supervisors
34 and the county setting forth the terms and conditions of the
35 association's inclusion in the county's retirement system.

36 (k) "District" also includes any special commission established
37 in the Counties of Tulare and San Joaquin as described by Section
38 14087.31 of the Welfare and Institutions Code, pursuant to a
39 contract between the special commission and the county setting
40 forth the terms and conditions of the special commission's

1 inclusion in the county’s retirement system with the approval of
2 the board of supervisors and the board of retirement.

3 (l) (1) “District” also includes the retirement system established
4 under this chapter in Orange County.

5 (2) “District” also includes the retirement system established
6 under this chapter in San Bernardino County at such time as the
7 board of retirement, by resolution, makes this section applicable
8 in that county.

9 (3) “District” also includes the retirement system established
10 under this chapter in Contra Costa County.

11 (4) “District” also includes the retirement system established
12 under this chapter in Ventura County.

13 (5) *“District” also includes a retirement system established*
14 *under this chapter at the time that the board of retirement, by*
15 *resolution, makes this section applicable to the retirement system*
16 *in that county.*

17 (m) “District” also includes the Kern County Hospital Authority,
18 a public agency that is a local unit of government established
19 pursuant to Chapter 5.5 (commencing with Section 101852) of
20 Part 4 of Division 101 of the Health and Safety Code.

21 SEC. 2. Section 31522.5 of the Government Code is amended
22 to read:

23 31522.5. (a) In a county in which the board of retirement has
24 appointed personnel pursuant to Section 31522.1, the board of
25 retirement may appoint an administrator, an assistant administrator,
26 a chief investment officer, senior management employees next in
27 line of authority to the chief investment officer, subordinate
28 administrators, senior management employees next in line of
29 authority to subordinate administrators, and legal counsel.

30 (b) Notwithstanding any other provision of law, the personnel
31 appointed pursuant to this section may not be county employees
32 but shall be employees of the retirement system, subject to terms
33 and conditions of employment established by the board of
34 retirement. Except as specifically provided in this subdivision, all
35 other personnel shall be county employees for purposes of the
36 county’s employee relations resolution, or equivalent local rules,
37 and the terms and conditions of employment established by the
38 board of supervisors for county employees, including those set
39 forth in a memorandum of understanding.

1 (c) Except as otherwise provided by Sections 31529.9 and
2 31596.1, the compensation of personnel appointed pursuant to this
3 section shall be an expense of administration of the retirement
4 system, pursuant to Section 31580.2.

5 (d) The board of retirement and board of supervisors may enter
6 into any agreements as may be necessary and appropriate to carry
7 out the provisions of this section.

8 (e) Section 31522.2 is not applicable to any retirement system
9 that elects to appoint personnel pursuant to this section.

10 (f) This section shall apply ~~only~~ in Orange County.

11 (g) This section shall apply to the retirement system established
12 under this chapter in San Bernardino County at such time as the
13 board of retirement, by resolution, makes this section applicable
14 in that county.

15 *(h) This section shall apply to a retirement system established*
16 *under this chapter at the time that the board of retirement, by*
17 *resolution, makes this section applicable in that county.*

18 SEC. 3. Section 31522.7 of the Government Code is amended
19 to read:

20 31522.7. (a) In addition to the authority provided pursuant to
21 Section 31522.5, the board of retirement in the County of San
22 ~~Bernardino~~ *Bernardino, or in any other county in which this section*
23 *has been made applicable,* may appoint an administrator, an
24 assistant administrator, a chief investment officer, senior
25 management employees next in line of authority to the chief
26 investment officer, subordinate administrators, senior management
27 employees next in line of authority to subordinate administrators,
28 supervisors and employees with specialized training and knowledge
29 in pension benefit member services, investment reporting
30 compliance, investment accounting, pension benefit tax reporting,
31 pension benefit financial accounting, pension law, and legal
32 counsel.

33 (b) Notwithstanding any other provision of law, the personnel
34 appointed pursuant to this section may not be county employees
35 but shall be employees of the retirement system, subject to terms
36 and conditions of employment established by the board of
37 retirement. Except as specifically provided in this subdivision, all
38 other personnel shall be county employees for purposes of the
39 county's employee relations resolution, or equivalent local rules,
40 and the terms and conditions of employment established by the

1 board of supervisors for county employees, including those set
2 forth in a memorandum of understanding.

3 (c) Except as otherwise provided by Sections 31529.9 and
4 31596.1, the compensation of personnel appointed pursuant to this
5 section shall be an expense of administration of the retirement
6 system, pursuant to Section 31580.2.

7 (d) The board of retirement and board of supervisors may enter
8 into any agreements as may be necessary and appropriate to carry
9 out the provisions of this section.

10 (e) Section 31522.2 is not applicable if the retirement system
11 elects to appoint personnel pursuant to this section.

12 (f) This section shall apply ~~only~~ to the retirement system
13 established under this chapter in San Bernardino County at such
14 time as the board of retirement, by resolution, makes this section
15 applicable in that county.

16 (g) *This section shall apply to a retirement system established*
17 *under this chapter at the time that the board of retirement, by*
18 *resolution, makes this section applicable in that county.*

19 SEC. 4. Section 31522.75 is added to the Government Code,
20 immediately following Section 31522.7, to read:

21 31522.75. (a) Any retirement system established under this
22 chapter, including a retirement system that, at the time of the
23 enactment of this section, is operating pursuant to Section 31522.5,
24 31522.7, or 31522.9, may elect to make this section, Section 31468,
25 and Section 31522.5, 31522.7, or 31522.9, applicable to the
26 retirement system upon adoption of a resolution by the board of
27 retirement.

28 (b) A board of retirement may elect to appoint personnel, or
29 may authorize the retirement administrator to appoint personnel,
30 to administer the system as provided in this section.

31 (c) (1) Notwithstanding any other law, the personnel appointed
32 pursuant to this section and the sections referenced in subdivision
33 (a) shall not be county employees, but shall be employees of the
34 retirement system, subject to terms and conditions of employment
35 established by the board of retirement and the provisions of this
36 section.

37 (2) A county employee to whom the California Public
38 Employees' Pension Reform Act of 2013 (Article 4, commencing
39 with Section 7522 of Chapter 21 of Division 7 of Title 1) did not

1 apply before becoming a retirement system employee shall
2 maintain that status as an employee of the retirement system.

3 (3) For purposes of employment by a subsequent public
4 employer, as described in paragraph (1) of subdivision (c) of
5 Section 7522.02, the retirement system shall have the status of the
6 county as a subsequent employer.

7 (4) With regard to an individual who was employed by the
8 county before January 1, 2013, and who becomes a retirement
9 system employee and then changes employment positions as
10 described in paragraph (2) of subdivision (c) of Section 7522.02,
11 the retirement system shall have the former obligations of the
12 county to provide a defined benefit plan that otherwise would have
13 been available to the employee had he or she remained a county
14 employee.

15 (d) Any employees who were previously appointed to retirement
16 system personnel positions pursuant to Section 31522.2 or 31522.3
17 shall cease to be county employees and shall become retirement
18 system employees at their existing or equivalent classifications as
19 of the date the board of retirement makes this section applicable
20 pursuant to subdivision (a), subject to any subsequent revisions
21 the retirement board may make pursuant to regulations governing
22 terms and conditions of employment, and when applicable, the
23 provisions of a subsequent memoranda of understanding or
24 bargaining agreement covering the employee.

25 (e) Any employees who were previously appointed to retirement
26 system personnel positions pursuant to Section 31522.1 and are
27 subsequently appointed as retirement system employees pursuant
28 to subdivision (a) shall cease to be county employees and shall
29 become retirement system employees at their existing or equivalent
30 classifications as of the date the board of retirement makes this
31 section applicable.

32 (f) A retirement system that elects to make this section
33 applicable shall recognize as the exclusive representative of those
34 former county employees who become retirement system
35 employees the employee organization that represented those
36 employees, if any, and shall honor the provisions in any
37 memoranda of understanding or bargaining agreement in effect
38 on the date the board of retirement makes this section applicable
39 for the duration of the memoranda of understanding or bargaining
40 agreement.

1 (g) The following shall apply to those persons who become
2 retirement system employees pursuant to this section:

3 (1) Employment seniority of a retirement system employee,
4 including, but not limited to, an employee's continuous service
5 date used for purposes of retirement or other benefits, as calculated
6 and used under the county system in effect before the date this
7 section becomes applicable, shall be calculated and used in the
8 same manner by the retirement system at the time the county
9 employee becomes a retirement system employee, subject to any
10 subsequent revisions the retirement board may make pursuant to
11 regulations governing terms and conditions of employment, and
12 when applicable, the provisions of a subsequent memoranda of
13 understanding or bargaining agreement covering the employee.

14 (2) Retirement system employees shall have the same status
15 they had as probationary, permanent, or regular employees under
16 the county system in effect on the date this section becomes
17 applicable, subject to any subsequent revisions the retirement board
18 may make pursuant to regulations governing terms and conditions
19 of employment, and when applicable, the provisions of a
20 subsequent memoranda of understanding or bargaining agreement
21 covering the employee.

22 (3) Retirement system employees shall receive their same salary
23 rates, leaves of absence, leave accrual rates, including all related
24 compensation rules and provisions applicable to those salary rates,
25 leaves, and accrual rates as under the county system on the date
26 this section becomes applicable, subject to any subsequent revisions
27 the retirement board may make pursuant to regulations governing
28 terms and conditions of employment, and when applicable, the
29 provisions of a subsequent memoranda of understanding or
30 bargaining agreement covering the employee.

31 (4) (A) Retirement system employees shall be afforded the
32 opportunity to participate in county benefit plans and programs,
33 including, but not limited to, group health, dental and life insurance,
34 workers' compensation, and deferred compensation that existed
35 on the date this section becomes applicable, under the same terms
36 and conditions as those programs were available to county
37 employees. The retirement board shall contract with the county to
38 administer the county benefit plans and programs for retirement
39 system employees, under the same terms and conditions applicable
40 to county employees, and shall provide the employer cost for

1 participation in the programs unless and until the retirement board
2 chooses to provide different benefits or different benefit levels
3 through another provider.

4 (B) The participation of retirement system employees in county
5 benefit plans or programs, and the county's administration of
6 certain compensation or benefits for retirement employees pursuant
7 to this section, shall not create or be construed to create, a meet
8 and confer obligation between the county and any employee
9 organization recognized to represent retirement system employees.

10 (h) The board of retirement and the county may enter into any
11 agreements necessary and appropriate to carry out this section.

12 (i) Sections 31522.1, 31522.2 and 31522.3 shall no longer apply
13 to a retirement system that has made this section applicable.

14 (j) Upon adoption of this section, the board of retirement may
15 make regulations consistent with this chapter, and the provisions
16 of Section 31525 that require approval of retirement board
17 regulations by the board of supervisors shall no longer apply.

18 (k) The compensation of personnel appointed pursuant to this
19 section shall be an expense of administration of the retirement
20 system pursuant to Section 31580.2, except as provided in Section
21 31522.5, 31522.7, or 31522.9, as those sections may apply to a
22 retirement system that has adopted them.

23 (l) This section shall not be construed as to modify any authority,
24 or to require any subsequent action by, a retirement system that
25 has made Section 31468 and Section 31522.5, 31522.7, 31522.9,
26 or 31522.10 applicable to the retirement system prior to the
27 effective date of this section.

28 (m) Any retirement system that has elected to make either
29 Section 31522.5, 31522.7, or 31522.9 applicable upon adoption
30 of a subsequent resolution by the board of retirement may make
31 a different section apply.

32 SEC. 5. Section 31522.9 of the Government Code is amended
33 to read:

34 31522.9. (a) The board of retirement of a county may appoint
35 a retirement administrator and other personnel as are required to
36 accomplish the necessary work of the board. The board may
37 authorize the administrator to make these appointments on its
38 behalf. Notwithstanding any other law, the personnel so appointed
39 shall not be county employees but shall become employees of the
40 retirement system, subject to terms and conditions of employment

1 established by the board of retirement, including those set forth in
2 memoranda of understanding executed by the board of retirement
3 and recognized employee organizations.

4 (b) Sections 31522.1 and 31522.2 shall not apply to a retirement
5 system that appoints personnel pursuant to this section.

6 (c) The retirement system that appoints personnel pursuant to
7 this section is a public agency for purposes of the
8 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
9 3500) of Division 4).

10 (d) The compensation of personnel appointed pursuant to this
11 section shall be an expense of administration of the retirement
12 system, pursuant to Section 31580.2, except as provided in Sections
13 31529.5, 31529.9, and 31596.1.

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

17 (f) The retirement system, upon the effective date of this section,
18 shall retain, for a 90-day transition employment period,
19 nonprobationary employees who, upon the effective date of this
20 section, were covered by a county memorandum of understanding
21 and employed by the county at the retirement system's facilities,
22 unless just cause exists to terminate the employees or legitimate
23 grounds exist to lay off these employees. If during the 90-day
24 period the retirement system determines that a layoff of these
25 employees is necessary, the retirement system shall retain the
26 employees by seniority within job classification. The terms and
27 conditions of employment of the employees retained pursuant to
28 this subdivision shall be subject to the terms and conditions
29 established by the applicable memoranda of understanding
30 executed by the board of retirement and the recognized employee
31 organizations. During the 90-day transition period, probationary
32 employees shall maintain only those rights they initially acquired
33 pursuant to their employment with the county.

34 (g) Subject to the employees' rights under the
35 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
36 3500) of Division 4), the retirement system, upon the effective
37 date of this section, shall recognize as the exclusive representative
38 of the employees retained pursuant to subdivision (f) the recognized
39 employee organizations that represented those employees when
40 employed by the county. The initial terms and conditions for those

1 employees shall be as previously established by the applicable
2 memoranda of understanding executed by the county and
3 recognized employee organizations.

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

5 (i) *This section shall apply to a retirement system established*
6 *under this chapter at the time that the board of retirement, by*
7 *resolution, makes this section applicable in that county.*

8 SEC. 6. Section 31528 of the Government Code is amended
9 to read:

10 31528. (a) Unless permitted by this chapter, a member or
11 employee of the board shall not become an endorser, surety, or
12 obligor on, or have any personal interest, direct or indirect, in the
13 making of any investment for the board, or in the gains or profits
14 accruing from those investments. A member or employee of the
15 board shall not directly or indirectly, for himself or herself, or as
16 an agent or partner of others, borrow or use any of the funds or
17 deposits of the retirement system, except to make current and
18 necessary payments authorized by the board.

19 (b) A member or employee of the board shall not, directly or
20 indirectly, by himself or herself, or as an agent or partner or
21 employee of others, sell or provide any investment product that
22 would be considered an asset of the fund, to any retirement system
23 established pursuant to this chapter.

24 (c) An individual who held a position designated in Section
25 31522.3, 31522.4, ~~or 31522.5~~, 31522.5, *or established pursuant*
26 *to Section 31522.75*, or was a member of the board or an
27 administrator, shall not, for a period of two years after leaving that
28 position, for compensation, act as agent or attorney for, or
29 otherwise represent, any other person except the county, by making
30 any formal or informal appearance before, or any oral or written
31 communication to, the retirement system, or any officer or
32 employee thereof, if the appearance or communication is made
33 for the purpose of influencing administrative or legislative action,
34 or any action or proceeding involving the issuance, amendment,
35 awarding, or revocation of a permit, license, grant, contract, or
36 sale or purchase of goods or property.

37 SEC. 7. Section 31529.9 of the Government Code is amended
38 to read:

39 31529.9. (a) In addition to the powers granted by Sections
40 31522.5, 31522.75, 31522.9, 31529, 31529.5, 31614, and 31732,

1 the board of retirement and the board of investment may contract
 2 with the county counsel or with attorneys in private practice or
 3 employ staff attorneys for legal services.

4 (b) Notwithstanding Sections 31522.5, 31522.7, 31522.75,
 5 31529.5, and 31580, the board shall pay, from system assets,
 6 reasonable compensation for the legal services.

7 (c) This section applies to any county of the 2nd class, 7th class,
 8 9th class, 14th class, 15th class, or the 16th class as described by
 9 Sections 28020, 28023, 28028, 28030, 28035, 28036, and 28037.

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

13 SEC. 8. Section 31535 of the Government Code is amended
 14 to read:

15 31535. The board may issue subpoenas and subpoenas duces
 16 tecum, and compensate persons subpoenaed. This power shall be
 17 exercised and enforced in the same manner as the similar power
 18 granted the board of supervisors in Article 9 (commencing with
 19 Section 25170) of Chapter 1, Part 2, Division 2; except that the
 20 power shall extend only to matters within the retirement board’s
 21 jurisdiction, and committees of the board shall not have this power.
 22 Reasonable fees and expenses may be provided for by board
 23 regulation for any or all of such witnesses regardless of which
 24 party subpoenaed them.

25 Subpoenas shall be signed by the chairman or secretary of the
 26 retirement board, except that the board may by regulation provide
 27 for express written delegation of its subpoena power to any referee
 28 it appoints pursuant to this chapter or to any administrator
 29 appointed pursuant to Section ~~31522.2~~, 31522.2, 31522.5, 31522.7,
 30 31522.9, or 31522.10.

31 Any member of the board, the referee, or any person otherwise
 32 empowered to issue subpoenas may administer oaths to, or take
 33 depositions from, witnesses before the board or referee.

34 SEC. 9. Section 31580.2 of the Government Code is amended
 35 to read:

36 31580.2. (a) In counties in which the board of retirement, or
 37 the board of retirement and the board of investment, have appointed
 38 personnel pursuant to Section 31522.1, 31522.5, 31522.7,
 39 31522.75, 31522.9, or 31522.10, the respective board or boards
 40 shall annually adopt a budget covering the entire expense of

1 administration of the retirement system which expense shall be
2 charged against the earnings of the retirement fund. The expense
3 incurred in any year may not exceed the greater of either of the
4 following:

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

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

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

AB 1853 – MODERNIZATION OF COUNTY RETIREMENT SYSTEM OPERATING AUTHORITY

AB 1853 would authorize the retirement boards that govern the twenty county public employee retirement systems operating under the County Employees' Retirement Law of 1937 (1937 Act or CERL) to modernize the operating authority structure for their system so that they can continue to fulfill their mission and meet the fiduciary responsibilities they owe to their stakeholders. County retirement systems are much larger and more complex than when they were established in the years following passage of the 1937 Act. The environment in which county retirement systems operate is also considerably more complex than when the retirement systems were first established. As a result, in many cases the operating authority structure established in 1937 is no longer effectively aligned with the duties of the retirement system. AB 1853 would address this disconnect between authority and responsibilities by allowing the retirement board to shift to one of three alternative operating authority structures within the 1937 Act. Changing from the retirement system's current operating authority structure would be permitted, but not mandated. The decision of which operating authority structure to use would be made by the retirement board based on the retirement board's fiduciary judgment of what is in the best interests of the participants of the retirement system.

What Does Operating Authority Mean?

The term 'operating authority' encompasses the wide array of decisions that must be made in administering 1937 Act retirement systems. The key decisions that present problems under the current operating authority structure are: (1) Establishing the appropriate staffing levels and staffing structure for the retirement system; (2) Establishing the appropriate job descriptions and duties for the necessary staff; and (3) Establishing the terms and conditions of employment of necessary staff, including appropriate levels and forms of compensation.

The 'default' operating authority structure for 1937 Act retirement systems is established via various provisions in the 1937 Act, many of which literally date from 1937. In the beginning, the retirement systems were small, simple operations within the County Treasurer and Tax Collector's office. At that time, and for a number of years after, the retirement systems had fewer members and lower levels of assets under management; the benefit plans and operating rules were simpler; and the financial markets were not as complex, sophisticated and global in nature. In that operating environment it made sense to have decisions such as those noted above be made through the same processes as those used for the rest of county government. This meant the county was deemed to be the employer of retirement system personnel and that final decisions regarding staffing levels, staff structure, job descriptions and duties, and compensation rested with the Board of Supervisors, implemented through salary resolutions and/or job classifications established under the county Civil Service structure.

Today, a 1937 Act retirement system is a very different entity. County retirement systems have evolved and grown into autonomous organizations, serving thousands of members, managing billions of dollars in assets, and operating a highly specialized business that is unique relative to the rest of county government. The retirement systems are staffed by knowledgeable pension professionals and governed by retirement boards that focus their expertise and experience on fulfilling the mission of the organization.

In recognition of this and the importance of having uncompromised decisions with respect to the long term obligations of the retirement system, in 1992 the voters approved an amendment to the California Constitution (Article XVI, Section 17), which placed both the fiduciary responsibility and the plenary authority for the administration of the retirement system on the governing retirement board. Consistent with this delegation of authority and grant of responsibility, the budget for the retirement system is established by the retirement board and the funding for that budget is drawn fully from the assets of the pension trust.

Unfortunately, however, the legacy operating authority structure under the 1937 Act has largely failed to keep up with these developments. Over time, certain key personnel at the retirement system were designated as employees of the system, with the retirement board setting the terms and conditions of employment, but the implementation of those decisions continues to require action by the Board of Supervisors. Similarly, broader decisions regarding staffing levels, staff structure, job descriptions and duties, and compensation made in the first instance by the retirement board continue to require implementation by the Board of Supervisors. In some cases, this has resulted in the fiduciary decisions of the retirement board not being implemented, complicating the ability of the retirement system to carry out its duties.

Given this situation, beginning in 2003, 1937 Act systems began efforts to gain a more modernized operating authority structure. The primary mechanism for achieving this was to make the retirement system a separate employer participating in the retirement system from the county, thereby making the retirement board the final decision maker and implementer of certain personnel matters.

How Has Operating Authority Evolved Under the 1937 Act?

The first system to establish a different operating authority structure within the 1937 Act was the Orange County Employees' Retirement System (OCERS).^{*} Under the OCERS operating authority model, the management personnel of OCERS are deemed to be employees of OCERS, and the OCERS Board establishes the positions and terms of employment for those positions.

In 2004, the San Bernardino County Employees' Retirement Association (SBCERA) obtained legislative approval to operate under the same operating authority model. Then, in 2006, SBCERA gained legislative approval of a new operating authority model, which expanded the category of SBCERA employees to those positions deemed to

require specialized retirement system knowledge or expertise, the practical effect of which was to allow virtually all SBCERA personnel to be SBCERA employees.

Between 2006 and 2012 efforts were initiated by other 1937 Act systems to follow a similar track as OCERS and SBCERA, but for various political reasons, those efforts were not successful.

Then, in 2012, the Contra Costa County Employees' Retirement Association (CCCERA) entered into litigation with Contra Costa County regarding the scope of CCCERA's operating authority. As part of the settlement of that litigation, legislation was approved that designated CCCERA as the employer of all personnel at CCCERA.

This was followed in 2015 by legislation giving the Ventura County Employees' Retirement Association (VCERA) operating authority over a set of identified executive management positions.

In sum, under the 1937 Act, there are now four models that re-allocate operating authority relative to the legacy 1937 Act structure, with the scope of that re-allocation increasing as follows: (1) The VCERA model; (2) The OCERS model; (3) The SBCERA model; and (4) The CCCERA model.

*The Los Angeles County Employees' Retirement Association (LACERA) has had an operating authority agreement with Los Angeles County for many years, under which the county recognizes the authority of the LACERA Board over the administration of the retirement system and further agrees to take any ministerial action necessary to implement the decisions made by the LACERA Board. As a result of this agreement, LACERA has not needed to pursue a change in operating authority under the 1937 Act.

What Would AB 1853 Do?

As reflected by the discussion above, the efforts to-date to obtain modernized operating authority have been made on a system-by-system basis. Those efforts were largely driven by the recognition by those systems that they had reached a 'tipping point,' where their size and the scope of their responsibilities required that operational decisions needed to be addressed in a different manner.

This perspective gained more wide spread acceptance with the passage of PEPRA. The drafters of PEPRA recognized that the new duties imposed on 1937 Act systems by PEPRA increased the potential conflicts of interest between the retirement systems and the dominant participating employer, the county. The drafters further recognized that the legacy operating authority model could be used to compromise the ability of a 1937 Act system to carry out its responsibilities. For that reason, early drafts of PEPRA authorized 1937 Act system retirement boards to shift to a different operating authority model. This change did not ultimately make it into the final version of PEPRA, but it continues to be viewed as a sensible measure to protect the ability of the 1937 Act retirement systems to carry out their duties.

AB 1853 addresses the growing realization that change in operating authority is necessary, widely desired across the 1937 Act systems, and will produce beneficial results for all the stakeholders of these systems. AB 1853 would remove the need for pursuing ongoing piecemeal modernization of operating authority by putting in place a standing mechanism for 1937 Act retirement boards to take such steps if and when they believe it is in the best interests of the participants in the system.

Under AB 1853 the individual system retirement boards can decide if they want to shift from their current operating authority model to one of the three main operating authority options in the 1937 Act – i.e., the OCERS, SBCERA or CCCERA operating authority structures. This decision would be at the discretion of each retirement board, with no approval or concurrence required by the county. At the same time, the retirement board is also free to coordinate/collaborate with the county in any such decision as it sees fit, and the retirement board is not required to change its operating authority model if it does not deem it advisable.

Flexibility rather than imposing a ‘one size fits all’ solution is a key component of AB 1853, with the right fit determined by each system. If systems are happy where they are, they can stay there. If systems want to change, there are options for how far they go, again contingent on what works best for their circumstances.

Another key component of AB 1853 is that the question of appropriate operating authority is not a ‘one and done’ decision. For example, a system can choose to start at the smaller end of the operating authority spectrum and then expand that authority if and when they believe it makes sense. This approach essentially allows a system to ‘test and verify’ that a change in operating authority works, and to be able to illustrate that as support for any subsequent increase in operating authority.

AB 1853 also contains various provisions that protect the rights of the retirement system personnel that would shift from being county employees to retirement system employees, including the right to be represented and the right to participate in any employee benefit plans and programs available to county employees.

What will Not Change Under AB 1853?

When the 1937 Act systems began to move out of the Treasurer/Tax Collectors’ office and become more autonomous, some people predicted that it would be disastrous. That did not happen then and, as evidenced by the experience in those systems that have already changed their operating authority model, will not happen now.

- The governance of the retirement systems will remain the same, with all the stakeholders having the same degree of representation and oversight as they have now. If a retirement board acts irresponsibly, the stakeholders can change its members.

- Transparency and accountability will not change. The 1937 Act contains a cap on administrative expenses, which will continue to be in effect. Meetings and records will still be public. Budgets will be public. Salaries will be public.
- Retirement board members will continue to be liable as fiduciaries for the decisions they make.

How will the Stakeholders of the Retirement System Benefit from AB 1853?

AB 1853 will allow the 1937 Act retirement systems to establish the staff structure and staffing levels necessary to successfully carry out their responsibilities. It will also enable the retirement system to attract and retain the skilled professionals necessary to successfully execute those responsibilities.

The ability to operate a more sophisticated investment program will benefit participating employers (and the taxpayers) through better investment returns and lower risk, resulting in lower employer cost. A stronger investment program will also benefit active members and retirees, by helping to maintain the funded status of the plan, thereby protecting their retirement security.

Appropriate staffing levels will benefit both employers and system participants through better customer service.

AB 1853 – MODERNIZATION OF COUNTY RETIREMENT SYSTEM OPERATING AUTHORITY

Summary

AB 1853 would authorize the retirement boards operating under the County Employees' Retirement Law of 1937 (CERL) to modernize the operating authority structure for their system so that they can continue to fulfill their mission and meet the fiduciary responsibilities they owe to their stakeholders.

Background

County retirement systems are much larger and more complex than when they were established in the years following passage of the 1937 Act. Unfortunately, the legacy operating authority structure under the 1937 Act has largely failed to keep up with these developments. Over time, key personnel at the retirement system were designated as employees of the system, with the retirement board setting the terms and conditions of employment, but the implementation of those decisions continues to require action by the Board of Supervisors. Similarly, broader decisions regarding staffing levels, staff structure, job descriptions and duties, and compensation made in the first instance by the retirement board continue to require implementation by the Board of Supervisors. In some cases, this has resulted in the fiduciary decisions of the retirement board not being implemented, complicating the ability of the retirement system to carry out its duties.

Given this situation 1937 Act systems began efforts to gain a more modernized operating authority structure. The primary mechanism for achieving this was to make the retirement system a separate employer participating in the retirement system from the county, thereby making the retirement board the final decision maker and implementer of certain personnel matters.

How Has Operating Authority Evolved Under the 1937 Act?

Orange County Employees' Retirement System (OCERS). Under the OCERS operating authority model, the management personnel of OCERS are deemed to be employees of OCERS, and the OCERS Board establishes the positions and terms of employment for those positions.

San Bernardino County Retirement System. In 2004 and again 2006, SBCERA gained legislative approval of a new operating authority model, the practical effect of which was to allow virtually all SBCERA personnel to be SBCERA employees.

Contra Costa County Employees' Retirement Association. CCCERA entered into litigation with Contra Costa County regarding the scope of CCCERA's operating authority. As part of the settlement of that litigation, legislation was approved that designated CCCERA as the employer of all personnel at CCCERA.

Ventura County Employees Retirement System. In 2015, VCERA was granted operating authority over a set of identified executive management positions.

What Would AB 1853 Do?

- Creates flexibility rather than imposing a 'one size fits all' solution to system governance.
- Allow individual system retirement boards to decide if they want to shift from their current operating authority model to one of the three options (OCERS, SBCERA or CCCERA);
- Remove the need for pursuing ongoing piecemeal modernization of operating authority by putting in place a standing mechanism for system's to adopt;
- Continue to protect the rights of the retirement system personnel that would shift from being county employees to retirement system employees (e.g. the right to be represented, right to participate in any employee benefit plans and programs available to county employees).
- The governance of the retirement systems will remain the same, with all the stakeholders having the same degree of representation and oversight as they have now. If a retirement board acts irresponsibly, the stakeholders can change its members.
- Transparency and accountability will not change. The 1937 Act contains a cap on administrative expenses, which will continue to be in effect. Meetings and records will still be public. Budgets will be public. Salaries will be public.
- Retirement board members will continue to be liable as fiduciaries for the decisions they make.