Declining Employer Payroll Policy

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

I. Purpose and Background

An ACERA participating employer may experience an actual or anticipated material decline in the payroll attributable to its ACERA active members (ACERA-covered payroll). This Policy establishes guidelines to ensure that such an employer will satisfy its obligation to pay all unfunded actuarial accrued liability (UAAL) that are fairly attributable to the employer. The Board of Retirement (Board) may deviate from this Policy as the Board determines is appropriate under existing circumstances.

II. Background and Objectives

A. As a general rule, ACERA determines employers' contribution obligations for UAAL by applying a contribution rate determined by ACERA's actuary to the employer's ACERA-covered payroll (the percentage-of-payroll methodology). For employers whose payrolls are generally consistent with ACERA's actuarial assumptions regarding payroll growth, the percentage-of-payroll methodology is appropriate. For employers whose ACERA-covered payroll is declining or is expected to decline materially over time, the percentage-of-payroll methodology may not be the appropriate means of collecting employer contributions owed to ACERA. The objectives of this Policy are to (i) ensure equitable and adequate funding of UAAL in cases involving employers with materially declining payrolls, (ii) approve procedures for identifying employers who should be subject to this Policy, and (iii) approve a different methodology for determining any UAAL attributable to such employers and setting the amount and schedule of the contributions needed to fund such UAAL.

B. The objectives of this Policy also are to ensure compliance with County Employees Retirement Law of 1937 (Gov. Code §31450 et seq.), the Public Employees' Pension Reform Act of 2013 (Gov. Code §§7522-7522.74), and other applicable law. Pursuant to Gov. Code §§7522.52, 31453.5, 31454.7, 31581, 31582, 31584, 31585, 31586, 31611, and other applicable law, a participating employer remains liable, and must make the required appropriations and transfers to ACERA for the participating employer's share of liabilities.

C. It is the Board's intent to allow an employer covered by this Policy to satisfy its funding obligation in a manner that provides the employer reasonable flexibility, but primary consideration will be given to ensuring the adequacy of the assets attributable to the employer to satisfy the employer's funding obligations. This may require redetermination of the funding obligations of the employer.

III. Policy Procedures and Guidelines

Unless otherwise approved by the Board, the procedures and guidelines for implementing this Policy are set forth below.

A. Commencement of Coverage – Triggering Events

1. This Policy covers only those employers for whom the Board determines, based on a recommendation from ACERA's CEO, a triggering event as described in this section has occurred and who are not excluded from coverage under this Policy as described below.

2. Triggering event resulting from ceasing to enroll new hires. Some ACERA participating employers cease to enroll new hires with ACERA but for some time continue to have at least some employees maintaining their status as active ACERA members. These employers' ACERA-covered payroll will eventually diminish to zero as their active employees retire or otherwise terminate employment. Examples of employers in this category may include an employer that is acquired by another entity that is not an ACERA participating employer, or an ACERA employer that covers some of its employees through another pension system such as CalPERS or a 401(k) plan.

   a. Triggering event resulting from a material and permanent reduction in ACERA-covered payroll. Some employers may experience a material reduction in their ACERA-covered payroll, but continue to enroll their new hires in ACERA. The reduction may be sudden (e.g., due to a discrete event such as a partial loss of funding, or partial outsourcing), or it may be more gradual, over a period of years, and might not be tied to a discreet event. Generally, the Board would determine that this type of triggering event has occurred only if the Board expects that the reduction in employer's ACERA-covered payroll is expected to be permanent or with no reasonably foreseeable end.

B. Exclusions from Coverage; Terminations of Coverage

1. This Policy covers only those employers which are (a) financially-viable entities when a triggering event occurs, and (b) which ACERA expects to continue indefinitely thereafter to be financially-viable entities.

2. Participating employers covered by this Policy will have UAAL funding obligations for several years. If concerns arise during that time regarding the employer's ongoing existence as a financially-viable entity, the Board may take any measures available to ensure the employer meets its obligations such as assessing the projected entire amount of the employer's UAAL (as recommended by the fund's actuary and approved by the Board) using a lower discount rate and payable in a single sum immediately due.

C. Procedures

1. The CEO will work with ACERA staff and actuary, and ACERA's participating employers to obtain the information (e.g., ACERA-covered payroll history, financial reports) needed for the Board to apply this Policy and the CEO will report to the Board, at least annually, regarding these activities.

2. Upon a recommendation from the CEO and notice to the affected participating employer, the Board will determine (i) whether a triggering event has occurred for the employer, (ii) whether the employer should be excluded from coverage under this Policy, and (iii) for those employers that the Board has previously determined to be covered under the Policy, whether their coverage should be terminated. Employers may be required to provide ACERA with updated employee census and payroll data and financial reports. See Gov. Code §31543.

3. If the Board determines that a triggering event has occurred and the employer is not excluded from coverage under the Policy, then, solely for purposes of determining the covered employer's UAAL contribution obligation, ACERA will segregate on its books all assets and liabilities attributable to the employer based upon the recommendation of ACERA's actuary, and shall maintain such separate accounting for the employer until all of the participating employer's obligations to ACERA have been fully satisfied.

4. ACERA's actuary will determine, and certify to the Board the covered employer's funding obligation for its initial UAAL based on the employer's actuarial accrued liability (AAL) including inactive members, when determinable. The Board may use other methodologies to determine liability as recommended by its actuary. The Board may require the employer's contributions to be paid in level, fixed-dollar amounts over a period the Board determines appropriate.

5. The actuary will use the actuarial valuation performed for ACERA as of the end of the calendar year immediately prior to the calendar year in which the triggering event occurs (and based on all ACERA's then current actuarial assumptions and

methodologies) to determine the initial valuation value of assets (VVA), a smoothed value, allocated to the covered employer. That initial VVA will be a pro-rata allocation based on the employer's AAL (i.e., based on the employer's initial UAAL allocation). Later values of the VVA (i.e., those used in the future valuations described below) shall be determined by rolling forward the initial VVA, adding contributions, deducting benefit payments, and crediting earnings at the actual smoothed (VVA) earnings rate on total ACERA assets.

6. Annually, after the determination of the covered employer's initial funding obligation, as part of the regular annual actuarial valuation of the plan, ACERA's actuary will measure any change in the UAAL of the participating employer due to actuarial experience or changes in actuarial assumptions. In addition to the amortized payments for the covered employer's initial UAAL funding obligation determined as of the initial valuation, the employer will be liable for, and must contribute to ACERA, any such new UAAL determined as of subsequent valuations, based upon an amortization schedule recommended by the actuary and adopted by the Board of Retirement. ACERA will hold any negative UAAL (Surplus) to be applied against any future UAAL of the covered employer.

7. If any Surplus remains after the covered employer has satisfied all its UAAL obligations (Final Surplus), ACERA will account for the Final Surplus in accordance with the terms of applicable law.

8. The Board reserves the right to pursue any other legal remedies that to "ensure the actuarial soundness of the retirement system" (CERL §31564.2(d)) and ensure that "the county and districts shall each remain liable to the retirement system for their respective share of any unfunded actuarial liability of the system, as determined by the board" (CERL §31454.7).

IV. Policy Review

The Operations Committee will review this Policy at least every three years to ensure that it remains relevant and appropriate.

V. Policy History

A. The Board adopted this Policy on October 18, 2018.

B. The Board revised this Policy on October 21, 2021 and September 19, 2024.