



March 4, 2015

To: Members of the Operations Committee
From: Dale Amaral, Chair
Subject: Summary of the March 4, 2015 Operations Committee Meeting

Operations Committee Chair Dale Amaral called the March 4, 2015 Operations Committee Meeting to order at 9:35 a.m. Committee members present were Dale Amaral, Chair, Supervisor Keith Carson, Tarrell Gamble, and Liz Koppenhaver. The other Board members present were Elizabeth Rogers and alternate member David Safer. Staff present were Kathy Foster, Interim Chief Executive Officer; Joseph Fletcher, Chief Counsel, Marguerite Malloy, Associate Counsel; Betty Tse, Chief Investment Officer; Margo Allen, Fiscal Services Officer; Latrena Walker, Project and Information Services Manager; Victoria Arruda, Human Resources Director; and Harsh Jadhav, Chief of Internal Audit.

ACTION ITEM

1. Discussion and possible motion regarding an appeal of ACERA's decision to reject submittal in connection with the member's application for service connected disability

Trustee L. Koppenhaver recused herself from the discussion.

Kathy Foster, Interim Chief Executive Officer, briefly explained that after staff's review of member, John Payne's application and records provided, staff deemed the application incomplete as there were no medical records to support that Mr. Payne was permanently and continuously disabled as of his last day of service. She also read aloud California Government Code Section 31722 of Article 10 Disability Retirement, pointing out that the application was not filed within the parameters indicated within it. She then introduced Mr. Payne and his attorneys, Mr. Dan Maguire and Mr. Paul Cummins and invited them to present Mr. Payne's appeal.

Mr. Maguire presented Mr. Payne's case to the Operations Committee, and Mr. Payne was provided the opportunity to explain his account of the situation and events leading up to filing for a disability retirement.

Marguerite Malloy, Associate Counsel, explained that ACERA's Disability Retirement Procedures and the County Employees' Retirement Law of 1937, as amended require that *competent medical evidence* be provided in determining whether a member is eligible for disability retirement.

After a brief discussion, Trustee Rogers moved and Trustee Safer seconded the motion that the Operations Committee recommends to the Board of Retirement that the Board deny John Payne's appeal of staff's decision to reject his submittal in connection with his application for service connected disability without prejudice, due to a finding that the information does not satisfy the

requirements of the ACERA's Disability Retirement Procedures, because it does not establish the member was permanently incapacitated for service as required by GC 31722.

The motion carried 5 yes (*Amaral, Carson, Gamble, Rogers, Safer*), (*Koppenhaver recused*), 0 no, 0 abstentions.

2. Discussion and possible motion to adopt the updated Signatory Authority for contract execution

Kathy Foster, Interim Chief Executive Officer, reported that since Vincent Brown is no longer the Chief Executive Officer, staff recommends that the Interim Chief Executive Officer be given the authority to sign contracts for annual expenditures greater than \$100,000.

Additionally, since Rose Kwong, Benefits Manager, has retired, staff recommends that Sandra Dueñas-Cuevas, the provisionally appointed Benefits Manager, be given authority to sign contracts for the Benefits Department for annual expenditures up to \$50,000.

Trustee Rogers moved and Trustee Koppenhaver seconded the motion that the Operations Committee recommends to the Board of Retirement that the Board adopts the revised signatory authority criteria for contract execution to remain in effect until the appointment of the next Chief Executive Officer.

The motion carried 5 yes (*Amaral, Carson, Gamble, Koppenhaver, Rogers*), 0 no, 0 abstentions.

3. Discussion and possible motion to approve a New Pay Item – Pay Code 41C for Alameda County

Kathy Foster, Interim Chief Executive Officer, presented a request from the County of Alameda to review a new pay item for Team Leader– District Attorney's Office (DA) – Code 41C to determine whether it meets the criteria of compensation earnable and pensionable compensation.

After staff's evaluation, it was determined that since Pay Code 41C applies to more than one (1) member in this classification, it will be considered pensionable compensation for members (PEPRA members) with entry dates on or after January 1, 2013 based on Government Code Section 7522.34 and compensation earnable for members (legacy members) with entry dates prior to January 1, 2013 based on Government Code Section 31461.

It was moved by Trustee Koppenhaver and seconded by Trustee Rogers that the Operations Committee recommends to the Board of Retirement that it approves the inclusion of pay item 41C-Team Leader (DA) as compensation earnable and pensionable compensation for members with entry dates before and on or after January 1, 2013.

The motion carried 5 yes (*Amaral, Carson, Gamble, Koppenhaver, Rogers*), 0 no, 0 abstentions.

4. Discussion and possible motion to approve a New Pay Item – Pay Code 41D for Alameda County

Kathy Foster, Interim Chief Executive Officer, presented a request from the County of Alameda to review new pay item – Inspections of Tracks/others – Code 41D to determine whether it meets the criteria of compensation earnable and pensionable compensation.

After staff's evaluation, it was determined that since Pay Code 41D applies to more than one (1) member in this classification, it will be considered pensionable compensation for members (PEPRA members) with entry dates on or after January 1, 2013 based on Government Code Section 7522.34 and compensation earnable for members (legacy member) with entry dates prior to January 1, 2013 based on Government Code Section 31461.

It was moved by Trustee Koppenhaver and seconded by Trustee Gamble that the Operations Committee recommends to the Board of Retirement that it approves the inclusion of pay item 41D- Inspections of Tracks/Others as compensation earnable and pensionable compensation for members with entry dates before and on or after January 1, 2013.

The motion carried 5 yes (*Amaral, Carson, Gamble, Koppenhaver, Rogers*), 0 no, 0 abstentions.

INFORMATION ITEMS

1. Operating Expenses – Budget vs Actual as of January 31, 2015

Margo Allen, Fiscal Services Officer, presented the year-to-date operating expenses – budget vs. actual. As of January 31, 2015 operating expenses are \$212,202 under budget.

2. Update on Potential Change in Date and Time of Committee Meetings

Kathy Foster, Interim Chief Executive Officer, reported on the results of a survey requesting feedback on considerations and concerns regarding the possible change in the regular dates and times of the committee meetings. Ms. Foster noted that the majority was to keep the current committee schedule.

RECOMMENDATIONS

- 1.** The Committee recommends, and I move that the Board of Retirement deny John Payne's appeal of staff's decision to reject his submittal in connection with his application for service connected disability without prejudice, due to a finding that the information does not satisfy the requirements of the ACERA's Disability Retirement Procedures, because it does not establish the member was permanently incapacitated for service as required by GC 31722.
- 2.** The Committee recommends, and I move that the Board of Retirement adopt the revised signatory authority criteria for contract execution to remain in effect until the appointment of the next Chief Executive Officer.
- 3.** The Committee recommends, and I move that the Board of Retirement approve the inclusion of pay item 41C – Team Leader (DA) as compensation earnable and pensionable compensation for members with entry dates before and on or after January 1, 2013.
- 4.** The Committee recommends, and I move that the Board of Retirement approve the inclusion of pay item 41D – Inspections of Tracks/Others as compensation earnable and pensionable compensation for members with entry dates before and on or after January 1, 2013.

ADJOURNMENT INTO CLOSED EXECUTIVE SESSION

Pursuant to Government Code §54956.9(a) the meeting adjourned at 10:17 a.m. into Closed Executive Session to confer with legal counsel regarding pending litigation in the matter of:

- (1) Alameda County Employees' Retirement Association v. BP PLC, Case No. 4:12-CV-1256; and
- (2) Trustees of the Mineworkers' Pension Scheme Limited and Others v The Royal Bank of Scotland Group plc – HC12D01192

RETURN TO OPEN SESSION

The Committee reconvened into open session at 10:37 a.m. and reported that no action was taken.

TRUSTEE/PUBLIC INPUT

ESTABLISHMENT OF NEXT MEETING DATE

The next meeting is scheduled for April 1, 2015 at 9:30 a.m.

MEETING ADJOURNED

The meeting adjourned at 10:35 a.m.