



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

475 14<sup>th</sup> Street, Suite 1000, Oakland, CA 94612-1900

Telephone (510) 628-3000 or 1-800-838-1932

Fax (510) 268-9574

# Termination Election of Membership Form

Website: [www.acera.org](http://www.acera.org)

## PART I – MEMBER INFORMATION (Please Print)

Name: \_\_\_\_\_ Employee ID: \_\_\_\_\_ SSN: \_\_\_\_\_ - \_\_\_\_\_

Job Title: \_\_\_\_\_ Department: \_\_\_\_\_

Address/City/ \_\_\_\_\_

State/ZIP: \_\_\_\_\_

Birth Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Any Other Names Used: \_\_\_\_\_

Phone Number: ( ) - \_\_\_\_\_ Email Address: \_\_\_\_\_

Marital Status: Single:  Married:  Divorced  Widowed  State Registered Domestic Partner

## PART II – ELECTION OF MEMBERSHIP

- ❖ Upon separation of employment, one of the following options is available:
  - A. You may elect to defer membership and leave your contributions on deposit. To defer your membership, complete Section A–Defer Membership, by checking the box.
  - B. You may defer membership and establish reciprocity if you are accepting employment with an employer covered by a reciprocal retirement system, provided membership in the agency begins within 6 months of your separation date. To elect reciprocity, complete Section B – Reciprocity Election by checking the box. Indicate the reciprocal agency and effective employment date. You will receive a letter with your reciprocal status upon our verification of eligibility.
  - C. You may terminate your membership in ACERA and receive a refund of your contributions. To receive a refund of contributions, complete Section C – Withdraw (Refund) Contributions. If you are rolling over your funds, please review the attached IRS notice detailing your rollover rights. Upon verification of termination and receipt of final payroll/contribution information from your employer, if applicable, your refund will be processed with the next available check run. Please note that refunds cannot be processed until this information is received. Generally, this process takes 6 to 8 weeks from your separation date or ACERA's receipt of your request, whichever is later.
- ❖ To be eligible to elect a refund, you must be permanently separating from all employment covered by ACERA. If you indicate that the refund is to be rolled over, the payee on, the check will not be you, but will be the trustee (bank or brokerage firm) of the account. It is your responsibility to provide accurate information on the institution intended to receive a rollover distribution. ACERA will not check to see if this information is correct or verify that the account is open.

### SECTION A – DEFER MEMBERSHIP

➤ **DEFER MEMBERSHIP:**

I elect to defer membership and leave accumulated contributions on deposit. (Generally, members with less than 5 years of credited service will not be entitled to a retirement benefit other than a refund of contributions and interest, if applicable, of their account balance). There are certain circumstances; however, that would allow a member with less than five years of service to be eligible for a retirement benefit. 1) If a member is age 70, 2) Re-enter and becomes vested, 3) Purchase service credit to become vested or 4) Establishes irrevocable reciprocity with reciprocal agency.

MEMBER SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**Section B – Reciprocity Election**

- I am accepting employment with an employer covered by a reciprocal retirement system, which will begin within 6 months of my separation date. I want to irrevocably establish reciprocity and understand that:
  - I must leave my accumulated contributions and interest, if applicable, on deposit.
  - If I elect irrevocable reciprocity, I may not receive a higher benefit than what I would have earned had all service been worked under one retirement system. If I apply for and am granted disability retirement benefit from one system, in some cases one system may pay the entire benefit. Under these circumstances, the other system, by law, cannot pay a benefit. This includes any refund of employee contributions and interest.
  - I must establish membership within 6 months(180 days) with another reciprocal agency(or 365 days after layoff) I understand that if reciprocity is not established at this time, I will not be able to establish reciprocity at a later date.

➤ Please provide information regarding the reciprocal retirement system below

Reciprocal Retirement System: \_\_\_\_\_ Date of Employment: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

MEMBER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**Section C – Withdraw (Refund) Contributions**

*Please read the attached Withdrawal Information Sheet and 402(f) Special Tax Notice before submitting this form.*

- By electing a refund, this **refund** will terminate your membership in ACERA and you will not be eligible for any future retirement benefits.
  - I elect to **terminate** my membership in ACERA and receive a refund of my total accumulated contributions and interest, if applicable. When paying refunds, ACERA is required by law to withhold federal tax from taxable contributions and interest, if applicable. State law requires taxes to be withheld unless you elect taxes not be withheld. Federal tax withholding is 20% of taxable amount. State tax is 10% of the federal tax withholding, i.e. 2% of total taxable distribution. If you do not want to have state taxes withheld from your refund, complete Section C on page 2 of this form.
  - I elect to terminate my membership in ACERA and **rollover\*** my eligible accumulated contributions and interest, if applicable, to the institution or plan designated below. (Any post-tax contribution paid into ACERA pre-1985 and post-tax lump sum purchases will be paid directly to you).
  - I elect to terminate my membership in ACERA and receive a refund of \$\_\_\_\_\_ and **rollover\*** the balance of my eligible contributions to the institution or plan designated below.

**\*IF YOU HAVE ELECTED A ROLLOVER OR PARTIAL ROLLOVER, YOU MUST COMPLETE THIS SECTION**

Name of Institution: \_\_\_\_\_

Address of Institution: \_\_\_\_\_

IRA Account Number or Plan Number: \_\_\_\_\_

**STATE & FEDERAL TAX NOTICE:**

When paying refunds, ACERA is required by law to withhold federal tax from taxable contributions and interest, if applicable. Federal tax withholding is 20% of taxable amount. State tax is 10% of the federal tax withholding, i.e. 2% of total taxable distribution. Federal tax withholding is mandatory.

State law requires taxes to be withheld unless you elect taxes not be withheld. If you do not want to have state taxes withheld from your refund, please indicate by checking the box and signing below.

- DO NOT** withhold state tax from my refund
- Yes, withhold state tax from my refund

**Note:** If neither box is checked, ACERA will withhold state taxes.

MEMBER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**WAIVER OF RIGHTS:** I am aware of my service and disability retirement rights under ACERA. Despite my knowledge of these rights, I hereby WAIVE all rights to any future retirement benefits, in order to take this refund of contributions and interest, if applicable. I further understand that my tax-deferred contributions are subject to income tax withholding unless rolled over. I further understand that my request for a refund will be processed within 6 – 8 weeks from ACERA's receipt of this completed form or my separation date, whichever is later.

I understand that if there is a pending administrative appeal, grievance hearing arbitration reinstatement/settlement concerning my employment and if I withdraw contributions and interest at any time prior to reinstatement or return to employment status with my former employer, I will be required to make an irrevocable election regarding redeposit of the accumulated contributions plus applicable interest.

Are you aware of any pending administrative appeal, arbitration/settlements? Yes:  No:

I have been provided a copy of California Government Code Sections 7522.70, 7522.72, and 7522.74, which require, among other things, notice of conviction of certain felonies, and forfeiture of contributions made on or after the commission of the felony, and forfeiture of all accrued rights and benefits in the public retirement system effective the date of the conviction.

MEMBER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**PART III – SPOUSAL/DOMESTIC PARTNER RELEASE**

❖ One of the following two sections must be completed if you have elected a withdrawal (refund) of contributions.

**SECTION A - SIGNATURE OF MEMBER SPOUSE**

- I am the spouse or state-register domestic partner of the ACERA member who is submitting this *Termination Election of Membership Form*. By signing below, I hereby acknowledge that I am informed about this form and its election.

Name of Spouse/State-Registered Domestic Partner, please print: \_\_\_\_\_

Signature of Spouse/ State-Registered Domestic Partner: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**SECTION B - DECLARATION OF REASON FOR ABSENCE OF SPOUSE'S SIGNATURE**

- Pursuant to Government Code Section 31760.3 the member's current spouse/State-Registered Domestic Partner must be made aware of the selection of benefits or change in beneficiary made by the member. The spouse/State-Registered Domestic Partner of an ACERA member must acknowledge the submission of a request for a refund of contributions; election of retirement optional settlement; and designation of beneficiary for pre-retirement death benefits. If a spouse's/State-Registered Domestic Partner signature does not appear, the following information must be completed by the member and submitted.

➤ I declare under penalty of perjury under the laws of the State of California that: (Check one)

- I am not married.
- My current spouse/State-Registered Domestic Partner has no identifiable community property interest in any ACERA benefits earned through my employment.
- I do not know and have taken reasonable steps to determine the whereabouts of my current spouse/ State-Registered Domestic Partner.
- My current spouse/State-Registered Domestic Partner has been advised of my election and has refused to sign the written acknowledgement.
- My current spouse/State-Registered Domestic Partner is incapable of executing the written acknowledgement because of an incapacitating mental physical condition.
- My current spouse/State-Registered Domestic Partner and I have executed a marriage settlement agreement pursuant to California Family Code §§1500 – 1620 that makes the community property law inapplicable to our marriage.
- I am widowed: Date of Marriage: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ Place of Death (County) \_\_\_\_\_

Name of deceased spouse/State Registered Domestic Partner: \_\_\_\_\_

➤ I declare under penalty of perjury that the foregoing information is true and correct.

MEMBER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

## WITHDRAWAL REQUEST INFORMATION SHEET

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➤ IT IS STRONGLY ENCOURAGED THAT YOU SEEK THE PROFESSIONAL GUIDANCE OF YOUR TAX CONSULTANT.

### A. MEMBERS WHO ELECT TO LEAVE CONTRIBUTIONS ON DEPOSIT VESTED VS. NON-VESTED

#### • VESTED MEMBERS (5 OR MORE YEARS OF SERVICE)

You may elect to leave your retirement funds with ACERA and defer your retirement benefits. If you defer your retirement, you can apply for retirement benefits upon reaching age 50 and after 10 years in membership, or upon attaining age 70. If you are a safety member, you may apply for your benefit at the time when you would have earned 20 years of service or upon reaching age 50 and 10 years of membership in ACERA, whichever is sooner. Also, if you defer and subsequently return to covered employment, you will return at your original entry age and tier status. Members who elect to defer their retirement will continue to earn interest, if applicable, on their contributions and may subsequently withdraw their retirement contributions and interest, if applicable, by submitting this *Termination Form*. Service credit is not earned while in deferred membership status.

#### • NON-VESTED MEMBERS (LESS THAN 5 YEARS)

If you have less than five years and elect to leave your contributions on deposit, generally, you will be only eligible to receive the balance of your contributions and interest, if applicable, at any time you choose to have your funds disbursed. Leaving your contributions on deposit will usually not result in attaining retirement benefit eligibility. There are certain circumstances, however, that could allow a non-vested member to become eligible for a retirement benefit such as; becoming age 70, re-entering membership and earning enough service to become vested, establishing reciprocity (see reciprocity section), or purchasing available service credit to become vested. Also, if you defer and subsequently return to covered employment, you will return at your original entry age and tier status. Members who elect to defer their retirement will continue to earn interest, if applicable, on their contributions and may subsequently withdraw their retirement contributions and interest, if applicable, by submitting this *Termination Form*. Service credit is not earned while in deferred membership status.

#### • MEMBERS WITH A MEMBERSHIP DATE OF ENTRY ON OR AFTER JANUARY 1, 2013

Based on changes in the law effective January 1, 2013, certain new members with entry dates on or after January 1, 2013 are Tier 4 members. Your retirement plan membership and contribution rate also depends on whether you are a Safety or General member. Safety members work in active law enforcement or positions that have been designated as Safety by the Board of Retirement. General members are employees in all other eligible positions.

Tier 4 members may elect to defer membership and leave the funds on deposit with ACERA. If you defer your retirement as a Tier 4 member you are eligible to retire at age 52 with 5 years of service as a general member. Safety members are eligible to retire at age 50 with 5 years of service. If you have less than five years and elect to leave your contributions on deposit, generally, you will be only eligible to receive the balance of your contributions and interest. Leaving your contributions on deposit will usually not result in attaining retirement benefit eligibility. There are certain circumstances, however, that could allow a non-vested member to become eligible for a retirement benefit such as; becoming age 70. Also, if you return and subsequently return to covered employment, you will return at your original entry age and tier status. Members who elect to defer their retirement will continue to earn interest, if applicable. Member may also withdraw their retirement contributions and interest by submitting a Termination Election of Membership Form.

#### • MEMBERS WHO ELECT RECIPROCITY (TRANSFER TO A RECIPROCAL AGENCY)

As a member of ACERA, accepting covered employment with one of the reciprocal retirement systems listed below, you will have certain rights if you enter that employment within 6 months after leaving your ACERA covered employment and leave your retirement funds with ACERA. These rights include continuation of basic death and disability benefits; service under all systems will be added together to determine eligibility for benefits; contribution rates in the reciprocal system may be based on your age when you first entered ACERA rather than your current age; and final compensation used to determine your retirement benefits from ACERA will be the highest income earned under either of the linked systems, provided that you retire from the systems at the same time. Contributions you have elected to leave on deposit with ACERA may not be withdrawn while you remain in employment covered by one of the reciprocal systems. Once reciprocity is established, it may not be broken without significant consequences. If you elect reciprocity, keep in mind that you may not receive a higher benefit than what you would have earned had all service been worked under one retirement system. If you apply for and are granted a disability retirement benefit from one system, in some cases one system may pay the entire benefit. Under these circumstances, the other system, by law, cannot pay a benefit. This includes any refund of employee contributions and interest. Please contact ACERA (510-628-3000) for further information regarding reciprocity.

#### Reciprocal Systems

Other 1937 Act County Systems and their affiliated Districts: Contra Costa; Fresno; Imperial; Kern; Los Angeles; Marin; Mendocino; Merced; Orange; Sacramento; San Bernardino; San Diego; San Joaquin; San Mateo; Santa Barbara; Sonoma; Stanislaus; Tulare; Ventura.  
PERS (Public Employees' Retirement System), STRS (State Teachers' Retirement System), JRS (Judges' Retirement System), City and County of San Francisco

Any retirement system that has reciprocity with PERS, except UCRS (University of California Retirement System).

## **B. MEMBERS WHO ELECT TO WITHDRAW THEIR RETIREMENT**

Upon terminating your employment, you can terminate your membership and withdraw your contributions and interest, if applicable, from ACERA. By requesting a withdrawal of your retirement contributions and terminating your membership in ACERA, you will be waiving and giving up any rights to retirement benefits, which you might have been able to claim if you had remained a member. If you believe that you are disabled, either from your employment or you have a disability that is not job connected but still prevents you from working, by withdrawing your funds from ACERA you will be giving up the right to apply for disability retirement benefits. You must apply for disability benefits within four months of termination of your employment. ACERA staff is available at (510) 628-3000 to explain the nature and extent of retirement and disability benefits available to you, if you desire.

### **• LUMP SUM WITHDRAWALS**

This information is important in your decision of how to receive your retirement benefits from ACERA

A retirement refund from ACERA that is eligible for "rollover" can be withdrawn in three ways. You can have your payment (1) paid to you; or (2) paid in a "direct rollover"; or (3) combination of direct rollover and payment to you. A rollover is a payment of your ACERA retirement funds to your individual retirement account (IRA) or to another employer's retirement plan or another eligible plan. The choice you make will affect the tax and/or penalties you will owe on your withdrawal. The term "IRA", as used in this notice, includes individual retirement accounts and individual retirement annuities.

### **• IF YOU CHOOSE TO HAVE YOUR FUNDS PAID TO YOU**

- Any previously taxed (post-tax) contributions will be refunded directly to you without any withholding.
- ACERA is required by law to withhold 20% of the taxable refund and send it to the IRS as income tax withholding to be credited against your income taxes.
- ACERA is required by law to withhold 10% of the federal tax withheld (i.e. 2% of the total taxable distribution) for state tax withholding unless you elect to not have state tax withheld.
- You can roll over the payment by paying to an IRA or another eligible plan that accepts rollovers, within 60 days of receiving the refund. The amount rolled over will not be taxed until you take it out of the IRA or employer plan.

### **• PAYMENTS THAT CAN AND CANNOT BE ROLLED OVER**

Payments from ACERA may qualify for "eligible rollover distribution". This means that they can be rolled over to an IRA (Individual Retirement Account) or to another employer plan that accepts rollovers. ACERA staff can tell you what portion of your payment is an eligible rollover distribution. In general, only the "taxable portion" (contributions made on a pre-tax basis) of your retirement refund is an eligible rollover distribution. Employee contributions made on an "after-tax" (post-tax) basis are non-taxable when they are refunded to you, and therefore ineligible for roll over. Prior to January 1, 1985, employee contributions were made on an "after-tax" (post-tax) basis. Lump sum cash payments (excluding payments made by rollover) for re-deposits, and purchases of service are also considered "after-tax" (post-tax) contributions.

### **• DIRECT ROLLOVER**

You can choose a direct rollover of all or any portion of your pre-tax contributions as an "eligible rollover distribution," as described above. In a direct rollover, the eligible rollover distribution is paid directly from ACERA to an IRA or other employer plan that accepts rollovers.

### **• IF YOU CHOOSE A DIRECT ROLLOVER**

- Your payment will be made directly to your IRA, to another employer plan that accepts rollovers, or another eligible plan.
- Pre-tax contributions, which are "rolled over" into an eligible IRA or employer plan, are not taxable until you withdraw those funds out of the IRA or the employer plan.
- The amount of the rollover will only include contributions made on a pre-tax basis and exclude your post-tax contributions. Your post-tax contributions will be refunded directly to you.

## **SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS AND FEDERAL INCOME TAX**

This notice explains how you can continue to defer federal income tax on your retirement savings in the Alameda County Employees' Retirement Association ("ACERA" or "Plan") and contains important information you will need before you decide how to receive your Plan benefits. This notice summarizes only the federal (not state or local) tax rules that might apply to your payment. Other tax rules apply for California.

You are receiving this notice because all or a portion of a payment you are receiving from ACERA is eligible to be rolled over to an IRA, Roth IRA, or an eligible employer plan. A rollover is a payment by you or ACERA (your "Plan Administrator") of all or part of your benefit to another plan or IRA that allows you to continue to postpone taxation of that benefit until it is paid to you. This notice is intended to help you decide whether to do such a rollover.

Rules that apply to most payments from a plan are described in the "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section.

## General Information About Rollovers

### *How can a rollover affect my taxes?*

You will be taxed on a payment from the Plan that is eligible for rollover (see "*How much may I roll over?*") if you do not roll it over. If you are under age 59½ and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (unless an exception applies). However, if you do a rollover, you will not have to pay tax until you receive payments later and the 10% additional income tax will not apply if those payments are made after you are age 59½ (or if an exception applies).

### *Where may I roll over the payment?*

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an eligible employer plan (a tax-qualified plan, section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan (for example, no spousal consent rules apply to IRAs and IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan. For example, if you were born before January 1, 1936, you might be entitled to ten-year averaging or capital gain treatment. If you roll over your benefit, however, to a section 403(b) tax-sheltered annuity, a governmental 457 plan, or an IRA in a direct rollover, your benefit will no longer be eligible for that special treatment. See sections below entitled "*If you were born on or before January 1, 1936*" and "*If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?*"

### *How do I do a rollover?*

There are two ways to do a rollover. You can do either a direct rollover or a 60-day rollover.

**If you do a direct rollover**, the Plan will make the payment directly to your IRA or an employer plan. You should contact the IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

**If you do not do a direct rollover**, you may still do a rollover by making a deposit into an IRA or eligible employer plan that will accept it. You will have 60 days after you receive the payment to make the deposit. If you do not do a direct rollover, the Plan is required to withhold 20% of the payment for federal income taxes (up to the amount of cash and property received). This means that, in order to roll over the entire payment in a 60-day rollover, you must use other funds to make up for the 20% withheld. If you do not roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional income tax on early distributions if you are under age 59½ (unless an exception applies).

### *How much may I roll over?*

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary)
- Required minimum distributions after age 70½ (or after death)

The Plan administrator or payor can tell you what portion of a payment is eligible for rollover.

### *If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?*

If you are under age 59½, you will have to pay the 10% additional income tax on early distributions for any payment from the Plan (including amounts withheld for income tax) that you do not roll over, unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the payment not rolled over.

The 10% additional income tax does not apply to the following payments from the Plan:

- Payments made after you separate from service if you will be at least age 55 in the year of the separation;
- Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary);
- Payments made after you separate from service if you are a public safety employee and you are at least age 50 in the year of the separation;
- Payments made due to disability;
- Payments after your death;
- Payments made directly to the government to satisfy a federal tax levy;
- Payments made under a qualified domestic relations order (QDRO); or
- Payments up to the amount of your deductible medical expenses.

### ***If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?***

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions from the IRA, unless an exception applies. In general, the exceptions to the 10% additional income tax for early distributions from an IRA are the same as the exceptions listed above for early distributions from a plan. However, there are a few differences for payments from an IRA, including:

- There is no exception for payments after separation from service that are made after age 55.
- The exception for qualified domestic relations orders does not apply (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse).
- The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to \$10,000 used in a qualified first-time home purchase, and (3) payments after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

### ***Will I owe state income taxes?***

This notice does not describe any State or local income tax rules (including withholding rules).

### ***If my payment is not eligible for rollover, will it be subject to mandatory withholding?***

If any portion of your payment is taxable, but cannot be rolled over, the mandatory withholding rules described above do not apply. In this case, you may elect not to have withholding apply to that portion. If you do nothing, an amount will be taken out of this portion of your payment for federal income tax withholding. To elect out of withholding, ask ACERA for the election form and related information.

### ***What are the consequences for failing to defer receipt of an eligible rollover distribution?***

If you choose to have an eligible rollover distribution (or a distribution that is not eligible for rollover) paid to you now rather than deferring receipt, for example, by leaving the money in the Plan, or by rolling over the eligible rollover distribution to a traditional IRA or an eligible employer plan:

- You could lose your ability to defer income taxes on the distribution until a later date.
- You may be subject to the additional 10% early distribution penalty if you receive payment before age 59½.
- Your benefit may be less now than it will be if you defer receipt until a later date.
- Your retirement savings may be reduced.

### ***How much time do I have to decide?***

Generally, neither a direct rollover nor a payment can be made from the plan until at least 30 days after your receipt of this notice. Thus, after receiving this notice, you have at least 30 days to consider whether or not to have your withdrawal directly rolled over. If you do not wish to wait until this 30-day notice period ends before your election is processed, you may waive the notice period by making an affirmative election indicating whether or not you wish to make a direct rollover. Your withdrawal will then be processed in accordance with your election as soon as practical after it is received by the Plan administrator.

## **Special Rules And Options**

### ***If your payment includes after-tax contributions***

After-tax contributions included in a payment are not taxed. You may roll over to an IRA a payment that includes after-tax contributions through either a direct rollover or a 60-day rollover. You must keep track of the aggregate amount of the after-tax contributions in all of your IRAs (in order to determine your taxable income for later payments from the IRAs). ACERA can tell you the amount of any after-tax contributions included in your distribution request. If you do a rollover to an IRA of only a portion of the payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a complete distribution of your benefit which totals \$12,000, of which \$2,000 is after-tax contributions. In this case, if you roll over \$10,000 to an IRA, no amount is taxable because the \$2,000 amount not rolled over is treated as being after-tax contributions.

You may roll over to an employer plan all of a payment that includes after-tax contributions, but only through a direct rollover (and only if the receiving plan separately accounts for after-tax contributions and is not a governmental section 457(b) plan). You can do a 60-day rollover to an employer plan of part of a payment that includes after-tax contributions, but only up to the amount of the payment that would be taxable if not rolled over.

### ***If you miss the 60-day rollover deadline***

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. To apply for a waiver, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs).

### ***If you were born on or before January 1, 1936***

If you were born on or before January 1, 1936 and receive a lump sum distribution that you do not roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see IRS Publication 575, Pension and Annuity Income.

### ***If you are an eligible retired public safety officer and your pension payment is used to pay for health coverage or qualified long-term care insurance***

If you retired as a public safety officer and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income Plan payments paid directly as premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents, up to a maximum of \$3,000 annually. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

### ***If you roll over your payment to a Roth IRA***

If you roll over the payment to a Roth IRA, a special rule applies under which the amount of the payment rolled over (reduced by any after-tax amounts) will be taxed. However, the 10% additional income tax on early distributions will not apply (unless you take the amount rolled over out of the Roth IRA within 5 years, counting from January 1 of the year of the rollover). For payments from the Plan during 2010 that are rolled over to a Roth IRA, the taxable amount can be spread over a 2-year period starting in 2011.

If you roll over the payment to a Roth IRA, later payments from the Roth IRA that are qualified distributions will not be taxed (including earnings after the rollover). A qualified distribution from a Roth IRA is a payment made after you are age 59½ (or after your death or disability, or as a qualified first-time homebuyer distribution of up to \$10,000) and after you have had a Roth IRA for at least 5 years. In applying this 5-year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA. Payments from the Roth IRA that are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional income tax on early distributions (unless an exception applies). You do not have to take required minimum distributions from a Roth IRA during your lifetime. For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs).

You cannot roll over a payment from the Plan to a designated Roth account in an employer plan.

### ***If you are not a plan participant***

Payments after death of the participant. If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, the 10% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section "*If you were born on or before January 1, 1936*" applies only if the participant was born on or before January 1, 1936.

- *If you are a surviving spouse*

If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA as your own or as an inherited IRA.

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies) and required minimum distributions from your IRA do not have to start until after you are age 70½.

If you treat the IRA as an inherited IRA, payments from the IRA will not be subject to the 10% additional income tax on early distributions. However, if the participant had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the participant had not started taking required minimum distributions from the Plan, you will not have to start receiving required minimum distributions from the inherited IRA until the year the participant would have been age 70½.

Under current IRS guidance, effective September 16, 2013, same-sex couples legally married in a jurisdiction with laws authorizing same-sex marriage will be treated as married for federal tax purposes and the rules described in this Notice for surviving spouses will be applicable. Note that individuals who are in registered domestic partnerships, civil unions, or other similar relationships that may be recognized under state law but are not considered a legal marriage under state law, will not be treated as married for federal tax purposes. Individuals who are not considered married spouses for federal tax purposes would be covered by the rules described under the section below titled "If you are a surviving beneficiary other than a spouse."

Note that California state law recognizes same-sex spouses and, for California state tax purposes, also treats registered domestic partners in the same manner as spouses. This means that it appears there will continue to be a difference in treatment of registered domestic partners for federal and California tax purposes. This area of the law is evolving and anyone affected by these situations may wish to consult with a professional financial or tax advisor.

- *If you are a surviving beneficiary other than a spouse*

If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited IRA. Payments from the inherited IRA will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited IRA.

Payments under a qualified domestic relations order. If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (QDRO), you generally have the same options the participant would have (for example, you may roll



over the payment to your own IRA or an eligible employer plan that will accept it). Payments under the QDRO will not be subject to the 10% additional income tax on early distributions.

***If you are a nonresident alien***

If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the Plan is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing Form 1040NR and attaching your Form 1042-S. See Form W-8BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, U.S. Tax Guide for Aliens, and IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

***Other special rules***

- If a payment is one in a series of payments for less than 10 years, your choice whether to make a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).
- If your payments for the year are less than \$200, the Plan is not required to allow you to do a direct rollover and is not required to withhold for federal income taxes. However, you may do a 60-day rollover.
- You may not elect to have separate portions of an eligible rollover distribution directly rolled over to multiple trustees or custodians.
- You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information, see IRS Publication 3, Armed Forces' Tax Guide.

**For More Information**

You may wish to consult with ACERA, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, Pension and Annuity Income; IRS Publication 590, Individual Retirement Arrangements (IRAs); and IRS Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans). These publications are available from a local IRS office, on the web at [www.irs.gov](http://www.irs.gov), or by calling 1-800-TAX-FORM.

If you have additional questions after reading this notice, you can contact ACERA at (800) 838-1932.

## California Government code sections 7522.70, 7522.72, and 7522.74

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Effective: January 1, 2013

West's Ann.Cal.Gov.Code § 7522.70

Formerly cited as CA GOVT § 1243

§ 7522.70. Elected public officer convicted of certain felonies; forfeiture of rights and benefits; notice by agency

- (a) This section shall apply to any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006.
- (b) If an elected public officer is convicted during or after holding office of any felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her official duties as an elected public officer, he or she shall forfeit all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction.
- (c) The elected public officer described in subdivision (b) shall forfeit only that portion of his or her rights and benefits that accrued on or after January 1, 2006, on account of his or her service in the elected public office held when the felony occurred.
- (d) Any contributions made by the elected public officer described in subdivision (b) to the public retirement system that arose directly from or accrued solely as a result of his or her forfeited service as an elected public officer shall be returned, without interest, to the public officer.
- (e) The public agency that employs an elected public officer described in subdivision (b) shall notify the public retirement system in which the officer is a member of the officer's conviction.
- (f) An elected public officer shall not forfeit his or her rights and benefits pursuant to subdivision (b) if the governing body of the elected public officer's employer, including, but not limited to, the governing body of a city, county, or city and county, authorizes the public officer to receive those rights and benefits.
- (g) For purposes of this section, "public officer" means an officer of the state, or an officer of a county, city, city and county, district, or authority, or any department, division, bureau, board, commission, agency, or instrumentality of any of these entities.
- (h) This section applies to any person appointed to service for the period of an elected public officer's unexpired term of office.
- (i) On and after January 1, 2013, this section shall not apply in any instance in which [Section 7522.72](#) or [7522.74](#) applies.

### *Credits*

(Formerly § 1243, added by [Stats.2005, c. 322 \(A.B.1044\), § 1](#). Renumbered § 7522.70 and amended by [Stats.2012, c. 296 \(A.B.340\), § 9](#).)

Effective: October 4, 2013

West's Ann.Cal.Gov.Code § 7522.72

§ 7522.72. Public employee employed, elected or appointed before Jan. 1, 2013; conviction of certain felonies; forfeiture of rights and benefits; notice by agency

(a) This section shall apply to a public employee first employed by a public employer or first elected or appointed to an office before January 1, 2013, and, on and after that date, [Section 7522.70](#) shall not apply.

(b)(1) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(2) If a public employee who has contact with children as part of his or her official duties is convicted of a felony that was committed within the scope of his or her official duties against or involving a child who he or she has contact with as part of his or her official duties, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(c)(1) A public employee shall forfeit all the rights and benefits earned or accrued from the earliest date of the commission of any felony described in subdivision (b) to the forfeiture date, inclusive. The rights and benefits shall remain forfeited notwithstanding any reduction in sentence or expungement of the conviction following the date of the public employee's conviction. Rights and benefits attributable to service performed prior to the date of the first commission of the felony for which the public employee was convicted shall not be forfeited as a result of this section.

(2) For purposes of this subdivision, "forfeiture date" means the date of the conviction.

(d)(1) Any contributions to the public retirement system made by the public employee described in subdivision (b) on or after the earliest date of the commission of any felony described in subdivision (b) shall be returned, without interest, to the public employee upon the occurrence of a distribution event unless otherwise ordered by a court or determined by the pension administrator.

(2) Any funds returned to the public employee pursuant to subdivision (d) shall be disbursed by electronic funds transfer to an account of the public employee, in a manner conforming with the requirements of the Internal Revenue Code,<sup>1</sup> and the public retirement system shall notify the court and the district attorney at least three business days before that disbursement of funds.

(3) For the purposes of this subdivision, a "distribution event" means any of the following:

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

(e)(1) Upon conviction, a public employee as described in subdivision (b) and the prosecuting agency shall notify the public employer who employed the public employee at the time of the commission of the felony within 60 days of the felony conviction of all of the following information:

(A) The date of conviction.

(B) The date of the first known commission of the felony.

(2) The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(f) The public employer that employs or employed a public employee described in subdivision (b) and that public employee shall each notify the public retirement system in which the public employee is a member of that public employee's conviction within 90 days of the conviction. The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

- (g) A public retirement system may assess a public employer a reasonable amount to reimburse the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.
- (h) If a public employee's conviction is reversed and that decision is final, the employee shall be entitled to do either of the following:
- (1) Recover the forfeited rights and benefits as adjusted for the contributions received pursuant to subdivision (d).
  - (2) Redeposit those contributions and interest that would have accrued during the forfeiture period, as determined by the system actuary, and then recover the full amount of the forfeited rights and benefits.
- (i) The forfeiture of rights and benefits provided in this section, with respect to judges, are in addition to and supplement the forfeitures and other requirements provided in [Section 75033.2](#), [75062](#), [75526](#), or [75563](#). If there is a conflict between this section and [Section 75033.2](#), [75062](#), [75526](#), or [75563](#), the provisions that result in the greatest forfeiture or provide the most stringent procedural requirements to the claim of a judge shall apply.
- (j) A public employee first employed by a public employer or first elected or appointed to an office on or after January 1, 2013, shall be subject to [Section 7522.74](#).

## ***Credits***

(Added by [Stats.2012, c. 296 \(A.B.340\), § 15](#). Amended by [Stats.2013, c. 528 \(S.B.13\), § 13, eff. Oct. 4, 2013](#).)

Effective: October 4, 2013

West's Ann.Cal.Gov.Code § 7522.74

### § 7522.74. Public employee employed, elected or appointed on or after Jan. 1, 2013; conviction of certain felonies; forfeiture of rights and benefits; notice by agency

- (a) This section shall apply to a public employee first employed by a public employer or first elected or appointed to an office on or after January 1, 2013, and on and after that date, [Section 7522.70](#) shall not apply.
- (b)(1) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.
- (2) If a public employee who has contact with children as part of his or her official duties is convicted of a felony that was committed within the scope of his or her official duties against or involving a child who he or she has contact with as part of his or her official duties, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.
- (c)(1) A public employee shall forfeit all the rights and benefits earned or accrued from the earliest date of the commission of any felony described in subdivision (b) to the forfeiture date, inclusive. The rights and benefits shall remain forfeited notwithstanding any reduction in sentence or expungement of the conviction following the date of the public employee's conviction. Rights and benefits attributable to service performed prior to the date of the first commission of the felony for which the public employee was convicted shall not be forfeited as a result of this section.
- (2) For purposes of this subdivision, "forfeiture date" means the date of the conviction.

(d)(1) Any contributions to the public retirement system made by the public employee described in subdivision (b) on or after the earliest date of the commission of any felony described in subdivision (b) shall be returned, without interest, to the public employee upon the occurrence of a distribution event unless otherwise ordered by a court or determined by the pension administrator.

(2) Any funds returned to the public employee pursuant to subdivision (d) shall be disbursed by electronic funds transfer to an account of the public employee, in a manner conforming with the requirements of the Internal Revenue Code,<sup>1</sup> and the public retirement system shall notify the court and the district attorney at least three business days before that disbursement of funds.

(3) For the purposes of this subdivision, a "distribution event" means any of the following:

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

(e)(1) Upon conviction, a public employee as described in subdivision (b) and the prosecuting agency shall notify the public employer who employed the public employee at the time of the commission of the felony within 60 days of the felony conviction of all of the following information:

(A) The date of conviction.

(B) The date of the first known commission of the felony.

(2) The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(f) The public employer that employs or employed a public employee described in subdivision (b) and that public employee shall each notify the public retirement system in which the public employee is a member of that public employee's conviction within 90 days of the conviction. The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(g) A public retirement system may assess a public employer a reasonable amount to reimburse the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.

(h) If a public employee's conviction is reversed and that decision is final, the employee shall be entitled to do either of the following:

(1) Recover the forfeited rights and benefits as adjusted for the contributions received pursuant to subdivision (d).

(2) Redeposit those contributions and interest that would have accrued during the forfeiture period, as determined by the system actuary, and then recover the full amount of the forfeited rights and benefits.

(i) The forfeiture of rights and benefits provided in this section, with respect to judges, are in addition to and supplement the forfeitures and other requirements provided in [Section 75033.2](#), [75062](#), [75526](#), or [75563](#). If there is a conflict between this section and [Section 75033.2](#), [75062](#), [75526](#), or [75563](#), the provisions that result in the greatest forfeiture or provide the most stringent procedural requirements to the claim of a judge shall apply.

(j) A public employee first employed by a public employer or first elected or appointed to an office before January 1, 2013, shall be subject to [Section 7522.72](#).

## ***Credits***

(Added by [Stats.2012, c. 296 \(A.B.340\), § 15](#). Amended by [Stats.2013, c. 528 \(S.B.13\), § 14, eff. Oct. 4, 2013](#).)