KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

KCERA
PRUDENT INVESTMENT • QUALITY SERVICE

September 2, 2021

Members, Board of Retirement
Employee Bargaining Units
Requesting News Media
Other Interested Parties

Subject: Meeting of the Kern County Employees' Retirement Association Board of Retirement

Ladies and Gentlemen:

A meeting of the Kern County Employees' Retirement Association Board of Retirement will be held on Wednesday, September 8, 2021 at 8:30 a.m. via teleconference, pursuant to Executive Order N-25-20, issued by Governor Newsom on March 12, 2020, Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and Executive Order N-35-20, issued by Governor Newsom on March 21, 2020. Items of business will be limited to the matters shown on the attached agenda.

If you wish to listen to the teleconference meeting, please dial one of the following numbers and enter Meeting ID# 289-998-6429:

- (669) 900-9128
- (888) 788-0099 (U.S. Toll-free)
- (877) 853-5247 (U.S. Toll-free)

If you have any questions or require additional service, please contact KCERA at (661) 381-7700 or send an email to administration@kcera.org.

Sincerely,

Dominic D. Brown
Executive Director

Attachment

11125 River Run Boulevard ▪ Bakersfield, California 93311 ▪ www.kcera.org
Tel (661) 381-7700 ▪ Fax (661) 381-7799 ▪ Toll Free (877) 733-6831 ▪ TTY Relay (800) 735-2929

AGENDA:

All agenda item supporting documentation is available for public review on KCERA's website at www.kcera.org following the posting of the agenda. Any supporting documentation that relates to an agenda item for an open session of any regular meeting that is distributed after the agenda is posted and prior to the meeting will also be available for review at the same location.

AMERICANS WITH DISABILITIES ACT
(Government Code §54953.2)

Disabled individuals who need special assistance to listen to and/or participate in the teleconference meeting of the Board of Retirement may request assistance by calling (661) 381-7700 or sending an email to administration@kcera.org. Every effort will be made to reasonably accommodate individuals with disabilities by making meeting materials and access available in alternative formats. Requests for assistance should be made at least two (2) days in advance of a meeting whenever possible.

ROLL CALL

MOMENT OF SILENCE

CONSENT MATTERS

ALL ITEMS LISTED WITH AN ASTERISK (*) ARE CONSIDERED TO BE ROUTINE AND NON-CONTROVERSIAL BY STAFF AND WILL BE APPROVED BY ONE MOTION IF NO MEMBER OF THE BOARD OR PUBLIC WISHES TO COMMENT OR ASK QUESTIONS. IF COMMENT OR DISCUSSION IS DESIRED BY ANYONE, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED IN THE LISTED SEQUENCE WITH AN OPPORTUNITY FOR ANY MEMBER OF THE PUBLIC TO ADDRESS THE BOARD CONCERNING THE ITEM BEFORE ACTION IS TAKEN. STAFF RECOMMENDATIONS ARE SHOWN IN CAPS AFTER EACH ITEM.

*1. Application for service-connected disability pension benefits for Ian (Melanie) Chandler, Sheriff (Safety) – ADOPT RECOMMENDATION OF SDAG TO GRANT SERVICE-CONNECTED DISABILITY PENSION

*2. Application for service-connected disability pension benefits for Mark Herman, District Attorney (Safety) – ADOPT RECOMMENDATION OF SDAG TO GRANT SERVICE-CONNECTED DISABILITY PENSION

*3. Application for service-connected disability pension benefits for Neil Weiting, Sheriff (Safety) – ADOPT RECOMMENDATION OF SDAG TO GRANT SERVICE-CONNECTED DISABILITY PENSION

*4. Application for service-connected disability pension benefits for Derek Zdarstek, Probation (Safety) – ADOPT RECOMMENDATION OF SDAG TO GRANT SERVICE-CONNECTED DISABILITY PENSION

*5. Summary of proceedings of the following meetings:

- August 11, 2021 Board of Retirement

RECEIVE AND FILE

*6. Report from the KCERA office on members retired from service for the month of August 2021 – RATIFY

*7. Report from the KCERA office on deceased retirees for the month of August 2021 – RECEIVE AND FILE

*8. Report of current disability retirement applications and appeals of KCERA Board decisions for the period ending August 31, 2021 – RECEIVE AND FILE

*9. Securities Lending Earnings Summary Report for the period July 1-31, 2021 from Deutsche Bank – RECEIVE AND FILE

*10. KCERA asset allocation, budget status, cash flow position and investment fees status report for the month of July 2021 – RECEIVE AND FILE

*11. Report on Special Pays Codes classified by the Executive Director – RECEIVE AND FILE

*12. Service provider evaluation period initiated pursuant to Evaluation Period Policy – RATIFY

PUBLIC COMMENTS

13. The public is provided the opportunity to comment on agenda items at the time those agenda items are discussed by the Board. This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board. Board members may respond briefly to statements made or questions posed. They may ask a question for clarification and, through the Chair, make a referral to staff for factual information or request staff to report back to the Board at a later meeting. Speakers are limited to two minutes. Please state your name for the record prior to making a presentation.

ADMINISTRATIVE MATTERS

14. Discussion and appropriate action pursuant to KCERA's Legislative Policy regarding AB 826 presented by Executive Director Dominic Brown and Chief Legal Officer Jennifer Zahry – PROVIDE DIRECTION TO STAFF; TAKE OTHER ACTION, AS APPROPRIATE

15. Discussion and appropriate action regarding report from Kern County Grand Jury dated July 7, 2021 and Kern County Employees' Retirement Association response dated August 25, 2021 – RECEIVE AND FILE

INVESTMENT MATTERS

16. Presentation regarding Environmental, Social, and Corporate Governance (ESG) presented by Scott Whalen, CFA, Verus – RECEIVE AND FILE

STAFF REPORTS

17. Report from Executive Director

18. Report from Chief Investment Officer

19. Report from Chief Legal Officer

COMMITTEE REPORTS

20. Report from Committee Chairs:

    a. Administrative Committee: Franey
    b. Finance Committee: Whitezell
    c. Investment Committee: Kratt
    d. KCERA Property, Inc. Board: Whitezell

CALL FOR PUBLIC COMMENT ON EXECUTIVE SESSION ITEM(S)

EXECUTIVE SESSION

Items 1-4 are withdrawn from Executive Session if approved on the consent agenda:

21. PUBLIC EMPLOYMENT (pursuant to Government Code §54957) Application for service-connected disability pension benefits:

Mark Ashley	Sheriff	Safety

1. PUBLIC EMPLOYMENT (pursuant to Government Code §54957) Application for service-connected disability pension benefits:

Ian (Melanie) Chandler	Sheriff	Safety

2. PUBLIC EMPLOYMENT (pursuant to Government Code §54957) Application for service-connected disability pension benefits:

Mark Herman	District Attorney	Safety

3. PUBLIC EMPLOYMENT (pursuant to Government Code §54957) Application for service-connected disability pension benefits:

Neil Weiting	Sheriff	Safety

4. PUBLIC EMPLOYMENT (pursuant to Government Code §54957) Application for service-connected disability pension benefits:

Derek Zdarstek	Probation	Safety

RETURN TO PUBLIC SESSION

REPORT OF EXECUTIVE SESSION ACTIONS, IF APPLICABLE

REFERRALS TO STAFF, ANNOUNCEMENTS OR REPORTS

22. On their own initiative, Board members may make a brief announcement, refer matters to staff, subject to KCERA's rules and procedures, or make a brief report on their own activities.

NEW BUSINESS

23. Consider, discuss, and take possible action to agendize one or more items for future meetings of the Board of Retirement – CONSIDER, DISCUSS, AND TAKE ACTION ON WHETHER TO AGENDIZE PROPOSED ITEMS, IF ANY, FOR A FUTURE MEETING

24. Adjournment

KERN COUNTY EMPLOYEE'S RETIREMENT ASSOCIATION (KCERA)
Board of Retirement

SUMMARY OF PROCEEDINGS

Teleconference Meeting – Board of Retirement Meeting

August 11, 2021

8:31 a.m.

Board Members: Brandon (Alternate), Couch, Franey, Chair Gonzalez, Hughes, Kaufman, Kratt, Nunneley (Alternate), Robinson, Seibly (Alternate), Skidmore, Whitezell

ROLL CALL

Present: Brandon, Couch, Franey, Hughes, Kaufman, Kratt, Nunneley, Robinson, Seibly

Absent: Gonzalez, Skidmore, Whitezell

MOMENT OF SILENCE

NOTE: The vote is displayed in bold below each item. For example, Couch-Kaufman denotes Trustee David Couch made the motion and Trustee Jordan Kaufman seconded the motion.

In anticipation of his absence, Chair Juan Gonzalez designated Trustee Rick Kratt as Chair for this meeting

*1. Proposed Decision and Findings of Fact submitted by Hearing Officer Barbara Kong-Brown for Mark Ashley, Sheriff (Safety)

THIS ITEM REMOVED FROM CONSENT AGENDA

*2. Kern County Superior Court Order Denying Petition for Writ of Mandate: Gloria Morgan, Sheriff (General) – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*3. Kern County Superior Court Order Reversing Order Granting Petition for Writ of Mandate: Michael Blue, Sheriff (Safety) – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*4. Summary of proceedings of the following meetings:

- June 2, 2021 Investment Committee
- June 9, 2021 Board of Retirement
- June 28, 2021 Special Board of Retirement
- August 4, 2021 Finance Committee

RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*5. Monthly report from the KCERA office on members retired from service for the months of June and July 2021 – RATIFIED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*6. Monthly report from the KCERA office on deceased retirees for the months of June and July 2021 – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*7. Report of current disability retirement applications and appeals of KCERA Board decisions for the period ending July 31, 2021 – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*8. Securities Lending Earnings Summary Report for the period May 1-31 and June 1-30, 2021 from Deutsche Bank – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*9. KCERA asset allocation, budget status, cash flow position and investment fees status report for the months of May and June 2021 and budget status report for Fiscal Year Ended June 30, 2021 – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*10. Report on Special Pays Codes classified by the Executive Director – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*11. Agreement for Legal Services Fiduciary Counsel with Nossaman LLP, effective August 11, 2021 – RECEIVED AND FILED; AUTHORIZED EXECUTIVE DIRECTOR TO SIGN, SUBJECT TO LEGAL ADVICE AND REVIEW

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*12. KCERA Class Action Proceeds Report from April 1 through June 30, 2021 for the Northern Trust Company – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*13. Corrections in Benefit Payments Report for the period January through June 2021 – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*14. Corrections in Benefit Contributions Report for the period January through June 2021 – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*15. Board of Retirement Semi-annual Trustee Education Report – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

16. KCERA Schedules of Employer Allocations and Pension Amounts by Employer and related notes including independent auditors' report as of and for the year ended June 30, 2020, and Segal's Governmental Accounting Standards (GAS) 68 Actuarial Valuation as of June 30, 2021 – RECEIVED AND FILED

**Pursuant KCERA's Board Operations Policy #38, this matter was presented to the Board without the involvement of the Finance Committee to prevent the imprudent use of Plan time and resources in light of the routine and non-controversial nature of item*

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*17. Letter from Segal, dated July 7, 2021, regarding KCERA Tier 3 Supplemental Retiree Benefit Reserve Benefits for the period from July 1, 2021 through June 30, 2022 – APPROVED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*18. Letter from Executive Director Dominic Brown, dated July 29, 2021, to the Kern County Auditor-Controller-County Clerk regarding Board of Retirement Election for Second, Seventh and Alternate Seventh Members – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*19. Appointment of Retiree Extra-Help Karen Frieson, effective July 1, 2021 – APPROVED APPOINTMENT

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*20. Appointment of Retiree Extra-Help Cindy Wilkinson, effective July 1, 2021 – APPROVED APPOINTMENT

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

*21. Updated 2021 Board of Retirement Committee Assignments – RECEIVED AND FILED

Franey-Hughes – 7 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

PUBLIC COMMENTS

22. The public is provided the opportunity to comment on agenda items at the time those agenda items are discussed by the Board. This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board. Board members may respond briefly to statements made or questions posed. They may ask a question for clarification and, through the Chair, make a referral to staff for factual information or request staff to report back to the Board at a later meeting. Speakers are limited to two minutes. Please state your name for the record prior to making a presentation – NONE

TRUSTEE LAUREN SKIDMORE ARRIVED AT 8:34 A.M.

INVESTMENT MATTERS

23. Presentation on the 2nd Quarter Investment Performance Review period ending June 30, 2021 by Scott Whalen, CFA, Verus – SCOTT WHALEN, CFA, VERUS, HEARD; CHAIR RICK KRATT HEARD; TRUSTEES DAVID COUCH AND EDWARD ROBINSON HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD

RECEIVED AND FILED

Franey-Couch – 8 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

24. Presentation on the 2nd Quarter 2021 Portfolio Review presented by John Shearman, Albourne America[1] – JOHN SHEARMAN, ALBOURNE AMERICA, HEARD; CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, HEARD

RECEIVED AND FILED

Hughes-Couch – 8 Ayes
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

ADMINISTRATIVE MATTERS

25. Discussion and appropriate action on review of KCERA Board Charters and Policies presented by Executive Director Dominic Brown, Governance Consultant Tom Iannucci, Cortex Applied Research, and the Administrative Committee – TOM IANNUCCI, CORTEX APPLIED RESEARCH, HEARD; CHAIR RICK KRATT HEARD; TRUSTEES DAVID COUCH, PHIL FRANEY, JORDAN KAUFMAN AND EDWARD ROBINSON HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; GENERAL COUNSEL JENNIFER ZAHRY HEARD

APPROVED PROPOSED CHANGES

Couch-Hughes – 7 Ayes; 1 Abstention (Robinson)
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

26. Trustee education regarding Death Benefits presented by General Counsel Jennifer Zahry and Retirement Services Manager Sherry Willard – CHAIR RICK KRATT HEARD; TRUSTEE EDWARD ROBINSON HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; GENERAL COUNSEL JENNIFER ZAHRY HEARD; RETIREMENT SERVICES MANAGER SHERRY WILLARD HEARD

RECEIVED EDUCATIONAL TRAINING (23 MINUTES TRUSTEE EDUCATION CREDIT)

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1 Written materials and investment recommendations from the consultants, fund managers and KCERA investment staff relating to alternative investments are exempt from public disclosure pursuant to California Government Code §6254.26, §6255, and §54957.5.

FINANCIAL MATTERS

27. Discussion and appropriate action regarding Supplemental Retiree Benefit Reserve (SRBR) Policy presented by Executive Director Dominic Brown, General Counsel Jennifer Zahry and the Finance Committee – TRUSTEES PHIL FRANEY, JORDAN KAUFMAN, EDWARD ROBINSON AND ROBB SEIBLY HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; GENERAL COUNSEL JENNIFER ZAHRY HEARD

TRUSTEE DAVID COUCH LEFT AT 10:29 A.M.

APPROVED REDLINE EDITS TO POLICY; AUTHORIZED FINANCE COMMITTEE TO ENGAGE ACTUARY AND DIRECTED STAFF TO EXPLORE POTENTIAL CHANGES TO STRUCTURE OF THE SRBR POLICY AND APPLICABLE BENEFITS AND RETURN TO BOARD OF RETIREMENT WITH RECOMMENDED ACTION

Franey-Brandon – 6 Ayes; 1 No (Robinson)
Trustee Bradly Brandon voted in place of Trustee Chair Gonzalez

STAFF REPORTS

28. Report from Executive Director

EXECUTIVE DIRECTOR DOMINIC BROWN REPORTED THE FOLLOWING:

- BOARD MEETING CONFIGURATION
- OFFICE UPDATE
- *ALAMEDA* UPDATE
- FACILITIES UPDATE
- STAFFING UPDATE
- RESPONSE TO GRAND JURY REPORT
- OPERATIONS ACTIVITY
- UPCOMING MEETINGS AND EVENTS

CHAIR RICK KRATT HEARD; TRUSTEES PHIL FRANEY, JORDAN KAUFMAN AND EDWARD ROBINSON HEARD

29. Report from Chief Investment Officer

CHIEF INVESTMENT OFFICER DARYN MILLER, CFA, REPORTED THE FOLLOWING:

- REBALANCING REPORT FOR JUNE AND JULY
- POSITIONING
- UPDATE ON KEY PROJECTS
- INVESTMENT COMMITTEE MEETINGS

30. Report from General Counsel

GENERAL COUNSEL JENNIFER ZAHRY REPORTED THE FOLLOWING:

- GOVERNOR'S EXECUTIVE ORDER UPDATE REGARDING POST-RETIREMENT EMPLOYMENT
- U.S. SUPREME COURT RULING – SECURITIES LITIGATION
- SACRS LEGISLATIVE UPDATES
- AUGUST 2021 CALENDAR ITEMS
- QUARTER 2 2021 METRICS

TRUSTEE DAVID COUCH RETURNED AT 11:15 A.M.

COMMITTEE REPORTS

31. Report from Committee Chairs:

a. Administrative Committee: FRANEY – NONE

b. Finance Committee: WHITEZELL – NONE

c. Investment Committee: KRATT – MEETING TO BE SCHEDULED

d. KCERA Property, Inc.: WHITEZELL – NONE

CALL FOR PUBLIC COMMENT ON EXECUTIVE SESSION ITEM(S) – NONE

EXECUTIVE SESSION

1. PUBLIC EMPLOYMENT (pursuant to Government Code §54957) Application for service-connected disability pension benefits:

Mark Ashley	Sheriff	Safety

RETURN TO PUBLIC SESSION

BOARD OF RETIREMENT RECONVENED AT 11:29 A.M.

ROLL CALL

Present: Brandon, Couch, Franey, Hughes, Kaufman, Kratt, Nunneley, Robinson

Absent: Gonzalez, Seibly, Skidmore, Whitezell

REPORT OF EXECUTIVE SESSION ACTIONS, IF APPLICABLE

ITEM 1 – PURSUANT TO CAL. GOV. CODE SECTION 31534(B), THE BOARD WILL REQUEST TRANSCRIPT OR SUMMARY OF ALL TESTIMONY PLUS ALL OTHER EVIDENCE RECEIVED BY THE REFEREE; UPON RECEIPT THEREOF, THE BOARD SHALL TAKE SUCH ACTION AS IN ITS OPINION IS INDICATED BY SUCH EVIDENCE

Couch-Franey – 5 Ayes; 2 Noes (Franey, Robinson)
Trustee Bradly Brandon voted in place of Chair Juan Gonzalez

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

There was no item #32 or #33 on the agenda

34. On their own initiative, Board members may make a brief announcement, refer matters to staff, subject to KCERA's rules and procedures, or make a brief report on their own activities – TRUSTEES BRADLY BRANDON HEARD. TRUSTEE EDWARD ROBINSON MADE A REFERRAL TO STAFF[1] TO LOOK INTO AVAILABLE COUNTY RESOURCES FOR BENEFICIARIES DEALING WITH GRIEF AND LOSS OF MEMBER

NEW BUSINESS

35. Consider, discuss, and take possible action to agendize one or more items for future meetings of the Board of Retirement – TRUSTEES JOSEPH D. HUGHES, EDWARD ROBINSON, AND ROBB SEIBLY HEARD; EXECUTIVE DIRECTOR DOMINIC BROWN HEARD; GENERAL COUNSEL JENNIFER ZAHRY HEARD

MOVED TO CONSIDER ADDING THE FOLLOWING ITEM TO A FUTURE AGENDA: DISCUSSION REGARDINGTELEVISING BOARD OF RETIREMENT MEETINGS FOR OCTOBER AGENDA

Robinson-No Second

MOTION DIED FOR LACK OF SECOND

36. ADJOURNED – 11:43 A.M.

____
Secretary, Board of Retirement

____
Chair, Board of Retirement

1 This item was taken up following the action in #35. The record reflected that the request was a deemed a staff referral and was more properly addressed under Agenda Item #34. For this reason, the item summary is reflected here.

PRUDENT INVESTMENT • QUALITY SERVICE

Kern County Employees' Retirement Association
New Retirees- August 1, 2021 to August 31, 2021

Employer Name: County Of Kern

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Bianchi	Glenae	07/07/2021	General Tier I	8997 - Kern Medical Center
Dickover	Ruth	07/01/2021	General Tier II	2200 - Dist Atty Forensic Divn
Garrison	Mary	07/15/2021	General Tier I	1012 - Board Of Supv-District 2
Gonzalez	Paul	07/03/2021	General Tier I	2183 - Dept Of Child Support Svc
Gordon	Anthony	07/17/2021	Safety Tier I	2210S - Sheriff
Gunther	Daniel	07/16/2021	General Tier I	4110F - Health-Promo/ public Info
Jackson	David	05/25/2021	General Tier II PEPRA	4120 - Behavioral Health & Reco
Koerting	Belinda	07/17/2021	General Tier I	2210 - Sheriff
Molennor	Shay	07/17/2021	Safety Tier I	2340S - Probation-Safety
Munoz	Catherina	04/02/2020	General Tier I	4120 - Behavioral Health & Reco
Nichols	Dennis	07/10/2021	General Tier I	2210 - Sheriff
Ramirez	Jose	07/02/2021	Safety Tier I	2210S - Sheriff
Sage	Donna	06/29/2021	General Tier I	5120 - Depart Of Human Services
Terrazas	Yolanda	03/31/2013	General Tier I	8997 - Kern Medical Center
Valenzuela	George	07/31/2021	General Tier I	8954 - Public Works-Public Ways

Kern County Employees' Retirement Association
New Retirees- August 1, 2021 to August 31, 2021

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Wright	Terry	07/07/2021	General Tier I	1610 - General Services Division

Employer Name: KC Superior Court

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Armendariz	Anna	12/05/2019	General Tier I	9445V - Revenue Recovery
Rodriguez	Rhonda	07/03/2021	General Tier I	9410 - Superior Court
Ybarra	Sylvia	07/03/2021	General Tier I	9410 - Superior Court

Employer Name: Kern County Hospital Authority

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Zepeda	Teresa	07/17/2021	General Tier I	9460 - Kern County Hospital Authority

Employer Name: San Joaquin Valley APCD

Member Last Name	Member First Name	Retirement Date	Membership Tier	Department Name
Leonard	Stephen	07/03/2021	General Tier I	0959 - San Joaquin Valley Air Pollution Control District
Rothenfluh	Jan	07/10/2021	General Tier I	0959 - San Joaquin Valley Air Pollution Control District

Kern County Employees' Retirement Association
Decedents- August 1, 2021 to August 31, 2021

PRUDENT INVESTMENT • QUALITY SERVICE

Pre-Retirement Deaths

Last Name	First Name	Membership Type	Employer Name
Prado	Juli	General	County Of Kern

Post-Retirement Deaths

Last Name	First Name	Membership Type	Employer Name
Bessonart	Maria	General	County Of Kern
Boreham	Mary	General	County Of Kern
Clark	Sharon	General	County Of Kern
Costales	Lourdes	General	County Of Kern
Ebel	Patricia	General	County Of Kern
Evans	Rita	General	County Of Kern
Gregory	John	General	County Of Kern
Gross	Robert	General	KC Superior Court
Harris	Lillie	General	County Of Kern
Hinds	Gary	General	County Of Kern
Jacobs	William	General	County Of Kern
James	Delia	General	KC Superior Court
Malsbary	Albert	General	County Of Kern
Miller	Joanne	General	County Of Kern
Moore	Laurence	Safety	County Of Kern
Morgan	Georgia	General	KC Superior Court
Petty	Dennis	Safety	County Of Kern
Rodriguez	John	Safety	County Of Kern
Scheible	Richard	Safety	County Of Kern
Smith	Pamela	General	County Of Kern
Spencer	Halta	General	County Of Kern

KCERA
STATUS OF DISABILITY RETIREMENT APPLICATIONS
AS OF 08/31/21

NAME	DEPARTMENT	TYPE	DATE FILED	DATE OF LAST CONTACT	NUMBER OF DAYS
Campas, Phillip	SHERIFF	SCD/SF	08/11/21	08/24/21	7
Lucio, Juan	PUBLIC WORKS	NSCD/GEN	07/19/21	07/25/21	37
Gardner, Stephen	FIRE	SCD/SF	07/19/21	08/04/21	27
Brannan, Derek	SHERIFF	SCD/SF	07/14/21	07/24/21	38
Leon, Theresa	HUMAN SERVICES	SCD/GEN	07/07/21	07/23/21	39
Patton, Eric	SHERIFF	SCD/SF	06/30/21	07/06/21	56
Candelaria, Valerie	HUMAN SERVICES	SCD/GEN	06/23/21	07/06/21	56
Introini, Jessica	SHERIFF	SCD/SF	06/18/21	07/06/21	56
Williams, Theron	GENERAL SERVICES	SCD/GEN	05/12/21	08/25/21	6
Garcia, Judy	KERN COUNTY WATER AGENCY	SCD/GEN	03/29/21	08/09/21	22
Smith, Thomas Jr.	SHERIFF	SCD/SF	03/16/21	07/13/21	49
NAME	**DEPARTMENT**	**TYPE**	**DATE FILED**	**MMRO ASSIGNED**	**MMRO RECEIVED**
Brandon, Bradly	SHERIFF	SCD/SF	03/04/21	08/20/21	
Bravo, Enrique	SHERIFF	SCD/SF	03/01/21	08/20/21	
Sanders-Stubblefield, Misty	AGING AND ADULT SERVICES	SCD/GEN	02/25/21	08/20/21	
McAdoo, John	SHERIFF	SCD/SF	02/24/21	08/20/21	
Bankston, Josh	SHERIFF	SCD/SF	02/09/21	08/19/21	
Cushman, Harris	SHERIFF	SCD/SF	12/22/20	08/19/21	
Carrillo, Mabelle	ANIMAL CONTROL	SCD/GEN	11/18/20	04/21/21	
Burchfield, James	PUBLIC WORKS	SCD/GEN	11/17/20	07/16/21	
Tisinger, Douglas	KERN COUNTY WATER AGENCY	SCD/GEN	10/05/20	02/24/21	
Fleeman, Justin	SHERIFF	SCD/SF	09/17/20	02/08/21	
Diffenbaugh, Anthony	FIRE	SCD/SF	06/11/20	04/26/21	
Haight, Anita	COURTS	SCD/GEN	05/14/20	09/29/20	
Conner, James	SHERIFF	SCD/SF	05/14/20	08/31/20	
Burgess, Daniel	ANIMAL CONTROL	SCD/GEN	04/21/20	07/17/20	
Brown, Michael	SHERIFF	SCD/SF	04/14/20	08/31/20	
Baker, Breanne	HUMAN SERVICES	SCD/GEN	04/02/20	09/29/20	
Chandler, Ian (Melanie Chandler)	SHERIFF	SCD/SF	01/06/20	08/28/20	08/16/21
Zdarstek, Derek-ADP	PROBATION	SCD/SF	11/22/19	06/29/20	08/24/21
Terry, Leann	SHERIFF	SCD/SF	10/17/19	06/30/20	
Weiting, Neil	SHERIFF	SCD/SF	08/14/19	06/18/20	08/20/21
Martinez de Moore, Brenda	BEHAVIORAL HEALTH & RECOVERY SERVICES	SCD/GEN	12/10/18	09/08/20	
Boren, Colleen	RISK MANAGEMENT	SCD/GEN	08/02/18	09/03/20	
Champlin, Timothy	PROBATION	SCD/SF	04/25/18	04/30/20	
Hulsey, Jonathan	PROBATION	SCD/SF	04/18/18	04/22/20	
Alaniz, Maria D.	PUBLIC HEALTH	NSCD/GEN	04/13/18	10/17/20	

KCERA
STATUS OF DISABILITY RETIREMENT APPLICATIONS
AS OF 08/31/21

NAME	DEPARTMENT	TYPE	DATE FILED	MMRO ASSIGNED	MMRO RECEIVED
Herman, Mark	DISTRICT ATTORNEY	SCD/SF	04/04/18	04/21/20	08/23/21
Coletti, John	SHERIFF	SCD/SF	01/30/18	04/07/20	
Houston, Jeffrey	SHERIFF	SCD/SF	11/20/17	03/07/20	
Tennison, Robyn (McClain)	BEHAVIORAL HEALTH & RECOVERY SERVICES	NSCD/GEN	07/17/17	02/20/20	
Rodriquez, Ted	SHERIFF	SCD/SF	06/22/17	02/20/20	
Hsu, Sue	BEHAVIORAL HEALTH & RECOVERY SERVICES	SCD/GEN	04/05/17	02/06/20	
Paxson, Kalae	SHERIFF	SCD/SF	03/15/17	11/05/19	
Carvel, Scott	DISTRICT ATTORNEY	SCD/SF	01/27/17	11/05/19	

Criteria for Contacting Applicants for Status Updates:
1) Following SDAG Meeting
2) Following Referral to Medical Advisor
3) Following 30-Day Notify Letter sent to Applicant to notify there will be a recommendation to deny the application and providing the opportunity to appeal
4) Following 60-Day Notice letter sent to applicant to notify they have 60 days to provide additional medical records
5) Every three months if no other activity on case

COMPLETED IN 2021

NAME	DEPARTMENT	TYPE	FILED	DATE COMPLETED
Milton, Dawn	BEHAVIORAL HEALTH & RECOVERY SERVICES	NSCD/GEN	09/19/19	05/05/21
Day, Lester	SAN JOAQUIN VALLEY AIR POLLUTION CONTROL	SCD/GEN	08/02/19	06/09/21
Ayon, Saul	SHERIFF	SCD/SF	08/01/19	03/10/21
Avila, Andy	SHERIFF	SCD/SF	07/05/19	04/14/21
Jefferson, Jill	AGRICULTURE & MEASUREMENT STANDARDS	NSCD/GEN	04/02/19	05/05/21
Wimberly, Laura (Rodriguez)	PROBATION	SCD/SF	02/01/19	03/10/21
Snyder, Zachary	FIRE	SCD/SF	12/07/18	03/10/21
Ramsey, Denise	SHERIFF	SCD/SF	08/13/18	02/10/21
Ashley, James	SHERIFF	SCD/SF	07/10/18	02/10/21
Deacon, Pamela	CHILD SUPPORT SERVICES	NSCD/GEN	04/13/18	02/10/21
Acosta, Timothy	SHERIFF	SCD/SF	04/03/18	03/10/21
Gonzalez, Richard	FIRE	SCD/SF	02/14/18	04/14/21
VanDoorn, Kimberly	SHERIFF	SCD/SF	01/05/18	03/10/21
Rubio-Estaban, Maria	BEHAVIORAL HEALTH & RECOVERY SERVICES	NSCD/GEN	06/21/17	01/21/21
Montoya-Cearley, Durinda	SAN JOAQUIN VALLEY AIR POLLUTION CONTROL	SCD/GEN	05/23/17	03/10/21
Panero, Paul	KERN HOSPITAL AUTHORITY	SCD/GEN	05/17/17	01/20/21
Reed, Robert T	SHERIFF	SCD/SF	03/22/17	04/14/21
Simmons, Amber	PROBATION	SCD/SF	07/21/16	03/10/21

KCERA
APPEALS PENDING
AS OF08/31/21

ADMINISTRATIVE HEARING	DEPARTMENT	TYPE	DATE FILED	SDAG RECOMMENDATION	APPEAL RECEIVED	SENT TO COUNTY COUNSEL	HEARING OFFICER ASSIGNED	HEARING DATE
Ashley, Mark	SHERIFF	SCD/SF	09/03/15	SDAG to deny SCD but grant NSCD	05/06/20	08/20/20	09/15/20	03/23/21
Winn, Jay M.	DISTRICT ATTORNEY	SCD/SF	03/16/16	SDAG to deny SCD	05/28/20	06/02/20	06/25/20	11/09/20

WRIT OF MANDATE	DEPARTMENT	TYPE	DATE FILED	BOARD DECISION

COURT OF APPEAL	DEPARTMENT	TYPE	DATE FILED	BOARD DECISION
Blue, Michael	SHERIFF	SCD/SF	06/14/13	Board denied SCD

HEARINGS COMPLETED IN 2021				
NAME	DEPARTMENT	TYPE	DATE FILED	DATE COMPLETED
Barnett, Donald	FIRE	SCD/SF	08/23/11	02/10/21
Candler, Laura	SHERIFF	SCD/GEN	10/13/14	06/09/21

SECURITIES LENDING

Summary Earnings Report

Run Time: 09-Aug-2021 12:26 EDT
Date Range: 01-JUL-2021 To 31-JUL-2021
Location: Not specified
Currency: Not Specified
Client ID: Not Specified
Master Client: CAKERN
Grouping Type: None
Level: Individually

	Client ID	Average Contract Amount	Gross Earnings	DB Earnings	Client Earnings	Custody Account
New York						
USD						
KNCTY - Harvest Midstream	CAKE18	3,396,409.34	1,197.62	119.76	1,077.85	KNC15
KNCTY - PIMCO Midstream	CAKE19	15,885,690.13	6,144.76	614.48	5,530.28	KNC16
KNCTY PIMCO Core Plus	CAKE07	75,449,034.52	20,027.52	2,002.75	18,024.76	KNC11
KNCTY PIMCO EMD	CAKE08	3,797,255.00	1,295.10	129.51	1,165.59	KNC12
KNTCY - Alliance Bernstein	CAKE15	17,013,293.08	4,555.11	455.51	4,099.60	2664130
KNTCY - Geneva	CAKE16	20,587,165.42	5,514.00	551.40	4,962.60	2667336
KNTCY - Western Asset MGMT Co 01	CAKE03	33,253,753.31	9,271.37	927.14	8,344.23	KNC06
KNTCY - Western Asset MGMT Co 02	CAKE04	43,436,213.52	13,866.82	1,386.68	12,480.14	KNC08
	CCY Total USD:	**212,818,814.31**	**61,872.29**	**6,187.23**	**55,685.06**	

KCERA ASSET ALLOCATION*
7/31/2021

Manager Name	Type	$(000)	Current Allocation	Target Percentage	Variance Over Target (Under Target)	Variance Over Target (Under Target) $(000)
AllianceBernstein	Small Cap Value	94,759	1.7%	*Domestic Equity Range 16.0% - 27.0%*		
Geneva Capital	Small Cap Growth	59,005	1.1%			
Mellon Capital Management EB DV	Large Cap Passive	372,995	6.9%			
Mellon Dynamic US Equity Fund	Large Cap	58,071	1.1%			
PIMCO StockPlus	Large Cap Enhanced	143,573	2.6%			
Total Domestic Equity		**$728,403**	**13.4%**	**19.0%**	**(5.6%)**	**($301,841)**
American Century	International Small	95,386	1.8%	*International Developed Equity Range 8.0% - 18.0%*		
Cevian Capital II LP	International Large	34,182	0.6%			
Mellon Capital Management-EB DV	International Large Passive	565,114	10.4%	**13.0%**	**(0.2%)**	**($10,222)**
Total International Developed Equity		**$694,682**	**12.8%**			
AB Emerging Markets Strategic Core	Emerging Markets	110,428	2.0%	*Emerging Market Equity Range 1.0% - 9.0%*		
DFA Emerging Markets Value Portfolio	Emerging Markets	83,124	1.5%			
Mellon Emerging Markets	Emerging Markets	103,946	1.9%			
Total Emerging Market Equity		**$297,498**	**5.5%**	**5.0%**	**0.5%**	**$26,381**
TOTAL EQUITY		**$1,720,583**	**31.7%**	**37.0%**	**(5.3%)**	**($285,681)**
Mellon Capital Management Ag Bond	Core	182,226	3.4%	*Core Range 12.0% - 25.0%*		
PIMCO	Core Plus	233,187	4.3%			
Western Asset Management	Core Plus	241,259	4.4%			
Total Core		**$656,672**	**12.1%**	**14.0%**	**(1.9%)**	**($102,455)**
TCW Securitized Opportunities LP	Securitized Opportunities	131,695	2.4%	*Credit Range 3.0% - 9.0%*		
Western Asset Management	High Yield	188,042	3.5%			
Total Credit		**$319,737**	**5.9%**	**6.0%**	**(0.1%)**	**($5,603)**
PIMCO EM Beta	Emerging Markets	163,169	3.0%	*Emerging Market Debt Range 1.0% - 7.0%*		
Stone Harbor Global Funds	Emerging Markets	109,902	2.0%			
Total Emerging Market Debt		**$273,071**	**5.0%**	**4.0%**	**1.0%**	**$56,178**
TOTAL FIXED INCOME		**$1,249,480**	**23.0%**	**24.0%**	**(1.0%)**	**($51,880)**
Gresham Commodity Builder Fund	Active	92,720	1.7%	*Commodities Range 0.0% - 6.0%*		
Wellington Trust Company (WTC)	Active	198,567	3.7%			
TOTAL COMMODITIES		**$291,287**	**5.4%**	**4.0%**	**1.4%**	**$74,394**
Aristeia International Ltd	Hedge Fund - Direct	66,029	1.2%	*Hedge Fund Range 5.0% - 15.0%*		
Brevan Howard Fund Limited	Hedge Fund - Direct	67,211	1.2%			
D.E. Shaw Composite Fund	Hedge Fund - Direct	54,408	1.0%			
HBK Multi-Strategy Fund	Hedge Fund - Direct	56,296	1.0%			
Hudson Bay Enhanced Fund LP	Hedge Fund - Direct	69,668	1.3%			
Indus Pacific Opportunities Fund	Hedge Fund - Direct	39,368	0.7%			
Magnetar Structured Credit Fund	Hedge Fund - Direct	10,594	0.2%			
Myriad Opportunities Offshore Fund	Hedge Fund - Direct	27,810	0.5%			
PIMCO Commodity Alpha Fund LLC	Hedge Fund - Direct	57,960	1.1%			
PMF LTD	Hedge Fund - Direct	66,180	1.2%			
River Birch International Ltd	Hedge Fund - Direct	836	0.0%			
Sculptor Enhanced LP (Formerly OZ Domestic)	Hedge Fund - Direct	55,115	1.0%			
TOTAL HEDGE FUND		**$571,475**	**10.5%**	**10.0%**	**0.5%**	**$29,241**
ASB Capital Management	Core	157,894	2.9%	*Core Real Estate Range 3.0% - 7.0%*		
JPMCB Strategic Property Fund	Core	113,765	2.1%			
TOTAL CORE REAL ESTATE		**$271,659**	**5.0%**	**5.0%**	**0.0%**	**$542**
Davidson Kempner	Hedge Fund - Direct	54,575	1.0%	*CE Alpha Pool Range 0.0% - 7.0%*		
HBK Multi-Strategy Fund	Hedge Fund - Direct	50,599	0.9%			
HBK Spac Fund	Hedge Fund - Direct	50,773	0.9%			
Hudson Bay Enhanced Fund LP	Hedge Fund - Direct	54,909	1.0%			
TOTAL CE ALPHA POOL		**$210,856**	**3.9%**	**5.0%**	**(1.1%)**	**($60,261)**
Harvest Midstream	Midstream	137,805	2.5%	*Midstream Energy Range 0.0% - 7.0%*		
PIMCO Midstream	Midstream	106,377	2.0%			
TOTAL MIDSTREAM ENERGY		**$244,182**	**4.5%**	**0.0%**	**4.5%**	**$244,182**
Aristeia Select Opportunities II LP	Opportunistic	50,000	0.9%	*Opportunistic Range 0.0% - 10.0%*		
DB Investor's Fund IV	Opportunistic	42,231	0.8%			
TSSP Adjacent Opportunities Partners (D)	Opportunistic	62,674	1.2%			
TOTAL OPPORTUNISTIC		**$154,905**	**2.9%**	**0.0%**	**2.9%**	**$154,905**
Abbott Capital Funds	Private Equity Fund of Funds	38,635	0.7%	*Private Equity Range 0.0% - 10.0%*		
Brighton Park	Private Equity	13,625	0.3%			
LGT Crown Global	Private Equity	6,951	0.1%			
Pantheon Funds	Private Equity Fund of Funds	15,114	0.3%			
Peak Rock	Private Equity	794	0.0%			
Vista	Private Equity	6,754	0.1%			
Warren Equity Partners	Private Equity	6,288	0.1%			
TOTAL PRIVATE EQUITY		**$88,161**	**1.6%**	**5.0%**	**(3.4%)**	**($182,956)**
Blue Torch Credit Opportunites	Private Credit	10,948	0.2%	*Private Credit Range 0.0% - 10.0%*		
Brookfield Real Estate Finance Fund V	Private Credit	25,099	0.5%			
Colony Distressed Credit Fund	Private Credit	51,535	1.0%			
Fortress Credit Opportunities Fund V	Private Credit	6,060	0.1%			
Fortress Lending Fund II (A)	Private Credit	22,749	0.4%			
H.I.G Bayside Loan Opportunity Fund	Private Credit	30,979	0.6%			
Magnetar Constellation Fund V	Private Credit	46,503	0.9%			
TSSP Adjacent Opportunities Partners (B)	Private Credit	37,982	0.7%			
TOTAL PRIVATE CREDIT		**$231,855**	**4.3%**	**5.0%**	**(0.7%)**	**($39,262)**
Covenant Apartment Fund	Private Real Estate	11,057	0.2%	*Private Real Estate Range 0.0% - 10.0%*		
Invesco Real Estate Funds III & IV	Private Real Estate	23,701	0.4%			
KCERA Property	Private Real Estate	4,629	0.1%			
Landmark Real Estate Partners VIII	Private Real Estate	20,447	0.4%			
Long Wharf Real Estate Partners VI	Private Real Estate	13,091	0.2%			
TOTAL PRIVATE REAL ESTATE		**$72,925**	**1.3%**	**5.0%**	**(3.7%)**	**($198,191)**
Northern Trust STIF	Short Term	23,991	0.4%	*Cash Range 0.0% - 5.0%*		
Parametric	Overlay	276,922	5.1%			
Treasurers Pooled Cash	Short Term	12,839	0.2%			
Wells Fargo Bank	Short Term	682	0.0%			
TOTAL CASH AND OVERLAY		**$314,434**	**5.8%**	**0.0%**	**5.8%**	**$314,434**
Transition Accounts	Liquidation	533	0.0%			
Other		**$533**	**0.0%**	**0.0%**	**0.0%**	**$533**
As Allocated to Managers **		**$5,422,335**	**100.0%**	**100.0%**	**(0.0%)**	**($0)**

*This report reflects the strategic asset allocation policy adopted by the Board of Retirement April 2020.

****Physical securities market value only. Does not include notional market values of the overlay or capital efficiency program**

KCERA
Operating Expense Budget Status Report
For the Month Ended July 31, 2021

Expense Type	Budget FY 2021/22	Expenses	Over (Under)
Staffing			
Salaries	$ 3,000,135	$177,842	$ (2,822,293)
Benefits	2,098,829	122,519	(1,976,310)
Temporary staff	100,000	6,174	(93,826)
Staffing Total	**5,198,964**	**306,535**	**(4,892,429)**
Staff Development			
Education & Professional Development	57,500	531	(56,969)
Staff Appreciation	2,500	-	-
Staff Development Total	**60,000**	**531**	**(56,969)**
Professional Fees			
Actuarial fees	190,000	-	(190,000)
Audit fees	49,000	2,812	(46,188)
Consultant fees	125,000	-	(125,000)
Legal fees	80,000	-	(80,000)
Professional Fees Total	**444,000**	**2,812**	**(441,188)**
Office Expenses			
Building expenses	72,000	4,564	(67,436)
Communications	33,100	2,126	(30,974)
Equipment lease	13,000	875	(12,125)
Equipment maintenance	2,000	-	(2,000)
Memberships	16,000	4,420	(11,580)
Office supplies & misc. admin.	54,540	194	(54,346)
Payroll & accounts payable fees	22,800	-	(22,800)
Other Services - Kern County	100,000	-	(100,000)
Postage	25,000	149	(24,851)
Subscriptions	13,500	360	(13,140)
Utilities	50,000	-	(50,000)
Office Expense Total	**401,940**	**12,688**	**(389,252)**
Insurance	**138,385**	**140,616**	**2,231**
Member Services			
Disability- legal fees	50,000	-	(50,000)
Disability – professional services	45,000	-	(45,000)
Disability- administration MMRO	130,800	-	(130,800)
Member communications	20,000	-	(20,000)
Member Services Total	**245,800**	**-**	**(245,800)**
Systems			
Audit – security & vulnerability scan	15,000	-	(15,000)
Business continuity expenses	14,700	-	(14,700)
Hardware	35,775	0	(35,775)
Licensing & support	138,415	78,995	(59,420)
Software	95,500	64,310	(31,190)
Website design & hosting	64,700	-	(64,700)
Systems Total	**364,090**	143,305	**(220,785)**
Board of Retirement			
Board compensation	12,000	317	(11,683)
Board conferences & training	30,000	-	(30,000)
Board elections	35,000	-	(35,000)
Board meetings	3,500	12	(3,488)
Board of Retirement Total	**80,500**	**329**	**(80,171)**
Depreciation / Amortization	**646,908**	**53,413**	**(593,495)**
Total Operating Expenses	**$ 7,578,087**	**$ 660,229**	**$ (6,917,858)**

KCERA
CASH FLOW POSITION
July, 2021

TREASURERS POOLED CASH

Beginning Cash Balance:			**$ 65,043,399**
Employer Contributions		21,989,272	
Employee Contributions		3,150,466	
Service Purchases		44,468	
Miscellaneous - Including erroneous deposit		2,773	
Total Receipts:			**25,186,979**
Operating Expenses		(545,597)	
Investment Expenses		(853,843)	
Transfers-out		(24,000,000)	
Total Disbursements:			**(25,399,440)**
Ending Cash Balance:			**$ 64,830,938**

NORTHERN TRUST

Beginning Cash Balance:			**65,043,399**
Private Equity - Distributions		750,033	
Commingled Funds - Distributions		3,108,737	
Hedge Funds - Distributions		16,809,879	
Redemption	Parametric	5,000,000	
Class Action Proceeds		6,179	
Interest		5,557	
Securities Lending Earnings (NET)		31,901	
Total Receipts:			**25,712,286**
Capital Calls	Vista Foundation	(104,538)	
Capital Calls	Peak Rock	(1,002,347)	
Capital Calls	Blue Torch	(2,625,408)	
Capital Calls	TSSP	(7,200,000)	
Contribution	Aresteia	(50,000,000)	
Contribution	Harvest Midstream	(15,000,000)	
Other Expenses		(3,498)	
Transfers-out		(8,000,000)	
Total Disbursements:			**(83,935,791)**
Ending Cash Balance:			**$ 6,819,894**

WELLS FARGO BANK

Beginning Cash balance:			**$ 1,855,823**
Transfer-In		32,000,000	
Total Receipts:			**32,000,000**
Pension Payments		(32,094,128)	
Lump Sum Payments		(2,587,975)	
Bank Service Charges *		(3,667)	
Cash Clearing (NET) *		1,512,379	
Total Disbursements:			**(33,173,391)**
Ending Cash Balance:			**$ 682,432**

* Increased service charges and cash clearing blaances are due to Alameda Distributions

KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
INVESTMENT FEES CASH FLOW REPORT
FOR THE MONTH ENDED JULY, 2021

	Description	July	Total
	Investment Base Fees:		
	Domestic Equity:		
406045	AllianceBernstein	$ 221,668	$ 221,668
406046	Henderson Geneva Capital		-
406035, 406029,	Mellon Capital	135,800	135,800
	International Equity:		
406032	BlackRock		-
406034	Fidelity Institutional Asset Management		-
	Fixed Income:		
406050	Mellon Capital (Ag Bond)	11,876	11,876
406019, 406022,	Pacific Investment Management Company		-
406021, 406018	Western Asset Management		-
	Commodities:		
406101	Wellington Trust Company		-
	Real Estate:		
406088	ASB Capital Management		-
	Midstream Energy:		-
406060	Harvest Midstream	187,309	187,309
	Subtotal	**556,653**	**556,653**
	Investment Professional Fees:		
	Consulting:		
407009	Abel Noser		
407008	Albourne America LLC	33,333	33,333
407004	Cambridge Associates		-
407001	Glass, Lewis & Co.		-
407006	Verus	34,167	34,167
	Custodial:		
407071	The Northern Trust Co.	228,542	228,542
	Legal:		
406097	Foley & Lardner LLP		-
406097	Hanson Bridgett LLP		-
406097	Nossaman LLP	1,148	1,148
	Overlay		
406120	Parametric		
406098	Due Diligence / Investment-Related Travel:		-
	Subtotal	**297,190**	**297,190**
	Total Investment Fees	**$ 853,843**	**$ 853,843**

SPECIAL PAY CODE – NON-PENSIONABLE

Dept./BU	Code	Title	Details	Legal Authority
County - BHRS	PI	Contract Physician Inpatient Coverage at Kern Medical Pay EXCLUDED FOR ALL MEMBERS	Behavioral Health & Recovery Services (BHRS) physician shall be paid an hourly rate of $150 per hour not to exceed four (4) hours per occurrence for inpatient/ patient physician coverage while on duty in the outpatient clinic. Physician is eligible for payment if, while working an assigned shift in a BHRS outpatient clinic, physician responds to calls or consults to provide inpatient coverage at Kern Medical for the caseload of another physician.	*Cal. Gov. Code section 7522.34 (c)(3) and (10) (excludes any ad hoc payments and any bonus paid in addition to member's normal monthly rate of pay or base pay* *Cal. Gov. Code section 31461(b)(1)(B) (excludes ad hoc payments to a member, but not all similarly situated members in the same grade or class).*

SPECIAL PAY CODE – NON-PENSIONABLE

Dept./BU	Code	Title	Details	Legal Authority
SJVAPCD	CU	Compensatory Time Off Promotional Payout EXCLUDED FOR ALL MEMBERS	Regular staff level employees will earn 1.5 hours of CTO for every 1 hour of mandatory overtime. Before promoting, CTO would be paid out/cashed out. This earning code would only be used for paying out CTO prior to promotion. MOU, Article 36, effective October 9, 2021. MOU Effective, July 1, 2021.	*Cal. Gov. Code section 31461.6 (compensation earnable does not include OT premium pay).* *Cal. Gov. Code section 31461(b)(3) (excludes payments to a member for services rendered outside normal working hours).* *Cal. Gov. Code sections 7522.34(c)(5),(6),(8),(10),(11),(12) (pensionable compensation does not include payments for overtime, services rendered outside normal working hours, unused compensatory time off, bonuses, compensation inconsistent with base pay, or compensation the Board determines should not be pensionable).*

SPECIAL PAY CODE – PENSIONABLE/ NON-PENSIONABLE

Dept./BU	Code	Title	Details	Legal Authority
SJVAPCD	HD	Hazardous Duty Pay INCLUDED FOR LEGACY MEMBERS, EXCLUDED FOR PEPRA MEMBERS	Regular staff level positions who in the performance of their duties, meet qualifications as listed in Article 37 in the MOU, will receive 2% above their current salary step for the duration of that assignment. The Hazardous Duty pay shall not constitute part of the employee's base rate; but shall be a bonus for performing these duties. MOU, Article 37, effective October 9, 2021. MOU Effective, July 1, 2021.	*Legacy members: Cal. Gov. Code section 31461(b)(1)(B) (only excludes ad hoc payments to a member when the payment is not made to all similarly situated members in the same grade or class).* *PEPRA members: Cal. Gov. Code sections 7522.34(a) and 7522.34(c)(10) (pensionable compensation does not include payments for bonus paid in addition to base pay).*

THE FOLLOWING SPECIAL ALLOWANCE DESIGNATIONS DISPLAY THE SPECIAL ALLOWANCES CLASSIFIED BY THE EXECUTIVE DIRECTOR PURSUANT TO KCERA BOARD'S ADMINISTRATION OF SPECIAL ALLOWANCES POLICY & CA SUPREME COURT ALAMEDA DECISION (7/30/2020)

COMPENSATION EARNABLE

THE FOLLOWING SPECIAL ALLOWANCES ARE CONSIDERED **COMPENSATION EARNABLE** FOR APPLICABLE MEMBERS (MEMBERSHIP BEFORE 1/1/2013).

SPECIAL ALLOWANCE

CODE	FULL LEGEND
HD	Hazardous Duty Pay

THE FOLLOWING SPECIAL ALLOWANCES ARE **NOT** CONSIDERED **COMPENSATION EARNABLE** FOR APPLICABLE MEMBERS (MEMBERSHIP BEFORE 1/1/2013).

SPECIAL ALLOWANCE

CODE	FULL LEGEND
PI	Contract Physician Inpatient Coverage at Kern Medical Pay
CU	Compensatory Time Off Promotional Payout

PENSIONABLE COMPENSATION

THE FOLLOWING SPECIAL ALLOWANCES ARE CONSIDERED **PENSIONABLE COMPENSATION** FOR APPLICABLE MEMBERS (MEMBERSHIP ON OR AFTER 1/1/2013).

SPECIAL ALLOWANCE

CODE	FULL LEGEND

THE FOLLOWING SPECIAL ALLOWANCES ARE **NOT** CONSIDERED **PENSIONABLE COMPENSATION** FOR APPLICABLE MEMBERS (MEMBERSHIP ON OR AFTER 1/1/2013).

SPECIAL ALLOWANCE

CODE	FULL LEGEND
PI	Contract Physician Inpatient Coverage at Kern Medical Pay
CU	Compensatory Time Off Promotional Payout
HD	Hazardous Duty Pay

Date: September 8, 2021

To: Trustees, Board of Retirement

From: Dominic D. Brown, Executive Director

Subject: Initiation of Service Provider Evaluation Period

The Board of Retirement's Evaluation Period Policy (attached) was established to help ensure that decisions involving the selection, retention, or termination of KCERA service providers are consistent with fiduciary standards of conduct; and that service providers being considered by KCERA are treated fairly.

The Executive Director has initiated an evaluation period during KCERA's search for a new Governance Consultant, as he believes it is prudent to limit communications between current or prospective service providers and KCERA board members at this time. (See Due Diligence and Service Provider Selection Policy).

Trustees are required to comply with the evaluation period restrictions upon receipt of the Executive Director's written notification. (See Board Communications Policy).

> During evaluation periods, trustees shall not communicate with the specified service providers, except during board meetings, committee meetings, or KCERA-authorized due diligence visits; nor shall they accept meals, travel, hotel, or other types of gifts from the specified service providers. Notwithstanding the above, Trustees who need to communicate with such service providers for reasons unrelated to KCERA business agree to disclose such need to the Board beforehand. If circumstances do not permit timely disclosure to the Board, the trustee shall provide disclosure of the intended communication to the Executive Director and to the Chair or Vice-Chair.

(See Evaluation Period Policy).

Pursuant to the aforementioned policies, staff recommends your Board ratify the evaluation period that has been instituted by Executive Director Dominic Brown on August 25, 2021.

Attachment

Date: September 8, 2021

To: Board of Retirement, Trustees

From: Dominic D. Brown, Executive Director

Subject: **Legislative Policy – Recommended Action AB 826**

Issue Presented

Whether KCERA's Board of Retirement should adopt an official position on AB 826 ("the Bill"). (See attached Bill and subsequent amendments).

Summary Recommendation

Opposing this Bill promotes sound public policy and finality of judgments. In the context of retirement system administration, legislating around final judicial determinations creates uncertainty and hinders KCERA's ability to fulfill its duty to properly administer the retirement benefits. In recognition of Ventura County's unique circumstances, Staff recommends your Board take an Oppose, unless amended, position.

Governing Policy

The Legislative Principles in KCERA's Legislative Policy guide your Board's consideration of this issue. (See attached). The Policy encourages the Board to,[1] among other things, 1) support legislative proposals that clarify statutory interpretation of the '37 Act; 2) support legislative proposals that strengthen the financial condition of KCERA and promote administrative efficiency; and 3) oppose legislative proposals that compromise or interfere with KCERA's duty to deliver benefits to participants and beneficiaries.

Background

<u>What prompted this Bill?</u>
The California Supreme Court's decision in the *Alameda* case prompted a massive review of hundreds of pay codes and required countless adjustments to member contributions and monthly retirement benefits. The *Alameda* decision made clear that "in-kind" pays (referred to as "*Alameda* exclusions") that cannot be received in cash are not pensionable and should never have been pensionable. Ventura County seems to have been affected the most by this portion of the decision, as their entire County utilized pay allowances that were required to be excluded as "Alameda exclusions" after the *Alameda* decision.

[1] The Policy recommends the Board promote its position through organizations like SACRS; however, the SACRS legislative committee has decided not to act.

Unlike KCERA and other CERL systems, Ventura County's retirement system (VCERA) decided not to take action to re-designate the "*Alameda* exclusions," as non-pensionable. Ventura County and SEIU subsequently drafted legislation to create an exception to the California Supreme Court's decision.

<u>What does the Bill do?</u>
In short, the Bill amends the definition of "compensation" and "compensation earnable" to include the pay code allowances the California Supreme Court expressly excluded; specifically, the "Alameda exclusions."

<u>Who does the Bill apply to?</u>
The Bill has been amended twice (most recently on August 31, 2021). In its current form, the Bill only applies to Ventura County.

Status and Concerns

KCERA's counsel discussed this Bill with your Board at its August meeting. At that time, Counsel raised concerns about the Bill's potential to encourage future litigation and create bad public policy. Since the August Regular Board Meeting, Staff learned that the Bill cleared committee and was set to be approved in the Senate on August 30, 2021. Staff also learned that several other CERL systems submitted or planned to submit Letters of Concern or Opposition to the Bill's author and their local legislators. In order to timely communicate KCERA's concerns to the Legislature, KCERA delivered a Letter of Concern to the Senate and local legislators on August 27, 2021. (See attached Letter of Concern).

After the various Opposition Letters and Letters of Concern were filed, Staff learned that the Bill had been amended on August 31st to apply to Ventura County only. While the amendment addresses many of the concerns initially raised by Staff, some concerns remain. KCERA was contacted by legislative assistants about its position following the August 31, 2021 amendments. KCERA, therefore, updated its Letter of Concern to clarify the following on-going concerns. (See also attached Updated Letter of Concern).

As proposed, the Bill at subdivision (e) of new section 31641.7 states that the section is "declarative of existing law." KCERA does not view the inclusion of the allowances described in the Bill as consistent with existing law. Rather, KCERA and numerous other CERL systems view such inclusion as contrary to the *Alameda* decision. If the section were truly "declarative of existing law," there would be little need for the Bill. And, if the Bill were "declarative of existing law," it would likely apply to all CERL systems, not just Ventura County. Use of this phrase is problematic because it is a misstatement of the law and it may give rise to challenges from KCERA stakeholders, including local unions, members, or plan sponsors who may be looking to propose similar legislative action. Based on the above, Staff seeks authorization to Oppose the Bill unless it is further amended to remove references to the Bill being "declarative of existing law."

Board Positions and Staff Recommendations

To enable Staff to timely respond, Staff recommends the Board authorize alternative actions depending on how the situation evolves over the next days or weeks as follows:

1) While the Bill remains in committee (if no additional amendments)
    a. Recommendation: send Letter officially Opposing the Bill, unless amended.
2) While the Bill remains in committee (if unfavorable amendments added)
    a. Recommendation: send Letter officially Opposing the Bill, unless amended
3) If Enrolled and Engrossed (sent to Governor without further amendment)
    a. Recommendation: send Letter requesting Governor veto Bill

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LEGISLATIVE POLICY

PURPOSE AND BACKBROUND

1. The purpose of the legislative policy is to provide the organization with a broad framework, which it can utilize as a basis for action. The Board is charged with the responsibility of administering the Association in a manner to assure appropriate and prompt delivery of benefits and related services to plan participants and their beneficiaries and of managing the assets in a prudent manner. Legislation affecting the Association must be closely monitored to determine the potential impact on the Association and whether action is necessary.

OBJECTIVES

2. The objectives of the Legislative Policy are to:

    a. Establish a procedure by which the Board of Retirement can adopt an official position on proposed legislation;

    b. Identify future legislative action in light of the Association's needs;

    c. Facilitate the timely communication of proposed and enacted legislative changes to the Board and staff;

    d. Provide guidance in communicating KCERA's official legislative positions to third parties;

    e. Identify the optimal sources to promote KCERA's official legislative positions.

POLICY GUIDELINES

Roles and Responsibilities

3. The Board will be responsible for:

    a. Adopting an official position for pertinent legislative proposals affecting the Association;

    b. Identifying the ongoing needs of KCERA for future legislative proposals;

c. Analyzing legislative proposals suggested by KCERA's Board members, staff, or interested third parties, and determining appropriate action.

4. Staff will be responsible for:

a. Analyzing and reporting on proposed legislation affecting KCERA, (and other public pension funds if relevant), at the beginning of each legislative session;

b. Monitoring proposed legislation throughout the legislative session and reporting material modifications and their potential impact on KCERA to the Board;

c. Monitoring all chaptered legislation and determining the impact on KCERA;

d. Reporting the impact of, and, as required, suggesting procedures to implement, all chaptered legislation to the Board and staff;

d. Communicating with organizations, active and retired KCERA's members, and/or plan sponsors, as applicable, to inform them of legislative changes affecting KCERA;

e. Drafting proposed legislation based upon proposals received from Board members, staff and interested parties, in accordance with SACRS' Legislative Committee, or other appropriate entity, guidelines and presenting the draft legislation to the Board for consideration; and

g. Identifying and communicating with elected representatives to serve as authors of KCERA-proposed legislation, when appropriate.

Legislative Principles

5. The following legislative principles will guide the Board when considering its position on proposed legislation:

a. Promote KCERA's legislative position primarily through organizations in which KCERA participates unless proposed legislation has a specific and unique effect on KCERA;

b. Support legislative proposals that strengthen the confidentiality protections for member records;

c. Support legislative proposals that clarify statutory interpretation of ’37 Act provisions unless inconsistent with KCERA’s legislative policy;

d. Support legislative proposals that strengthen the financial condition of KCERA and promote administrative efficiency;

e. Oppose legislative proposals that create the potential for increased unfunded actuarial liability without appropriate funding provisions;

f. Oppose legislative proposals that compromise or interfere with KCERA’s duty to deliver benefits to participants and beneficiaries.

POLICY REVIEW

6. The Board will review this policy at least every three years to ensure that it remains relevant and appropriate.

POLICY REVIEW AND HISTORY

1) This policy was:
   a) Adopted by the Board on January 10, 2018.

AB-826 County Employees Retirement Law of 1937: compensation and compensation earnable. (2021-2022)

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Date Published: 08/31/2021 09:00 PM

AMENDED IN SENATE AUGUST 31, 2021

AMENDED IN SENATE JULY 14, 2021

AMENDED IN SENATE JUNE 22, 2021

AMENDED IN SENATE JUNE 21, 2021

AMENDED IN ASSEMBLY APRIL 19, 2021

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL **NO. 826**

Introduced by Assembly Member Irwin

February 16, 2021

An act to ~~amend~~ *add* Section ~~31461~~ *31461.7* of the Government Code, relating to ~~public~~ *county* employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 826, as amended, Irwin. County Employees Retirement Law of 1937: *compensation and* compensation earnable.

The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions for the purpose of providing pension, disability, and other benefits to county and district employees. CERL defines compensation earnable for purposes of its provisions, with particular application to the calculation of final compensation and the determination of pension amounts and other benefits. Existing law, the Public Employees' Pension Reform Act of 2013, prescribes various limitations on public employees, employers, and retirement systems concerning, among other things, the types of remuneration that may be included in compensation that is applied to pensions.

This ~~bill would prescribe, for CERL, a definition of compensation earnable that would include any form of remuneration, whether paid in cash or as in-kind benefits, if specified requirements are met.~~ *bill, which would apply only in Ventura County, would provide that compensation and compensation earnable include flexible benefits plan allowances paid by a county or a district on behalf of its employees as part of a cafeteria plan, as specified, if certain requirements are met. Among these conditions, the bill would require that the retirement system included the flexible benefit plan allowance as part of compensation earnable as of July 30, 2020, that the employer and employee paid contributions to the retirement system based on the flexible benefit plan allowance, and that an employer and an employee continues to pay those contributions as employee earns this allowance.*

The bill would *apply these provisions to eligible members who have retired prior to the effective date of the measure and would* state that these provisions are declarative of existing law.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Ventura.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 31461.7 is added to the Government Code, to read:*

31461.7. *(a) This section applies only to a county of the thirteenth class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28034, as amended by Chapter 1204 of the Statutes of 1971.*

(b) (1) Compensation, as defined in Section 31460, and compensation earnable, as defined in Section 31461, include flexible benefits plan allowances paid by a county or a district on behalf of its employees as part of a cafeteria plan offered pursuant to Section 125 of the Internal Revenue Code if all of the following requirements are met:

(A) The flexible benefit plan allowance is made available to any person in the same grade or class of positions. For purposes of this subdivision, "grade or class of positions" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical, work-related grouping. A single employee shall not be considered a grade or class of positions.

(B) The flexible benefit plan allowance is not expressly excluded from "compensation earnable" pursuant to paragraphs (2) to (4), inclusive, of subdivision (b) of Section 31461.

(C) The retirement system included the flexible benefit plan allowance as part of compensation earnable as of July 30, 2020, and the employer and employee paid contributions to the retirement system based on the flexible benefit plan allowance as of that date.

(D) The employer and employee pay the required contributions to the retirement system as the employee continues to earn the flexible benefit plan allowance.

(2) For employee groups in which the monetary amount of the flexible benefits plan allowance is the same for all employees, regardless of the number of dependents, the entire amount shall be included in compensation earnable. For employee groups in which the monetary amount of the flexible benefits plan allowance varies among employees depending on the number of dependents, the amount included in compensation earnable shall be the amount provided to an employee with no dependents.

(c) This section shall only apply to employees who are not new members, as defined in Section 7522.04.

(d) Paragraphs (1) and (2) of subdivision (b) shall apply to any eligible member who has retired prior to the effective date of this section, as permitted by subdivision (a) of Section 31481.

(e) This section is declarative of existing law.

SEC. 2. *The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances confronting county employees who are members of the retirement system in the County of Ventura.*

~~SECTION 1.Section 31461 of the Government Code is amended to read:~~

~~31461.(a)"Compensation earnable" by a member means the average compensation, as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay. The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence. Compensation, as defined in Section 31460, that has been deferred shall be deemed "compensation earnable" when earned, rather than when paid.~~

~~(b)Except as provided in subdivision (c), "compensation earnable" does not include, in any case, the following:~~

~~(1)Any compensation determined by the board to have been paid to enhance a member's retirement benefit under that system. That compensation may include:~~

~~(A)Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.~~

~~(B)Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.~~

~~(C)Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.~~

~~(2)Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.~~

~~(3)Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.~~

~~(4)Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.~~

~~(c)(1)Notwithstanding subdivision (b) and Section 31460, "compensation earnable" means any form of remuneration, whether paid in cash or as in-kind benefits, if all of the following requirements are met:~~

~~(A)The remuneration is made available to any person in the same grade or class of positions. For purposes of this subdivision, "grade or class of positions" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical, work-related grouping. A single employee shall not be considered a grade or class of positions.~~

~~(B)The remuneration is not expressly excluded from "compensation earnable" pursuant to paragraphs (2) to (4), inclusive, of subdivision (b).~~

~~(C)The remuneration is paid on or after January 1, 2013, the remuneration is included in compensation earnable, and the employer and employee paid contributions to the retirement system based on the remuneration.~~

~~(D)On the date that the act adding this subdivision becomes operative, the board of retirement has not completed a formal action to reverse a prior determination that a form of remuneration, to which this subdivision would otherwise apply, is compensation earnable.~~

~~(2)This subdivision is declarative of existing law.~~

~~(d)The terms of subdivision (b) are intended to be consistent with and not in conflict with the holdings in Salus v. San Diego County Employees Retirement Association (2004) 117 Cal.App.4th 734 and In re Retirement Cases (2003) 110 Cal.App.4th 426.~~

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Dave Cortese, Chair
2021 - 2022 Regular

Bill No:	AB 826	**Hearing Date:**	July 12, 2021
Author:	Irwin		
Version:	June 22, 2021		
Urgency:	No	**Fiscal:**	No
Consultant:	Glenn Miles		

SUBJECT: County Employees Retirement Law of 1937: compensation earnable

KEY ISSUE

Should the Legislature revise the Public Employees' Pension Reform Act (PEPRA) as upheld by the California Supreme Court's *Alameda* decision[1] so that 37 Act County retirement systems can include otherwise proscribed compensation in member pension calculations from the time PEPRA took effect in 2013 to the Supreme Court's ruling in 2020?

ANALYSIS

Existing law:

1) Establishes the County Employees Retirement Law of 1937 Act (referred to as "37 Act" or "CERL") consisting of twenty county retirement systems to provide defined benefit pension benefits to public county or district employees, as specified. (Government Code § 31450 et seq.)

2) Provides that 37 Act retirement system members are entitled, upon retirement for service, to receive a retirement allowance consisting of their service retirement annuity, their current service pension, and their prior service pension, as specified. (GC § 31673)

3) Establishes benefit provisions for the general defined benefit plan that each member county can adopt by resolution. Existing law also provides specific plan elements by statute to particular systems, as specified. Thus, while 37 Act retirement systems have similar characteristics each has its own particular benefit structure and requirements. (e.g., GC § 31461.1)

4) Defines "compensation earnable" and "pensionable compensation" [2], as specified, in the 37 Act, and as amended by PEPRA, which is the member's compensation that a pension system may include in calculating the member's pension benefit. Existing law also specifically excludes certain forms of compensation from pension benefit calculations in order to prevent manipulation of pension benefits in contravention of the theory and successful operation of a pension system. (GC § 31461 and GC § 7522.34)

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[1] *Alameda County Deputy Sheriff's Assn. v. Alameda County Employee Retirement Assn.*, S247095 (Cal. Jul. 30, 2020).

[2] Compensation earnable is the terminology used in the 37 Act and "pensionable compensation" is the terminology used in PEPRA.

5) Establishes PEPRA, a comprehensive reform of public pension law designed to stabilize public pension systems while preserving the objective of ensuring that public employees who dedicate a lifetime of service to California receive retirement security in their old age (GC § 7522 et seq.).

6) Excludes the following forms of compensation from compensation earnable:

   a) Any compensation determined by the board to have been paid to enhance a member's retirement benefit under that system, including:

      (1) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.
      (2) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.
      (3) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.

   b) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

   c) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

   d) Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid. (GC § 31461)

This bill:

1. Amends the definition of "compensation earnable" to include any form of remuneration, whether paid in cash or as in-kind benefits, if all of the following requirements are met:

   a) The employer made the remuneration available to any person in the same grade or class of positions. "Grade or class of positions" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical, work-related grouping. The retirement system and employer shall not consider a single employee a grade or class of positions.
   b) Existing law, as specified, does not *expressly* exclude the remuneration from compensation earnable.
   c) With regard to remuneration paid between January 1, 2013, and July 30, 2020, the employer and system included the remuneration in compensation earnable, and the employer and employee paid contributions to the retirement system based on the remuneration.

d) The retirement system's board, on the bill's operative date, has not formally reversed a prior determination that a form of remuneration, to which this bill would otherwise apply, is compensation earnable.

2. States that the bill's change to compensation earnable is "declarative of existing law", thereby immunizing the inclusion of otherwise prohibited remuneration paid between July 1, 2013, and July 30, 2020, from the requirements of PEPRA and the *Alameda* Supreme Court decision.

COMMENTS

1. Background

PEPRA limited the types of compensation that public employers can include for purposes of calculating their employees' pension allowance. PEPRA, as upheld by the California Supreme Court in its 2020 *Alameda* decision, excluded certain items of pay - to legacy employees as well as PEPRA employees – as part of efforts to end pension spiking (i.e., the practice of padding compensation at the end of the employee's career to inflate the life-long pension benefit the employee would get upon retirement). PEPRA provided express examples of remuneration that are excluded per se and also examples of remuneration that a retirement board may exclude if it determined the compensation was paid to enhance a member's pension benefit.[3]

After PEPRA became law in 2013, some 37 Act members and employers believed that its provisions regarding the kinds of remuneration excludable from compensation earnable for *legacy* members were constitutionally infirm. They pursued litigation while their systems waited for the outcome of the litigation before unwinding the contested remuneration from their members' pension benefit calculations, believing that PEPRA's provisions affecting legacy members violated those systems' previous contracts and settlement agreements with those members. However, the Supreme Court in *Alameda* upheld PEPRA's provisions. The court found, in part, that the pension systems' past practices and settlement agreements did not prevent the Legislature from revising the law to achieve the permissible purpose of conforming pension benefits to the theory underlying the 37 Act plans by closing loopholes and proscribing potentially abusive practices. Thus, those 37 Act systems that continued to include affected compensation practices from their legacy members' pension calculations now face the daunting task of reversing and recovering from retirees up to 8 years of pension overpayments and refunding contributions that those retirees and active members have paid on the contested compensation.

2. Need for this bill?

According to the author,

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[3] Per se exclusions include, for example, payments for excess unused leave, payments for additional services outside normal work hours, and termination payments made at time of termination. Examples of potential exclusions for compensation to enhance pension benefits include conversions of third party cash or in-kind payments to direct cash payments to the member during the final compensation period, one-time or ad hoc payments made to individuals, and excess termination payments made prior to termination and during the final compensation period. (GC §31461)

AB 826 will ensure specified public employees hired prior to January 1, 2013 do not have their pensions unfairly reduced by clarifying the definition of "compensation earnable", consistent with PEPRA and standing legal precedent.

The author and the sponsors inform the committee that they need this bill to clarify that certain compensation practices by Ventura County as applied to their legacy employees do qualify as compensation earnable despite PEPRA and *Alameda*.

The author names one particular form of remuneration (a Flexible Benefit Account in which employees are paid an amount which then they must use to purchase health care polices). However, the bill provides authorization to include *any form of cash or in-kind remuneration* in compensation earnable provided the employer paid it to groups of similarly situated employees, PEPRA did not expressly exclude it, the respective retirement board did not previously reject it as compensation earnable, and that the employer and member made conforming pension contributions on the compensation.

Committee Concerns

1. *Creates Inequitable Treatment Among 37 Act Systems that the Legislature Will Probably Have to Address Eventually*

   A 37 Act pension board that has already formally reversed a prior determination that a form of remuneration is compensation earnable will not be able to avail themselves of this bill's provisions as currently drafted. This bill must be particularly galling to those 37 Act systems that actually complied with the Legislature's mandate in PEPRA from its implementation date or that promptly initiated the required pension and contribution adjustments immediately after *Alameda*. They may well face lawsuits by their membership to challenge their exclusion or may seek equitable treatment in this or subsequent legislation.

   However, if the bill is amended to include them to grandfather the specified compensation for their legacy members, they face inevitable inequities and administrative complexities at the prospect of having to quickly decide whether to reverse their previous resolutions, recalculate their retirees' and members' respective pension benefits and pension contributions, and recalculate their actuarial assumptions regarding their unfunded liability. Some may well prefer to avoid that outcome but the pressures from their members and retirees are likely to be intense to obtain the same benefit. These challenges, though administrative, are not trivial nor free of cost. In the spirt of equity, the Legislature should consider providing funding to those specific 37 Act systems who incurred costs in timely and faithfully complying with and adjusting to PEPRA only to re-incur costs to reverse all that work should this bill eventually apply to them.

2. *Ambiguity in the Language Regarding Post –July 30, 2020, Compensation and Contributions*

   The bill's current language regarding the criteria for remuneration that may be included in compensation earnable is ambiguous and could result in the inclusion of cash/in-kind compensation going forward beyond July 30, 2020, and possibly without requiring conforming employer and employee pension contributions.

The ambiguity stems from the phrase "With regard to…" in Section 31461(c) (1) (C) in the context of Section 31461 (c) (1)'s list of requirements that must be met to qualify for inclusion in compensation earnable.

> (c) (1) Notwithstanding subdivision (b) and Section 31460, "compensation earnable" means any form of remuneration, whether paid in cash or as in-kind benefits, if *all of the following requirements* are met:
>
> ... (C) *With regard* to remuneration paid between January 1, 2013, and July 30, 2020, the remuneration was included in compensation earnable, and the employer and employee paid contributions to the retirement system based on the remuneration.

What about compensation paid after July 30, 2020? Is that included? If not, there is no need to say "with regard" and the reference should be clearer. If post- July 30, 2020 compensation is included, do the members and employers have to pay contributions on that compensation? The existing wording makes it seem like the link to contributions only applies to the 2013-2020 period.

Option 1: Grandfather 2013-2020 Cash / In-kind Compensation (Keep PEPRA / Alameda Rule but Grandfather Ventura- type systems for 2013-2020)

To eliminate this ambiguity and clarify that the bill authorizes only compensation for the 2013-2020 period (when 37 Act systems presumably were confused about the state of the law) the committee recommends the following amendments:

> (C) ~~With regard to remuneration~~ **The remuneration was** paid between January 1, 2013, and July 30, 2020, the remuneration was included in compensation earnable, and the employer and employee paid contributions to the retirement system based on the remuneration.

Option 2: Allow Permanent Cash/ In-Kind Compensation Inclusion but clarify that Post-July 30, 2020 Compensation Also Requires Employer and Employees to Pay Pension Contributions (Overturn PEPRA / Alameda Rule for Ventura type systems only)

To clarify that Ventura-type systems may continue to permanently include Cash / In-Kind Compensation in compensational earnable for legacy employees but that employers and employees must pay pension contributions on that compensation the committee recommends the following:

> (C) ~~With regard to remuneration~~ **The remuneration is** paid ~~between~~ **on or after** January 1, 2013, ~~and July 30, 2020~~, the remuneration ~~was~~ **is** included in compensation earnable, and the employer and employee paid contributions to the retirement system based on the remuneration.

2. Proponent Arguments

According to the sponsors,

> The *Alameda* decision created confusion among county retirement systems governed by CERL about how to correctly apply the PEPRA definitions to long-standing compensation practices, including the Flexible Benefit Allowance in Ventura County. The *Alameda* decision did not specifically address compensation, like Ventura's Flexible Benefit Allowance, but some have argued that these payments could fall outside the allowed compensation under CERL. In Ventura's case, however, the County has included the Flexible Benefit Allowance in the pension calculation for legacy employees because employees receive the full cash value and it is a regular, set amount paid every pay period; it is not subject to pension spiking or any other manipulation.
>
> AB 826 has been narrowly crafted to clarify the definition of compensation earnable under CERL to include any form of compensation, whether paid in cash or as in-kind benefits, so long as the compensation is made available to any person in the same grade or class of positions. In addition, both the employer and employee must have paid contributions to the retirement system between January 1, 2013 and July 30, 2020 and the board of retirement must not have taken a formal action to reverse a prior determination regarding such forms of compensation. Importantly, AB 826 does not impact any benefit specifically excluded by PEPRA.

3. Opponent Arguments:

None received.

4. Prior Legislation:

Chapter 296, Statutes of 2012 (AB 340, Furutani), created PEPRA whose key provisions included restrictions on the types of compensation that could be included in determining pension benefits.

SUPPORT

County of Ventura (Co-Sponsor)
Service Employees International Union, California (Co-Sponsor)
Orange County Employees Association

OPPOSITION

None on file.

-- END --

KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

KCERA
PRUDENT INVESTMENT • QUALITY SERVICE

August 27, 2021

The Honorable Jacqui Irwin
California State Assembly
Room Number 5119
State Capitol
Sacramento, CA 95814

RE: AB 826 (as amended July 14, 2021)

Dear Assembly Member Irwin,

The Kern County Employees' Retirement Association (KCERA) is writing to express concern with AB 826 ("Bill"). Specifically, KCERA's concerns relate to the uncertainty this Bill injects into its administration and delivery of retirement benefits.

The *Alameda* ruling set the precedent for deciding subsequent cases involving similar facts. This precedent guides KCERA and its retained experts who advise KCERA on the rates of contributions needed to properly fund the retirement system. KCERA is concerned that legislating around this California Supreme Court decision is antithetical to the notion of finality of judgments. Such action has the potential to generate endless litigation for plan administrators like KCERA.

KCERA is also concerned that if this Bill were to pass, it would open the door to potential litigation over in-kind pays administered by KCERA. The language in the Bill (requiring remuneration be "expressly excluded" and requiring "completed" "formal action" by the Board to "reverse a prior determination") may subject systems like KCERA to unnecessary challenges about whether their Board has or hasn't met such standards.

KCERA, like Ventura County's Employees' Retirement Association, waited nearly eight years for the California courts to render a final decision on the constitutionality of PEPRA. Once the California Supreme Court issued its ruling in *Alameda County Deputy Sheriff's Assn. v. Alameda County Employees' Retirement Assn.*, (2020) 9 Cal. 5th 1032, our staff worked feverishly to implement the decision in a manner that minimized financial burden to our members. Over the last year, KCERA's staff has worked diligently to complete the arduous process of re-designating pay codes and recalculating benefits and contributions paid and collected. When KCERA re-designated its affected pay codes as "non-pensionable," the pension benefits of its affected members were prospectively reduced and KCERA required those members to repay the overpaid benefits from the date of the

Alameda decision to the date of the prospective adjustment. We are currently entering the final phase of our four-phased implementation process.

Because KCERA worked so hard to minimize financial impacts to its members, KCERA is troubled by the fact that this Bill will lead to inequitable treatment of members across the 20 CERL systems. Under this Bill, systems who either implemented the amendments to Government Code section 31461 on January 1, 2013 or implemented the *Alameda* decision in August 2020, will have different elements included in the compensation calculation than those systems who have not yet completed their recalculation efforts. As our sister system in Sonoma County noted (in their letter), "[S]imply as a result of timing, the members in the various systems will be treated differently and their benefits impacted in inequitable ways."

KCERA's Board did not meet in July, but staff expressed concerns about the Bill to its Board in August. It is set to discuss and receive further direction on the Bill from its Board at its September meeting. We would appreciate more time to fully express the KCERA Board's opinion on the Bill or any proposed amendments.

I am happy to discuss these concerns with you or your office should you wish further information. I can be reached at (661) 381-7700.

Respectfully,

Dominic D. Brown

Dominic D. Brown
Executive Director

KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

KCERA
PRUDENT INVESTMENT • QUALITY SERVICE

September 2, 2021

The Honorable Jacqui Irwin
California State Assembly
Room Number 5119
State Capitol
Sacramento, CA 95814

RE: Updated Letter of Concern - AB 826 (as amended August 31, 2021)

Dear Assembly Member Irwin,

The Kern County Employees' Retirement Association (KCERA) understands that AB 826 ("Bill") has been amended to apply to Ventura County only. KCERA appreciates that such changes were intended to address concerns raised by KCERA and other CERL systems. Unfortunately, two concerns remain: the first relates to the use of the phrase "declarative of existing law" and the second, which was addressed in our initial letter, concerns the principle of finality of judgments.

As proposed, subdivision (e) of section 31641.7 states that the section is "declarative of existing law." KCERA does not view the inclusion of the allowances described in the Bill as consistent with existing law. Rather, KCERA views such inclusion as contrary to the recent California Supreme Court's decision in *Alameda*. If the section were truly "declarative of existing law," there would be little need for the Bill. And, if the Bill were "declarative of existing law," it would likely apply to all CERL systems, not just Ventura County. The latter is problematic and may give rise to challenges from KCERA stakeholders, including local unions, members, or plan sponsors who may be looking to propose similar legislative action.

While narrowing the focus of the Bill to Ventura County is helpful, it does not resolve KCERA's principle concern that legislating around this or other California Supreme Court decisions is contrary to the legal principle of finality of judgments and may generate uncertainty for the plan and its proper administration in the future.

I am happy to discuss these concerns with you or your office should you wish further information. I can be reached at (661) 381-7700.

Respectfully,

Dominic D. Brown
Executive Director

11125 River Run Boulevard ▪ Bakersfield, California 93311 ▪ www.kcera.org
Tel (661) 381-7700 ▪ Fax (661) 381-7799 ▪ Toll Free (877) 733-6831 ▪ TTY Relay (800) 735-2929

KERN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

KCERA
PRUDENT INVESTMENT • QUALITY SERVICE

August 25, 2021

Via U.S. Mail and E-mail
Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Suite 212
Bakersfield, CA 93301

Foreperson
Kern County Grand Jury
1415 Truxtun Avenue, Suite 600
Bakersfield, CA 93301

Subject: KCERA Response to Grand Jury Report

On May 18, 2021 the Kern County Grand Jury published a report ("Report") regarding the Kern County Employees' Retirement Association (KCERA). An amended version of the Report was released to the public on May 26, 2021, updated on June 14, 2021, and July 7, 2021. Below is KCERA's response to the Report ("Response").

KCERA appreciates the role of the Grand Jury and believes that an independent review of KCERA by the Grand Jury should serve to inform and educate the community about KCERA and potential areas of concern regarding its administration and management. However, to do so requires factually accurate information, free from bias and sensationalism. Unfortunately, the Report contains numerous factual inaccuracies, findings that lack foundation, and recommendations that either don't pertain to KCERA or would be illegal to implement.

GENERAL BACKGROUND COMMENTS ABOUT KCERA:

KCERA is a multi-employer cost sharing defined benefit plan ("Plan"). The KCERA Board of Retirement was created by the Board of Supervisors and is a unique entity, separate and apart from the County of Kern or any other plan sponsor. The KCERA Board of Retirement is statutorily obligated to administer the benefits agreed upon by plan sponsors and employee groups through collective bargaining and as allowed by law. KCERA does not participate in collective bargaining.

KCERA COMMENTS ON THE REPORT:

Before responding to the findings and recommendations, KCERA is compelled to identify factual inaccuracies presented in the body of the Report. Some, but not all, such inaccuracies are addressed below:

- Inaccurate Statement #1 – Summary Section, Page 1. The last paragraph of this section states, "The benefit is for full time County employees and retirees whereas the pension liability is paid by the employer, Kern County."
    - Accurate Statement: KCERA is a multi-employer, cost-sharing plan consisting of 15 plan sponsors (employers), one of which is the County. The service retirement benefit offered by the County can be earned by full-time and eligible part-time employees after performing 5 or more years of service and only after making 5 or more years of contribution payments through payroll deductions. The County pays employer costs associated with the pension benefit and employees pay the bargained-for employee share of the benefit. All County employees make bi-weekly payroll contributions to KCERA toward their future pension. Costs associated with the unfunded liability are borne solely by the plan sponsors.

- Inaccurate Statement #2 – Summary Section, paragraph 3, states, "… the current UPL will not go away soon and is projected to progressively worsen over the next decade."
    - Accurate Statement: The Unfunded Actuarially Accrued Liability is projected to improve significantly over the next decade. As the unfunded liability is fully amortized, the funded ratio is projected to steadily climb to 100% over the next 15 years. See Exhibit A attached to this Response.

- Inaccurate Statement #3 – The Purpose of Inquiry section cites Cal. Penal Code section 925(a) for the Grand Jury's authority to investigate the County's defined benefit plan and states that its expenses are then "passed on to taxpayers."
    - Accurate Statement: The cost of plan benefits is borne solely by plan sponsors and their employees. Tax rates are determined by applicable statues and other legal provisions. Taxes are assessed by the County Assessor, collected by the County Treasurer-Tax Collector, and apportioned by the County Auditor-Controller. There is no correlation between County tax rates and KCERA contribution rates. Tax rates did not increase when the unfunded liability was created, and tax rates are not expected to decrease when the unfunded liability is fully amortized.

- Inaccurate Statement #4 – The Background section, subsection A at page 4 states that the Board of Retirement of KCERA "…establishes the key parameters of the plan benefits…"
    - Accurate Statement: Plan sponsors, not KCERA, determine the plan benefits through collective bargaining and adoption of optional statutes within the County Employment Retirement Law of 1937 (CERL). KCERA's responsibility is to merely administer such benefits in accordance with applicable law and

Memorandums of Understanding ("MOU") created through collective bargaining. KCERA does not participate in collective bargaining.

GRAND JURY FINDINGS AND KCERA RESPONSE:

F1. Kern County Net Pension Liability for its share of the pension fund is $1,804,165,000 and, based off current data for FY 2019-2020, will continue to increase.

RESPONSE: KCERA partially disagrees with the finding. The Net Pension Liability (NPL) is projected to decrease, not increase. The Grand Jury Report glossary defines the NPL as "The difference between the total pension liability (the present value of projected benefit payments to employees based on their past service) and the assets (mostly investments reported at fair value) set aside in a trust and restricted to only paying benefits to current employees/retirees." Although the overall Actuarially Accrued Liability is projected to increase as the value of the benefits increase in future years, the assets are also projected to increase. The NPL is projected to steadily decrease over the next 15 years as the Plan approaches 100% funding and the unfunded liability is fully amortized. See Exhibit A attached to this Response.

F2. The Board of Retirement is the exclusive governing and policy making body of KCERA and controls the investments of pension assets. However, the investment returns do not perform as well as other counties of similar demographics.

RESPONSE: KCERA wholly disagrees with the finding related to KCERA's investment returns. The return data included in the Report is inaccurate. According to the respective Comprehensive Annual Financial Reports for the fiscal year ended June 30, 2020, KCERA outperformed comparison peers:

- Kern – 3.0%
- Ventura – 2.5%
- Fresno – 1.0%

Defined benefit pension plans are very long-term systems. In order to effectively evaluate a pension plan, long-term data should be favored because any investment portfolio can experience short-term volatility. This was especially true for the fiscal year ended June 30, 2020, when the effects of COVID-19 and the global economic shut-down significantly impacted financial markets. In addition, see response to Finding 5.

F3. KCERA uses a Tier 1, Tier 2, and Tier 3 pension formula policy that is directed by the plan sponsors. This tier level system is costly to the taxpayers.

RESPONSE: KCERA wholly disagrees with this finding. Tiers are statutory benefit adoptions that were enacted by plan sponsors or the California legislature, not "policies." Each plan sponsor received actuarial analysis about the future cost of the elected benefit before executing the MOU or adopting the related statute. KCERA expresses no opinion about the appropriateness of the benefits defined in MOUs or the costs related thereto. KCERA's role is to administer benefits, collect and invest funds, and calculate contribution rates.

F4. In 2002, County public safety employees had their multiplier increased from 2% to 3% when the Board of Supervisors decided to retroactively increase pensions to the highest levels allowed by law (Senate Bill 400) *without developing* a viable plan to pay for the increased cost. This increase, awarded retroactively, was possibly the biggest single factor as to why pension contributions have become an unaffordable burden on County taxpayers.

RESPONSE: KCERA expresses no opinion as to this finding, as the finding does not relate to any action taken by KCERA. Each plan sponsor received actuarial analysis about the future cost of the elected benefit before executing the MOU or adopting the related statute. KCERA's role is to administer benefits, collect and invest funds, and calculate contribution rates. KCERA expresses no opinion about the appropriateness of the benefits defined in MOUs or the costs related thereto. Moreover, there is no correlation between County tax rates and KCERA contribution rates.

F5. KCERA has a full-time investment officer as well as professional consultants to manage all 12 classes of asset investment. However, they have not achieved their investment goal of 7.25% over the past five years.

RESPONSE: KCERA wholly disagrees with the finding that KCERA's investments have not achieved the assumed rate of return set by its Board of Retirement. KCERA is a long-term investor. Therefore, analyzing performance over a short time-frame can be very misleading because of short-term market volatility. For the 10-year period ended June 30, 2020, KCERA had an investment return of 7.20%, which is very close to the assumed rate of return of 7.25%. In addition, the performance figures have now been updated as of June 30, 2021, and actual returns now exceed the assumed rate of return for the following time intervals:

- 1 year – 23.9%
- 5 year – 9.8%
- 10 year – 7.6%

F6. The UAAL and bond obligations create a significant financial strain on the County.

RESPONSE: KCERA expresses no opinion as to this finding, as each plan sponsor received actuarial analysis about the future cost of the elected benefit before executing the MOU or adopting the related statute.

F7. KCERA's income is derived from the County and employee contributions as well as investment income. However, there is still a deficit that is passed to all taxpayers.

RESPONSE: KCERA expresses no opinion as to this finding, as the finding does not relate to any action taken by KCERA. Each plan sponsor received actuarial analysis about the future cost of the elected benefit before executing the MOU or adopting the related statute. Moreover, there is no correlation between County tax rates and KCERA contribution rates.

F8. Paying off pension debt or UAL, "unfunded accrued liability," is owed by the County, the major payer, along with the other 14 Plan Sponsors. This debt continues to be a burden on taxpayers.

RESPONSE: KCERA expresses no opinion as to this finding, as the finding does not relate to any action taken by KCERA. Each plan sponsor received actuarial analysis about the future cost of the elected benefit before executing the MOU or adopting the related statute. KCERA expresses no opinion about the appropriateness of the benefits defined in MOU's or the costs related thereto. Moreover, there is no correlation between County tax rates and KCERA contribution rates.

F9. FY 2019-2020, KCERA had a 2.5% COLA whereas nationally the COLA was 1.3%. This increase in the COLA benefit adds to County liabilities.

RESPONSE: KCERA wholly disagrees with the comparison of its statutory COLA with a national COLA. Per Government Code 31870, KCERA is statutorily obligated to utilize a Cost-of-Living Adjustment (COLA) that corresponds to the Kern region and KCERA has no legal ability to utilize a national COLA.

It is important to note that the statutory COLA for KCERA members who retired between April 2, 2020 and April 1, 2021 was 1.5%. In addition, future projected COLAs are included in the Annual Actuarial Valuation. Therefore, the realization of the COLA does not add to the liability because it is already included in the liability.

F10. KCERA's investment income goal is 7.25%, however, in FYE 2020 the actual income on assets was 3.2%, with the past five years averaging 5.58%. The underperforming assets will continue to increase costs to the taxpayers.

RESPONSE: KCERA wholly disagrees with this finding. See KCERA response to Finding 5 and Inaccuracy #3.

F11. National Association of Counties' survey indicated that 60% of counties had an increase in expenditures during the 2020 budget due to COVID-19. Kern County anticipates a similar increase in expenditures, with a trickle-down increase in pension debt.

RESPONSE: KCERA expresses no opinion as to this finding, as the finding does not relate to any action taken by KCERA. Each plan sponsor received actuarial analysis about the future cost of the elected benefit before executing the MOU or adopting the related statute. KCERA expresses no opinion about the appropriateness of the benefits defined in MOU's or the costs related thereto. In addition, see Inaccuracy #3 above regarding how taxes are assessed, collected, and apportioned. Moreover, there is no correlation between County tax rates and KCERA contribution rates.

F12. Paying off pension debt is one of the factors that have increased employer contributions during the last decade and it is anticipated to continue.

KCERA partially disagrees with the finding. Actuarial analysis was performed in 2002, before plan sponsors implemented the retroactive benefit enhancement. Plan sponsors had full knowledge that contribution rates would increase, an unfunded liability would be created, and that the funded ratio of the pension plan would decrease due to the change in benefits. However, the unfunded liability is projected to be fully amortized in the future and contribution rates will decrease significantly when the unfunded liability is fully amortized. See Exhibit A attached to this Response.

F13. Kern County has 13 expired or extended MOUs, leaving the Grand Jury wondering why there has been no mutual agreement reached.

RESPONSE: KCERA expresses no opinion on the current status of MOUs as KCERA does not participate in employee bargaining.

GRAND JURY RECOMMENDATIONS AND KCERA RESPONSE:

R1. Kern County Board of Supervisors should establish a pension reform Ad Hoc Committee consisting of third-party consultants to study alternative pension plans to be put in place by FYE 2024. (Findings 1, 8, and 12)

RESPONSE: The recommendation will not be implemented by KCERA because the recommendation is directed to a KCERA plan sponsor, not KCERA.

R2. The Board of Supervisors should consider using the general Tier 2 category retirement policy for all employees by FYE 2024. (Finding 3 and 4)

RESPONSE: The recommendation will not be implemented by KCERA because the recommendation is directed to a KCERA plan sponsor, not KCERA.

R3. KCERA's COLA should not exceed the national yearly COLA increase. (Finding 9)

RESPONSE: The recommendation will not be implemented by KCERA because KCERA does not have the legal authority to alter the statutory COLA. See also response to Finding 9.

R4. Kern County Board of Supervisors and Union Collective Bargaining Representatives should update all expired County MOUs no later than FYE 2022. If the Board of Supervisors and Union Collective Bargaining Representatives are unable to reach viable agreements, in the best interest of the public, then the Board of Supervisors should implement the Impasse provisions of collective bargaining. (Finding 13)

RESPONSE: The recommendation will not be implemented by KCERA because the finding is directed to a KCERA plan sponsor, not KCERA.

KCERA values the role that the Grand Jury could provide in increasing accountability and transparency with the public regarding KCERA. However, accurate and sound reasoning, along with well-supported conclusions are essential to achieve those goals. It is the hope of KCERA that the information provided in this Response will aid the citizens of Kern County in understanding KCERA's statutory obligations and demonstrate KCERA's unwavering commitment to fulfill its fiduciary duty and abide by all applicable statutes.

Respectfully submitted, and on behalf of the Board of Retirement of KCERA,

Dominic D. Brown

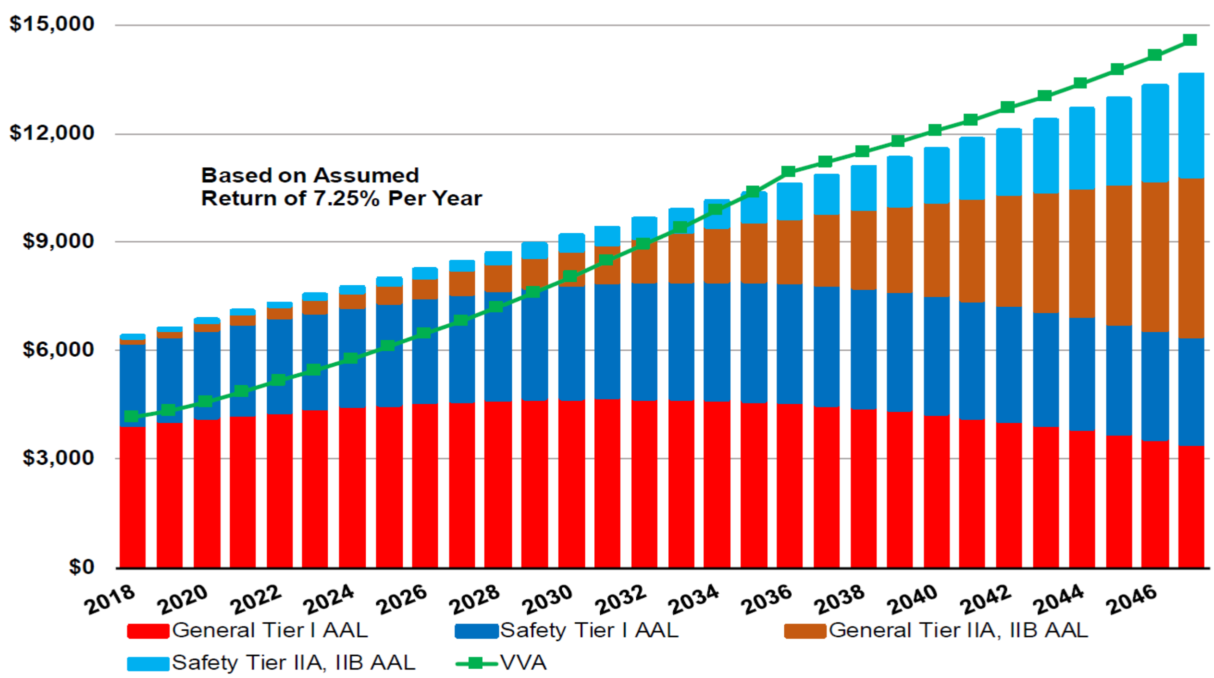
Dominic D. Brown
Executive Director

cc: Board of Retirement
Clerk of the Board of Supervisors
Each Member of the Board of Supervisors
County Administrative Office

Exhibit A

The following charts were created by KCERA's actuary, Segal Consulting, and were presented to the Board of Retirement on September 11, 2019 and to the Board of Supervisors on February 4, 2020. The first chart shows the projected Actuarially Accrued Liability (AAL) by Tier, and projected value of assets (VVA) from 2018-2048. The second chart shows projected employer (ER) and employee (EE) contribution rates, as well as projected benefit payments. The chart shows how contribution rates are projected to fall significantly once the current unfunded liability is fully amortized.

Projected Valuation Value of Assets and Actuarial Accrued Liability ($ Millions)



Comparison of Projected Contributions versus Benefit Payments ($ Millions)

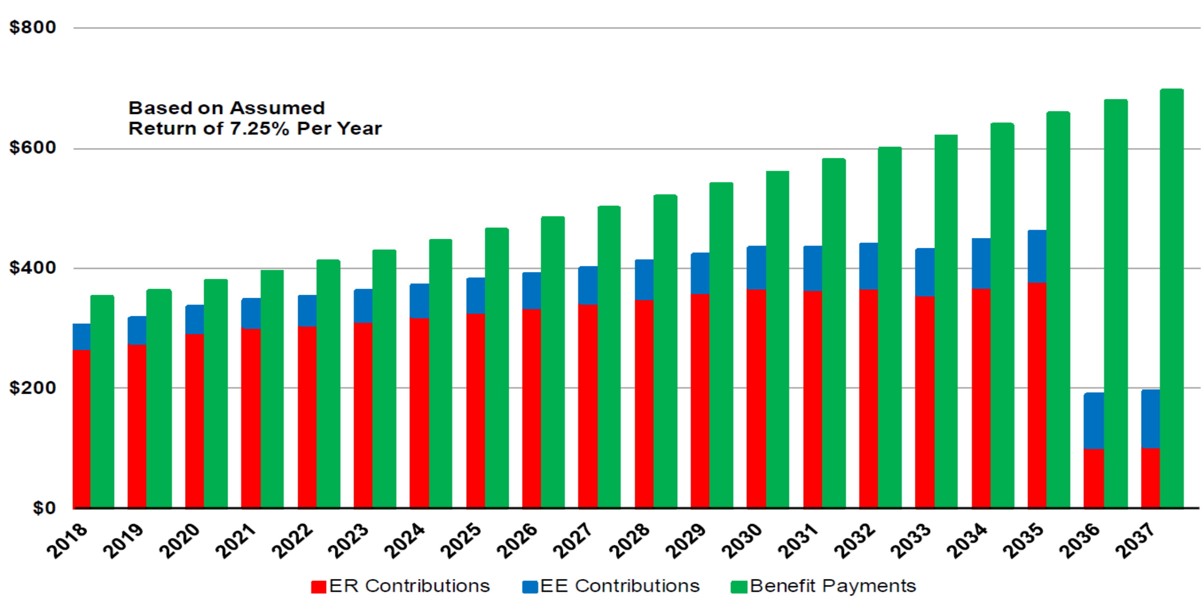


Exhibit A (continued)

The following charts were created by KCERA's actuary, Segal Consulting, and were submitted to the Board of Retirement on December 9, 2020, and to the Board of Supervisors on March 9, 2021. The first chart shows the projected amortization of the Unfunded Actuarially Unfunded Liability (UAAL). The second chart shows projected contribution rates over the same time period and demonstrates how contribution rates will fall significantly once the current unfunded liability is fully amortized.

Exhibit I: Projection of UAAL Balances and Payments

Outstanding Balance of $2,497 Million in Net UAAL as of June 30, 2020

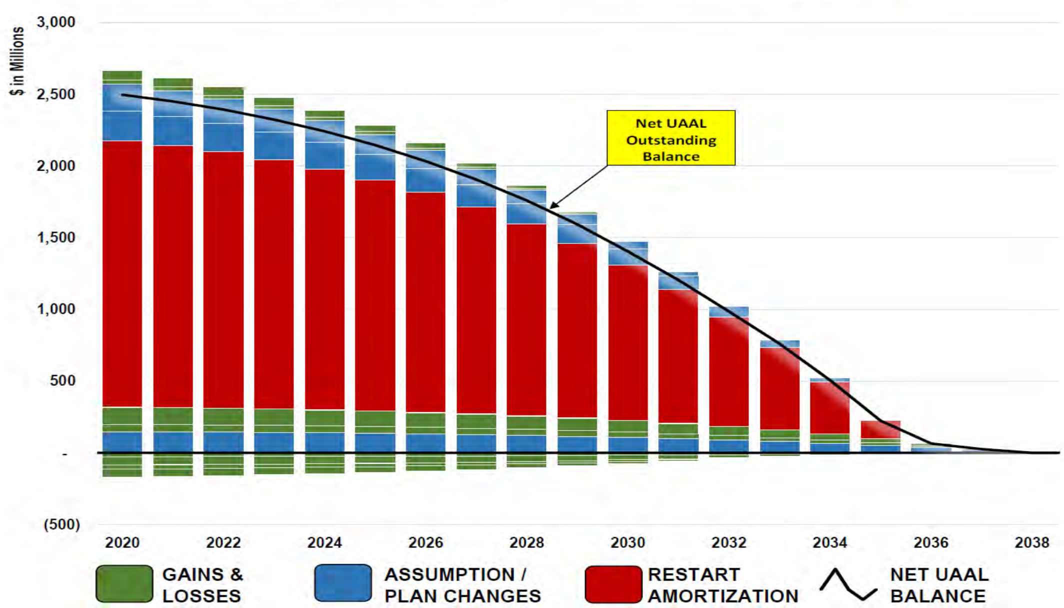
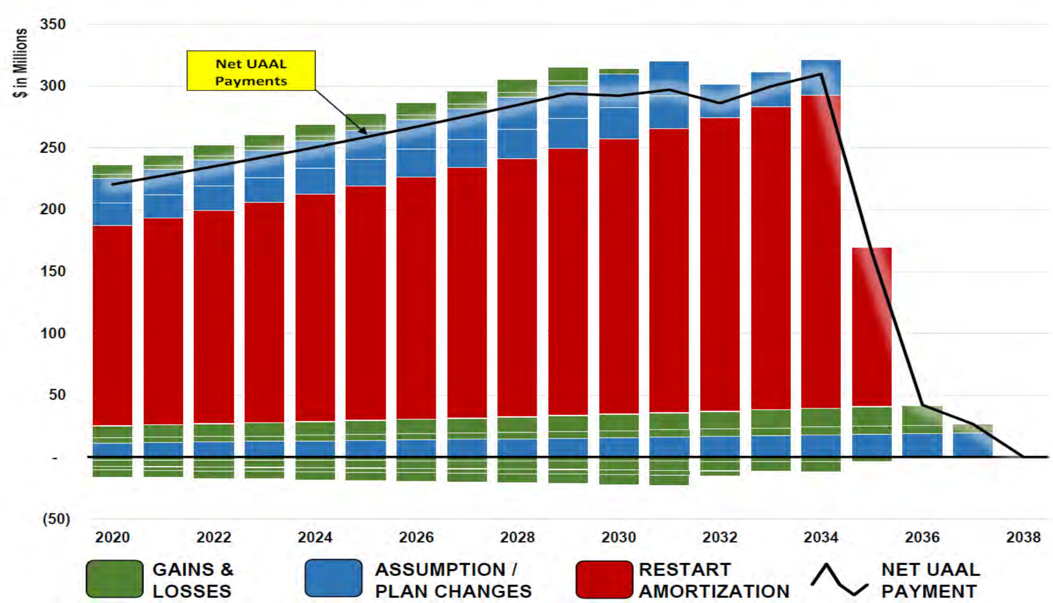


Exhibit I: Projection of UAAL Balances and Payments (continued)

Annual Payments Required to Amortize $2,497 Million in Net UAAL as of June 30, 2020



KERN COUNTY EMPLOYEE RETIREMENT ASSOCIATION KCERA

Taxpayers Be Aware!

SUMMARY:

Kern County Employee Retirement Association (KCERA) acts as an investment and administrative agent for Kern County's employee pension plan. Kern County (County) provides the majority of income to KCERA. The County's unfunded employee pension liability and pension costs have been on the rise for eight years and now represent a significant growing expense for the County's annual budget.

Kern County's Comprehensive Annual Financial Report (CAFR) for Fiscal Year End (FYE) June 30, 2020 reflects the County's Net Pension Liability (NPL) for its share of the pension fund in the amount of $1.8 billion. The Unfunded Pension Liability (UPL) is the amount by which pension benefits promised to current and future retirees exceed pension plan income. Unfunded pensions reflect a serious liability for Kern County as the employer, and to the taxpayer now and in the future. The benefit is for full time County employees and retirees whereas the pension liability is paid by the employer, Kern County.

While funding public employee pensions is not a unique challenge to Kern County, the current UPL will not go away soon and is projected to progressively worsen over the next decade. It should be noted that the State of California is under no obligation to provide assistance to the County, therefore, none should be anticipated.

PURPOSE OF INQUIRY:

Pursuant to Cal. Penal Code § 925(a), the 2020-2021 Grand Jury (Grand Jury) is authorized to investigate and report on the operations, accounts, and records maintaining Kern County's Defined Benefit Retirement Plan, and the related expenses that the County incurs, which is then passed on to the taxpayers.

METHODOLOGY:

The Grand Jury reviewed Kern County Financial Statements, KCERA Financial and Actuarial Statements, and compared the financial and actuarial information of Fresno and Ventura Counties, also governed by County Employees' Retirement Law of 1937 (CERL). The comparisons to those counties were based on similar population and demographics. The Grand Jury also reviewed the by-laws, policies, regulations, historical documents, websites, and interviewed various members of the KCERA Board of Directors, KCERA's Retirement Board members, and other County and KCERA officials.

DISCUSSION OF FACTS:

A. Background

KCERA was established on January 1, 1945, by the Kern County Board of Supervisors under the provisions of CERL. KCERA became independent from the County's supervision and control as a result of the 1992 passage of Proposition 162, which legally established the independent control of the Board of Retirement. KCERA is the cost-sharing, multiple-employer defined benefit plan (Plan) covering all permanent full-time employees of:

- County of Kern
- Berrenda Mesa Water District
- Buttonwillow Recreation and Park District
- East Kern Cemetery District
- Inyokern Community Services District
- Kern County Hospital Authority
- Kern County Superior Court
- Kern County Water Agency
- Kern Mosquito and Vector Control District
- North of the River Sanitation District
- San Joaquin Valley Air Pollution Control District
- Shafter Recreation and Park District
- West Side Cemetery District
- West Side Mosquito and Vector Control District
- West Side Recreation and Park District

The KCERA Board of Retirement is a nine-member board with two alternates. The Board consists of the Kern County Treasurer-Tax Collector, four members appointed by the Kern County Board of Supervisors, and four members elected by the Kern County Employees Retirement Association. KCERA uses a Tier 1, 2, and 3 pension formula policy. Tiers are based on different job descriptions.

At the end of a public employee's career, the formula used to calculate their pension is "years worked times final salary times the multiplier." The multiplier is a percentage that represents the amount of pension earned for each year worked.

Benefit Tiers:

- General Tier 1: 3% at age 60
- General Tier 2 : 1.62% at age 65
- General Tier 3***:** 2.5% at age 67
- Safety Tier 1: 3% at age 50
- Safety Tier 2: 2% at age 50

**Only applies to West Side Recreation and Park District*

The Board of Retirement is the exclusive governing and policy-making body for KCERA. Its primary mandate, as directed by law, is to provide KCERA members with the retirement benefits promised by the County. It establishes the key parameters of the plan benefits, collects the contributions of employers and employees, pools them in investment accounts, selects the investments for those pools, and manages the eventual payouts. Upon retirement, KCERA makes the pension benefit payments to the retired member on behalf of the participating employer. It is important to note, however, that KCERA is ***not*** legally responsible for the County's pension liability, nor is any other State agency or office. The County, as the employer, remains ***solely*** liable for any shortfalls.

Based on the FYE 2020 CAFR, the County's net pension liability amounted to approximately $1,804,165 which is 65.04% of the County's total liabilities and continues to increase each year. The Unfunded Accrued Actuarial Liabilities (UAAL) and bond obligations have a significant fiscal strain on the County. If investment income fails to match projected levels, or if the discount rate used to calculate Unfunded Accrued Liability (UAL) is reduced based on a downturn in the economy, i.e., COVID-19, the liabilities will increase even more over the next decade beyond projected levels.

B. Public Employee Pension Plans and Their Funding

There are two types of retirement plans offered by employers in the private and public sectors, *defined contribution plans* and *defined benefit plans*.

1. *Defined contribution plans* include the familiar 401(k) and 403(b) plans, and are not the focus of this report. They raise no significant long-term funding liabilities for the employer and/or the taxpayer. For this reason, few private employers offer a defined benefit plan to new employees.

2. *Defined benefit plans* provide a lifetime series of regular payments to the retiree and/or their beneficiaries. These payments are a *guaranteed*, *fixed* amount, which is established in the pension plan or labor contract terms agreed to during the employee's tenure.

   a. Pension benefits vary, depending on several factors:

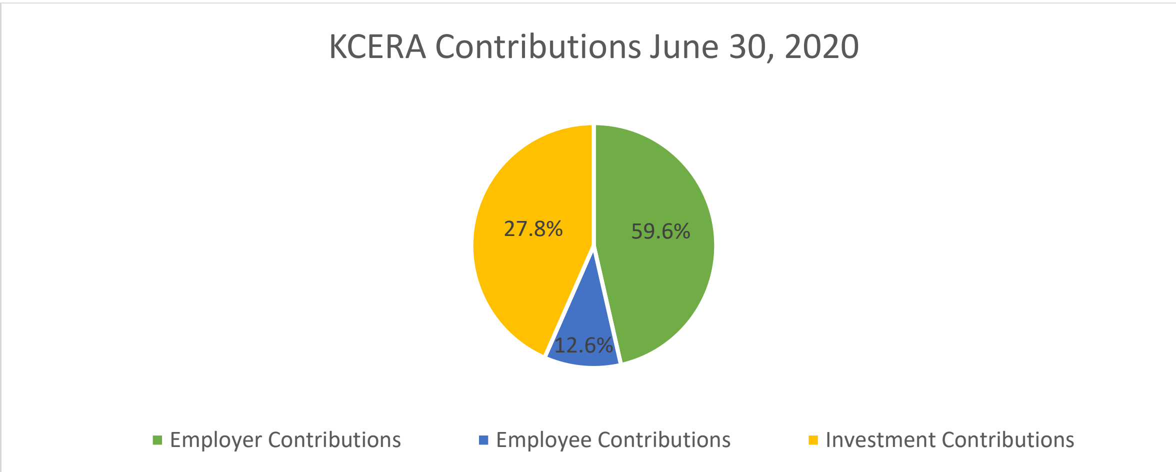
      - the number of years of service
      - the base salary amount used to calculate the pension payments
      - employee age at retirement

      The benefits may have a Cost of Living Adjustment, (COLA) but usually do not otherwise vary.

   b. Defined Benefit plans have three funding elements:

      1) Full-time county employee contributions
      2) Employer contributions
      3) Investment returns on invested assets

Note: Investment funds are managed by professional consultants. There are 12 classes of investments each with minimum and maximum targeted percentages. Each asset has a different manager with the KCERA Board making the final decisions on spending and investments.



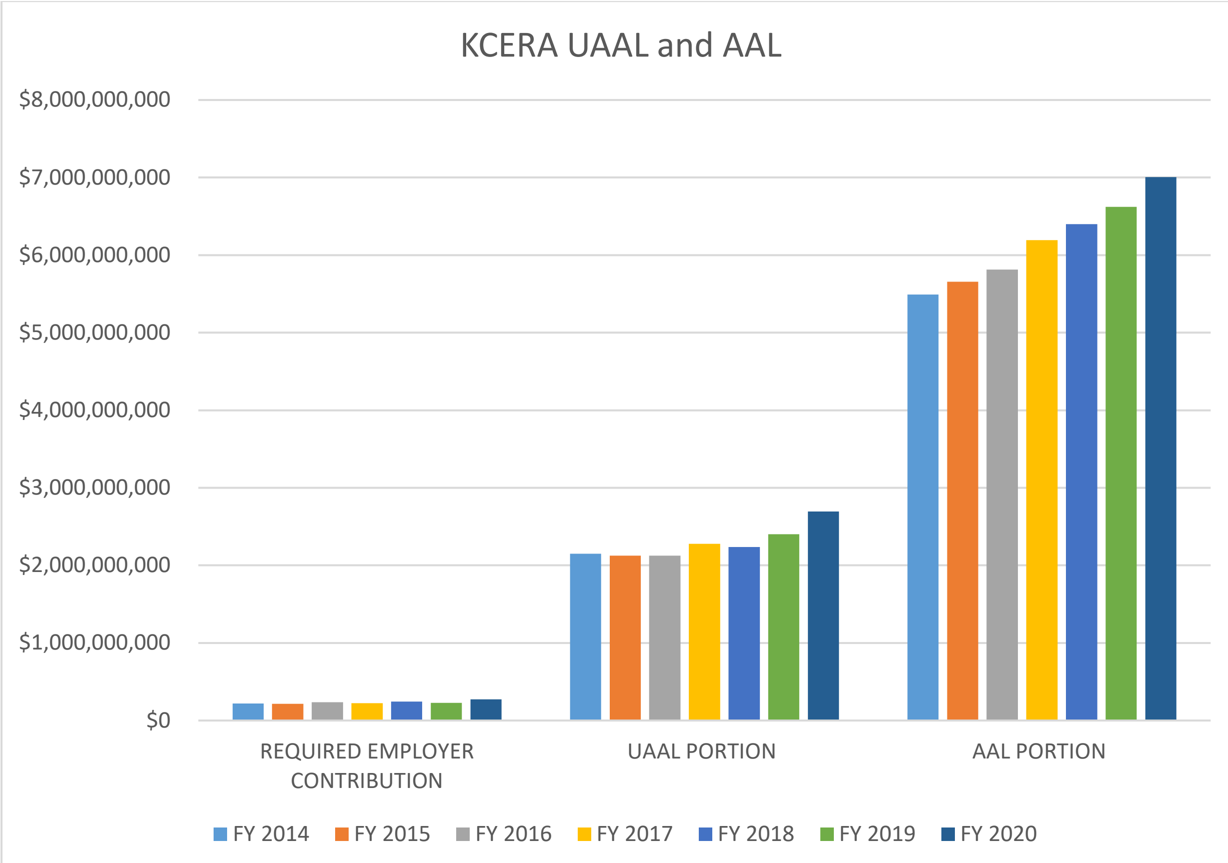
Grand Jury **Source: FYE 2020 Comprehensive Annual Financial Report**

c. Facts about the funding elements that ended as of FYE 2020:

1) Employer contributions are the predominant factor in the equation at 59.6% of the total as of FYE 2020.
   - FYE 2018 and FYE 2019 actual percentages were 43.10% and 46.40% respectively.
2) Investments of 27.8% are comprised of stocks, bonds and other market assets and the interest accrued on those investments.
   - FYE 2018 and FYE 2019 actual percentages were 47.60% and 43.50% respectively.
3) Employee contributions are 12.6% and are set by multi-year labor or management contracts.
   - FYE 2018 and FYE 2019 actual percentages were 9.30% and 10.10% respectively.
4) More importantly, if a plan's total assets are insufficient to cover present and future pension obligations, the employer is solely responsible for paying the deficit.

In 2002, County public safety employees had their multiplier increased from 2% to 3% when the Board of Supervisors decided to retroactively increase pensions to the highest levels allowed by law (Senate Bill 400) ***without developing*** a viable plan to pay for the increased cost. This increase, awarded retroactively, was possibly the biggest single factor as to why pension contributions have become an unaffordable burden on County taxpayers. In 2020, the KCERA Board approved a 2.5% COLA increase, however, nationally the COLA increase was 1.3%. The national COLA average for the past 5 years was 1.6% vs. KCERA's COLA 2.3%.

C. KCERA Unfunded Accrued Liability



Grand Jury **Source: KCERA FYE 2020 Financial Statements**
UAAL- Unfunded Actuarial Accrued Liability / AAL-Actuarial Accrued Liability

The Actuarial Accrued Liability as of FYE 2020 was $7 billion, an increase of $0.4 billion (5.8%) from the prior valuation date. The liability is expected to grow each year with normal costs and interest and will decline based on benefit payments made. Additional fluctuations can occur due to actual experience that differs from projections.

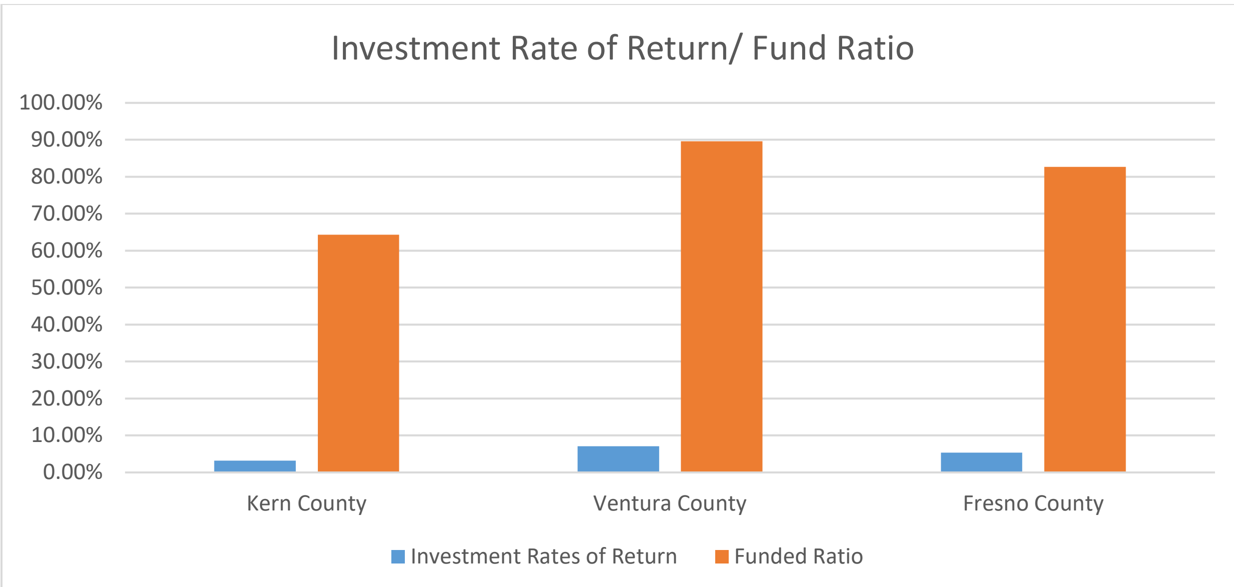
D. Paying Down the Total Unfunded Retirement Liability

In 2014, an article from the California Policy Center determined that Kern County's total retirement liability was 1.75 times their entire annual revenue. In order to bring the County to 100% funding by 2034 (their projection), Kern County would have to make an unfunded "catch-up" payment each year equivalent to 17% of the County's annual revenue.
(See: https://californiapolicycenter.org/evaluating-total-unfunded-public-employee-retirement-liabilities-in-20-california-counties/)

E. Impact of Total Unfunded Retirement Liability on Individual Taxpayers

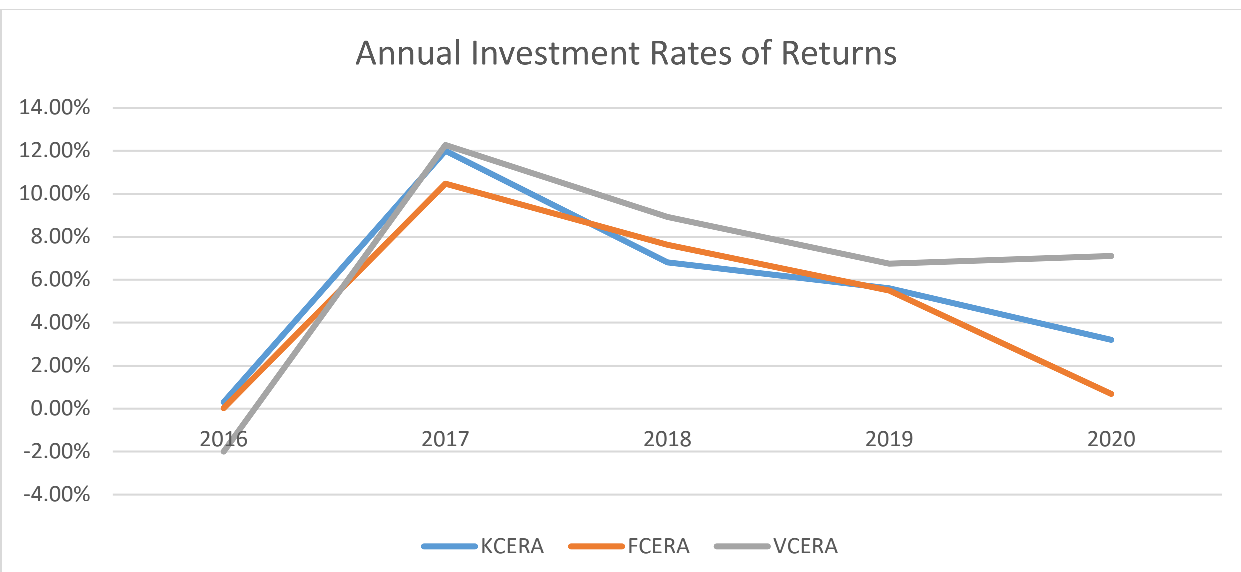
The most common alternative approach to calculating APL is sometimes called the "*market*" method; it relies on a discount rate equal to the yield on a risk-free market instrument, such as the 20-year Treasury Rate. As of July 2020, that yield was about 2.26% per annum. Because the market method uses a lower discount rate than KCERA's method, it produces a substantially *higher* amount of APL.

In 2018, the County "Market Basis" liability was $205,390,023, pension debt was $201,226,547, and the debt per household reached $752. This liability refers only to the County employees, however, *every resident and taxpayer* also carries the prorated burden of unfunded liabilities for the local and state government employees who work in their cities, their schools, and state agencies. (See: https://www.pensiontracker.org)



Grand Jury **Source: KCERA FYE 2020 Actuarial Valuation Reports**

Funding Ratio: A ratio of a pension or annuity's assets to its liabilities. A funding ratio indicates the percentage that the pension or annuity is able to cover on payments it is obligated to make.



Grand Jury **Source: KCERA FYE 2020 Comprehensive Annual Financial Report**

Comparative Analysis with Comparable Counties:

	Kern County	Ventura County	Fresno County
2020 Contributions			
Employer	$273,909,000	$199,890,664	$225,492,000
Employee	$ 57,862,000	$ 75,199,090	$ 40,463,000
Investment	$127,861,000	$368,664,889	$254,359,000
Unfunded Actuarial Accrued Liability			
2017	$2,278,360,000	$744,326,000	$1,113,936,000
2018	$2,235,338,000	$746,981,000	$1,090,951,000
2019	$2,330,922,000	$774,862,000	$1,115,429,000
2020	$2,497,041,000	$703,736,000	$1,094,372,000
Investment Rates of Return 2020	3.20%	7.10%	5.38%
Funded Ratio 2020	64.36%	89.57%	82.69%

F. Actuarial Experience Study of June 30, 2019:

Actuarial studies are performed by outside third party companies. KCERA utilizes the same firm that both Fresno and Ventura Counties use. This study utilized the census data for the period July 1, 2016 to June 30, 2019, and provides the proposed actuarial assumptions, both economic and demographic, used in the June 30, 2020 valuation. The study was performed in accordance with Actuarial Standard of Practice (ASOP) No. 27, "Selection of Economic Assumptions for Measuring Pension Obligations" and ASOP No. 35, "Selection of Demographic and Other Non-Economic Assumptions for Measuring Pension Obligations." These standards of practice provide guidance for the selection of the various actuarial assumptions utilized in a pension plan actuarial valuation. The primary economic assumptions reviewed are: inflation, investment return, administrative expenses, and salary increases. In 2016, the KCERA Board of Retirement adopted an investment return assumption of 7.25%. However, over the past five years the investment rate of return averaged 5.58%, which is 1.67% below the return assumption goal.

G. Other Funding Sources

Use of Reserves and Designations: As part of the County's FYE 2022 plan and in order to mitigate impacts on operations, the County is budgeted to release $6.5 million of the General Fund to strategically offset the increase in the pension debt for the pension obligation bonds. The County intends to continue this strategy throughout the budget year, when the 1995 Pension Obligation Bonds will be paid-off.

The National Association of Counties (NACo) estimates that by FYE 2021, counties nationwide will experience a $202 billion deficit impact in retirement funds. This estimate includes a $30 billion in additional unbudgeted COVID-19 costs, a $114 billion loss in general revenues, and a $58 billion decrease in funding by states. Also, by FYE 2021, NACo estimates that counties will be impacted by $144 billion in additional expenditures and loss of county-generated revenues. This anticipated loss, based on research from the Center on Budget and Policy Priorities, estimates that states will lose 10% of their revenues in FYE 2020 and 25% in FYE 2021. NACo's survey found that COVID-19 impacted 88% of responding county budgets. Sixty percent of the counties indicated an increase in local expenditures and 72% of counties have reported a revenue loss during the current budget cycle. Importantly, only employers are required to pay off pension debt or the "unfunded liability." Paying off the debt is the reason that employer contributions increased during the last decade and member contributions did not. (See https://www.naco.org/)

H. National Labor Relation Board (NLRB) and Employer Flexibility

Kern County has 14 Memorandums of Understanding (MOU) with County employees/departments. Research indicates that only one MOU Kern County Firefighters Union is current with an expiration date of June 30, 2021. In 2019, Kern County and the Kern County Firefighters Union, Local 1301, reached an impasse. Through discussions with various management personnel, the MOUs are outdated due to Union representatives and Kern County management negotiations being unable to reach a viable agreement.
(See: https://www.kerncounty.com/government/county-administrative-office/human-resources/employee-relations/unions-and-mous)

Under the National Labor Relations Act (NLRA), employers whose employees, represented by a union, are required to bargain with that union over changes "to wages, hours, pensions, healthcare and working conditions (commonly referred to as "mandatory subjects" of bargaining)." The National Labor Relations Board and courts determine which subjects are covered by the NLRA and bargaining is divided into three categories:

1. Mandatory: Mandatory subjects relate to wages, hours, pensions, healthcare, and working conditions. According to labor laws, employers cannot refuse to bargain over these subjects.

2. Permissive: Permissive subjects are non-mandatory subjects of bargaining, meaning employers are not required to bargain over them.

3. Illegal: Illegal bargaining subjects are those that violate the NLRA, such as a closed-shop provision in a right-to-work state.

Management in the collective bargaining process has the authority and discretion to take certain actions provided they do not violate other provisions. Management-rights language may be general and, at the same time, clear and unmistakable.

"Impasse" is a provision that is determined when the employer and union reach a point during the collective bargaining process when both parties are reasonable in assuming that further negotiations would be pointless. Once impasse has been reached, then an employer is permitted to implement changes to the terms and conditions of employment that are consistent with previous proposals to the unions. However, an employer cannot offer greater benefits or ones that differ than those presented during negotiations. (Cal. Gov. Code § 3505.7)

In discussion with County officials, possible future actions to reduce or better manage the unfunded pension liability and prepare for further increases in such liability include:

- Revenue increases (tax or fee income)
- Addressing the problem through debt financing (pension obligation bonds)

Cutting salaried positions to solve the problem would be counter-productive. The more payroll is reduced by job elimination, the less able the County would be to fund accrued pension liabilities through employee payroll. The result would be an increase in unfunded pension liability.

FINDINGS:

F1. Kern County Net Pension Liability for its share of the pension fund is $1,804,165,000 and, based off current data for FY 2019-2020, will continue to increase.

F2. The Board of Retirement is the exclusive governing and policy making body of KCERA and controls the investments of pension assets. However, the investment returns do not perform as well as other counties of similar demographics.

F3. KCERA uses a Tier 1, Tier 2, and Tier 3 pension formula policy that is directed by the plan sponsors. This tier level system is costly to the taxpayers.

F4. In 2002, County public safety employees had their multiplier increased from 2% to 3% when the Board of Supervisors decided to retroactively increase pensions to the highest levels allowed by law (Senate Bill 400) *<u>without developing</u>* a viable plan to pay for the increased cost. This increase, awarded retroactively, was possibly the biggest single factor as to why pension contributions have become an unaffordable burden on County taxpayers.

F5. KCERA has a full-time investment officer as well as professional consultants to manage all 12 classes of asset investment. However, they have not achieved their investment goal of 7.25% over the past five years.

F6. The UAAL and bond obligations create a significant financial strain on the County.

F7. KCERA's income is derived from the County and employee contributions as well as investment income. However, there is still a deficit that is passed to all taxpayers.

F8. Paying off pension debt or UAL, "unfunded accrued liability," is owed by the County, the major payer, along with the other 14 Plan Sponsors. This debt continues to be a burden on taxpayers.

F9. FY 2019-2020, KCERA had a 2.5% COLA whereas nationally the COLA was 1.3%. This increase in the COLA benefit adds to County liabilities.

F10. KCERA's investment income goal is 7.25%, however, in FYE 2020 the actual income on assets was 3.2%, with the past five years averaging 5.58%. The underperforming assets will continue to increase costs to the taxpayers

F11. National Association of Counties' survey indicated that 60% of counties had an increase in expenditures during the 2020 budget due to COVID-19. Kern County anticipates a similar increase in expenditures, with a trickle-down increase in pension debt.

F12. Paying off pension debt is one of the factors that have increased employer contributions during the last decade and it is anticipated to continue.

F13. Kern County has 13 expired or extended MOUs, leaving the Grand Jury wondering why there has been no mutual agreement reached.

COMMENTS:

Current budget information reported by the Board of Supervisors regarding the proposed 2021-2022 budget, reflects an anticipated pension cost increase of 4.39%. The increase is necessary in order to pay off an Obligation Bond and increased new actuarial assumptions based on the safety employee category.

Congress recently approved a stimulus package that includes an $86 billion dollar bailout for nearly 200 union pensions. Declining union membership and bankruptcies have contributed to the trend of depleting pension plans nationwide. The trend of failing pensions started long before the COVID-19 pandemic. The bailout included in the stimulus package gives government funding to the weakest pension plans, which will be enough to keep the plans solvent for 30 years. There are no conditions tied to the funding, meaning plans are not required to make changes, pay the government back, freeze accruals, or to end the practices that led to their current distress.

RECOMMENDATIONS:

R1. Kern County Board of Supervisors should establish a pension reform Ad Hoc Committee consisting of third party consultants to study alternative pension plans to be put in place by FYE 2024. (Findings 1, 8, and 12)

R2. The Board of Supervisors should consider using the general Tier 2 category retirement policy for all employees by FYE 2024. (Finding 3 and 4)

R3. KCERA's COLA should not exceed the national yearly COLA increase. (Finding 9)

R4. Kern County Board of Supervisors and Union Collective Bargaining Representatives should update all expired County MOUs no later than FYE 2022. If the Board of Supervisors and Union Collective Bargaining Representatives are unable to reach viable agreements, in the best interest of the public, then the Board of Supervisors should implement the Impasse provisions of collective bargaining. (Finding 13)

NOTES:

- Kern County Board of Supervisors and the Kern County Employees Retirement Association Board of Trustees should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.kerncounty.com/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.kerncounty.com/grandjury.

RESPONSES ARE REQUIRED PURSUANT TO CAL. PENAL CODE §§ 933(c) AND 933.05 WITHIN 90 DAYS TO:

- **PRESIDING JUDGE**
  KERN COUNTY SUPERIOR COURT
  1415 TRUXTUN AVENUE, SUITE 212
  BAKERSFIELD, CA 93301

- **FOREPERSON**
  KERN COUNTY GRAND JURY
  1415 TRUXTUN AVENUE, SUITE 600
  BAKERSFIELD, CA 93301

Reports issued by the Grand Jury do not identify individuals interviewed. Cal. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

GLOSSARY:

Actuarial: Relates to a statistical calculation which requires assumptions as to the probability of death, disability, withdrawal, and retirement of each participant for each year. An Actuary will compile and analyze statistics to calculate risk.

Bond Obligations: A General Obligation Bond is a common type of municipal bond that is secured by a state or local government's pledge to use legally-available resources (assets) including tax revenues, to repay bondholders.

Cost Of Living Adjustment (COLA): An increase made to counteract the effects of inflation. Cost-of-living adjustments are typically equal to the percentage increase in the consumer price index for urban wage earners and clerical workers (CPI-W) for a specific period.

Collective Bargaining: A process of negotiation between employers and a group of employees (i.e., a union) aimed at agreement to regulate working salaries, working conditions, and other aspects of workers compensation and rights for worker.

Defined Pension Benefit Formula: Formula used by the retirement system to determine a retirement benefit based on age, years of service, and pensionable compensation earned by an employee up to the limit defined in California government code Section 7522.10.

Fiscal Year End (FYE): Fiscal year end refers to the completion of a one year, 12 month, accounting period rather than a typical calendar year end.

Impasse: Is a provision determine by NLRB when the employer and union reach a point during the collective bargaining process that both parties can no further negotiation as it would be pointless.

Market Basis/Method: Relies on a discount rate equal to the yield on a risk-free market instrument, such as a 20-year Treasury note rate.

Net Pension Liability (NPL): The difference between the total pension liability (the present value of projected benefit payments to employees based on their past service) and the assets (mostly investments reported at fair value) set aside in a trust and restricted to only paying benefits to current employees/retirees.

Normal Cost: The portion of the present value of projected benefits under the defined benefit that is attributable to the current year of service, as determined by the public retirement system's actuary according to the most recently completed valuation.

Pension Actuarial: A pension actuary has the task of calculating and budgeting for funding and disbursing pensions for retired workers.

Public Employer: (1) States and every state entity, including, but not limited to, the legislature, the judicial branch, including judicial officers, and the California State University.
(2) Any political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, a charter city, a charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district. (3) Any charter school that elects or is required to participate in a public retirement system.

Public Retirement System: Any pension or retirement system of a public employer, including, but not limited to, an independent retirement plan offered by a public employer that the public employer participates in or offers to its employees for the purpose of providing retirement benefits, or a system of benefits for public employees that is governed by Section 401(a) of Title 26 of the United States Code.

Unfunded Accrued Liabilities (UAL): A liability that does not have current or projected assets to cover the liability; therefore it is said to be unfunded. In finance and economics, it is a legal obligation of a person, organization or government entity to pay a debt arising from a past or current transaction or action; a liability is a claim on the debtor's current or future.

Unfunded Actuarial Accrued Liability (UAAL): The total current and expected future benefit obligations, reduced by the sum of the actuarial value of assets and the present value of future normal costs

Unfunded Pension Liability (UPL): The amount by which pension benefits promised to current and future retirees exceed pension plan income.

Appendix:

Reference Website links:

https://www.bakersfield.com/news/pensions-in-peril-proposed-solutions-abound-but-will-they-work-here/article_b2306274-3367-53ee-b07d-25ad9cb49b04.html

https://www.bakersfield.com/news/effort-to-fix-kern-pension-system-fails/article_3be86e74-c8a1-5bb3-8157-2b0ebb0f4ef0.html

https://www.bakersfield.com/news/swell-of-pensioners-earned-six-figures-in-2018-compared-to-previous-year/article_1d91d3c0-05c6-11ea-9892-43f62ad81e3f.html

https://www.kget.com/fire-facts/kcfd-pensions/

https://www.bakersfield.com/news/whats-happening-with-county-pension-costs-its-a-mixed-picture/article_d942b497-f5e9-5f64-863b-e5cf1499cf32.html

https://www.bakersfield.com/news/county-pension-unfunded-liability-tops-2-billion/article_2c3d696f-988d-572d-9ebc-a95825c63a93.html

https://www.bakersfield.com/news/supervisors-to-consider-budget-cuts-at-tuesdays-meeting/article_abe55286-6a75-11eb-a795-3f8d3f407278.html

https://reason.org/commentary/pension-reform-bakersfield-kern/

https://californiapolicycenter.org/evaluating-total-unfunded-public-employee-retirement-liabilities-in-20-california-counties/

https://californiapolicycenter.org/the-devastating-impact-of-retroactive-pension-increases-in-california/

https://www.bloomberg.com/news/articles/2020-12-01/california-city-that-sold-pension-debt-in-july-at-fiscal-brink

www.pensiontracker.org

https://www.naco.org/

Verus

PERSPECTIVES
THAT DRIVE
ENTERPRISE
SUCCESS

SEPTEMBER 2021

Introduction to ESG Investing

Kern County Employees' Retirement Association

Confusing terminology

Eco?

Values-Based?

SRI?

IMPACT?

ESG?

Faith-Based?

Green?

Sustainable?

Defining the terms

Investing with an intent that goes beyond generating financial returns

Socially Responsible Investing
SRI is investing with one's values, screening out or not investing in certain companies or industries (negative screens), or only investing in particular companies because they exhibit desirable traits (positive screens).

Environmental, Social and/or Governance (ESG)
ESG investments are made in consideration of positively impacting the environment, the social order and a company's governance practices, such as executive compensation, board structures and actions that affect the interests of shareholders.

Active Ownership
Investing with the purpose of encouraging companies to manage non-financial risks and run sustainable businesses in order to create long-term shareholder value. This can be exercised through shareholder advocacy or shareholder engagement, proxy voting and corporate resolutions.

Economically Targeted Investing
ETIs target a financial return to the fund as well as economic growth or some other ancillary benefit in areas related to beneficiaries.

Impact Investing
Investing with the intent to create measurable social or environmental benefit in addition to financial return.

While there are multiple ways to implement a responsible ESG investment strategy, there is overlap amongst the various approaches and terms.

Many areas of focus…

Source: UNPRI Sustainable Development Goals

…mapped within broader ESG categories

Source: UNPRI

An abbreviated history

Many events throughout history have shaped the space and contributed to the current environment of responsible investing today

1700s
The origins are rooted with early religious investors who promoted screens avoiding gambling, tobacco gaming and other "sin stocks."

1968
Ford Foundation pioneered Program Related Investments. The IRS coined the term "program related investment" in the Tax code of 1969.

1971
Pax World Fund – considered the first socially responsible investment (SRI) mutual fund – avoids investments in weapons contractors. The fund offered an option to investors opposed to militarism & the Vietnam war.

1973
First 20th century shareholder resolution by religious organization filed by Episcopal Church through Interfaith Center of Corporate Responsibility.

1980s
Social investors supported the anti-apartheid movement by divesting from companies doing business in South Africa. As a practice based on values and moral principles, avoidance screening became one of the basic strategies of social investing.

1995
FB Heron Foundation championed Mission Related Investing.

2015
The Department of Labor issued new guidance confirming consistency with fiduciary duty of "economically targeted investments" by pension funds under ERISA.

2021
The Department of Labor issued updated guidance laying out five rules by which pension funds operating under ERISA may consider ESG investments while meeting their fiduciary obligations.

Growth of ESG

The popularity of ESG investing has increased rapidly over the past 10 years

- In 1995, ESG investments in the US totaled $695 billion in the U.S. and made up less than 10% of total U.S equity assets professionally managed.
- ESG assets grew steadily over the next 15 years to $3.1 trillion, making up about 12% of total professionally managed assets in 2010.
- By 2020, ESG AUM had reached more than $17 trillion and made up a third of professionally managed assets.

ASSETS UNDER MANAGEMENT ($BILLION)

Professionally managed ESG assets in the U.S. grew at a compound annual growth rate of 18.7% from $3.1T in 2010 to $17.1T in 2020.

Their portion of total professionally managed assets also increased over the same period from 12.2% to 33.2%.

Source: The Forum for Sustainable and Responsible Investment, Report on US Sustainable and Impact Investing Trends, US

Factors affecting return

Sector comparison of broad traditional benchmark vs. ESG benchmark

The MSCI KLD 400 Social Index is based on the methodology used by MSCI for index construction and maintenance.

First step: The index screens out companies involved in:

- Nuclear Power
- Tobacco
- Alcohol
- Gambling
- Military Weapons
- Civilian Firearms
- GMOs
- Adult Entertainment

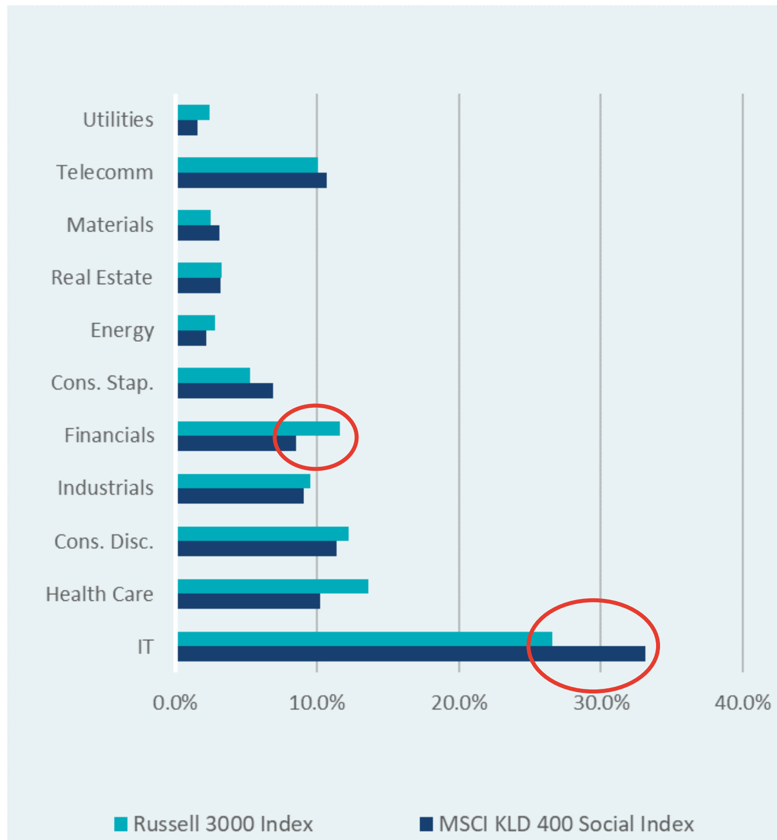
Second step: Additions are made from the list of eligible companies based on considerations of ESG performance, sector alignment and size representation.

The MSCI KLD 400 Social Index is designed to maintain similar sector weights as the MSCI USA Index and targets a minimum of 200 large and mid-cap constituents.

Companies that are not existing constituents of The MSCI KLD 400 Social Index must have an MSCI ESG Rating above 'BB' and an Impact Monitor Score greater than 2 to be eligible.

Source: Barra

SECTOR WEIGHTS – AUGUST 2021



The performance impact will be most observable during periods of strong positive or negative sector performance where the greatest over and under weights exist.

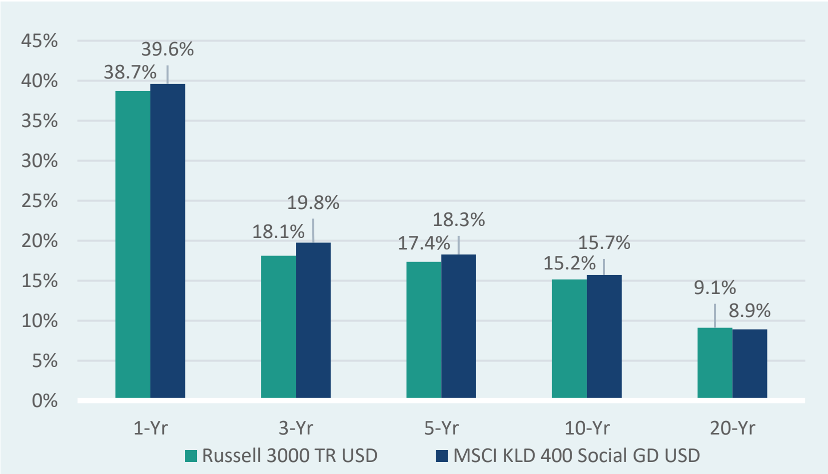
More cyclical, or value-oriented, sectors are generally underweighted.

Performance

ESG has been in favor on a trailing 10-year basis, as growth and tech have outperformed in the current market cycle. Over longer time periods, performance has favored a more diversified approach.

- Performance impact of ESG screens over the long term (20 years) has not kept pace with the broader market.
- Performance may differ significantly over short time frames, primarily due to sector differences.
- In an adequately diversified portfolio, social screens will likely not be a key driver of long-term performance.
- Whether pursuing ESG investing or not, the primary drivers of long-term investment returns are asset and risk allocation.

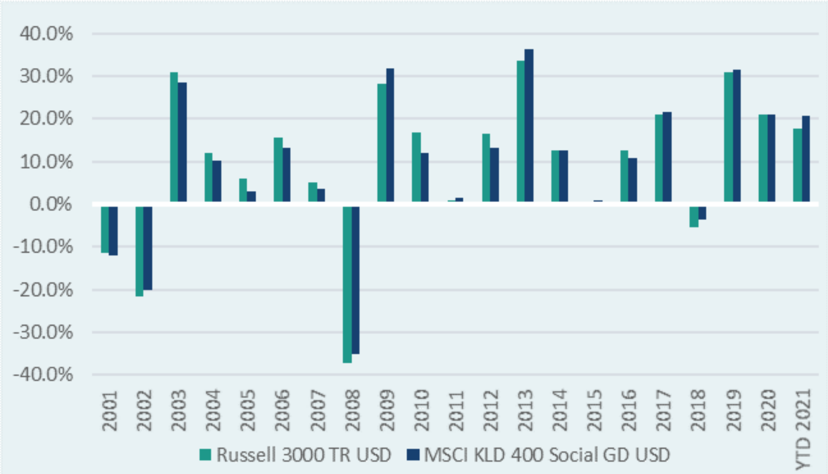
ANNUALIZED PERFORMANCE AS OF 7/31/2021



Relative performance depends on the market environment and which sectors are favored.

3 YEAR ROLLING PERFORMANCE

CALENDAR YEAR PERFORMANCE



Source: MPI

Roles & responsibilities

It is helpful to understand the roles and the overall process as an institution evaluates ESG investing

Roles (broadly defined)

- Board: Identify/define values/preferred areas of impact, approve investment policy and implementation approach
- Staff: Make recommendations to Board on investment policy language and implementation
- Consultant: Education, process facilitation

Process

- A well-defined and disciplined process is critical to ensure a successful ESG program implementation

Identify Values/Areas of Impact > **Board Education** > **Board Consensus** > **Investment Policy Statement** > **Implement**

Key considerations

- How would Board determine the preferred areas are of impact, e.g., should the views of plan participants be considered?
- What resource(s) would be used to lead/manage the program?
- How would program success be defined/measured?
- How would board members ensure their fiduciary requirements are met?

Identifying key considerations will be important to establish a thoughtful implementation plan.

EXECUTIVE DIRECTOR REPORT

KCERA | DOMINIC D. BROWN | SEPTEMBER 2021

OFFICE UPDATE

- *Alameda* Decision Update
- Facility Update – Solar, building security, flood damage, Board room upgrades
- Staffing Update
- Response to Board referral re: Behavioral Health and resources for grieving members and beneficiaries
- Stakeholder Notification – Grand Jury response, Investment Return and Board of Retirement Election
- RFQ was issued for Governance Services
- Disability Update

OPERATIONS ACTIVITY

- Member Services
  - 21 new retirements and calculations
  - 58 death benefit calculations
  - 31 service-credit purchase calculations
  - 58 retirement estimates
  - 110 new active members
  - 113 terminations with disposition packets
  - 7 in-person appointments
  - 138 walk-ins
  - 634 phone calls
  - 151 emails
- Accounting & Reporting
  - Staff is working hard on the preparation of the Annual Comprehensive Financial Report and providing documents to the outside auditors
- Information Technology
  - Assisted with *Alameda* Decision implementation and generation of letters to affected members

UPCOMING EVENTS

- Finance Committee – Next meeting will be scheduled in September/October to continue SRBR discussions
- Administrative Committee – No meetings currently scheduled
- Investment Committee – No meetings currently scheduled
- KCERA Property, Inc. – Annual Shareholder and Board of Directors meetings were held on September 2
- Board of Retirement – Next regular monthly meeting will be on October 13

- *NOTE: KCERA staff will be monitoring the Governor's order related to board meeting configuration and will update the Board periodically.*

CIO REPORT

INVESTMENT PROGRAM UPDATE | September 2021

Rebalancing

AUGUST ACTIVITY

- Midstream
  - +20MM PIMCO Midstream

- Public Equity restructure
  - Full redemption Mellon Dynamic US Equity (DUSE)
  - +60MM Parametric S&P 500 overlay

Reporting period covers 8/4/2021 to 8/30/2021

Continued funding Midstream allocation which now stands at 4.8% vs. 5% target

Completed implementation of Board approved Public Equity restructuring with Mellon DUSE termination

Positioning

ACTUAL VS POLICY TARGET

Asset Class	Actual	Target	Difference
Public Equity	41.8%	37%	+4.8%
Fixed Income	23.1%	24%	-0.9%
Core	12.1%	14%	-1.9%
Credit	5.9%	6%	-0.1%
Emerging Market Debt	5.1%	4%	+1.1%
Commodities	5.4%	4%	+1.4%
Midstream	4.8%	5%	-0.2%
Hedge Funds	10.5%	10%	+0.5%
Alpha Pool	3.9%	5%	-1.1%
Core Real Estate	5.0%	5%	0.0%
Opportunistic	2.8%	0%	+2.8%
Private Markets	6.9%	15%	-8.1%
Cash	-4.2%	-5%	+0.8%

Public equity overweight increased due to solid performance.

Hedge Funds will move closer to target weight (10%) as we head into calendar year-end, due to fund redemptions that will be paid out (Magnetar, Myriad, River Birch)

Alpha Pool should reach 5% target with the funding of the most recent investment on 10/1.

Private Markets continues to be a key focus, and we anticipate reaching target around 2025.

Private Markets underweight continues to be reallocated to Public Equity and other asset classes where we see opportunity, including EM Debt, Commodities, and Opportunistic. *Historically, Private Credit and Private Real Estate underweights were allocated to Core Fixed Income.*

As of August 27, 2021. Source: KCERA.

Updates

Investment Analyst: Our new investment analyst, Jack Bowman, joined the team on August 16th.

Jack Bowman recently joined the KCERA team as a Retirement Investment Analyst. He spent the last five years in public accounting working with Anderson Tax in Los Angeles preparing corporate tax returns. Mr. Bowman received his Bachelor's degree in Economics from Texas Christian University. He was recently married, and has moved to Bakersfield, where his wife is from. He is excited to be joining the KCERA team!

Key Initiatives

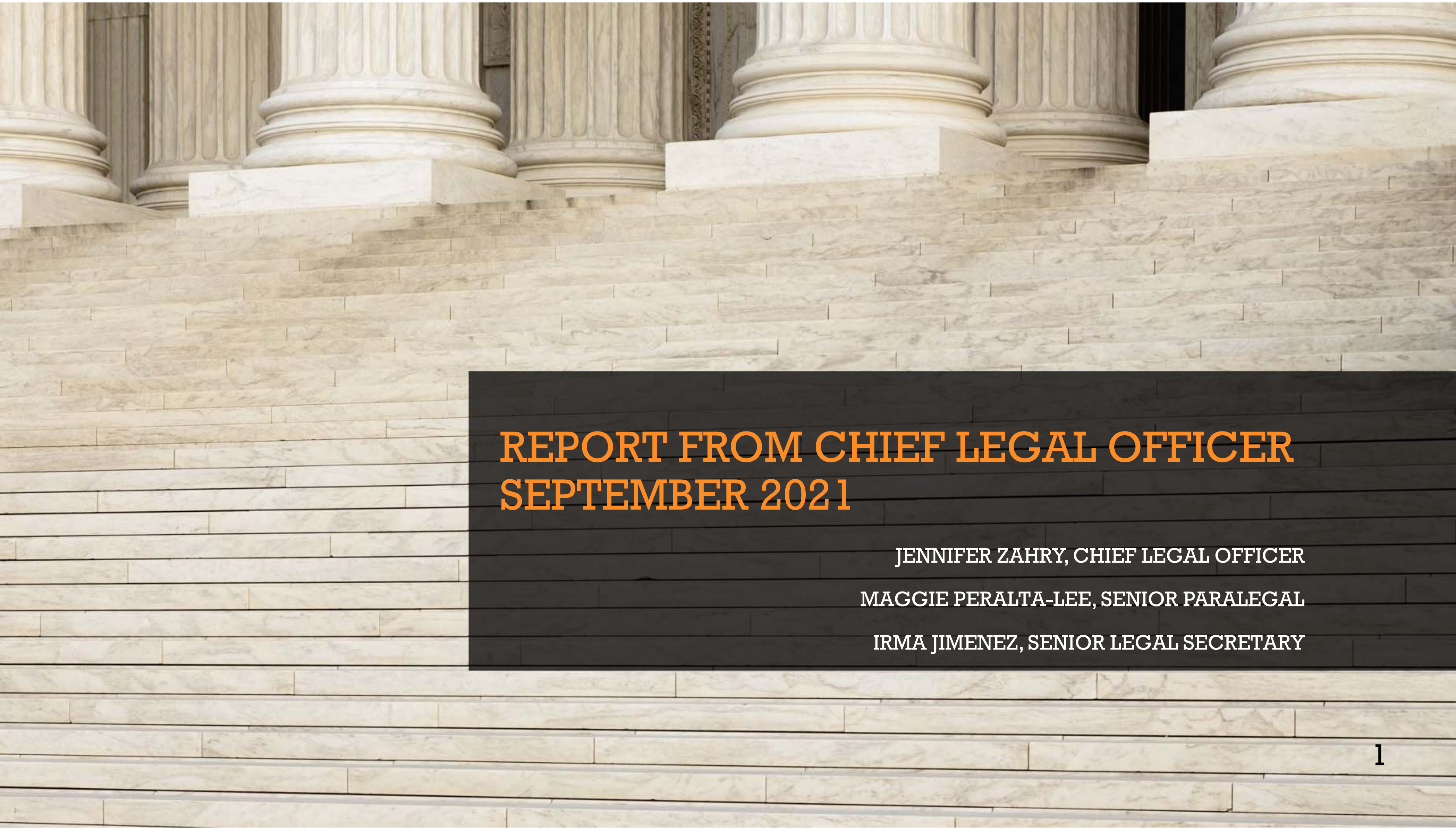
Enhancing return while managing risk

- Capital Efficiency
  - Analysis of multi-beta exposure
- Discretionary global macro as a portfolio diversifier
- Economic and Financial Market Outlook
  - Inflation, disinflation, deflation
- Multi-asset and tactical asset allocation research
- Opportunistic investments
- Private Markets
  - Continued program build-out
- Tail hedge research

Next Meeting TBD

Investment Committee Meetings

The last IC meeting was held on June 2nd.



REPORT FROM CHIEF LEGAL OFFICER SEPTEMBER 2021

JENNIFER ZAHRY, CHIEF LEGAL OFFICER

MAGGIE PERALTA-LEE, SENIOR PARALEGAL

IRMA JIMENEZ, SENIOR LEGAL SECRETARY

LEGISLATIVE REPORT

- SB 634 –
  - Amends CERL section 31732 to clarify that Boards of Retirement may contract with a physician in private practice to provide medical advice to the Board on disability matters
  - Ordered to Engrossing and Enrolling (sent to Gov. and Sec. of State)
- AB 826 –
  - Amends CERL section 31461 to change the definition of compensation earnable for certain retirement systems
    - As of 7-14-21, allowed "*Alameda* Exclusions" to be included in compensation earnable for CERL systems whose Board had not yet implemented the exclusion of such pay codes
    - Concerns – 1) inequitable treatment among CERL systems based on timing of implementation; and 2) potential litigation associated with legislating around Supreme Court decisions and the interpretation of the language used in the bill
  - Awaiting Senate vote (at time of agenda posting)
  - Letter of Concern/Opposition sent by several CERL systems prior to Senate vote, including letters of concern from KCERA (attached)
  - 8-30-21 amendment makes the bill applicable to Ventura County only – some concerns allayed and some remain

COMPENSATION LIMITS

PEPRA

- PEPRA Limits 2021
  - Cal. Gov. Code section 7522.10(c)(1) $128,059.00 (integrated)
  - Cal. Gov. Code section 7522.10(c)(2) $153,671.00 (not integrated)

FEDERAL

- 415(b) $230,000.00
- 401(a)(17) - $290,000.00

ON CALENDAR – SEPTEMBER

	Pending General Counsel Review
Operational Contracts	2
Investment/ Custodial Documents	3
Disability Matters	3
Community Property Matters	8
PRA Requests	6
Staff Inquiries	14
Administrative Appeals – prospective benefit adjustments	5
Administrative Appeals – collection of overpaid benefits	1
Board/Committee Meetings	2
Special Projects – policies, internal process review, DCLO position	1
Trainings – SACRS, CALAPRS, NAPPA, Fiduciary Forum, ILPA	6