

## **ELECTION PROCEDURES POLICY**

The Board of Retirement delegates responsibility for conducting Board of Retirement elections in a manner set forth in these Election Procedures for Elected Positions on KCERA's Board of Retirement to the Board of Supervisors through its Chief Registrar of Voters.

### **APPLICABILITY**

1. These procedures shall govern the election of the second, third, seventh, eighth and seventh and eighth alternate members to the Kern County Employees' Retirement Association ("KCERA") Board of Retirement.

### **ELECTION DATE; COSTS; TIME REQUIREMENTS**

2. Elections shall be held on the third Tuesday in November to fill the positions for terms expiring December 31 of that year. Elections shall be conducted by the Auditor-Controller-County Clerk (hereafter "elections official"). All costs associated with any election for membership on the KCERA's Board of Retirement shall be paid by the KCERA. If any day on which action is required pursuant to these procedures falls on a weekend or holiday, the election official's next scheduled work day shall be the day on which such action must occur.

### **NOTICE OF ELECTION; ELIGIBILITY OF CANDIDATES**

3. No later than the 76th day prior to the election date, written notice as to the election and candidacy filing procedures shall be given as follows:
  - a. For all members, notices shall be mailed to the last known address of such member on file with the KCERA.
  - b. For member organizations, notices shall be furnished to any organization of active or retired members.

The notice shall include a statement to the member that additional information regarding the election, including election results, will be posted on the KCERA website. The notice shall be mailed utilizing postal address correction notification

services. Upon receipt, address correction information shall be provided to the KCERA to allow for updates prior to ballot mailing.

Any active general member who is not employed in the office of the KCERA,<sup>1</sup> or any deferred general member of the KCERA, is eligible to run for the position of second or third member of the Board. To be eligible to run as a safety member, the member must be among the group defined in Government Code sections 31470.2 or 31470.4. The alternate safety member shall be that candidate for the seventh member from the group under sections 31470.2 or 31470.4, which is not represented by the seventh member who received the highest number of votes of all candidates in that group.

Candidates for the eighth member and alternate eighth member on the Board of Retirement shall be retired members of the KCERA. The alternate eighth member of the Board shall be elected separately by the retired members of the KCERA in the same manner and at the same time as the eighth member is elected.

These eligibility standards shall be deemed to be amended to comply with current provisions of the County Employees' Retirement Law of 1937 or other applicable law relating to eligibility requirements for members of the Board of Retirement, or as determined by a court of competent jurisdiction.

**NOMINATION OF CANDIDATES; FILING PERIOD;  
STATEMENT OF CANDIDATES**

4. At least 53 but not more than 69 days prior to the election date, the elections official shall receive nominations of candidates. The number of eligible members required to sign a nomination paper for the respective office is not less than 15, nor more than 20. Only those members qualified to vote in the election for the office may sign a nomination paper. No member may sign more than one nomination paper for the same office, and in the event a member does so, the member's signature shall count only on the first nomination paper filed which contains that member's signature. Any member eligible to vote at the election may circulate a nomination paper for the candidate for whom the member is eligible to vote, substantially in the following form:

*We, the undersigned members of the Kern County Employees' Retirement Association hereby nominate \_\_\_\_\_ for the office of the \_\_\_\_\_ member on the Kern County Employees' Retirement Association Board of Retirement.*

*Name of Circulator*

*Circle one: Active General Member, Active Safety Member, Deferred General Member, Retiree*

*Circulator's Employing Department or Entity*

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<sup>1</sup> Kern County Employees' Retirement Association v. Bellino (2005) 126 Cal.App.4th 781

*Affidavit of Circulator*

*I, \_\_\_\_\_, solemnly swear (or affirm) that the signatures on this nomination paper were obtained between \_\_\_\_\_, 20\_\_\_\_, and \_\_\_\_\_, 20\_\_\_\_; that I circulated the petition and I saw the signatures on this section of the nomination papers being written; and that, to the best of my information and belief, each signature is the genuine signature of the person whose name it purports to be. I declare under penalty of perjury that the foregoing is true and correct.*

\_\_\_\_\_  
*Signature of Circulator*

The circulator's affidavit may either be notarized or signed in the presence of authorized staff of the elections official. Within 10 days after the close of the nomination period, the elections official shall verify that the individuals listed on the nomination papers are eligible to sign the candidate's nomination form based on a report of eligible members provided by KCERA. Any nominee whose nomination papers do not contain an adequate number of verified members shall be so notified by the elections official, and his or her name shall not be placed on the ballot.

Each nomination petition shall include a declaration of the nominee, substantially in the following form:

*I, \_\_\_\_\_, am the above-named nominee for the office of the \_\_\_\_\_ member of the Kern County Employees' Retirement Association Board of Retirement. I am a (General, Safety, General Deferred or Retired) member of the Kern County Employees' Retirement Association and if elected I will qualify and serve to the best of my ability. I request my name be placed on the official ballot for election to the Board of Retirement for the election to be held on the \_\_\_\_\_ day of November, \_\_\_\_\_. I desire my name and designation to appear on the ballot as follows: (Name and designation).*

*I declare under penalty of perjury that the foregoing is true and correct. Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.*

\_\_\_\_\_  
*Signature of Nominee*

The nominee's declaration may either be notarized or signed in the presence of authorized staff of the elections official.

The ballot shall not contain the name of any candidate unless duly nominated as provided herein. No later than 53 days prior to the election, a candidate may also

submit a candidate's statement which shall be mailed with the ballot to each member. The statement, which shall not exceed 200 words, shall include the name and occupation, including identification of the candidate's employing department or special district, and a brief description of the candidate's education and qualifications expressed by the candidate. The statement may not make reference to any other candidate's qualifications, character, or activities, and the candidate shall declare under penalty of perjury that the contents of his or her candidate statement are true and correct. The elections official shall not cause to be printed or circulated any statement which is not so limited and declared under penalty of perjury.

No later than 40 days prior to the election, the elections official shall publish a list of all candidates who are eligible to be voted for at the election. The list of candidates shall be posted at the Elections Office and at the office of the Kern County Employees' Retirement Association.

#### **EXTENSION OF FILING PERIOD IF INCUMBENT FAILS TO FILE**

5. Notwithstanding any other provision of these regulations, if nomination papers and a declaration of candidacy for an incumbent trustee is not filed by 5 p.m. on the 53<sup>rd</sup> day prior to the election, any person (other than the person who was the incumbent on the 53<sup>rd</sup> day) shall have until 5 p.m. on the 46<sup>th</sup> day before the election to file nomination papers and a declaration of candidacy as provided in paragraph 4 above. This paragraph 5 is not applicable where there is no incumbent to be elected or the incumbent is not eligible for re-election to the trustee position in which he or she holds at the time the filing period closes.

#### **WITHDRAWAL**

6. A candidate may withdraw his or her declaration of candidacy no later than 53 days prior to the election date, or in the event Paragraph 5 above is applicable, 46 days prior to the election date.

#### **WRITE-IN CANDIDATES**

7. A member may declare his or her candidacy as a write-in candidate no later than 14 days, nor earlier than 46 days, prior to the date of the election by filing nomination papers as provided in Rules 4 herein and a declaration of candidacy substantially in the following form, and signed under penalty of perjury:

*I, \_\_\_\_\_, am the above-named nominee for the office of the \_\_\_\_\_ member of Kern County Employees' Retirement Association Board of Retirement. I am a (General, Safety, or Retired) member of the Kern County Employees' Retirement Association and if elected I will qualify and serve to the best of my ability. I do hereby declare myself as a write-in candidate for election to the Board of Retirement of the Kern County Employees' Retirement Association as its \_\_\_\_\_ Member. If elected I*

*will qualify and serve to the best of my ability.*

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*Signature of Write-In Nominee*

### **ELECTION RESULT IF NO MORE THAN ONE CANDIDATE**

8.
  - a. No later than 46 days prior to the election, if only one member has filed nomination papers and a declaration of candidacy pursuant to paragraph 4 or 5 above, no election shall be held and the elections official shall prepare an appointment in lieu of election declaring such member elected to the office for which he or she was nominated. If the Seventh is appointed in lieu of election, an election may be held for the Seventh Alternate member if an eligible candidate timely files as a Write-in Candidate.
  - b. Election of Seventh Alternate Member. The elections official shall inform KCERA of any appointment in lieu of election for the Seventh Member. Once informed, KCERA shall direct a notice regarding the Write-in Candidate process to County Departments employing eligible Seventh Alternate Member candidates, eligible member candidates, and member groups representing the Seventh Alternate Member candidates.
  - c. If no eligible candidate for the Seventh Alternate position files as a Write-in Candidate, the Board of Retirement may elect not to fill the alternate member seat, or may elect to receive applications for appointment. Applications for appointment to an alternate member seat shall be placed on a Regular Board of Retirement Meeting Agenda.

### **BALLOTS; STATEMENT BY BOARD OF RETIREMENT; VOTING DEADLINE**

9. No later than 15 days prior to the election, ballots shall be prepared by the elections official and shall be mailed to each member eligible to vote. Ballots shall be mailed in forwardable envelopes utilizing postal address correction notification services. Upon receipt, address correction information shall be provided to the KCERA.

Members eligible to vote for the second and third members of the Board of Retirement are all active and deferred members of the KCERA. Only retired members are eligible to vote for the eighth member of the Board. All members designated as safety members are eligible to vote for the seventh member.

The names of all candidates who have timely filed the required nomination papers and declaration of intent to serve shall be printed on the ballot. At the option of the candidate, the title of the public service position he or she holds or from which he or she is retired may be printed immediately after or below his or her name on the ballot. In lieu of the public service position designation, a candidate may have the name of his or her appointing authority's department or division printed on the ballot. A candidate for the same seat which he or she presently holds may also

have the word “Incumbent” printed immediately after or below his or her name on the ballot. Any title or designation provided to the elections official to print on the ballot, as indicated above, shall be declared by the candidate to be true and correct under penalty of perjury.

The order in which the candidates appear on the ballot shall be determined by a random drawing conducted by the elections official. Voting instructions, similar to those provided in Exhibit “A”, shall be included with the ballots mailed to the members. The ballot will be void and shall not be counted if the member fails to comply with voting instructions. Instead of voting for a candidate listed on the ballot, a member may cast a vote for a write-in candidate who has timely filed a valid nomination petition and declaration of candidacy by writing in the name of that member in the space provided.

In addition to the ballot, the voting instructions, and the Candidate’s Statements (if any), each member shall receive a statement from the KCERA Board of Retirement substantially in the following form:

*The Board of Retirement consists of nine members and two alternates, \_\_\_\_\_ of whom will be selected as a result of this election. The Board manages investments of the retirement fund, which has assets of approximately \$\_\_\_\_\_. In addition, the Board makes decisions on applications for disability retirement and on many other matters vital to its members. We urge you to take the time to learn about the candidates and to vote.*

In order to be processed and counted, voted ballots must be received by the Elections Division of the Auditor-Controller-County Clerk’s Office no later than 5 p.m. on the day of the election.

### **CAMPAIGN**

10. No member may use County time or resources to campaign for a member seeking election to the Board of Retirement, including dissemination of campaign information via the County’s electronic communications system; provided, however, that department heads shall permit each candidate, upon request, to post reasonable campaign material on the department bulletin board. Posted items shall be no larger than 8 ½” by 11 ½”. Department heads may reasonably refuse to post any offensive or defamatory material. Nothing herein shall be deemed to make any campaign material or statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for distribution or posting.

### **TALLY OF VOTES; TIE VOTE**

11. The elections official shall verify the names on all returned envelopes against the members’ mailing list or roster and ready ballots for counting. Staff from the

Elections Office shall serve as the canvassing board. The canvassing board shall meet at 8:00 a.m. in the Elections Office on the third day of the election, no later than the 1<sup>st</sup> Thursday following the election, for the counting of ballots and determination of any questionable ballots. Any person may observe the tally of votes.

The candidate for the second, third, seventh, eighth and eighth alternate member offices who receives the highest number of votes cast for such office shall be elected to such office for the term next succeeding. In the event of a tie vote, the procedures set forth in Elections Code section 15651(a) shall be used to determine the election results. The elections results shall be filed with the Board of Retirement, and the Executive Director of the KCERA shall file a certificate of the election results with the Board of Supervisors.

### **POSTING CERTIFICATE OF ELECTION RESULTS; ELECTION CONTEST; RETENTION OF BALLOTS**

12. A certificate of election results shall be posted on the KCERA's Web page and on the door at the entrance to the KCERA's office for one week commencing with the day following the day election results are certified by the elections official.

Any member of the KCERA desiring to contest the results of any election shall file a written statement of contest not later than the 30<sup>th</sup> day following the date of the election. The grounds for contest shall be those specified in California Elections Code section 16100-16101. The procedures for contests of general elections contained in the California Elections Code shall control except that the contestant and the candidate-elect whose election is being contested shall file all statements, affidavits and other papers with the Board of Retirement. The Board of Retirement shall take such action upon any election contest as it shall deem just and proper. The provisions of Code of Civil Procedure section 1094.6 (relating to limitations on time to commence proceedings in mandate) are applicable to petitions for writs of mandate filed to review final decisions of the Board on the election contest.

All envelopes containing voted ballots and all voted ballots (whether or not counted) shall be retained for 30 days in the offices of the elections official or until such further time as is required to settle any contest concerning the election.

### **SPECIAL ELECTIONS**

13. A special election shall be called by the Board of Retirement within 30 days of the occurrence of the vacancy if a vacancy occurs for any reason during the term of office of an elected board member, other than alternate members, unless the term of office will end less than 365 days from the occurrence of the vacancy; provided, however, that if the term of office will end less than 365 days from the occurrence of the vacancy, the Board may call a special election to fill such vacancy of the Board, in its discretion, determines that such action is in the best interests of the KCERA. The Board of Retirement may call a special election to fill a vacancy occurring in the office of any alternate member if the Board, in its discretion,

determines that such action is in the best interests of the KCERA.

## **RETIREMENT BOARD DISCRETION**

14. The purpose of these election procedures is to ensure an orderly, fair and impartial process for the conduct of elections of trustees to the Board of Retirement. In the event there is any ambiguity or uncertainty regarding the application of these procedures to a particular election issue, or there is no procedure specifically addressing the election issue, the Board of Retirement shall decide the issue upon application by any person, or on its own motion. In exercising its administrative discretion under these procedures, the Board shall be mindful of the purpose of these procedures and may be guided by general principles of California elections or other applicable law.



## **POLICY REVIEW AND HISTORY**

- 1) This policy was:
  - a) Adopted by the Board on August 8, 2018.