Alameda County Employees' Retirement Association
BOARD OF RETIREMENT

OPERATIONS COMMITTEE/BOARD MEETING NOTICE and AGENDA

ACERA MISSION:

To provide ACERA members and employers with flexible, cost-effective, participant-oriented benefits through prudent investment management and superior member services.

Wednesday, August 2, 2023
9:30 a.m.

LOCATION AND TELECONFERENCE	COMMITTEE MEMBERS	
ACERA **C.G. "BUD" QUIST BOARD ROOM** **475 14TH STREET, 10TH FLOOR** **OAKLAND, CALIFORNIA 94612-1900** **MAIN LINE: 510.628.3000** **FAX: 510.268.9574** **The public can observe the meeting and offer public comment by using the below Webinar ID and Passcode after clicking on the below link or calling the below call-in number.** **https://zoom.us/join** **Call-In Number: 1 699 900 6833** **Meeting ID: 879 6337 8479** **Password: 699406** **For help joining a Zoom meeting, see: https://support.zoom.us/hc/en-us/articles/201362193**	**KELLIE SIMON, CHAIR**	**ELECTED GENERAL**
	OPHELIA BASGAL, VICE CHAIR	**APPOINTED**
	ROSS CLIPPINGER	**ELECTED SAFETY**
	HENRY LEVY	**TREASURER**
	ELIZABETH ROGERS	**ELECTED RETIRED**

The Alternate Retired Member votes in the absence of the Elected Retired Member, or, if the Elected Retired Member is present, then votes if both Elected General members, or the Safety Member and an Elected General member, are absent.

The Alternate Safety Member votes in the absence of the Elected Safety, either of the two Elected General Members, or both the Retired and Alternate Retired members.

This is a meeting of the Operations Committee if a quorum of the Operations Committee attends, and it is a meeting of the Board if a quorum of the Board attends. This is a joint meeting of the Operations Committee and the Board if a quorum of each attends.

Board and Committee agendas and minutes and all documents distributed to the Board or a Committee in connection with a public meeting (unless exempt from disclosure) are posted online at www.acera.org and also may be inspected at 475 14th Street, 10th Floor, Oakland, CA 94612-1900.

Public comments are limited to four (4) minutes per person in total. The order of the items on the agenda is subject to change without notice.

Note regarding accommodations: If you require a reasonable modification or accommodation for a disability, please contact ACERA between 9:00 a.m. and 5:00 p.m. at least 72 hours prior to the meeting at accommodation@acera.org or at 510-628-3000.

OPERATIONS COMMITTEE/BOARD MEETING

Call to Order: 9:30 a.m.

Roll Call

Public Input (Time Limit: 4 minutes per speaker)

Action Items: Matters for Discussion and Possible Motion by the Committee

1. **Employer Reimbursement Policy review, discussion, and possible motion to renew the Employer Reimbursement Policy with or without revisions.**

   -Lisa Johnson

   Recommendation

   Staff recommends that the Operations Committee make a recommendation to the Board of Retirement to approve the Employer Reimbursement Policy, without revisions.

2. **Electronic Tablet Policy review, discussion, and possible motion to renew the Electronic Tablet Policy, with or without revisions.**

   -Lisa Johnson

   Recommendation

   Staff recommends that the Operations Committee recommend that the Board of Retirement revise the Electronic Tablet Policy, per the redline in the agenda backup.

3. **Discussion and possible motion to amend the Board Reciprocity Policy due to *Casson v. Orange County Employees Retirement System* (2023) 87 Cal.App.5th 1204.**

   -Jeff Rieger

   Recommendation

   Staff recommends that the Operations Committee recommend that the Board of Retirement revise the Board Reciprocity Policy, per the redline in the agenda backup.

Information Items: These items are not presented for Committee action but consist of status updates and cyclical reports

1. **Discussion and presentation on hybrid Board elections**

   -Lisa Johnson

2. **Operating Expenses as of 06/30/23**

   -Erica Haywood

3. Quarterly Financial Statements as of 06/30/23

-Erica Haywood

4. Quarterly Cash Forecast Report

-Erica Haywood

5. Board Member Conference Expense Report as of 06/30/23

-Erica Haywood

6. Senior Manager Conference and Training Expense Report as of 06/30/23

-Erica Haywood

7. MMRO Annual Report

- Sandra Dueñas-Cuevas

<u>Trustee Remarks</u>

<u>Future Discussion Items</u>

September (*to be presented at Board Meeting*)
- Operating Expenses as of 07/31/23

October (*to be presented At Board Meeting*)
- Statement of Reserves as of 6/30/23

November
- Discussion and possible motion to approve the proposed 2024 ACERA Operating Expense Budget
- Discussion and possible motion to approve the annual agreement for the Segal Group, ACERA's Benefits Consultant
- Discharge of Benefit Overpayments Policy Review, discussion and possible motion to renew the Discharge of Benefit Overpayments Policy, with or without revisions
- Board Education Policy Review, discussion and possible motion to renew the Board Education Policy, with or without revisions
- Felony Forfeiture Policy review, discussion and possible motion to renew the Felony Forfeiture Policy, with or without revisions

<u>Establishment of Next Meeting Date</u>

November 16, 2023, at 12:30 p.m.

<u>Adjournment</u>

ACERA

MEMORANDUM TO THE OPERATIONS COMMITTEE

DATE: August 2, 2023

TO: Members of the Operations Committee

FROM: Lisa Johnson, Assistant Chief Executive Officer

SUBJECT: **Employer Reimbursement Policy Review**

Executive Summary

The Employer Reimbursement Policy (Policy) is set for review by the Operations Committee to ensure that it remains relevant and appropriate. The policy was last reviewed by the Operations Committee on December 7, 2022.

Staff recommends that, due to conflict of interest concerns, Trustees Ms. Kellie Simon, Mr. George Wood, Mr. Ross Clippinger, and Mr. Kevin Bryant recuse themselves from participating in any discussion or Committee and Board actions associated with the Employer Reimbursement Policy.

Staff's review of the Policy resulted in the following findings:

- The policy continues to address the Board's intent to reimburse Departments employing ACERA Board Trustees.
- The issues addressed by this Policy continue to be within the Board's responsibilities of managing the Plan's budgetary requirements, and are legally permissible as an administrative expense of the Plan.
- The Policy continues to be appropriate and does not overlap with other Board policies.
- The Policy content continues to be appropriate in meeting the needs of ACERA.

Background

In April 2000, the Board adopted the Policy to reimburse employers of Elected Trustees for the time that these Trustees spend away from their traditional employment responsibilities. In 2008 and 2009, the Board comprehensively reviewed the Policy, examining: the Policy's financial impacts; any potential conflicts of interest concerns; whether the Policy is permissible as an administrative expense; and whether the Policy presents fiduciary concerns for the Board. The Board was advised to implement a methodology to quantify the reimbursement to ensure that it is reasonable and based upon an objective standard. Outside counsel provided a legal opinion confirming that the cost was permissible as an administrative expense. In February 2010, the Board voted to continue the Policy, with an amendment to require Elected Trustees to certify that annually they have devoted a minimum of 520 hours towards ACERA related activities. That process has been successfully implemented to date.

Recommendation

Staff recommends that the Operations Committee make a recommendation to the Board of Retirement to approve the Employer Reimbursement Policy, without revision.

Attachment:
Employer Reimbursement Policy

Employer Reimbursement Policy

I. Purpose

The Board of Retirement believes that the interests of the members and retirees of the Association are best served by attracting and retaining highly competent Board members who embrace the fiduciary responsibilities of ACERA Trustees and who are selected through a process that supports the statutory configuration of the Board.

II. Objectives

The objectives of this policy are as follows:

A. To assist employers of active employee elected Board members (hereinafter "elected Board members");

B. To promote free and open participation of members in the democratic Board electoral process; and

C. To maximize the opportunities for elected Board members to fulfill their fiduciary responsibilities to ACERA.

However, elected member employer reimbursement is not a statutorily mandated benefit to employers. Further, its authorization is subject to annual renewal at the discretion of the Board. Reimbursement is dependent upon ACERA budgetary considerations and Board approval.

III. Assumptions

In preparing this policy, the following assumptions were made:

A. The 1937 County Employees Retirement Law specifies that the Board of Retirement of the Alameda County Employees' Retirement Association shall consist of nine members, and up to two (2) alternate members.

While all qualified members of ACERA have the constitutional right to seek election to the Board of Retirement, the members' employer does not enjoy a statutory right to reimbursement.

B. The Board recognizes that, in order to fulfill their fiduciary duties to ACERA, Board members will be required to expend a significant amount of time on ACERA business to the possible detriment of their other professional and personal activities. This may create conflicts with respect to the non-ACERA duties of these members and may, in the case of elected Board members, inhibit or deter Association members from seeking election to the Board of Retirement or satisfactorily discharging the duties of an elected Board member.

C. The Board further recognizes that the precise amount of time an individual Board member may spend on ACERA activities will differ with the member's interests, committee assignments and general Association activity level. Elected Board members will, generally, incur additional responsibilities in conjunction with their duty to serve as an intermediary between their constituency and the Association.

D. The Board acknowledges that it is not practical or useful to precisely quantify the amount of time spent on ACERA activities by each elected Board member over any given period of time and it is reasonable to limit reimbursement to 25% of the elected member's full time employment requirements which equates to 520 hours per year.

IV. Guidelines

In order to assist the employers of ACERA elected Board members, to promote free and open participation of ACERA active members in the democratic Board electoral process and to maximize the opportunities for elected Board members to fulfill their fiduciary responsibilities to ACERA, the Board hereby approves:

A. Reimbursement to the employers of ACERA elected Board members;

B. Not to Exceed 25% of the cost of the salary (excluding overtime and any lump-sum sell back) and benefits of such members, however under no circumstance will the total paid to the employers exceed $300,000 for the calendar year with an annual cost of living adjustment based upon the consumer price index. The $300,000 is calculated based upon a pro rata share of each trustee's salary;

C. The promulgation of guidelines to help illustrate how an elected Board member may reasonably spend at least 520 hours per year on ACERA business (See Appendix A);

D. A process by which, at the end of the calendar year, each elected Board member will review Appendix A and certify in writing that he/she spent at least 520 hours that year on ACERA business;

E. A proportional adjustment of the reimbursement if the elected Board member determines that he/she has spent less than 520 hours that year on ACERA business;

F. Reimbursement of the elected Board member's employer in the appropriate amount at the end of the calendar year.

V. Policy Modifications

This document shall be reviewed by the Operations Committee annually during the budgetary process. The Committee shall make recommendations to the Board concerning any improvements or modifications it deems necessary.

VI. Policy History

A. The Board adopted this policy on April 20, 2000.

B. The Board reviewed and affirmed this policy, with no revisions, on December 15, 2022[1].

[1] *The Board adopted the Policy on April 20, 2000. It was reviewed and affirmed with revisions November 9, 2006; February 18, 2010; November 21, 2013; and October 19, 2017. It was reviewed and affirmed without revisions December 15, 2011; November 8, 2012; December 18, 2014; December 17, 2015; November 17, 2016; and January 19, 2017.*

Detailed Breakdown of Elected Trustee ACERA Activities

Meetings – Attendance:

12 Board Meetings (2 hours each)	24 hours total
12 Operations Committee Meetings (1½ hours each)	18 hours total
12 Retirees Meetings (2 hours each)	24 hours total
12 Investment Committee Meetings (3 hours each)	36 hours total
3 Governance Committee Meetings (1½ hours each)	4.5 hours total
3 Audit Committee Meetings (1½ hours each)	4.5 hours total
4 Actuarial Committee Meetings (2 hours each)	8 hours total
3 Budget Committee Meeting (1½ hours each)	4.5 hours total
1 Board Offsite/Retreat (8 hours)	8 hours total
1 Joint BOS and ACERA Board Meeting (2 hours)	2 hours total

Meetings – Preparation Time:

12 Board Meetings (2 hours each)	24 hours total
12 Operations Committee Meetings (1½ hours each)	18 hours total
12 Retirees Meetings (2 hours each)	24 hours total
12 Investment Committee Meetings (2 hours each)	24 hours total
3 Governance Committee Meetings (1½ hours each)	4.5 hours total
3 Audit Committee Meetings (1½ hours each)	4.5 hours total
4 Actuarial Committee Meetings (2 hours each)	8 hours total
3 Budget Committee Meeting (1½ hours each)	4.5 hours total
1 Board Offsite/Retreat (6 hours)	6 hours total
1 Joint BOS/BOR Joint Meeting (2 hours)	2 hours total

Travel Time:

60 Board and Committee Meetings (1 hour travel to and from meeting)	60 hours total
Board Offsite and BOS/BOR Joint Meeting (1 hour travel to and from meeting)	2 hours total
Meetings Subtotal	315 hours

SACRS – 2 Conferences per year

Attendance (3½ days at 8 hours per whole day)	56 hours total
Travel (½-day to and from each conference)	16 hours total

Out of Town Seminars/Education and Training – 2 per year

Attendance (3 days at 8 hours per day)	48 hours total
Travel (½-day to and from each conference)	16 hours total

Luncheons

Attendance (10 hours)	10 hours total
Travel (4 hours)	4 hours total

Constituent Representation – Liaison Activities

1½ hours per week	78 hours total

Miscellaneous Activities

2 hours per month	24 hours total
SACRS, Seminars, Luncheons, Liaison Activities Subtotal	252 hours

Total for all Activities	567 hours

MEMORANDUM TO THE OPERATIONS COMMITTEE

DATE:	August 2, 2023
TO:	Members of the Operations Committee
FROM:	Lisa Johnson, Assistant Chief Executive Officer
SUBJECT:	**Electronic Tablet Policy Review**

Executive Summary

The Electronic Tablet Policy (Policy) is set for review by the Operations Committee to ensure that it remains relevant and appropriate. The policy was last reviewed by the Governance Committee on April 18, 2019.

Staff's review of the Policy resulted in the following findings:

- The Policy continues to be appropriate and does not overlap with other Board policies.
- Changes have been added in red and red line to update some of the language describing the tablet technology, security requirements, and key contact title.

Background

In October 2012, the Board adopted the Policy when the Board began using electronic devices and web-based systems as electronic solutions for access to Board and Committee materials. The goals of the Policy were to:

- Ensure that the Board had efficient and effective access to electronic information;
- Reduce the production and mailing of voluminous paper distributions;
- Address risks such as improper use of ACERA issued electronic devices and improper disclosure of confidential information;
- Provide guidance and support during the transition to the electronic tablet;
- Provide an acknowledgement form for Trustees to sign certifying their compliance with the Policy.

Recommendation

Staff recommends that the Operations Committee recommend that the Board of Retirement revise the Electronic Tablet Policy, per the redline in the agenda backup.

Attachment:
Electronic Tablet Policy

Electronic Tablet Policy

I. Purpose

The purpose of the Electronic Tablet Policy (Policy) is to govern the use of Electronic Tablets and a web-based or app--based system as an electronic solution by which Committee and Board meeting materials will be distributed, accessed, stored, and secured. ACERA will

facilitate the offsite access of Committee and Board packet materials through ~~the use of~~ a web--based electronic platform or mobile app thus allowing Trustees to use ACERA-issued and/or personal Electronic Tablets to retrieve, store, edit and read the Committee and Board packet materials.

II. Assumptions

A. The Electronic Tablet Policy rests on the following important assumptions:

1. The electronic delivery of meeting packets has a positive environmental impact.

2. The electronic delivery of meeting packets has a positive fiscal impact.

3. Electronic Tablets used for retrieval of meeting packets may be provided by ACERA (ACERA-issued) or personally owned.

4. ACERA Trustees will treat all confidential ACERA electronic records appropriately.

5. ACERA Trustees will ensure that all electronic documents accessed by Electronic Tablet devices and distributed through the ~~department's~~ cloud-based storage service, are stored, maintained, and disposed of in a manner that prevents the disclosure of confidential information.

III. Policy Guidelines

The Electronic Tablets used by ACERA Trustees to access ACERA related materials may be ACERA-issued or purchased by Trustees with personal funds.

A. ACERA-Issued Electronic Tablets – Usage Guidelines.

ACERA Trustees must agree to the following guidelines when using Electronic Tablets to access materials owned by ACERA or when otherwise using Electronic Tablets to conduct ACERA-related business:

1. An Electronic Tablet distributed by ACERA is the sole property of ACERA. ~~Therefore, d~~Documents, files, and media on the Electronic Tablet are also the sole property of ACERA. Users shall have no expectation of privacy~~,~~ with regard to any applications, data, email, photos, or any other records stored on the Electronic Tablet.

2. ACERA reserves the right to use tracking software to locate the Electronic Tablet as necessary.

3. In the event the Electronic Tablet is lost or stolen, ACERA reserves the right to delete all data on the Electronic Tablet remotely and reset the Electronic Tablet to its original factory standard ~~in order~~ to preserve the integrity of ACERA electronic records.

4. ACERA is not responsible for Electronic Tablet compatibility with other non-ACERA products (computers, printers, Bluetooth devices, software, etc).

B. ~~In addition,~~ Trustees using ACERA issued Electronic Tablets must agree to the following guidelines:

1. Take all appropriate and reasonable measures to physically secure and electronically secure the Electronic Tablet and third-party applications with password protection.

2. Treat all confidential ACERA electronic records appropriately.

3. Handle the Electronic Tablet with consideration and care.

4. Report lost, stolen or damaged Electronic Tablets ~~to ACERA~~as soon as possible, and no later than within 24 hours of the occurrence, to the Assistant ~~to the~~ Chief Executive Officer. Replacement of the Electronic Tablet will be at ACERA's discretion.

5. Maintain all configuration settings established by ACERA upon deployment.

6. Relinquish the Electronic Tablet within seven ~~(7)~~ business days of leaving the ACERA Board at 475 14th Street, Suite 1000, Oakland, CA 94612 during normal business hours of Monday through Friday (8:30 a.m. – 5:00 p.m.), excluding holidays.

7. Use of ACERA-issued Electronic Tablets is primarily for ~~the use of~~ ACERA-related business.

8. Personal use of ACERA-issued Electronic Tablets should be limited. Trustees will not permit anyone else including, but not limited to, the Trustees' family and/or associates, to use this ACERA property.

9. ACERA Trustees may not download or install any software onto any ACERA-issued Electronic Tablet without prior authorization by the ACERA's ~~Project Information Services Manager~~Chief Technology Officer.

10. ACERA Trustees will sign an acknowledgement of receipt form upon taking possession of an ACERA-issued Electronic Tablet, which is attached to this Policy.

C. Personal Electronic Tablet – Usage Guidelines

1. ACERA Trustees must agree to the following guidelines when using personally owned Electronic Tablets to access materials owned by ACERA or when otherwise using Electronic Tablets to conduct ACERA-related business.

2. Electronic Tablets personally owned by the Trustee are the sole responsibility of the Trustee. However, the Trustee may request instructions to download the required third-party applications to access ACERA materials.

3. ACERA is not responsible and will not support the malfunction of the Electronic Tablet. ACERA is only responsible for the applications or software that is required to access the materials produced by ACERA.

D. ~~In addition,~~ Trustees using personally owned Electronic Tablets must agree to the following guidelines when using Electronic Tablets to access records owned by ACERA:

1. Take all appropriate and reasonable measures to physically secure and electronically secure the Electronic Tablet and third-party applications with password protection.

2. Treat all confidential ACERA electronic records appropriately.

~~2.~~3. Report lost or stolen Electronic Tablets that contain ACERA information as soon as possible, and no later than within 24 hours of the occurrence, to the Assistant Chief Executive Officer.

~~3.~~4. Install all third-party applications that are required to access ACERA materials.

~~4.~~5. Maintain all configuration settings established by ACERA upon deployment.

~~5.~~6. Delete all documents, files, and media owned by ACERA entirely from the Electronic Tablet within seven ~~(7)~~ business days of leaving the ACERA Board.

IV. Policy Review

The Operations Committee shall review this policy at least every three (3) years.

V. Policy History

A. The Board adopted the Electronic Tablet Usage Policy on October 18, 2012.

B. The Board reviewed and affirmed the Electronic Tablet Usage Policy on April 18, 2019[1].

[1] *The Board adopted the Policy on October 18, 2012. The Board reviewed and affirmed this policy, without revisions, on December 18, 2014, and April 18, 2019.*

ACERA

Office of the Chief Counsel

To: Operations Committee

From: Jeff Rieger, Chief Counsel

Meeting: August 2, 2023

Subject: **Proposed Amendments To Reciprocity Policy**

INTRODUCTION

Government Code Section 31838.5 is perhaps the most confounding section in the County Employees' Retirement Law (CERL). For many years, CERL systems across the state have done their best to apply Section 31838.5 in a way that is consistent with the apparent legislative intent, but the statute is unclear in important ways.

ACERA had long-standing historical practices for how it applies Section 31838.5, which were incorporated into the Board's Reciprocity Policy that the Board adopted on December 15, 2022. When the Board adopted the Reciprocity Policy, *Casson v. Orange County Employees' Retirement System* (2023) 87 Cal.App.5th 1204, was pending before the court of appeal. The trial court's interpretation of Section 31838.5 in *Casson* generally supported ACERA's longstanding practices, but the court of appeal overturned the trial court and that opinion became final on April 3, 2023. Below, I propose several changes to the Reciprocity Policy based on *Casson*.

GOVERNMENT CODE SECTION 31838.5

Section 31838.5 provides:

> No provision of this chapter [the CERL] shall be construed to authorize any member, credited with service in more than one entity and who is eligible for a disability allowance … to receive an amount from one county that, when combined with any amount from other counties or the Public Employees' Retirement System, results in a disability allowance greater than the amount the member would have received had all the member's service been with only one entity. … Each entity shall calculate its respective obligations based upon the member's service with that entity and each shall adjust its payment on a pro rata basis.

Section 31838.5 requires ACERA to reduce the benefit it otherwise would pay under the applicable service retirement or disability retirement formula. To illustrate the kinds of outcomes Section 31838.5 is designed to prevent:

- Without Section 31838.5, a 30-year-old member who retires for non-service-connected-disability (NSCD) and has five years of service in ACERA and five years of service in a reciprocal system could receive <u>two</u>-thirds of final compensation in total, per Gov't Code §§ 31727 (one-third from granting system) and 31838 (one-third from other system), when that member could receive only <u>one</u>-third of final compensation if all service had been for one employer in one system.

- Without Section 31838.5, a 50-year-old safety member who (a) has 30 years of service under a 3% at 50 formula in one system, (b) moves on to another system with a 3% at 50 formula, and (c) one year later retires for a service-connected disability (SCD), would receive 90% of final compensation from the first system and 50% of final compensation from the second system, for a total of 140% of final compensation, when that member would only receive 93% of final compensation if all service had been for one employer in one system.

In *Block v. Orange County Employees' Retirement System* (2008) 161 Cal.App.4th 1297, the court held that a retirement system properly reduces a benefit under Section 31838.5, even when the member retires for service under the first system (e.g., the second example above). The court explained that "the term 'disability allowance' means all benefits a member receives from reciprocal systems or from the California Public Employees' Retirement System (CalPERS) for retiring concurrently due to disability, whether those benefits are labeled disability retirement or service retirement." *Id.* at 1302.

ACERA's Reciprocity Policy

The "Pro Rata" Adjustment

Some reciprocal systems (most notably CalPERS) are not subject to Section 31838.5 and therefore may not reduce the benefits they pay the member in cases when Section 31838.5 applies to ACERA.[1] When the reciprocal system is one of those systems, ACERA has a longstanding practice of reducing the benefit it pays the member as much as necessary to prevent the member from receiving more than the member could have received if all service had been for one employer under one system. There is no case law on this point and Section 31838.5 is ambiguous. ACERA's longstanding practice complies with the intent of the statute, but arguably results in ACERA making more than a "pro rata" reduction. While the law is not settled, I believe ACERA's longstanding practice is reasonable. *Casson* does not call into question this historical practice.

ACERA Reduces An Allowance Even When The Member Does Not Elect Reciprocity

Section 31838.5 begins "No provision of this chapter" and the referenced "chapter" is the County Employees' Retirement Law (CERL), not just the "Reciprocal Benefits" Article found within the CERL. Thus, ACERA's Reciprocity Policy, which was consistent with the trial court's ruling in *Casson*, applied to all forms of benefits whether or not the member "elected" reciprocity. In other words, ACERA would have reached the same conclusion as OCERS (and the *Casson* trial court) if Casson had been an ACERA member. This aspect of the Reciprocity Policy should be revised based on the court of appeal's ruling in *Casson*.

Some Members Received Nothing From ACERA After Application Of Section 31838.5

Another question in these cases is whether a member whose allowance will be reduced or eliminated entirely under Section 31838.5 should be permitted to withdraw his or her

[1] Government Code Section 21162 may result in CalPERS reducing non-service-connected disability allowances, but CalPERS does not reduce service-connected disability allowances.

accumulated contributions.[2] The historical practice of the Board, since March 19, 2009, is to not permit members to withdraw their contributions in such cases. At that March 19, 2009 meeting, the Board denied a withdrawal request by a member and since that Board decision staff has denied withdrawal requests for four other members.

While the statute is ambiguous on this point, I believe ACERA's longstanding practice was reasonable based on *Block* and the apparent Legislative intent of Section 31838.5.[3] There are, however, reasonable arguments to support a different reading. While the statute seems to cover withdrawals with its use of "an amount" (rather than "an allowance") one can reasonably argue that a lump sum withdrawal is not part of the "disability allowance" referenced in the statute because a lump sum is itself not an "allowance." As discussed below, *Casson* supports that argument. Also, it may be hard for members (and judges) to understand how members can contribute to ACERA and have an account balance but then receive nothing from ACERA.

CASSON V. OCERS

On April 3, 2023, the Fourth District Court of Appeal published *Casson v. Orange County Employees Retirement System* (2023) 87 Cal.App.5th 1204. A copy of the opinion is attached hereto. Casson service-retired from CalPERS at the same time he became an active member of OCERS. When OCERS granted him a service-connected disability a few years later, it applied Section 31838.5 to reduce the allowance it paid him. The trial court upheld OCERS' decision, but the court of appeal overruled the trial court. The court of appeal began by distinguishing *Block*:

> Casson's situation is entirely different. Casson did not elect reciprocity. He chose to treat the two pensions as separate. He forwent valuable benefits to do so. The compelling logic of treating the two pensions as one for disability purposes, therefore, simply does not apply.[4] On the contrary, it

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2 For example, this can occur in some cases when the member retires for service-connected disability from a reciprocal retirement system that is not subject to Section 31838.5 and the member receives 50% of final compensation from that other reciprocal retirement system.

3 First, disallowing withdrawals is consistent with the purpose of Section 31838.5, which is to prevent windfalls for members with service in more than one system. A member with service in one system who retires for disability receives only a disability allowance and may not withdraw their member contributions. Second, Section 31838.5 uses the phrase "an amount" to describe a payment that is limited by Section 31838.5, which supports the conclusion that the Legislature was not concerned only with windfalls resulting only from allowance payments, but rather it was concerned with preventing windfalls in all forms. Third, Gov't Code § 31831 provides that reciprocal members who elect a deferred retirement "may not, after that election, rescind the election or withdraw any ... accumulated contributions while a member of such other system." Fourth, the withdrawal of contributions is the actuarial equivalent of an annuity that is paid as a disability allowance, per section 31837, which is clearly subject to Section 31838.5, so it is logical that a member who cannot receive the annuity also cannot receive the actuarially equivalent withdrawal.

4 I disagree with this point. The "compelling logic" behind Section 31838.5 is to prevent windfalls and the *Casson* opinion required that Casson receive a windfall in my opinion. The

> would be fundamentally unfair to Casson to limit his disability allowance to the equivalent of a single pension when he did not elect the benefits of treating the two pensions as one.
>
> From a textual standpoint, moreover, there is no reason to treat Casson's CalPERS service retirement as a "disability allowance." In *Block*, we did so by deeming the CalPERS payment as being a service disability payment pursuant to section 31727.4. Here, however, Casson began receiving service retirement payments from CalPERS several years before he suffered his disability. In no sense, therefore, is his CalPERS payment made pursuant to section 31727.4. It is a straight service retirement payment, not a disability payment. As a result, his payment from CalPERS cannot be considered part of his "disability allowance" under section 31838.5.

The court's conclusion was based on the facts before it, but the opinion raises questions about other scenarios that the court did not address. For example, the opinion does not address the circumstance of a member who defers retirement from the first system (and may be administratively considered a "reciprocal" member) but does not receive any benefits from reciprocity. The court was clear that it was not resolving questions that might arise under scenarios that differ from Casson's: "Our holding is limited to this: when a pensioner receives a service retirement under a CERL pension and becomes a member of a second CERL pension but does not elect reciprocity, his or her first service pension cannot be considered part of a 'disability allowance' under section 31838.5."[5]

APPLING *CASSON*

<u>"Electing" Reciprocity</u>

The *Casson* opinion turns on the following: "Casson did not elect reciprocity. He chose to treat the two pensions as separate."

It was clear that Casson did not elect reciprocity because he retired at the same time he started working as an active member of OCERS, so he was never eligible to take advantage of reciprocity. In other circumstances, however, it is less clear whether a member has "elected" reciprocity.

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purpose of a 50% service-connected disability (theoretically available on the first day of work) is to take care of a member who will not be able to have a long career due to disability; not to provide a member who already had a long career with far more retirement benefits than most other members receive, simply because that member's career was split between two retirement systems.

[5] The court also explained: "[W]e have not necessarily resolved the overarching debate the parties have over whether section 31838.5 could ever apply to nonreciprocal pensions. Arguably, a pensioner receiving a disability retirement from a first pension and then receiving a disability retirement from a second, nonreciprocal pension would be subject to an offset. As OCERS has pointed out, the statute is not, on its face, limited to reciprocal pensions. However, we need not decide that case today, as it is not before us."

If member retires on different dates from the reciprocal systems (i.e., not concurrently), the member will not receive some reciprocal benefits (Sections 31835 and 31836), but a member may receive other reciprocal benefits before retirement (sometimes immediately after joining the second system), including:

> Lower Member Contributions. Some members benefit from reciprocity immediately after entering the second system through lower member contributions. For example, at ACERA non-PEPRA members pay lower contributions if they have a lower age at entry and reciprocity (Section 31833) allows them to use a lower age at entry from a prior reciprocal system.
>
> Legacy Tier. A member who joined ACERA after January 1, 2013, but began service with a reciprocal system before January 1, 2013 (and the break in service was less than six months) qualifies for the ACERA tier that was in place on December 31, 2012, rather than Tier 4 (PEPRA).
>
> Redeposit Rights. If a member had safety service in either the first or the second retirement system, the member may redeposit funds that the member previously withdrew from the first system.

For administrative reasons, ACERA and other systems have members "elect" reciprocity so that the systems can share necessary information, but there is no requirement that members "elect" reciprocity within a particular amount of time. A member who meets the requirements for reciprocity (six-month or less break between the two systems) can prove entitlement any time before retiring and then enjoy some of the most important benefits of reciprocity. This begs the question of whether ACERA should treat members differently just because one administratively "elects" reciprocity sooner than another. Should a member be subject to Section 31838.5 just because the member helped ACERA administratively track the member's reciprocity by "electing" reciprocity early when another member might wait until retirement? When retiring for disability, should a member who made lower contributions at the second system receive a less advantageous outcome than a member who was never able to take advantage of Section 31833 because the member did not have age-based member contributions at the second system?[6]

Casson leaves unanswered what it means to "not elect reciprocity." One may read *Casson* narrowly and find that a member avoids Section 31838.5 only when he or she retires before, or at the same time, he or she starts work under the second system. Or, one may read *Casson* broadly and find that members can avoid Section 31838.5 simply by not retiring concurrently, which results in them forfeiting some (but not all) reciprocal benefits.

I conclude that the best reading of *Casson* lies between those two extremes. I recommend that ACERA equate "electing" reciprocity with financially benefiting from reciprocity. Further, I recommend that ACERA give members the option of returning any reciprocal benefits they received (plus interest) so that they can avoid application of Section 31838.5. I believe this reading is most consistent with the intent of *Casson* and with the spirit of reciprocity generally. Under this reading, members either receive the benefits of reciprocity

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6 Many retirement systems never had age-based member contribution rates and ACERA's PEPRA members do not have age-based member contribution rates.

and are subject to Section 31838.5 or they do not receive reciprocal benefits and are not subject to Section 31838.5. Further, under this reading, members do not have to "roll the dice" when deciding whether to administratively establish reciprocity, because they will later have the option to return any reciprocal benefits received to avoid Section 31838.5.

Refund Of Contributions

If a member retires for disability from a subsequent reciprocal retirement system and is allowed to "break" reciprocity to avoid application of Section 31838.5, the member will then be able to leave his or her funds on deposit and retire for service when eligible. A member who retires for service will usually receive far more in retirement allowance payments than from an account withdrawal, and if a member dies before the amount in their member account has been paid out in monthly allowance payments, the member's beneficiary will be paid the remaining amount, per Section 31760.1. Thus, if members are allowed to "break" reciprocity to avoid application of Section 31838.5, there is no good reason to prevent them from withdrawing the funds in their member account.[7] For that reason, I recommend that a member who retires for disability from a subsequent reciprocal retirement system should always be permitted to withdraw the funds in his or her ACERA member account. I further recommend that ACERA refund the amounts it has previously withheld from members in this situation based on *Casson's* clarification of the law.

Pro Rata Reduction

Nothing in *Casson* addresses the question of what constitutes a "pro rata" reduction in a case where the other system does not reduce the benefits it pays the member. One can potentially read the statute to require that ACERA make a "pro rata" reduction as if the other system had made a pro rata reduction, but the larger purpose of Section 31838.5 is served by ACERA's historical practice. Given that *Casson* does not provide any guidance on that issue, I recommend that the Board continue its historical practice of reducing a benefit as much as necessary to prevent the member from receiving more than the member could have received if all service had been for one employer under one system, in cases where Section 31838 applies.[8]

CONCLUSION AND SUMMARY OF RECOMMENDATIONS

Casson left open questions that cannot be answered with certainty. This memorandum provides my best analysis and recommendation, but there are other plausible readings of the statute. I recommend the following:

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7 Section 31831 requires a member to leave funds on deposit while she is a member of the subsequent reciprocal system. Once reciprocity is "broken," however, Section 31831 (in the Reciprocal Benefits Article of the CERL) should no longer apply and the members should be allowed to withdraw their funds like any other member in deferred status, per Section 31628. Members are allowed to leave their funds on deposit without reciprocity under Sections 31700 and 31629.5 and nothing in those sections prevents withdrawal of funds after retirement from a subsequent retirement system.

8 I expect Section 31838.5 will rarely, if ever, be applied going forward. I expect most, if not all, members to "break" reciprocity if the Board adopts the recommendations in this memorandum.

1. At minimum, ACERA's Reciprocity Policy should be revised to address the fact-pattern in *Casson*: A member's ACERA allowance is not reduced under Section 31838.5 if the member retires for service from a reciprocal system before, or at the same time, as becoming an active member of ACERA.

2. Although not as clear as No. 1 above, I believe the logic of *Casson* applies equally to a member who, although may have administratively established reciprocity, did not benefit from reciprocity.

3. For practical and fairness reasons, I recommend that members be given the right to return any reciprocal benefits they received (plus interest) for the purpose of avoiding application of Section 31838.5.

4. I recommend that, if a member retires for disability from a subsequent system, the member should always be permitted to withdraw the amount in his or her ACERA member account. While there may be fair arguments to support ACERA's historical practice, I conclude that the best reading of the law after *Casson* is that members should be permitted to withdraw their member contributions after retiring for disability from a subsequent reciprocal system. Per *Casson*, it appears that such a withdrawal likely would not be considered part of the member's "disability allowance" that is subject to Section 31838.5.

Attached to this memorandum is a redline showing the changes to the Reciprocity Policy if the Board were to adopt all recommendations in this memorandum.

Also attached to this memorandum is a copy of the *Casson* opinion.

Board Reciprocity Policy

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

I. Purpose

The reciprocity provisions of the County Employees' Retirement Law (CERL) provide valuable benefits to ACERA members who have service under reciprocal public retirement systems. Those provisions are complex and often can be read in different ways. This Policy states the Board's official interpretations of the CERL's reciprocity provisions, based on statutory language and apparent legislative intent. This Policy provides guidance to ACERA's members and Staff, so that ACERA's administration of the CERL's reciprocity provisions is fair and predictable.

II. Guiding Principles

A. The purpose of the CERL's reciprocity provisions is to eliminate disadvantages that members might otherwise experience when moving from one retirement system to another. Those reciprocity provisions are not intended to provide members who move from one retirement system to another with greater benefits than they would have received if they had performed all service under one system. All interpretations of the CERL's reciprocity provisions should be consistent with these principles.

B. The CERL's reciprocity provisions should be read broadly in favor of granting members reciprocal benefits. A member should not be deprived of reciprocal benefits if there is a reasonable way to read the CERL that would provide the member with those benefits.

C. Members must inform ACERA about their service under reciprocal retirement systems for ACERA to administratively establish reciprocity. ACERA will seek such information in its forms and when counseling members.

D. The Board determines the benefits ACERA pays and reciprocal systems determine the benefits they pay. This Policy governs the benefits ACERA pays regardless of whether a reciprocal system interprets the CERL or other laws differently than ACERA.

E. This Policy governs all Staff determinations prospectively.

III. Board Interpretations

A. **Measuring The Six-Month Period**. To be eligible for reciprocity, a member must move between reciprocal retirement systems within six months or less. ACERA measures that six-month period from the date of termination of active membership in the first system to the date of employment in a job that is eligible for membership in the second system (for ACERA, permanent full-time employment with a participating employer). The approximate two-week administrative delay between employment and membership in ACERA (or similar delays at other systems) does not result in the loss of reciprocity. See Gov't Code § 31840.4.

B. **Overlapping Service Credit**. Overlapping service credit with ACERA and a reciprocal system prevents a member from establishing reciprocity between ACERA and that system. The Board's Membership Policy, however, gives members the ability to alter their membership date and/or termination of active membership date by up to 12 weeks to eliminate any such overlap. Staff will take all reasonable steps to help members understand their rights to eliminate overlapping service credit under the Board's Membership Policy.

C. **"Final Compensation."** Under Gov't Code § 31835, ACERA considers pay records under reciprocal retirement system when determining a member's "final compensation," but ACERA will not adopt the reciprocal system's determination of "compensation earnable" or "pensionable compensation" if it differs from ACERA's. All determinations of "compensation earnable' and "pensionable compensation" are based on the CERL and the Board's historical interpretation thereof per ACERA's pay code lists. See *Stillman v. Board of Retirement of Fresno County Employees' Retirement Assn.* (2011) 198 Cal.App.4th 1355.

D. **Multiple Breaks In Service**. If a member moves back and forth between active memberships in ACERA and a reciprocal system, the member can maintain reciprocity so long as there is at least one break that is less than six months with no overlapping service credit. The existence of other breaks of more than six months, or other transitions with overlapping service credit, will not disqualify a member for reciprocity.

E. **Age-At-Entry**. If a member qualifies for a lower age-at-entry under Gov't Code § 31833, the member will retain that lower age-at-entry if the member leaves his or her contributions on deposit with the reciprocal system. If a member withdraws contributions from a prior reciprocal system, the member's prospective contributions to ACERA will be based on age at entry into ACERA, as of the date of the withdrawal from the other system.

F. **Failure to Retire Concurrently When Eligible.** If a member is eligible to retire concurrently from ACERA and a reciprocal system but fails to do so, the member will lose the rights to (a) rely on pay under a that reciprocal system when calculating the member's ACERA "final compensation" (Gov't Code § 31835), and (b) rely on service credit under that reciprocal system for benefit eligibility purposes (Gov't Code § 31836). Failure to retire concurrently has no impact on the member's age-at-entry for the purposes of member contributions (Gov't Code § 31833).

G. **Not Eligible to Retire Concurrently**. Under Gov't Code § 31835.1, if a retiring member is not eligible to retire from a reciprocal system, the member may take advantage of Gov't Code § 31835 and Gov't Code § 31836 without retiring concurrently from the reciprocal system. The Board finds the Legislature did not intend to deprive Safety or PEPRA members of the benefits of Gov't Code § 31835.1, and that section's reference to "eligible to retire at age 50 pursuant to Section 31672" was not intended to limit the application of Gov't Code § 31835.1's to pre-PEPRA General members. For the purposes of Gov't Code § 31835.1, to be eligible to retire from a reciprocal system, the member must be able to receive a lifetime retirement allowance. For example, a member of the JRSII may take advantage of Gov't Code § 31835.1, if the member is eligible to receive only an "early retirement" comprised of the judge's "monetary credits" per Gov't Code § 75521(b).

H. **Disability Retirements.**

1. **Eligibility**. If a member is granted a disability retirement by a reciprocal system, the member is automatically entitled to a disability retirement from ACERA, which will be calculated under Gov't Code §§ 31837 and 31838, as applicable, subject to the Anti-Windfall Rule below. The member need not proceed through ACERA's Disability Retirement Procedures and the member's disability retirement will be placed on the Board's Consent Calendar.

2. **Service Retirement Option**. If a reciprocal system retires a member for disability and the member determines that a service retirement from ACERA is more advantageous than a disability retirement from ACERA, the member may retire for service from ACERA (if eligible), subject to the Anti-Windfall Rule below.

3. **Anti-Windfall Rule**. If a member receives a disability allowance from ACERA and/or a reciprocal system and receives any reciprocal benefits from ACERA, ~~;~~ ACERA will apply Gov't Code § 31838.5 to ensure that the member does not receive more in total allowance payments than the member could have received if all service had been under one system. ACERA will apply this rule to all ~~amounts~~ allowances it

pays a member, whether ~~those amounts are paid as a~~for service retirement ~~allowance~~or~~,~~ ~~a~~ disability retirement~~ allowance or a refund of the member's accumulated contributions~~. If the reciprocal retirement system does not apply Gov't Code § 31838.5, ACERA will reduce the member's ACERA allowance by as much as necessary to prevent the member from receiving more in total allowance payments than the member could have received if all service had been under one system. A member who is granted a disability from a subsequent reciprocal system may elect to withdraw his or her ACERA member account. Before retirement, a member may return all reciprocal benefits received from ACERA, plus interest at ACERA's assumed rate of return, to avoid the application of -Gov't Code § 31838.5 (this may require retroactively increased member contributions, plus interest, and/or changing to a different retirement tier) ~~This can result in ACERA owing no amount to a member—not even the member's accumulated contributions.~~

I. **Death Benefits**. A member who defers retirement from ACERA, establishes reciprocity with a reciprocal system and dies while in service under that reciprocal system is subject to Gov't Code §§ 31839 and 31840. If either system pays a death benefit that is based on a disability retirement formula, the death benefit ACERA pays is subject to the Anti-Windfall Rule described above.

J. **No Withdrawal**. Per Gov't Code § 31831, after a member leaves their accumulated contributions on deposit with ACERA and establishes reciprocity with a reciprocal system, the member may not withdraw their accumulated contributions from ACERA while a member (active, deferred or retired) of the reciprocal system, except per Section III(H)(3) above. Such a member may withdraw accumulate member contributions from ACERA only if they withdraw their accumulated contributions from the reciprocal system.

IV. Policy Modifications

This Policy will be reviewed by the Operations Committee at least every three years. The Committee will make recommendations to the Board concerning any improvements or modifications it deems necessary.

V. Policy History

A. The Board adopted this Policy on December 15, 2022.

Casson v. Orange County Employees Retirement System

Court of Appeal of California, Fourth Appellate District, Division Three

January 30, 2023, Opinion Filed

G060950

Reporter

87 Cal. App. 5th 1204 *; 2023 Cal. App. LEXIS 67 **; 304 Cal. Rptr. 3d 408; 2023 WL 1097958

NICHOLAS CASSON, Plaintiff and Appellant, v. ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM, Defendant and Respondent.

Prior History: Appeal from a judgment of the Superior Court of Orange County, No. 30-2020-01140757, Richard Oberholzer, Judge. (Retired judge of the Kern County Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const. [**1]).

Disposition: Reversed with instructions.

Counsel: Adams, Ferrone & Ferrone and Michael A. McGill for Plaintiff and Appellant.

Reed Smith, Harvey L. Leiderman and Maytak Chin for Defendant and Respondent.

Barbara M. A. Hannah and David H. Lantzer for San Bernardino County Employees' Retirement Association as Amicus Curiae on behalf of Defendant and Respondent.

Judges: Opinion by O'Leary, P. J., with Bedsworth and Delaney, JJ., concurring.

Opinion by: O'Leary, P. J.

Opinion

O'LEARY, P. J.—This appeal arises from a claim for a service-connected disability retirement (i.e., retirement arising from an on-the-job injury) under a pension governed by the County Employees Retirement Law of 1937, Government Code section 31450 et seq. (CERL).[1] Petitioner Nicholas Casson was a firefighter for the City of Santa Ana for 27 years. In 2012, he retired and began collecting a pension from the Public Employees' Retirement System (CalPERS). He immediately started a second career with the Orange County Fire Authority (OCFA), where he was eligible for a pension under respondent Orange County Employees Retirement System (OCERS). Importantly, [**2] he did not elect reciprocity between the two pensions, which would have allowed him to import his years of service under CalPERS to the OCERS pension. He started as a first-year firefighter for purposes of the OCERS pension and immediately began collecting pension payments from CalPERS. Five years into the job, he suffered an on-the-job injury that permanently disabled him. He applied for and received a disability pension [*1208] from OCERS, which, normally, would have paid out 50 percent of his salary for the remainder of his life. However, because he was receiving a CalPERS retirement, OCERS imposed a "disability offset" pursuant to section 31838.5, which is the statute at the center of this appeal. This resulted in a monthly benefit reduction from $4,222.81 to $1,123.87.

After exhausting his administrative remedies, Casson filed a petition for a writ of mandate in the trial court. The court denied the petition, finding that the plain language of section 31838.5 required a disability offset. Casson appealed.

(1) We reverse. Section 31838.5 precludes a "disability allowance" that exceeds the amount a member would receive had he or she stayed in a single pension system. **(2)** We hold that Casson's service retirement from CalPERS is not a disability [**3] allowance and thus should not have been included in the calculation of Casson's total disability allowance. Excluding the CalPERS retirement, Casson's disability allowance—the $4,222.81 OCERS initially agreed to pay him—did not run afoul of section 31838.5. Thus, OCERS should not have imposed an offset, and the trial court should have issued a writ of mandate.

At first blush, this conclusion may seem to contradict our

[1] All statutory references are to the Government Code unless stated otherwise.

prior holding in *Block v. Orange County Employees' Retirement System* (2008) 161 Cal.App.4th 1297 [75 Cal. Rptr. 3d 137] (*Block*), where we held that a service retirement was a component of a disability allowance. However, the facts in *Block* involved a crucial difference: the plaintiff in *Block* elected reciprocity. In *Block*, we stated, "[S]ection 31838.5, as part of a greater statutory scheme, makes sense only when construed in context as part of that scheme." (*Id.* at p. 1307.) Focusing on the reciprocity system, we concluded a "'disability allowance'" included "all amounts the member receives in *reciprocal* benefits when retiring due to disability … ." (*Id.* at p. 1314, italics added.) As we explain in greater detail below, because Casson declined the benefits of reciprocity, he is free from its limitations as well, including the disability offset in section 31838.5.

FACTS

Casson was a firefighter for the City of Santa Ana for 27 years. He took a service retirement [**4] in 2012 and immediately began receiving pension payments through CalPERS of approximately $7,200 per month. At the same time, Casson went to work for OCFA as a new hire firefighter. The OCFA utilizes OCERS for its pension system.

Upon being hired by OCFA, Casson did not elect reciprocity between his prior pension, CalPERS, and his new pension, OCERS. Consequently, [*1209] OCERS sent Casson a letter in August 2012, informing him that, as a result of his choice, "your retirement deductions will be based on your age of entry into the OCERS and you will be required to meet the minimum eligibility requirements for your retirement, disability and survivor benefits based solely on your employment with OCFA."

While working for OCFA, Casson suffered an industrial injury that prevented him from performing the essential job functions of a firefighter. As a result, he applied to OCERS for a service-connected disability retirement. That application was approved by OCERS in June 2017. Casson was granted a disability retirement in the amount of $4,222.81 per month.

In August 2017, OCERS informed Casson that it would apply a disability offset pursuant to section 31838.5 as a result of his CalPERS pension payments. After the [**5] offset, his monthly payment from OCERS would be $1,123.87.

Casson appealed OCERS's decision before the OCERS Board of Retirement, which affirmed the decision to impose the disability offset.

Casson then filed a petition for writ of mandate in the superior court seeking to have the disability offset set aside. The court denied the petition. The court reasoned: "'The exclusion of the word reciprocity from this section when the Legislature was aware of it, shows that the Legislature did not intend to include it when it adopted [section] 31838.5.'" Casson appealed.

DISCUSSION

(3) The parties have presented us with a single issue on appeal: Does the term "disability allowance" in section 31838.5 include payments under a prior service pension in the absence of reciprocity? This is a pure statutory interpretation issue. "We review questions of statutory interpretation de novo." (*Christensen v. Lightbourne* (2019) 7 Cal.5th 761, 771 [249 Cal. Rptr. 3d 281, 444 P.3d 85].)

Before addressing the statute and the parties' arguments, we begin with background: what is reciprocity? Consider this hypothetical: a person works for a county agency and has earned 10 years of service credit toward a pension. The person is then offered a more attractive job with the state, which, unfortunately, operates under a different pension system. [**6] That person is now faced with a dilemma: either halt all progress on the first pension and start a new pension at an older age, or give up on the more attractive job. The [*1210] Legislature wisely recognized that this dilemma would inhibit the free flow of labor between government jobs, and it implemented reciprocity to address the dilemma.

(4) Here is how reciprocity works: at the time of retiring from a qualifying job, the employee may elect to defer pension benefits and leave his or her contributions on deposit with the pension plan. (§ 31700.) If, within the applicable timeframes, the employee is employed in another government position with a qualifying pension plan, the employee may elect to link the two pensions in a system of reciprocity. (§ 31831.) The effect of that election is the employee does not receive pension benefits under the first plan until he or she retires from the second plan. The advantage to the employee is that he or she enters the second pension plan with the same amount of service credit as the first plan (§ 31836), is deemed to have entered the second plan at the age he or she entered the first plan (entering a plan at a younger age generally results in lower monthly contributions) [**7] (§ 31833), and his or her final salary for purposes of computing pension benefits is the highest salary earned in either job (§ 31835). "Reciprocity … eliminates the adverse consequences a member might otherwise suffer when moving from one retirement system to another." (*Block, supra*, 161 Cal.App.4th at p. 1308.) Essentially, the employee gets to treat the second pension plan as a continuation of the first pension.

Importantly, reciprocity is not automatic. An employee must affirmatively elect reciprocity. (§ 31831.) Once that election is made, the employee may not withdraw funds from the first pension while a member of the second pension. (*Ibid.*)

(5) With that understanding of reciprocity, we turn now to section 31838.5, which places certain limits on the amount of disability pay a person may receive if he or she has been the beneficiary of multiple CERL retirement plans. **(6)** "In interpreting a statute, we begin with its text, as statutory language typically is the best and most reliable indicator of the Legislature's intended purpose." (*Larkin v. Workers' Comp. Appeals Bd.* (2015) 62 Cal.4th 152, 157 [194 Cal. Rptr. 3d 80, 358 P.3d 552].) The text of section 31838.5, in relevant part, is as follows: "No provision of this chapter shall be construed to authorize any member, credited with service in more than one entity and who is eligible for a disability allowance, whether service [**8] connected or nonservice connected[,] to receive an amount from one county that, when combined with any amount from other counties or the Public Employees' Retirement System, results in a *disability allowance* greater than the amount the member would have received had all the member's service been with only one entity." (Italics added.)
[*1211]

OCERS's argument, which the trial court adopted, is relatively straightforward: section 31838.5, on its face, does not limit its application to reciprocal pensions. Indeed, the word reciprocal is nowhere mentioned in the statute. To the contrary, the statute begins, "No provision of this *chapter* … ." (§ 31838.5, italics added.) That chapter (ch. 3 of tit. 3, div. 4, pt. 3 of the Gov. Code) encompasses the entirety of the CERL. OCERS thus concludes that section 31838.5 applies to all pensions under that law, not merely reciprocal pensions. Moreover, OCERS notes that in *Block, supra*, 161 Cal.App.4th 1297, where the plaintiff retired from two separate pensions, we held that both a service component and a disability component should be combined to determine the amount of the "disability allowance" under section 31838.5. OCERS concludes that here, too, Casson's service pension combined with his disability pension would exceed the limit imposed by section 31838.5.

Casson [**9] takes the view that section 31838.5 only applies to reciprocal pensions. He notes that section 31838.5 is part of article 15, which is entitled "Reciprocal Benefits." He further notes that in *Block*, where we extensively analyzed section 31838.5, we reasoned that section 31838.5 "makes sense only when construed in [the] context" of the reciprocity scheme. (*Block, supra*, 161 Cal.App.4th at p. 1307.) We also drew extensively from the legislative history that revealed section 31838.5 was implemented to address a flaw in the reciprocity system. He argues that having forgone the benefits of reciprocity, he should not suffer its limitations either.

As is apparent from the parties' arguments, this court's prior opinion in *Block* is central to this appeal. The facts in *Block* are uncannily similar to our facts. There, Block, a firefighter, retired after approximately 27 years, entitling him to a pension under CalPERS. (*Block, supra*, 161 Cal.App.4th at p. 1303.) He then immediately went to work for OCFA, becoming a member of a pension administered by OCERS. (*Ibid.*) Importantly, he elected reciprocity and thus deferred his CalPERS retirement. (*Ibid.*) After about seven years, Block was injured on the job and applied for a service-connected disability pension, which was approved by OCERS. (*Ibid.*) He concurrently retired from CalPERS. However, because his benefit under [**10] CalPERS combined with his disability payment from OCERS would exceed his salary, OCERS applied a disability offset, which Block challenged on appeal. (*Id.* at pp. 1303–1304.)

The central focus of *Block* was to define the term "disability allowance," which is a crucial term in section 31838.5. That section, after all, prohibits a "disability allowance" that exceeds what the pensioner would have received under a single pension system. Block's contention was that his pension had two components: a service pension from CalPERS, and a disability allowance [*1212] from OCERS, only the latter of which was relevant to section 31838.5. We ultimately disagreed with that contention: "Analysis of section 31838.5's language in light of the CERL reciprocity provisions, related CERL provisions, and section 31838.5's legislative history leads us to conclude the term 'disability allowance' in section 31838.5 refers to all amounts the member receives in *reciprocal benefits* when retiring due to disability, regardless whether those amounts are labeled 'disability retirement' or 'service retirement.'" (*Block, supra*, 161 Cal.App.4th at p. 1314, italics added.)

(7) We observed that the Legislature amended section

31838.5 in 1984 to apply to service-connected disability retirements (initially it only applied to nonservice-connected disability retirements). In making that amendment, [**11] the Legislature necessarily, albeit implicitly, referenced section 31727.4. This is because section 31727.4 is the section that prescribes the amount of a service-connected disability retirement. Thus, in the context of a service-connected disability retirement, the term "disability allowance" could only refer to the benefit calculated under section 31727.4. The amount section 31727.4 prescribes is the higher of: (1) what the employee would have received as a service retirement; or (2) 50 percent of the employee's salary. So while Block, who had 27 years of service as a member of CalPERS, was receiving what he would have received as a service retirement from CalPERS, that payment was in fact a disability payment pursuant to section 31727.4. It was, therefore, part of his "'disability allowance.'" (*Block, supra*, 161 Cal.App.4th at pp. 1315–1316.)

(8) We also reasoned that our conclusion was consistent with the logic of the reciprocity system. The notion of reciprocity is that the employee is permitted to treat the two retirement systems as though they are one. That brings certain benefits, but it also means the disability payout will be consistent with having a single pension, not two pensions. "What we can glean from the legislative history is an expression of the Legislature's intent that a member retiring [**12] due to service-connected or nonservice-connected disability shall not receive in reciprocal benefits—however labeled—an amount greater than what the member would receive if all of the member's service had been with one entity." (*Block, supra*, 161 Cal.App.4th at p. 1318.)

Casson's situation is entirely different. Casson did not elect reciprocity. He chose to treat the two pensions as separate. He forwent valuable benefits to do so. The compelling logic of treating the two pensions as one for disability purposes, therefore, simply does not apply. On the contrary, it would be fundamentally unfair to Casson to limit his disability allowance to the equivalent of a single pension when he did not elect the benefits of treating the two pensions as one.

From a textual standpoint, moreover, there is no reason to treat Casson's CalPERS service retirement as a "disability allowance." In *Block*, we did so [*1213] by deeming the CalPERS payment as being a service disability payment pursuant to section 31727.4. Here, however, Casson began receiving service retirement payments from CalPERS several years before he suffered his disability. In no sense, therefore, is his CalPERS payment made pursuant to section 31727.4. It is a straight service retirement payment, not a disability payment. [**13] As a result, his payment from CalPERS cannot be considered part of his "disability allowance" under section 31838.5.

(9) In reaching this conclusion, we have not necessarily resolved the overarching debate the parties have over whether section 31838.5 could *ever* apply to nonreciprocal pensions. Arguably, a pensioner receiving a *disability retirement* from a first pension and then receiving a *disability retirement* from a second, nonreciprocal pension would be subject to an offset. As OCERS has pointed out, the statute is not, on its face, limited to reciprocal pensions. However, we need not decide that case today, as it is not before us. Our holding is limited to this: when a pensioner receives a service retirement under a CERL pension and becomes a member of a second CERL pension but does not elect reciprocity, his or her first ***service*** pension cannot be considered part of a "disability allowance" under section 31838.5.[2]

DISPOSITION

The judgment is reversed. The court is instructed to grant the petition for writ of mandate ordering OCERS to vacate the disability offset and recalculate petitioner's pension benefits. Appellant is to recover costs incurred on appeal.

Bedsworth, J., and Delaney, J., concurred.

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[2] Amicus curiae San Bernardino County Employees' Retirement Association has argued that a reversal could lead to the following "absurd" result: "An employee could conceivably service retire from one system, go to work for a second system and receive a disability retirement, then go to work for a third system in a different position. If the employee received a disability retirement from the third system, the total combined retirement benefits could reach 200 [percent] of the employee's final compensation." Under our holding, assuming the employee did not elect reciprocity for any of the pensions, the service portion of the retirement could not be considered a disability allowance. However, whether the second and third disability retirements would combine into a disability allowance that exceeds the limits of section 31838.5 is the question we have not answered.

ACERA

MEMORANDUM TO THE OPERATIONS COMMITTEE

DATE: August 02, 2023

TO: Members of the Operations Committee

FROM: Lisa Johnson, Assistant Chief Executive Officer

SUBJECT: **Elections Planning**

During the June 7, 2023, Operations Committee meeting, staff provided an update on 2022 and prior years' election participation and process. Staff had been previously directed to research opportunities for hybrid election participation. Hybrid elections provide a paper and an online option for voting.

Staff reported meeting with an elections vendor who currently runs online and hybrid elections for other boards. That vendor is MK Elections. At the direction of the committee MK Elections has been invited to provide a presentation to the operations committee on its hybrid and online election offerings. The goal of the presentation is to provide the Operations Committee with a more detailed view on conducting online and hybrid elections.

ACERA

MEMORANDUM TO THE OPERATIONS COMMITTEE

DATE:	August 02, 2023
TO:	Members of the Operations Committee
FROM:	Erica Haywood, Fiscal Services Officer EH
SUBJECT:	Operating Expenses and Budget Summary for the period ended June 30, 2023

ACERA's operating expenses are $394K under budget for the period ended June 30, 2023. Budget overages and surpluses worth noting are as follows:

Budget Surpluses

1. *Staffing:* Staffing is $52K under budget. This amount comprised surpluses in fringe benefits of ($340K), and staff vacancies of ($260K), offset by overages in temporary staffing of $159K and 5% staff vacancy adjustment of $389K.
2. *Staff Development:* Staff Development is $113K under budget in savings from unattended staff trainings and conferences.
3. *Professional Fees:* Professional fees is $127K under budget. This amount comprised surpluses in actuarial fees of ($104K), legal fees of ($29K), offset by overage in consultant fees of $6K.
4. *Office Expense:* Office Expense is $43K under budget. This amount comprised surpluses in bank charges of ($12K), building expenses of ($29K), equipment lease/maintenance of (5K), office supplies/maintenance of ($5K), printing & postage of ($4K), offset by overage in communications of 10K, and minor equipment and furniture of $2K.
5. *Member Services:* Member Services are $26K under budget. This amount comprised surpluses in disability legal arbitration & transcripts of ($25K), member training & education of ($2K), and member printing & postage of ($6K), offset by overages in disability medical expense of $4K, health reimbursement of $3K
6. *Systems:* Systems are $7K under budget. This amount comprised surpluses in business continuity expenses of ($16K), software maintenance & support of ($16K), offset by overage in minor computer hardware of $25K.
7. *Board of Retirement:* Board of Retirement is $26K under budget. This amount comprised surpluses in board compensation of ($2K), board conferences and training of ($32K), offset by overage in board employer reimbursement of $5K, and miscellaneous expense of $3K.

Staffing Detail

Vacant positions as of June 30, 2023:

Department	Position	Qty	Comments
Benefits	Retirement Benefits Specialist	1	Vacant - currently budgeted for the year
Benefits	Sr. Retirement Technician	2	Vacant - currently budgeted for the year
Fiscal Services	Retirement Accountant II	1	Vacant - currently budgeted for the year
PRISM	Retirement System Program Analyst	1	Vacant – currently budgeted for the year
	Total Positions	5	

Pension Administration System Project - as of June 30, 2023					
	Year-To-Date				
	Actual	Budget	Variance	2023 Budget	2019-22 Actual
Consultant Fees					
Levi, Ray and Shoup	$203,972	$625,000	$(421,028)	$1,500,000	$2,533,989
Segal and other consultant fees	278,139	200,000	78,139	480,000	1,632,042
Other expenses	-	-	-	-	1,500
Leap Technologies	-	-	-	-	98,970
Total	482,111	825,000	(342,889)	1,980,000	4,266,501
Staffing	355,551	290,000	65,551	696,000	2,158,220
TOTAL	837,662	1,115,000	(277,338)	2,676,000	6,424,721

Attachments:

- Total Operating Expenses Summary
- Professional Fees – Year-to-Date – Actual vs. Budget
- Actual Operating Expenses comparison with last year

ACERA

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

TOTAL OPERATING EXPENSES SUMMARY

YEAR TO DATE - ACTUAL VS. BUDGET

June 30, 2023

	Actual *Year-To-Date*	Budget *Year-To-Date*	YTD Variance *(Under)/Over*	2023 *Annual Budget*	% Actual to *Annual Budget*
Staffing	$ 7,933,421	$ 7,985,560	$ **(52,139)**	$ 16,224,000	**48.9%**
Staff Development	83,541	196,240	**(112,699)**	367,000	**22.8%**
Professional Fees (Next Page)	589,852	717,260	**(127,408)**	1,301,000	**45.3%**
Office Expense	190,896	234,360	**(43,464)**	469,000	**40.7%**
Insurance	281,545	281,580	**(35)**	579,000	**48.6%**
Member Services	208,028	233,820	**(25,792)**	522,000	**39.9%**
Systems	607,789	614,340	**(6,551)**	1,223,000	**49.7%**
Depreciation	59,769	59,880	**(111)**	120,000	**49.8%**
Board of Retirement	316,219	342,420	**(26,201)**	614,000	**51.5%**
Uncollectable Benefit Payments	-	-	-	53,000	**0.0%**
Total Operating Expense	**$ 10,271,060**	**$ 10,665,460**	**$ (394,400)**	**$ 21,472,000**	**47.8%**
Investment Consultant Fees	733,727	780,000	**(46,273)**	1,560,000	**47.0%**
Investment Custodian Fees	298,290	282,000	**16,290**	564,000	**52.9%**
Investment Manager and Incentive Fees	23,520,213	26,109,000	**(2,588,787)**	52,413,000	**44.9%**
Other Investment Expenses	84,129	285,900	**(201,771)**	572,000	**14.7%**
Total Portfolio Management Investment Expense	**$ 24,636,359**	**$ 27,456,900**	**$ (2,820,541)**	**$ 55,109,000**	**44.7%**
Total Operating and Portfolio Management Investment Expense	**$ 34,907,419**	**$ 38,122,360**	**$ (3,214,941)**	**$ 76,581,000**	**45.6%**

ACERA

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

PROFESSIONAL FEES

YEAR TO DATE - ACTUAL VS. BUDGET

June 30, 2023

Professional Fees	Actual Year-To-Date	Budget Year-To-Date	YTD Variance (Under)/Over	2023 Annual Budget	% Actual to Annual Budget
Consultant Fees - Operations and Projects[1]	$ 172,776	$ 166,920	$ 5,856	$ 354,000	48.8%
Actuarial Fees[2]	227,489	331,400	(103,911)	653,000	34.8%
External Audit[3]	144,000	144,000	-	144,000	100.0%
Legal Fees[4]	45,587	74,940	(29,353)	150,000	30.4%
Total Professional Fees	**$ 589,853**	**$ 717,260**	**$ (127,407)**	**$ 1,301,000**	**45.3%**

	Actual Year-To-Date	Budget Year-To-Date	YTD Variance (Under)/Over	2023 Annual Budget	% Actual to Annual Budget
[1] CONSULTANT FEES - OPERATIONS AND PROJECTS:					
Administration					
Strategic Planning	6,730	-	6,730	-	0.0%
Total Administration	6,730	-	6,730	-	0.0%
Benefits					
Alameda County HRS (Benefit Services)	63,000	63,000	-	126,000	50.0%
Segal (Benefit Consultant/Retiree Open Enrollment)	64,500	65,520	(1,020)	131,000	49.2%
Total Benefits	127,500	128,520	(1,020)	257,000	49.6%
Fiscal Services					
Cashlog	-	-	-	20,000	0.0%
Total Fiscal Services	-	-	-	20,000	0.0%
Human Resources					
Lakeside Group (County Personnel)	38,546	38,400	146	77,000	50.1%
Total Human Resources	38,546	38,400	146	77,000	50.1%
Total Consultant Fees - Operations	**172,776**	**166,920**	**5,856**	**354,000**	**48.8%**
[2] ACTUARIAL FEES					
Actuarial Valuation	42,500	42,500	-	85,000	50.0%
Actuarial Audit	15,000	67,500	(52,500)	135,000	11.1%
GASB 67 & 68 Valuation	21,000	26,000	(5,000)	52,000	40.4%
GASB 74 & 75 Actuarial	8,000	8,000	-	16,000	50.0%
Actuarial Standard of Practice 51 Pension Risk	-	-	-	30,000	0.0%
Supplemental Consulting	78,989	125,400	(46,411)	251,000	31.5%
Supplemental Retiree Benefit Reserve valuation	22,000	22,000	-	44,000	50.0%
Triennial Experience Study	40,000	40,000	-	40,000	100.0%
Total Actuarial Fees	**227,489**	**331,400**	**(103,911)**	**653,000**	**34.8%**
[3] EXTERNAL AUDIT					
External audit	121,000	121,000	-	121,000	100.0%
GASB 67 & 68 audit	11,000	11,000	-	11,000	100.0%
GASB 74 & 75 audit	12,000	12,000	-	12,000	100.0%
Total External Audit Fees	**144,000**	**144,000**	**-**	**144,000**	**100.0%**
[4] LEGAL FEES					
Fiduciary & Litigation	18,314	37,500	(19,186)	75,000	24.4%
Tax and Benefit Issues	5,138	12,480	(7,343)	25,000	20.6%
Miscellaneous Legal Advice	22,136	24,960	(2,824)	50,000	44.3%
Total Legal Fees	**45,587**	**74,940**	**(29,353)**	**150,000**	**30.4%**

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
TOTAL EXPENDITURES VS.PRIOR YEAR ACTUAL
For the Six Months Ending 6/30/2023

	For the Month of June 2023	***For the Month of June 2022***	Variance	***Year-To-Date 2023***	***Year-To-Date 2022***	Variance
STAFFING						
Salaries	851,247	856,765	(5,518)	5,121,268	4,941,919	179,349
Fringe Benefits	409,704	416,692	(6,988)	2,577,705	2,535,993	41,712
Temporary Staffing Cost	38,314	41,369	(3,055)	234,448	203,495	30,953
Staffing Total	1,299,265	1,314,826	(15,561)	7,933,421	7,681,407	252,014
STAFF DEVELOPMENT	25,650	43,850	(18,200)	83,541	122,371	(38,830)
PROFESSIONAL FEES						
Actuarial Fees	73,900	24,100	49,800	227,489	202,512	24,977
Consultant Fees - Operations	27,667	36,017	(8,350)	172,776	215,100	(42,324)
Consultant Fees - Legal	5,874	18,828	(12,954)	45,587	51,787	(6,200)
External Audit	23,500	24,000	(500)	144,000	142,000	2,000
Professional Fees Total	130,941	102,945	27,996	589,852	611,399	(21,547)
OFFICE EXPENSE						
Bank Charges & Misc. Admin	10,612	11,178	(566)	39,972	67,966	(27,994)
Building Expenses	2,563	1,862	701	11,742	6,100	5,642
Communications	9,392	13,830	(4,438)	52,276	69,662	(17,386)
Equipment Lease/Maintenance	7,585	8,494	(909)	52,255	53,114	(859)
Minor Equipment and Furniture	696	27	669	8,211	2,821	5,390
Office Supplies/Maintenance	2,717	12,362	(9,645)	20,054	21,534	(1,480)
Printing & Postage	2,016	1,027	989	6,386	8,013	(1,627)
Office Expense Total	35,581	48,780	(13,199)	190,896	229,210	(38,314)
INSURANCE	46,924	44,286	2,638	281,545	265,717	15,828
MEMBER SERVICES						
Disability - Legal Arbitration & Transcripts	0	3,698	(3,698)	(3,283)	14,902	(18,185)
Disability Medical Expense	50,670	11,850	38,820	100,120	56,924	43,196
Disability Claims Management	3,850	3,850	0	23,100	23,100	0
Health Reimbursement Acct. (HRA)	6,461	7,966	(1,505)	34,303	35,207	(904)
Member Training & Education	418	433	(15)	2,887	2,711	176
Printing & Postage - Members	4,603	2,204	2,399	18,429	33,908	(15,479)
Virtual Call Center	5,422	0	5,422	32,472	0	32,472
Member Services Total	71,424	30,001	41,423	208,028	166,752	41,276

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
TOTAL EXPENDITURES VS.PRIOR YEAR ACTUAL
For the Six Months Ending 6/30/2023

	For the Month of June 2023	For the Month of June 2022	Variance	Year-To-Date 2023	Year-To-Date 2022	Variance
SYSTEMS						
Business Continuity Expense	16,096	26,350	(10,254)	123,697	107,410	16,287
County Data Processing	10,911	10,368	543	65,317	62,284	3,033
Minor Computer Hardware	1,427	7,332	(5,905)	44,938	19,574	25,364
Software Maintenance & Support	64,994	63,484	1,510	373,837	359,274	14,563
Systems Total	93,428	107,534	(14,106)	607,789	548,542	59,247
DEPRECIATION						
Depreciation Expense	9,961	10,392	(431)	59,769	62,351	(2,582)
BOARD OF RETIREMENT						
Board Compensation	2,900	2,600	300	12,400	12,200	200
Board Conferences & Training	5,313	2,729	2,584	104,614	61,022	43,592
Board Election	0	0	0	0	3,533	(3,533)
Board Employer Reimbursement	29,660	28,250	1,410	182,560	175,105	7,455
Board Miscellaneous Expense	781	1,264	(483)	10,004	5,681	4,323
Board Software Maint. & Support	4,558	986	3,572	6,641	5,915	726
Board of Retirement Total	43,212	35,829	7,383	316,219	263,456	52,763
GRAND TOTALS	1,756,386	1,738,443	17,943	10,271,060	9,951,205	319,855

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ACERA

MEMORANDUM TO THE OPERATIONS COMMITTEE

DATE: August 02, 2023

TO: Members of the Operations Committee

FROM: Erica Haywood, Fiscal Services Officer EH

SUBJECT: Quarterly Unaudited Financial Statements as of June 30, 2023

Executive Summary

Attached for review and discussion is the unaudited financial statements for the period ended June 30, 2023.

The Fiduciary Net Position Held in Trust and the Change in Fiduciary Net Position compared to the same period in 2022 increased by $575 million.

Financial Highlights

- Net Position Restricted (Held in Trust for Benefits), as reported on the Statement of Fiduciary Net Position totaled $10.9 billion. Total Receivables increased by $4.3 million, Investments at fair value increased by $573.2 million, Capital Assets increased by $1.7 million, and Total Liabilities without Security Lending Liability increased by $3.6 million.
- The year-over-year Change in Net Position increased by $2.1 billion.
    - Total Additions year-over-year increased by $2.1 billion. This include an increase in net investment income of $2.1 billion.
    - Total Deductions year-over-year increased by $14.5 million. The amount is mainly attributable to the growth in payments of service retirement, disability benefits, and member refunds.

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
STATEMENT OF FIDUCIARY NET POSITION
As of 6/30/2023

	Year-To-Date 2023	Year-To-Date 2022
ASSETS		
Cash (Note 1)	4,962,436	5,525,033
Securities Lending Cash Collateral (Note 2)	154,407,593	145,185,598
Receivables:		
Contributions (Note 3)	22,357,481	20,939,229
Investment Receivables (Note 4a)	24,473,614	20,444,749
Unsettled Trades - Investments Sold	8,770,680	10,542,650
Futures Contracts (Note 5a)	1,290,904	531,484
Foreign Exchange Contracts (Note 7a)	348	3,495
Other Receivables (Note 8)	211,010	354,212
Total Receivables	57,104,037	52,815,817
Prepaid Expenses	804,342	729,380
Total Current Assets	217,278,407	204,255,828
Investments - at Fair Value:		
Short-Term Investments (Note 9)	218,017,727	237,322,675
Domestic Equity	575,488,331	509,382,010
Domestic Equity Commingled Funds	2,282,462,500	2,043,569,754
International Equity	1,183,484,051	1,077,997,183
International Equity Commingled Funds (Note 10)	1,465,130,366	1,312,150,379
Domestic Fixed Income	1,369,109,752	1,417,643,265
International Fixed Income	98,359,939	63,597,243
International Fixed Income - Commingled Funds (Note 11)	75,964,248	73,361,796
Real Estate - Separate Properties (Note 12)	47,829,641	71,639,309
Real Estate - Commingled Funds (Note 13)	754,417,511	723,454,433
Real Assets	632,267,722	760,389,631
Absolute Return (Note 14a)	863,749,624	791,571,719
Private Equity (Note 14b)	1,027,060,385	992,044,747
Private Credit	287,487,857	233,513,945
Total Investments	10,880,829,652	10,307,638,089
Capital Assets at Cost (Net of Accumulated Depreciation and Amortization) (Note 15)	8,340,189	6,602,855
Total Assets	***11,106,448,248***	***10,518,496,772***
LIABILITIES		
Securities Lending Liability (Note 2)	154,407,593	145,185,598
Unsettled Trades - Investments Purchased	36,765,789	31,132,867
Investment-Related Payables (Note 4b)	14,810,072	13,157,182
Futures Contracts (Note 5b)	687,761	826,075
Foreign Exchange Contracts (Note 7b)	3,012,150	5,914,174
Accrued Administration Expenses (Note 16)	3,043,041	3,011,758
Members Benefits & Refunds Payable (Note 17a)	5,975,334	6,602,733
Retirement Payroll Deductions Payable (Note 17b)	33,553	15,571
Lease Liability	26,633	78,899
Total Liabilities	***218,761,926***	***205,924,856***
DEFERRED INFLOWS OF RESOURCES		
Net Position		
Restricted - Held in Trust for Benefits	***10,887,686,322***	***10,312,571,916***
Total Net Position	***10,887,686,322***	***10,312,571,916***

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
STATEMENT OF CHANGES IN FIDUCIARY NET POSITION
For the Six Months Ending 6/30/2023

	Year-To-Date 2023	*Year-To-Date 2022*
ADDITIONS		
Contributions: (Note 18)		
Members	62,377,073	60,239,404
Employers	142,414,843	143,169,187
Total Contributions	204,791,916	203,408,591
From Investment Activities:		
Net Appreciation/(Depreciation) in Fair Value of Investments (Note 19a)	661,816,914	(1,476,471,242)
Interest	30,144,402	26,805,758
Dividends	26,102,241	26,480,232
Real Estate - Net	9,606,557	11,387,913
Private Equity and Alternatives	19,796,136	15,542,037
Brokers Commissions - Directed Brokerage	2,235	1,493
Sub-Total of Dividends, Interest, Other Investment Income (Note 19b)	85,651,571	80,217,433
Total Income from Investment Activities	747,468,485	(1,396,253,809)
Total Investment Expenses (Note 20)	(26,271,110)	(12,614,848)
Net Income from Investment Activities (Note 21)	721,197,375	(1,408,868,657)
From Securities Lending Activities:		
Securities Lending Income	475,286	490,346
Securities Lending Expenses	(95,122)	(150,294)
Net Income from Securities Lending Activities (Note 22)	380,164	340,052
Total Net Investment Income	721,577,539	(1,408,528,605)
Miscellaneous Income (Note 23)	569,404	70,963
Total Additions	***926,938,859***	***(1,205,049,051)***
DEDUCTIONS		
Benefits:		
Service Retirement and Disability Benefits (Note 24)	298,044,316	283,531,869
Death Benefits (Note 25)	1,622,737	1,614,880
Supplemental Cost of Living Allowance	528,561	460,181
Retiree Healthcare Program	23,370,813	23,155,763
Total Benefit Payments	323,566,427	308,762,694
Member Refunds	5,561,866	6,088,228
Administration: (Note 26)		
Administrative Expenses	6,445,286	6,232,018
Actuarial Expenses	205,489	181,012
Business Continuity Expenses	306,483	275,611
Legal Expenses	381,595	415,095
Technology Expenses	489,454	438,273
401(h) Expenses	808,000	849,000
Total Administration	8,636,307	8,391,009
Total Deductions	***337,764,600***	***323,241,930***
Net Increase(Decrease)	***589,174,260***	***(1,528,290,981)***
Net Position Held in Trust for Benefits:		
Net Position - January 1	***10,298,512,063***	***11,840,862,896***
Net Position - June 30	***10,887,686,322***	***10,312,571,916***

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Basis of Accounting
ACERA follows the accounting principles and reporting guidelines set forth by the Government Accounting Standards Board (GASB). ACERA's financial statements are prepared on the accrual basis of accounting.

(Note 1)
Cash - $4.96 million
Cash balance is the sum of the funds in the JP Morgan bank operating accounts. The decrease of $0.57 million from 5.53 million in June 30, 2022, is primarily due to the timing difference between receipt of contributions and the transfer of funds for retiree payroll and investments.

(Note 2)
Securities Lending Cash Collateral - $154.41 million
Cash collateral of $154.41 million and $145.19 million was held by ACERA related to securities on loan as of June 30, 2023, and June 30, 2022, respectively. This amount is reported as an asset with a corresponding liability for the same amount in compliance with the GASB Statement No. 28.

(Note 3)
Contributions Receivables - $22.36 million
The receivable balances of June 30, 2023, increase by approximately $1.42 million from $20.94 million in June 30, 2022. This is primarily due to the increase in contribution rates.

(Note 4)
4a. Investment Receivables - $24.47 million
The investment receivables balance as of June 30, 2023, increase by $4.03 million from $20.44 million for June 30, 2022. The increase is mainly attributed to interest and dividend receivables.

4b. Investment Related Payables - $14.81 million
The increase of $1.65 million in investment related payables balance as of June 30, 2023, from $13.16 million for June 30, 2022 is primarily due to timing of the investment manager fee payments.

(Note 5)
5a. Futures Contracts Receivables – $1.29 million
The receivables represent unrealized gains on open futures contracts. The balances for unrealized gains as of June 30, 2023, and June 30, 2022, were $1.29, and $0.53 million, respectively.

5b. Futures Contracts Payables - $0.69 million
The payables represent the unrealized losses on open futures contracts. The balance for unrealized losses as of June 30, 2023, and June 30, 2022, $0.69 and $0.83 million, respectively.

(Note 7)

7a. Foreign Exchange Contracts Receivables - $0.00 million

The receivables represent unrealized gains on foreign exchange contracts. Foreign exchange (FX) contracts include currency forward contracts and spot contracts.

7b. Foreign Exchange Contracts Payables - $3.01 million

The payables represent unrealized losses on foreign exchange contracts. Foreign exchange (FX) contracts include currency forward contracts and spot contracts. As of June 30, 2023, and June 30, 2022, unrealized losses on FX contracts were $3.01 million and $5.91 million, respectively. The decrease in unrealized losses of $2.90 million is mainly due to the change in foreign exchange contracts and market volatility.

(Note 8)

Other Receivables - $0.21 million

Other receivables as of June 30, 2023, are comprised primarily of funds due from deceased retirees' estates for overpayment of benefits and from insurance for ACERA legal claims.

(Note 9)
Short-Term Investments - $218.02 million
Short-term investments are temporarily kept in a pooled account with State Street Bank. These pooled assets are primarily invested in short-term investment funds and deposits, including U.S. Treasury and agency obligations, corporate bonds, commercial paper, repurchase agreements, certificates of deposit, bankers' acceptances, time deposits, and floating-rate notes.

(Dollars in Millions)

Fund Name	***6/30/2023***
Unallocated Cash	$ 88.17
Brandywine	25.26
Parametic Portfolio Associates (cash overlay)	22.31
Capital Guardian	20.06
Baird Investors	19.50
Loomis	18.34
Kennedy	5.72
TCW	5.04
Aristotle Capital	4.27
William Blair Small Cap Growth	4.20
Mondrian	2.98
Bivium - Promethos Capital, LLC	0.64
Bivium - Denali Advisors	0.50
AQR Capital Management, LLC	0.30
Bivium - Dundas Partners	0.29
Bivium - Cedar Street Asset Mgmt	0.27
Bivium - Global Alpha Capital Mgmt	0.18
Bivium - Arga Investment Management	0.06
Bivium RVX Asset Management LLC	0.03
Bivium Redwood Investment	0.03
Bivium - Radin Capital Partners	0.02
Transition	0.01
Bivium - Applied Research Management	0.01
Partners Group	(0.17)
Grand total	**$ 218.02**

(Note 10)
International Equity Commingled Funds - $1,465.13 million
As of June 30, 2023, and June 30, 2022, the International Equity Commingled Funds were $1,465.13 million and $1,312.15 million, respectively. The increase of $152.98 million is mainly due to unrealized losses from higher market valuations.

(Note 11)
International Fixed Income Commingled Funds - $75.96 million
The increase of $2.60 million from the prior year is due to market appreciation of investments. Disclosure of credit ratings on mutual fund holdings of fixed income portfolio is not required per GASB Statement No. 40.

(Note 12)
Real Estate Separate Properties - $47.83 million
The following is a summary of Real Estate – Separate Property investments as of June 30, 2023, and June 30, 2022. The year over year decrease of $23.81 million is due to the market value of the Oakland 14th Street property.

(Dollars in Millions)

Investment Manager	*Net Mkt. Value 06-30-2023*	*Net Mkt. Value 06-30-2022*	*No. of Properties 2023*	*No. of Properties 2022*
RREEF	$ 47.83	$ 71.64	1	1

(Note 13)
Real Estate Commingled Funds - $754.42 million
Detailed records regarding these investments of public pension funds are exempt from disclosure under the California Government Code Section 6254.26. The increase of $30.96 million in 2023 as compared to 2022 is mainly due to the appreciation of investments and additional investments net of distributions.

(Note 14)
14a. Absolute Return - $863.75 million
Detailed records regarding these investments of public pension funds are exempt from disclosure under California Government Code Section 6254.26. The increase of $72.18 million in 2023 as compared to 2022 is mainly due to additional investments net of distributions and net gain on investments.

14b. Private Equity - $1,027.06 million
Detailed records regarding these investments of public pension funds are exempt from disclosure under California Government Code Section 6254.26. The increase of $35.02 million in 2023 as compared to 2022 is mainly due to additional investments net of distributions and net loss on investments.

(Note 15)
Capital Assets at Cost (Net of Accumulated Depreciation and Amortization) - $8.34 million

(Dollars in Millions)

	6/30/2023	*6/30/2022*
Retirement Information System and Others - Construction-In-Process	$ 7.26	$ 5.36
Equipment, Furniture & Information Systems	13.58	13.58
Electronic Document Management System	4.18	4.18
Right-to-Use Leased Office Equipments	0.21	0.21
Less: Accumulated Depreciation and Amortization	(17.92)	(17.85)
Net Book Value	7.31	5.48
Leasehold Improvements	2.59	2.59
Less: Accumulated Depreciation	(1.56)	(1.47)
Net Book Value	1.03	1.12
Total Capital Assets, Net	**$ 8.34**	**$ 6.60**

Depreciation is computed using the straight-line method over the following estimated useful lives or over the term of the lease:

Computer Hardware	5 years
Computer Software	3 years
Equipment	5 years
Furniture	7 years
Information System – Retirement	7 years
Information System – Accounting	3 years
EDMS	5 years
Right to use Leased Assets	5 years
Disaster Recovery	5 years
Leasehold Improvements	27.5 years

(Note 16)
Accrued Administration Expenses - $3.04 million
Accrued administration expenses consist of accounts payable, payroll expense, actuarial services payable and other operating expenses.

(Note 17)
17a. Members' Benefits & Refunds Payable - $5.98 million
The detail of Members Benefits and Refund Payables are as follows:

(Dollars in Millions)

Accrued Benefits and Refunds	*6/30/2023*	*6/30/2022*
Basic Active Death Benefits	$ 0.71	$ 0.84
Active Death Contribution Refunds	1.10	2.14
Retired Death Benefits	4.06	3.23
Members' Contribution Refunds	0.11	0.39
Total Members' Benefit & Refunds Payable	**$ 5.98**	**$ 6.60**

17b. Retirement Payroll Deductions Payables - $0.03 million
The balance for June 30, 2023, includes $0.03 million in health premium prepayments. The corresponding balance for June 30, 2022, included $0.02 million in health premium prepayments.

(Note 18)
Contributions - $204.79 million
The increase in contributions of $1.38 million in 2023 as compared to 2022 is primarily due to the increase in contribution rates.

(Note 19)
19a. Net Appreciation/ (Depreciation) in Fair Value of Investments – $661.82 million

(Dollars in Millions)

	For the Period Ended	
	6/30/2023	*6/30/2022*
Actual / Realized Gains/(Losses)		
Domestic Equities	$ 29.09	$ 38.12
International Equities	0.10	0.08
Domestic Bonds	(12.19)	(35.90)
International Bonds	(1.98)	(1.77)
Real Estate Commingled Funds	6.99	(22.57)
Private Equity & Alternative	8.04	90.58
Real Assets	8.90	28.83
Private Credit	0.39	0.42
Futures	2.27	(17.45)
Currency	(0.74)	(6.00)
Total Realized Gains/(Losses)	40.87	74.34
Paper / Unrealized Gains/(Losses)		
Domestic Equities	359.88	(751.97)
International Equities	257.54	(648.90)
Domestic Bonds	24.96	(184.69)
International Bonds	16.09	(21.03)
Real Estate Commingled Funds	(65.06)	99.14
Real Estate Sep. Props.	(7.25)	(0.46)
Private Equity & Alternative	32.76	(44.60)
Real Assets	1.34	5.54
Private Credit	4.43	1.74
Futures	1.60	0.13
Currency	(5.34)	(5.71)
Total Unrealized Gains/(Losses)	620.95	(1,550.81)
Total Net Realized and Unrealized Gains/(Losses)	**$ 661.82**	**$ (1,476.47)**

19b. Dividend, Interest, and Other Investment Income - $85.65 million

(Dollars in Millions)

	For the Period Ended	
Dividend, Interest, and Other Investment Income	*6/30/2023*	*6/30/2022*
Interest Income	$ 30.14	$ 26.81
Dividend Income	26.10	26.48
Real Estate Income	9.61	11.39
PEARLS Income/ (Losses)	19.80	15.54
Total Net Income	**$ 85.65**	**$ 80.22**

(Note 20)
Investment Expenses - $26.27 million

(Dollars in Millions)

	For the Period Ended			
Investment Expenses	*Basis Points*	*6/30/2023*	*Basis Points*	*6/30/2022*
Investment Manager and Incentive Fees	21.60	$ 23.53	8.85	$ 10.05
Investment Custodian	0.27	0.30	0.24	0.27
Investment Consultants & Other Expenses(*)	0.75	0.82	0.64	0.73
Subtotal	22.62	24.65	9.73	11.05
Investment Allocated Cost	1.50	1.62	1.37	1.56
Total Investment Expenses(**)	**24.12**	**$ 26.27**	**11.10**	**$ 12.61**

(*) *Investment Consultant and Other Expenses*

(Dollars in Millions)

	For the Period Ended			
	Basis Points	*6/30/2023*	*Basis Points*	*6/30/2022*
Investment Advising & Performance (Pearls, Alternative Investment)	0.46	$ 0.50	0.43	$ 0.49
Consultant - Portfolio Rebalancing	0.01	0.01	0.02	0.03
Consultant - Legal (Alternative Investment)	0.16	0.18	0.10	0.11
Subtotal – Consultants Expenses	0.63	0.69	0.55	0.63
Proxy Services	0.02	0.02	0.03	0.03
Transaction Cost Analysis	0.02	0.02	0.02	0.02
Other Investment Expenses/(Income)	0.08	0.09	0.04	0.05
Subtotal – Other Investment Expenses	0.12	0.13	0.09	0.10
Total Investment Consultants and Other Expenses	**0.75**	**$ 0.82**	**0.64**	**$ 0.73**

(**) The increase in total investment expenses of $13.66 million in 2023 as compared to 2022 is primarily due to Private Equity incentive fees, Private Equity and Absolute Return manager fees.

(Note 21)
Net Investment Income/ (Losses) – 721.20 million

(Dollars in Millions)

	For the Period Ended		*Inc./(Dec.)*
	6/30/2023	*6/30/2022*	*from previous period*
Paper / Unrealized Gains/(Losses)	$ 620.95	$ (1,550.81)	$ 2,171.76
Actual / Realized Gains/(Losses)	40.87	74.34	(33.47)
Investment Income (Interest/Dividend/RE/Other) - Net of Expenses	59.38	67.60	(8.22)
Total Net Income/ (Losses)	**$ 721.20**	**$ (1,408.87)**	**$ 2,130.07**

(Note 22)
Securities Lending Net Income - $0.38 million
The securities lending net income balance as of June 30, 2023, and June 30, 2022, were $0.38 million and $0.34 million, respectively.

(Note 23)
Miscellaneous Income - $0.57 million
The miscellaneous income of $0.57 million is predominantly from prior year investment income and security litigation income recovery.

(Note 24)
Service Retirement and Disability Benefits - $298.04 million
The increase of $14.51 million was predominantly due to the higher average benefit paid to the newly added retirees as compared to that of deceased retirees with lower average benefits as well as a modest increase of 243 in the total number of retirees and beneficiaries receiving benefits, from 10,702 on June 30, 2022 to 10,945 on June 30, 2023.

(Note 25)
Death Benefits - $1.62 million
The death benefits paid out during the six months ended June 30, 2023, were comprised of $0.10 million of Retired Death Benefits, $0.17 million of Active Death Benefits, and $1.35 million of Survivorship Benefits.

(Note 26)
Total Administration - $8.64 million
ACERA's Board of Retirement adopted Section 31580.2 of the 1937 Act. This Section allows ACERA to exclude investment (included in Total Investment Expenses under Note 20 above), actuarial, legal, business continuity related expenses and technology costs from administrative expenses subject to the statutory limits. Under Section 31618.5 ACERA excludes the SRBR administrative expenses from its total administrative expenses. ACERA's SRBR administrative expenses are the amount that exceeds the employers' 401(h) contributions allocated to estimated administrative costs of Postemployment Medical Benefits. The detail of total administration expenses are as follows:

(Dollars in Millions)

	6/30/2023	*6/30/2022*	*Inc./(Dec.) from previous period*
Administrative Expenses	$ 6.44	$ 6.23	$ 0.21
Actuarial Expenses	0.21	0.18	0.03
Business Continuity Expenses	0.31	0.28	0.03
Legal Expenses	0.38	0.42	(0.04)
Technology Expenses	0.49	0.44	0.05
401(h) Administrative Expenses	0.81	0.85	(0.04)
Total	**$ 8.64**	**$ 8.40**	**$ 0.24**

ACERA

MEMORANDUM TO THE OPERATIONS COMMITTEE

DATE: August 02, 2023

TO: Members of the Operations Committee

FROM: Erica Haywood, Fiscal Services Officer E H

SUBJECT: Actual Cash and Forecast as of June 30, 2023

Executive Summary

ACERA liquidates cash from the plan's invested assets on a monthly basis to meet its increasing financial obligations. To better manage assets, best practices recommend a robust cash forecast and analysis to understand, communicate, and manage the invested assets that fund ever-increasing pension liabilities and administrative expense obligations.

- Table 1 is the annual cash forecast from July 2023 to June 2024, which will roll forward monthly as the year progresses; and,
- Tables 2 through 4 is the annualized, 5-year actual cash management information. Please note that the current year 2023 comprises the three months actual and nine months forecast information.

Table 1 Cash Forecast: Table 1 provides the current forecasted negative cash position for the period spanning July 2023 to June 2024. The average monthly negative cash position for the referenced period is $27,804,290. Excluding the two three-pay-period months i.e., September 2023 and March 2024, annotated by an *. The year-over-year increase in average monthly forecasted negative cash position compared to the same period in 2022-2023 is $2,164,469.

Table 1	**Annual Cash Forecast from July 2023 to June 2024**		
Month-Year	**Total Receipts**	**Total Disbursements**	**Negative Cash Position**
Jul-23	32,216,653	58,920,549	(26,703,896)
Aug-23	32,321,668	59,324,579	(27,002,911)
Sep-23*	46,142,530	58,773,936	(12,631,406)
Oct-23	30,034,000	58,875,630	(28,841,630)
Nov-23	29,916,064	59,427,323	(29,511,259)
Dec-23	29,749,446	60,029,017	(30,279,571)
Jan-24	33,426,146	60,094,104	(26,667,958)
Feb-24	33,531,160	60,195,797	(26,664,637)
Mar-24*	50,179,262	61,099,827	(10,920,565)
Apr-24	33,741,189	61,201,521	(27,460,332)
May-24	33,846,203	61,303,215	(27,457,012)
Jun-24	33,951,218	61,404,908	(27,453,690)
Total	**419,055,539**	**$ 720,650,406**	**$ (301,594,867)**
Average	**$ 32,273,375**	**$ 60,077,664**	**$ (27,804,290)**

Table 1 notes: *These are three-pay-period months which are excluded from the average because they cause inaccuracy with extreme fluctuation.

Tables 2 through 4, below, provide a 5-year, annualized analysis of ACERA's cash management.

Table 2	5-Year Annual Cash Inflow		
Year	**Total Contributions, Misc. Cash Receipts, etc.**	**Cash Draw from SSB****	**Total Cash Inflow**
2023	**$ 407,666,839**	**$ 356,000,000**	**$ 763,666,839**
2022	403,696,551	358,000,000	761,696,551
2021	415,814,788	278,500,000	694,314,788
2020	413,586,022	247,200,000	660,786,022
2019	401,756,315	232,000,000	633,756,315

Table 2. Annualized inflow of total cash receipts. The Cash Draw from SSB, in the second column is the actual net cash drawn from ACERA's investment portfolio.

Table 3	5-Year Annual Cash Outflow		
Year	**Retiree Payroll, Accounts Payable, ACERA Payroll, etc.**	**Cash Return to SSB****	**Total Cash Outflow**
2023	**$ 699,210,392**	**$ 68,000,000**	**$ 767,210,392**
2022	661,897,144	92,000,000	753,897,144
2021	626,589,116	64,700,000	691,289,116
2020	597,872,011	64,013,096	661,885,107
2019	570,574,725	60,500,000	631,074,725

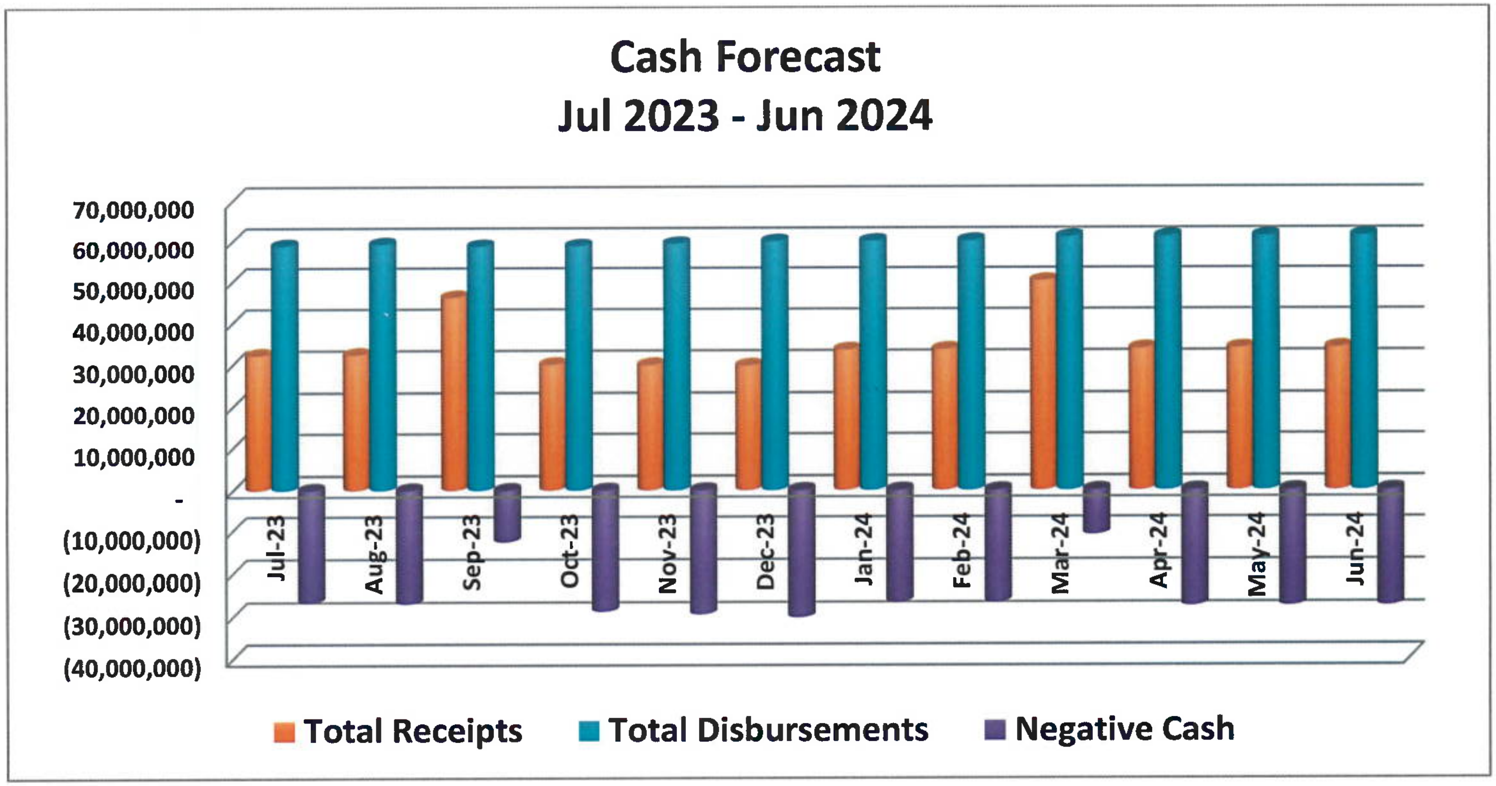
Table 3. Annualized outflow of retirement and benefit payments, accounts payable, and ACERA payroll. Excess cash (Cash Return to SSB column) is wired to the SSB HI1A account.

Table 4	5-Year Annual Net Cash Position		
Year	**Negative Cash**	**Net Cash Draw from SSB****	**Variance**
2023	**$ (291,543,553)**	**$ 288,000,000**	**$ (3,543,553)**
2022	(258,200,593)	266,000,000	7,799,407
2021	(210,774,327)	213,800,000	3,025,673
2020	(184,285,989)	183,186,904	(1,099,085)
2019	(168,818,410)	171,500,000	2,681,590

Table 4. Annualized Negative Cash position and the SSB Net Cash Draw. Due to timing differences and end-of-year balance differences, the net cash draw can fluctuate several hundred-thousand dollars in a year-over-year comparison.

* State Street Bank (SSB)

Conclusion: This information is not meant to be statistically inferential in nature; but rather, it presents facts about ACERA's negative cash position on a 5-year annualized basis. Future analysis of the this information can be undertaken to evaluate specific tendency; however, the current presentation is intended to provide a factual assessment of the actual cash draw down of ACERA's investment portfolio.


Cash Forecast
Jul 2023 - Jun 2024
70,000,000
60,000,000
50,000,000
40,000,000
30,000,000
20,000,000
10,000,000
-
(10,000,000)
(20,000,000)
(30,000,000)
(40,000,000)
Jul-23
Aug-23
Sep-23
Oct-23
Nov-23
Dec-23
Jan-24
Feb-24
Mar-24
Apr-24
May-24
Jun-24
Total Receipts
Total Disbursements
Negative Cash

ACERA

MEMORANDUM TO THE OPERATIONS COMMITTEE

DATE: August 2, 2023

TO: Members of the Operations Committee

FROM: Erica Haywood, Fiscal Services Officer EH

SUBJECT: Quarterly Board Conference and Training Expense Report for the period January 1, 2023, to June 30, 2023

Attached is the January 1, 2023 – June 30, 2023 Board conference and training expense report. As of June 30, 2023, reported expenses totaled $104,614.

ACERA Trustees
Board Conference Expense Report
January 1, 2023 to
June 30, 2023

From	To	Attendee	Conference	Location	Total
05/05/23	05/05/23	Cynthia Baron	CAPAPRS Trustees Round Table	Online	$ 50
05/09/23	05/13/23	Cynthia Baron	SACRS Spring Conference	San Diego, CA	$ 1,737
Cynthia Baron Total					**$ 1,787**
04/30/23	05/01/23	Elizabeth Rogers	2023 Milken Conference	Los Angeles, CA	$ 17,113
05/09/23	05/13/23	Elizabeth Rogers	SACRS Spring Conference	San Diego, CA	$ 1,539
Elizabeth Rogers total					**$ 18,651**
04/30/23	05/01/23	George Wood	2023 Milken Conference	Los Angeles, CA	$ 17,048
05/09/23	05/13/23	George Wood	SACRS Spring Conference	San Diego, CA	$ 1,221
George Wood Total					**$ 18,269**
01/12/23	01/13/23	Henry Levy	Opal Public Funds Summit	Scottsdale, AZ	$ 2,327
03/06/23	03/08/23	Henry Levy	CII Spring Conference	Washington, DC	$ 2,355
04/17/23	04/19/23	Henry Levy	Pension Bridge Annual Confernce	San Francisco, CA	$ 433
05/05/23	05/05/23	Henry Levy	CAPAPRS Trustees Round Table	Online	$ 50
05/10/23	05/13/23	Henry Levy	SACRS Spring Conference	San Diego, CA	$ 150
06/04/23	06/07/23	Henry Levy	World Investment Forum	Sea Island, GA	$ 3,296
Henry Levy Total					**$ 8,611**
02/28/23	03/01/23	Jaime Godfrey	Pension Bridge ESG Summit	Beverly Hills, CA	$ 1,630
03/05/23	03/07/23	Jaime Godfrey	CALAPRS General Assembly	Monterey, CA	$ 250
03/27/23	03/29/23	Jaime Godfrey	Markets Group ALTSLA Conference	Los Angeles, CA	$ 1,223
04/24/23	04/26/23	Jaime Godfrey	Institutional Investor Public Funds Roundtable	Los Angeles, CA	$ 1,027
04/25/23	04/26/23	Jaime Godfrey	Public Funds Round Table	Beverly Hills, CA	$ 289
04/30/23	05/01/23	Jaime Godfrey	Milken Conference	Los Angeles, CA	$ 17,934
05/09/23	05/13/23	Jaime Godfrey	SACRS Spring Conference	San Diego, CA	$ 1,596
Jaime Godfrey Total					**$ 23,949**
05/09/23	05/13/23	Kevin Bryant	SACRS Spring Conference	San Diego, CA	$ 1,415
05/20/23	05/21/23	Kevin Bryant	NCPERS TEDS	NewOrleans, LA	$ 1,598
05/21/23	05/24/23	Kevin Bryant	NCPERS ACE	NewOrleans, LA	$ 1,976
Kevin Bryant Total					**$ 4,989**
04/30/23	05/01/23	Keith Carson	Milken Conference	Los Angeles, CA	$ 16,865
Keith Carson Total					**$ 16,865**
05/05/23	05/05/23	Kellie Simon	CALAPRS Trustees Round Table	Online	$ 50
05/09/23	05/13/23	Kellie Simon	SACRS Spring Conference	San Diego, CA	$ 120
Kellie Simon Total					**$ 170**
05/05/23	05/05/23	Ophelia Basgal	CALAPRS Trustees Round Table	Online	$ 50
Ophelia Basgal Total					**$ 50**
05/09/23	05/13/23	Ross Clippinger	SACRS Spring Conference	San Diego, CA	$ 1,609
Ross Clippinger Total					**$ 1,609**
01/18/23	01/20/23	Tarrell Gamble	NASP Diverse Managers Forum	Philadelphia, PA	$ 1,050
02/01/23	02/28/23	Tarrell Gamble	VC University	Online	$ 1,545
02/28/23	03/01/23	Tarrell Gamble	Pension Bridge ESG Summit	Beverly Hills, CA	$ 1,021
03/06/23	03/08/23	Tarrell Gamble	CII Spring Conference	Washington, DC	$ 2,171
03/28/23	03/30/23	Tarrell Gamble	GPC Conference	New York, NY	$ 1,486
04/14/23	04/14/23	Tarrell Gamble	Private Debt Microcredential	Online	$ 395
04/26/23	04/27/23	Tarrell Gamble	Titan Investors Due Diligence Retreat	Scottsdale, AZ	$ 314
05/09/23	05/13/23	Tarrell Gamble	SACRS Spring Conference	San Diego, CA	$ 911
08/02/23	08/03/23	Tarrell Gamble	Markets Group Private Equity Forum	Chicago, IL	$ 769
Tarrell Gamble Total					**$ 9,663**
GRAND TOTAL					**$ 104,614**

ACERA

MEMORANDUM TO THE OPERATIONS COMMITTEE

DATE: August 2, 2023

TO: Members of the Operations Committee

FROM: Erica Haywood, Fiscal Services Officer E H

SUBJECT: Quarterly SLT Conference and Training Expense Report for the period January 1, 2023, to June 30, 2023

Attached is the January 1, 2023 – June 30, 2023 Senior Leadership Team conference and training expense report. As of June 30, 2023, reported expenses totaled $15,762.

ACERA SLT
Conference and Training Expense Report
January 1, 2023 to June 30, 2023

From	To	SLT	Training or Conference	Name	Amount
			Conferences		
02/09/23	02/09/23	Dave Nelsen	Conference	CALAPRS Administrator's Round Table	$ 50
03/27/23	03/27/23	Dave Nelsen	Conference	CALAPRS General Assembly	$ 1,109
05/09/23	05/12/23	Dave Nelsen	Conference	SACRS Spring Conference	$ 1,372
06/12/23	06/14/23	Dave Nelsen	Conference	CALAPRS Mgmt. Academy	$ 1,269
06/23/23	06/23/23	Dave Nelsen	Conference	CALAPRS Administrator's Round Table	$ 50
			Trainings		
03/17/23	03/17/23	Dave Nelsen	Conference	SACRS Legislative Committee Meeting	$ 24
Dave Nelsen Total					**$ 3,875**
			Conferences		
02/09/23	02/09/23	Carlos Barrios	Conference	CALAPRS Admin Rountable	$ 100
03/27/23	03/27/23	Carlos Barrios	Conference	CALAPRS General Assembly	$ 1,141
05/09/23	05/12/23	Carlos Barrios	Conference	SACRS Spring Conference	$ 1,195
10/01/23	10/04/23	Carlos Barrios	Conference	IFEBP 69th Annual Employee Benefits Con	$ 450
Carlos Barrios Total					**$ 2,886**
			Conferences		
03/02/23	03/10/23	Erica Haywood	Conference	AMA Leading with Emotional Intelligence	$ 2,295
05/20/23	05/25/23	Erica Haywood	Conference	GFOA Annual Conference	$ 2,844
			Trainings		
03/02/23	03/10/23	Erica Haywood	Training	Project Management Skills	$ 1,895
Erica Haywood Total					**$ 7,034**
			Conferences		
05/09/23	05/12/23	Harsh Jadhav	Conference	SACRS Spring Conference	$ 169
06/01/23	06/01/23	Harsh Jadhav	Conference	CALCPA GAA Meeting	$ 132
02/03/23	02/06/23	Harsh Jadhav	Training	CPE247.com Continuing Education	$ 150
06/06/23	06/06/23	Harsh Jadhav	Training	MyCPE.com	$ 199
Harsh Jadhav Total					**$ 650**
			Conferences		
02/10/23	02/10/23	Jeffrey Rieger	Conference	CALAPRS Attorney Round Table	$ 50
05/26/23	05/26/23	Jeffrey Rieger	Conference	CALAPRS Attorney Round Table	$ 50
05/09/23	05/12/23	Jeffrey Rieger	Conference	SACRS Spring Conference	$ 1,008
			Trainings		
01/18/23	01/18/23	Jeffrey Rieger	Training	Access MCLE	$ 10
Jeffrey Rieger Total					**$ 1,118**
			Trainings		
04/10/23	04/10/23	Vijay Jagar	Training	Cybersecurity Training	$ 199
Vijay Jagar Total					**$ 199**
			Grand Total		**$ 15,762**

MEMORANDUM TO THE OPERATIONS COMMITTEE

DATE:	August 2, 2023
TO:	Members of the Operations Committee
FROM:	Sandra Dueñas-Cuevas, Benefits Manager
SUBJECT:	**Managed Medical Review Organization (MMRO) Update**

The attached information regarding disability applications processed by Managed Medical Review Organization (MMRO) will be presented at the August Operations Committee meeting.

Attachment

Status Report
on
Managed Medical Review Organization
(MMRO)

Operations Committee Meeting
August 2, 2023
Sandra Dueñas-Cuevas– Benefits Manager

MMRO Performance - Standard Cases

Duration of time to review, exhibit, conduct member outreach before disability packet is distributed to applicant and employer for comment review period	**Average 69 days**
Duration of time from completion of comment period to production and receipt of medical recommendation report	**Average 51 days**

- Duration periods were calculated based on cases completed from June 1, 2022 to present
- Total days increased from a total of 102 to 120 days when compared to the report previously provided to the Operations Committee in June 2022.
- Cases included in average numbers did not need an Independent Medical Examination (IME), Peer Review, or submit additional records after the initial file was deemed complete

MMRO Performance (continued)

Completed Cases	**46**
Cases in Progress	**31**
New Accepted Cases (Pending assignment to MMRO)	**11**
Cases Requiring Annual Exam	**1**

Non-Standard Cases

Type of Cases	Number
Cases in need of IME, IPE or Peer Review ➢ These cases will take longer to process due to scheduling of examinations, receipt of report, review time of parties and final completion of medical recommendations	8
Employer Filed Applications ➢ These cases may take longer to process due to additional information required to make a determination.	2
Contested Cases ➢ The recommendation for these cases are being contested by the employer or the applicant and anticipated to be scheduled for hearing	7

Year Over Year Performance

	MMRO 2018 – 2019 Average	**MMRO** 2019 – 2020 Average	**MMRO** 2020 – 2021 Average	**MMRO** 2021 – 2022 Average	**MMRO** 2022 – 2023 Average
Phase 1 Exhibiting	54	52	59	63	69
Phase 2 Medical Advisor Report	40	34	27	39	51
Total Days	***94***	***86***	***86***	***102***	***120***