



**Alameda County Employees' Retirement Association  
BOARD OF RETIREMENT**

**OPERATIONS COMMITTEE/BOARD MEETING  
NOTICE and AGENDA**

**THIS MEETING WILL BE CONDUCTED VIA TELECONFERENCE PER GOV'T CODE § 54953(e)**

**ACERA MISSION:**

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

**Wednesday, December 7, 2022  
9:30 a.m.**

<b>ZOOM INSTRUCTIONS</b>	<b>COMMITTEE MEMBERS</b>	
The public can view the Teleconference and comment via audio during the meeting. To join this Teleconference, please click on the link below. <a href="https://zoom.us/join">https://zoom.us/join</a> Call-In Number: 1 699 900 6833 Meeting ID: 879 6337 8479 Password: 699406 For help joining a Zoom meeting, see: <a href="https://support.zoom.us/hc/en-us/articles/201362193">https://support.zoom.us/hc/en-us/articles/201362193</a>	<b>OPHELIA BASGAL, CHAIR</b>	<b>APPOINTED</b>
	<b>KELLIE SIMON, VICE CHAIR</b>	<b>ELECTED GENERAL</b>
	<b>KEITH CARSON</b>	<b>APPOINTED</b>
	<b>HENRY LEVY</b>	<b>TREASURER</b>
	<b>GEORGE WOOD</b>	<b>ELECTED GENERAL</b>

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.

The order of agenda items is subject to change without notice. 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 available online at [www.acera.org](http://www.acera.org).

*Note regarding public comments:* Public comments are limited to four (4) minutes per person in total.

*Note regarding accommodations:* The Board of Retirement will provide reasonable accommodations for persons with special needs of accessibility who plan to attend Board meetings. Please contact ACERA at (510) 628-3000 to arrange for accommodation.

# ***OPERATIONS COMMITTEE/BOARD MEETING***

NOTICE and AGENDA, Page 2 of 3 – December 7, 2022

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. Discussion and possible motion to recommend that the Board of Retirement approve the annual agreement for Segal, ACERA's Benefits Consultant**

-Carlos Barrios

Recommendation

Staff recommends that the Operations Committee recommend to the Board of Retirement to approve the annual agreement for \$129,000 effective January 1, 2023 for ACERA's Benefits Consultant, Segal.

- 2. Discussion and possible motion to recommend that the Board of Retirement renew the Employer Reimbursement Policy with or without revisions**

-Lisa Johnson

Recommendation

Staff recommends that the Operations Committee recommend that the Board of Retirement approve the Employer Reimbursement Policy, without revision.

- 3. Discussion and possible motion to recommend that the Board of Retirement adopt a Reciprocity Policy**

-Jeff Rieger

Recommendation

Staff recommends that the Operations Committee recommend that the Board of Retirement adopt the Reciprocity Policy.

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

- 1. Operating Expenses as of 10/31/22**

-Erica Haywood

**Trustee Remarks**

**Future Discussion Items**

**Establishment of Next Meeting Date**

February 1, 2023, at 9:30 a.m.

***OPERATIONS COMMITTEE/BOARD MEETING***

**NOTICE and AGENDA, Page 3 of 3 – December 7, 2022**

**Adjournment**



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MEMORANDUM TO THE OPERATIONS COMMITTEE

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DATE: December 7, 2022

TO: Members of the Operations Committee

FROM: Carlos Barrios, Assistant Chief Executive Officer 

SUBJECT: **Annual Renewal of Benefits Consulting Agreement – Segal**

ACERA has negotiated a new agreement for benefits consulting services with Segal, to be effective January 1, 2023 through December 31, 2023. The annual cost for the new agreement is \$129,000, which is a 1.4% increase from the current annual fee to account for inflation. Segal's current annual fee of \$127,200 has remained the same for two years. Staff is requesting approval for an annual amount of \$129,000 for benefits consulting services for the new agreement.

At the February 2023 Retirees Committee meeting, Staff and Segal will present information regarding the potential of issuing an RFI or RFP for ACERA's individual medical plan coverage platform as the current Extend Health/Towers Willis Watson (Via Benefits) contract will have been in place for five years ending in 2023. Depending on the decision made on how to proceed with an RFI or RFP, additional costs may be incurred by Segal based on the level of work performed in this area.

Recommendation

Staff recommends that the Operations Committee recommend to the Board of Retirement to approve the annual agreement for \$129,000 effective January 1, 2023 for ACERA's Benefits Consultant, Segal.



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MEMORANDUM TO THE OPERATIONS COMMITTEE

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DATE: December 7, 2022

TO: Members of the Operations Committee

FROM: Lisa Johnson, Assistant Chief Executive Officer

SUBJECT: **Employer Reimbursement Policy Review**

A handwritten signature in cursive script, appearing to read 'Lisa Johnson', positioned to the right of the 'FROM:' line.

### Executive Summary

The Voluntary Elected Member Employer Reimbursement Policy (Policy) is set for review by the Board to ensure that it remains relevant and appropriate. The policy was last reviewed by the Board October 19, 2017.

Staff recommends that, due to conflict of interest concerns, Trustees Mr. Dale Amaral, Ms. Kellie Simon, and Mr. George Wood recuse themselves from participating in any discussion or Committee and Board actions associated with the Voluntary Elected Member 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 recommend that the Board of Retirement approve the Employer Reimbursement Policy, without revision.

**Attachment:**

Employer Reimbursement Policy



# *Employer Reimbursement Policy*

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## 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 revisions, on October 19, 2017<sup>1</sup>.

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<sup>1</sup> 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.



To: Operations Committee  
From: Jeff Rieger, Chief Counsel  
Meeting: December 7, 2022  
Subject: **Proposed Reciprocity Policy**

A handwritten signature in black ink, appearing to be "JM B".

The Governance Committee authorized the development of a Reciprocity Policy on August 3, 2022, and directed that the Policy be developed by the Operations Committee. At this meeting, the Operations Committee will decide whether to recommend that the Board adopt the attached proposed Reciprocity Policy. The "Guiding Principles" will help Staff resolve future questions that may arise. The "Board Interpretations" clarifies points of law for Staff and ACERA members. The specific proposed Board Interpretations are explained below. Copies of the relevant CERL sections are attached to this memorandum.

**Measuring The Six-Month Period.**

To qualify for reciprocity, a member must have less than a six-month break between the systems. There is about a two-week lag time between most ACERA members' employment dates and their ACERA membership dates. The CERL is self-contradictory about whether we should measure the six-month break using the date of employment or the date of membership. In some cases, the employment date is inside the six-month window but the membership date is outside the six-month window.

The Legislature's approach to this issue has been inconsistent, but we can apply the rules of statutory construction to reach a clear conclusion in this case. The reciprocity statutes originally tied the six-month period to membership dates and some of that language remains to this day. See Gov't Code §§ 31833, 31835. Based on the language in those statutes, it is possible that before January 1, 1976, it was proper for ACERA to look to the membership date of the second system when determining whether the member satisfied the six-month requirement. On January 1, 1976, however, Gov't Code § 31840.4 expanded what was previously a three-month window to a six-month window and stated:

Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon **reemployment** within 90 days of termination of employment covered by a system under this chapter or another retirement system, with respect to such **reemployment** which occurs on and after January 1, 1976, such period shall be six months rather than 90 days [emphasis added].

There is nothing in the Legislative History to suggest that the Legislature even understood that there was a delay between employment and membership, much less that it intended members to lose reciprocity due to that delay. Whatever the Legislature may have understood as it considered passing section 31840.4 in 1975, the language it ultimately

passed describes the back end of the six-month period as “reemployment,” not membership. That is the last time the Legislature spoke on this subject.

Further, while there is ambiguity in this case, it is well-settled that “[a]mbiguity or uncertainty in the meaning of pension legislation must be resolved in favor of the pensioner, [so long as] such interpretation [is] consistent with the statute’s language and purpose.” *Block v. Orange County Employees’ Retirement System* (2008) 161 Cal.App.4th 1297, 1307. Here, that rule cuts in favor of using the date of employment in an ACERA-eligible position, which is consistent with the purpose of reciprocity of encouraging continued public service. See Gov’t Code § 31830.

#### **Overlapping Service Credit**

Overlapping service credit with ACERA and a reciprocal system prevents a member from establishing reciprocity between ACERA and that system, but the Legislature gave the Board the ability to resolve that problem for members with 12 weeks or less of overlapping service credit by passing Gov’t Code § 31527(h). On February 18, 2021, the Board revised the Board’s Membership Policy to allow for elimination of overlapping service credit. While the rules on this subject are straightforward, this issue can have a major impact on members rights, so it seems worthy of a reference in the Reciprocity Policy.

#### **“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. This rule is firmly established by *Stillman v. Board of Retirement of Fresno County Employees’ Retirement Assn.* (2011) 198 Cal.App.4th 1355, but some members may have trouble understanding why their “final compensation” for ACERA may be different than their “final compensation” for a reciprocal system. Thus, this rule seems worthy of a reference in the Reciprocity Policy.

#### **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. The applicable statutes do not address what happens when there are multiple breaks, but under a plain reading of the applicable statutes that resolves ambiguities in the members’ favor, per *Block*, 161 Cal.App.4th at 1307, a member satisfies the statutory requirements with one qualifying break.

#### **Failure to Retire Concurrently**

Sections 31835 (“final compensation”) and 31836 (service credit for benefit eligibility), are available only to a member who retires from reciprocal systems concurrently. Gov’t Code § 31833 provides that “age at time of entrance into the retirement system for a person who enters within ... six months ... of last rendering service as a member of [a reciprocal system] and who retains his membership in such other system or systems, shall be his

age at entry into the first such other system.” Section 31833 does not include any requirement of a concurrent retirement. Thus, if a member fails to retire concurrently, the member loses rights under Section 31835 and 31836, but does not lose rights under Section 31833. Such a member continues to pay contributions based on a lower age at entry unless the member withdraws their funds from the other system (and therefore does not “retain his [or her] membership in such other system”).

#### **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 31836 without retiring concurrently from the reciprocal system. On its face, Section 31835.1 applies only to members who are “eligible to retire at age 50 pursuant to Section 31672.” Section 31672 technically applies only to ACERA’s pre-PEPRA General members. ACERA has, however, historically applied Section 31835.1 to Safety and PEPRA members, because the Legislature obviously was not trying to exclude such members from the same benefits that are available to pre-PEPRA General members. See *Irvin v. Contra Costa County Employees’ Retirement Assn.* (2017) 13 Cal.App.5th 162, 170-71 (statutory construction requires courts to “avoid an interpretation that would lead to absurd consequences”).

Further, 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, it would be unfair to require a judge to leave the bench and take an “early retirement” from the JRSII to maintain reciprocity, when an “early retirement” is not a defined benefit.

#### **Service Retirement When Granted Disability By Reciprocal System**

Government Code Section 31837 states that a reciprocal member who is retired for disability by a reciprocal system “may be retired for disability” by ACERA. The word “may” indicates that the member is not required to retire for disability for ACERA. Thus, if the member is eligible to retire for service, the member can choose to do so. In some cases, this will result in a greater benefit that is not fairly characterized as a windfall. The Anti-Windfall Rule described below will, however, apply to prevent windfalls, per *Block*, 161 Cal.App.4th 1297.

#### **Anti-Windfall Rule**

Gov’t Code § 31838.5 provides: “No provision of [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, whether service connected or nonservice connected to receive an amount from one county that, when combined with any amount from [a reciprocal 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.”

The statute is unclear about how ACERA is supposed to make a “pro rata” adjustment if the other system is not making an adjustment to what it pays the member. For example, CalPERS is not subject to Section 31838.5, and therefore does not reduce the allowance it pays a member. In 2009, the Board rejected a member appeal and determined that ACERA should reduce the amounts it pays as much as necessary to ensure that the member does not receive more from two systems than the member could have received

if all service had been with one system. The Board upheld staff's decision to not allow a member to withdraw the member's accumulated contributions, because the member was already receiving 50% of "final compensation" from CalPERS, which was the maximum amount the member could have received if all service had been under one retirement system. Section 31838.5 arguably can be read differently, with ACERA implementing a "pro rata reduction" that assumes the other system will also implement a pro rata reduction. The Board's historical interpretation is, however, more consistent with the legislative intent behind Section 31838.5, which is to prevent windfalls. Thus, the draft Policy incorporates the Board's historical interpretation.

#### **Death Benefits**

Some death benefits are based on the amount that the member would have received as a disability retirement if the member had retired for disability as of the date of death. See, e.g., Gov't Code § 31781.1. Thus, the proposed Policy makes clear that those death allowances are subject to Section 31838.5 to avoid the same kind of windfalls that can occur with disability retirements allowances from multiple retirement systems.

#### **No Withdrawal After Establishing Outgoing Reciprocity**

Reciprocity eliminates disadvantages that reciprocal members might otherwise experience. To accomplish this, in many ways reciprocity treats the member's service for multiple systems as if it had all been under one system. Members who serve under one system cannot withdraw a portion of their contributions and leave the rest on deposit to receive a retirement allowance. Thus, Section 31831 requires a member to leave the member's funds on deposit with the first system after establishing reciprocity with the second system, unless the member also withdraws funds from the other system ("except that he or she may not, after that election, rescind the election or withdraw any of his or her accumulated contributions while a member of such other system"). This is the same "all or nothing" rule that applies to non-reciprocal members.

I will discuss these matters further at the Committee meeting and will be happy to answer any questions.



ALAMEDA COUNTY EMPLOYEES'  
RETIREMENT ASSOCIATION

# *Board Reciprocity Policy*

## 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, ACERA will apply Gov't Code § 31838.5 to ensure that the member does not receive more in total than the member could have received if all service had been under one system. ACERA will apply this rule to all amounts it pays a member, whether those amounts are paid as a service retirement allowance, 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 than the member could have received if all service had been under one system. 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. 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.




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MEMORANDUM TO THE OPERATIONS COMMITTEE

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DATE: December 7, 2022

TO: Members of the Operations Committee

FROM: Erica Haywood, Fiscal Services Officer ds  
EH

SUBJECT: Operating Expenses and Budget Summary for the period ended October 31, 2022

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ACERA's operating expenses are \$1,389K under budget for the period ended October 31, 2022. Budget overages and surpluses worth noting are as follows:

**Budget Overages**

1. *Depreciation*: Depreciation is \$7K over budget.

**Budget Surpluses**

2. *Staffing*: Staffing is \$966K under budget. This amount comprises surpluses in staff vacancies of (\$268K), and fringe benefits of (\$783K), offset by an overage in temporary staffing of \$85K due to vacant positions filled by temporary staff.
3. *Staff Development*: Staff Development is \$13K under budget due to savings from unattended staff trainings and conferences.
4. *Professional Fees*: Professional Fees are \$10K under budget. This amount comprises an overage in actuarial fees of \$60K, and operations consultant fees of \$20K, offset by surpluses in legal fees of (\$90K).
5. *Office Expense*: Office Expense is \$186K under budget. This amount comprises surpluses in printing and postage of (\$12K) and office maintenance and supplies of (\$38K) both due to savings in usage, communication expenses of (\$32K), building expenses of (\$86K), minor equipment and furniture of (\$6K), and equipment lease and maintenance of (\$12K).
6. *Member Services*: Member Services are \$46K under budget. This amount comprises surpluses in disability legal arbitration and transcripts of (\$21K), disability medical expense of (\$38K), and member training and education of (\$16K), offset by overages in members printing and postage of \$20K and health reimbursement account of \$9K.
7. *Systems*: Systems are \$62K under budget. This amount comprises surpluses in software maintenance and support of (\$81K), county data processing of (\$4K), offset by overage in business continuity expense of \$9K and minor computer hardware of \$14K.
8. *Board of Retirement*: Board of Retirement is \$112K under budget. This amount comprises surpluses in board conferences and trainings of (\$92K) mainly due to unattended trainings and conferences, board miscellaneous expenses of (\$10K), board compensation of (\$3K),

## Operating Expenses Budget Summary for the period ended October 31, 2022

board software maintenance and support of (\$7K), and board strategic planning of (\$10K), offset by an overage in board employer reimbursement of \$6K and board election of \$4K.

**Staffing Detail**

Vacant positions as of October 31, 2022:

Department	Position	Qty	Comments
Administration	Clerk II	1	Vacant - currently budgeted for the year
Benefits	Retirement Benefits Specialist	2	Vacant - currently budgeted for the year
Benefits	Retirement Support Specialist	1	Vacant - currently budgeted for the year
Fiscal Services	Retirement Accountant III	1	Vacant - currently budgeted for the year
Investments	Investment Analyst	1	Vacant - currently budgeted for the year
PRISM	Retirement System Program Analyst	1	Vacant – currently budgeted for the year
<b>Total Positions</b>		<b>7</b>	

Pension Administration System Project - as of October 31, 2022					
	Year-To-Date			2022 Budget	2019-21 Actual
	Actual	Budget	Variance		
<b>Consultant Fees</b>					
Levi, Ray and Shoup	28,337	437,500	(409,163)	525,000	2,041,606
Segal	366,167	341,667	24,500	410,000	1,203,390
Other expenses	-	-	-	-	1,500
Leap Technologies	-	-	-	-	98,970
<b>Total</b>	<b>394,504</b>	<b>779,167</b>	<b>(384,662)</b>	<b>935,000</b>	<b>3,345,466</b>
<b>Staffing</b>					
	523,499	589,167	(65,667)	707,000	1,515,887
<b>TOTAL</b>	<b>918,004</b>	<b>1,368,333</b>	<b>(450,330)</b>	<b>1,642,000</b>	<b>4,861,353</b>

## Attachments:

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



**ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
TOTAL OPERATING EXPENSES SUMMARY**

<b>YEAR TO DATE - ACTUAL VS. BUDGET</b>					
<b><u>October 31, 2022</u></b>					
	<b>Actual</b>	<b>Budget</b>	<b>YTD</b>	<b>2022</b>	<b>% Actual to</b>
	<b><u>Year-To-Date</u></b>	<b><u>Year-To-Date</u></b>	<b><u>(Under)/Over</u></b>	<b><u>Budget</u></b>	<b><u>Annual Budget</u></b>
<b>Staffing</b>	\$ 13,062,573	\$ 14,028,300	\$ (965,727)	\$ 16,941,000	77.1%
<b>Staff Development</b>	226,889	239,890	(13,001)	279,000	81.3%
<b>Professional Fees</b> (Next Page)	1,013,798	1,023,200	(9,402)	1,146,000	88.5%
<b>Office Expense</b>	362,780	548,980	(186,200)	659,000	55.1%
<b>Insurance</b>	453,414	454,780	(1,366)	550,000	82.4%
<b>Member Services</b>	293,376	339,400	(46,024)	393,000	74.7%
<b>Systems</b>	948,129	1,010,220	(62,091)	1,207,000	78.6%
<b>Depreciation</b>	102,197	95,240	6,957	114,000	89.6%
<b>Board of Retirement</b>	407,632	520,000	(112,368)	656,000	62.1%
<b>Uncollectable Benefit Payments</b>	-	-	-	56,000	0.0%
<b>Total Operating Expense</b>	<b>\$ 16,870,788</b>	<b>\$ 18,260,010</b>	<b>\$ (1,389,222)</b>	<b>\$ 22,001,000</b>	<b>76.7%</b>



ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

PROFESSIONAL FEES

YEAR TO DATE - ACTUAL VS. BUDGET

October 31, 2022

	<u>Actual Year-To-Date</u>	<u>Budget Year-To-Date</u>	<u>YTD Variance (Under)/Over</u>	<u>2022 Annual Budget</u>	<u>% Actual to Annual Budget</u>
<b>Professional Fees</b>					
Consultant Fees - Operations and Projects <sup>1</sup>	\$ 348,167	\$ 328,160	\$ 20,007	\$ 384,000	90.7%
Actuarial Fees <sup>2</sup>	446,303	386,000	60,303	420,000	106.3%
External Audit <sup>3</sup>	142,000	142,000	-	142,000	100.0%
Legal Fees <sup>4</sup>	77,328	167,040	(89,712)	200,000	38.7%
<b>Total Professional Fees</b>	<b>\$ 1,013,798</b>	<b>\$ 1,023,200</b>	<b>\$ (9,402)</b>	<b>\$ 1,146,000</b>	<b>88.5%</b>

	<u>Actual Year-To-Date</u>	<u>Budget Year-To-Date</u>	<u>YTD Variance (Under)/Over</u>	<u>2022 Annual Budget</u>	<u>% Actual to Annual Budget</u>
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<sup>1</sup> CONSULTANT FEES - OPERATIONS AND PROJECTS:

Administration					
Banking transition consultant fees	50,000	50,000	-	50,000	100.0%
Strategic Planning	23,000		23,000	50,000	0.0%
Total Administration	<u>73,000</u>	<u>50,000</u>	<u>23,000</u>	<u>50,000</u>	<u>146.0%</u>
Benefits					
Alameda County HRS (Benefit Services)	105,000	105,000	-	126,000	83.3%
Segal (Benefit Consultant/Retiree Open Enrollment)	106,000	109,160	(3,160)	131,000	80.9%
Total Benefits	<u>211,000</u>	<u>214,160</u>	<u>(3,160)</u>	<u>257,000</u>	<u>82.1%</u>
Human Resources					
Lakeside Group (County Personnel)	64,167	64,000	167	77,000	83.3%
Total Human Resources	<u>64,167</u>	<u>64,000</u>	<u>167</u>	<u>77,000</u>	<u>83.3%</u>
<b>Total Consultant Fees - Operations</b>	<b><u>348,167</u></b>	<b><u>328,160</u></b>	<b><u>20,007</u></b>	<b><u>384,000</u></b>	<b><u>90.7%</u></b>

<sup>2</sup> ACTUARIAL FEES

Actuarial valuation	81,000	81,000	-	81,000	100.0%
GASB 67 & 68 Valuation	50,500	51,000	(500)	51,000	99.0%
GASB 74 & 75 Actuarial	15,000	15,000	-	15,000	100.0%
Actuarial Standard of Practice 51 Pension Risk	27,500	30,000	(2,500)	30,000	91.7%
Supplemental Consulting	229,303	166,000	63,303	200,000	114.7%
Supplemental Retiree Benefit Reserve valuation	43,000	43,000	-	43,000	100.0%
<b>Total Actuarial Fees</b>	<b><u>446,303</u></b>	<b><u>386,000</u></b>	<b><u>60,303</u></b>	<b><u>420,000</u></b>	<b><u>106.3%</u></b>

<sup>3</sup> EXTERNAL AUDIT

External audit	119,000	119,000	-	119,000	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%
<b>Total External Audit Fees</b>	<b><u>142,000</u></b>	<b><u>142,000</u></b>	<b><u>-</u></b>	<b><u>142,000</u></b>	<b><u>100.0%</u></b>

<sup>4</sup> LEGAL FEES

Fiduciary & Litigation	51,968	104,200	(52,232)	125,000	41.6%
Tax and Benefit Issues	3,153	20,840	(17,688)	25,000	12.6%
Miscellaneous Legal Advice	22,208	42,000	(19,793)	50,000	44.4%
<b>Total Legal Fees</b>	<b><u>77,328</u></b>	<b><u>167,040</u></b>	<b><u>(89,712)</u></b>	<b><u>200,000</u></b>	<b><u>38.7%</u></b>

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
TOTAL EXPENDITURES VS. PRIOR YEAR ACTUAL  
For the Ten Months Ending 10/31/2022

	<u>For the Month of October 2022</u>	<u>For the Month of October 2021</u>	<u>Variance</u>	<u>Year-To-Date 2022</u>	<u>Year-To-Date 2021</u>	<u>Variance</u>
<b>STAFFING</b>						
Salaries	793,983	765,434	28,549	8,445,357	7,897,024	548,333
Fringe Benefits	344,262	311,228	33,034	4,314,328	3,874,761	439,567
Temporary & Other Staffing Cost	17,724	30,123	(12,399)	302,888	402,990	(100,102)
Staffing Total	<u>1,155,969</u>	<u>1,106,785</u>	<u>49,184</u>	<u>13,062,573</u>	<u>12,174,775</u>	<u>887,798</u>
<b>STAFF DEVELOPMENT</b>	26,208	28,145	(1,937)	226,889	132,963	93,926
<b>PROFESSIONAL FEES</b>						
Actuarial Fees	16,600	15,830	770	446,303	490,978	(44,675)
Consultant Fees - Operations	39,017	27,517	11,500	348,167	275,951	72,216
Consultant Fees - Legal	10,920	23,316	(12,396)	77,328	159,639	(82,311)
External Audit	0	0	0	142,000	152,127	(10,127)
Professional Fees Total	<u>66,537</u>	<u>66,663</u>	<u>(126)</u>	<u>1,013,798</u>	<u>1,078,695</u>	<u>(64,897)</u>
<b>OFFICE EXPENSE</b>						
Bank Charges & Misc. Admin	10,661	9,676	985	112,826	97,007	15,819
Building Expenses	1,498	6,885	(5,387)	(12,698)	68,171	(80,869)
Communications	14,201	5,869	8,332	126,100	70,129	55,971
Interest expense on lease liability - GASB-87	667	1,136	(469)	8,479	12,928	(4,449)
Amortization expense of lease assets - GASB-87	3,548	3,548	0	35,477	35,477	0
Equipment Lease/Maintenance	5,795	3,361	2,434	44,615	39,904	4,711
Minor Equipment and Furniture	168	2,280	(2,112)	8,725	2,708	6,017
Office Supplies/Maintenance	2,075	1,829	246	27,962	25,011	2,951
Printing & Postage	985	1,022	(37)	11,294	9,513	1,781
Office Expense Total	<u>39,598</u>	<u>35,606</u>	<u>3,992</u>	<u>362,780</u>	<u>360,848</u>	<u>1,932</u>
<b>INSURANCE</b>	46,924	63,379	(16,455)	453,414	647,927	(194,513)
<b>MEMBER SERVICES</b>						
Disability - Legal Arbitration & Transcripts	0	5,000	(5,000)	16,552	5,000	11,552
Disability Medical Expense	(200)	5,800	(6,000)	64,124	107,936	(43,812)
Disability Claims Management	3,850	3,850	0	38,500	38,500	0
Health Reimbursement Acct. (HRA)	5,184	4,917	267	58,696	50,862	7,834
Member Training & Education	875	511	364	4,801	4,845	(44)
Printing & Postage - Members	52,294	12,732	39,562	110,703	97,400	13,303
Virtual Call Center	0	5,029	(5,029)	0	48,950	(48,950)
Member Services Total	<u>62,003</u>	<u>37,839</u>	<u>24,164</u>	<u>293,376</u>	<u>353,493</u>	<u>(60,117)</u>

ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
TOTAL EXPENDITURES VS. PRIOR YEAR ACTUAL  
For the Ten Months Ending 10/31/2022

	<i><b>For the Month of October 2022</b></i>	<i><b>For the Month of October 2021</b></i>	<i>Variance</i>	<i><b>Year-To-Date 2022</b></i>	<i><b>Year-To-Date 2021</b></i>	<i>Variance</i>
SYSTEMS						
Business Continuity Expense	21,009	18,127	2,882	183,219	183,844	(625)
County Data Processing	11,325	10,389	936	105,796	100,969	4,827
Minor Computer Hardware	14,567	401	14,166	47,699	25,975	21,724
Software Maintenance & Support	57,246	60,551	(3,305)	611,415	622,662	(11,247)
Systems Total	<u>104,147</u>	<u>89,468</u>	<u>14,679</u>	<u>948,129</u>	<u>933,450</u>	<u>14,679</u>
DEPRECIATION						
Depreciation Expense	9,961	10,720	(759)	102,197	99,496	2,701
BOARD OF RETIREMENT						
Board Compensation	3,000	3,000	0	20,000	22,400	(2,400)
Board Conferences & Training	3,664	37,853	(34,189)	83,033	49,872	33,161
Board Election	0	3,422	(3,422)	3,533	3,422	111
Board Employer Reimbursement	28,250	20,917	7,333	288,105	159,097	129,008
Board Miscellaneous Expense	664	1,085	(421)	9,018	6,392	2,626
Board Software Maint. & Support	0	986	(986)	3,943	10,069	(6,126)
Board of Retirement Total	<u>35,578</u>	<u>67,263</u>	<u>(31,685)</u>	<u>407,632</u>	<u>251,252</u>	<u>156,380</u>
GRAND TOTALS	<u><u>1,546,925</u></u>	<u><u>1,505,868</u></u>	<u><u>41,057</u></u>	<u><u>16,870,788</u></u>	<u><u>16,032,899</u></u>	<u><u>837,889</u></u>