

Date: September 19, 2018  
To: Board of Retirement  
From: James Wilbanks, Ph.D., Executive Director  
Subject: Administrative Report

## **Independent Review of Retirement Benefits for Related Parties**

To protect MCERA from even the appearance of a conflict of interest, we are instituting a process by which we seek an independent verification of the retirement benefits for any party that is related to MCERA. The following are guidelines that will be used to review the retirement benefits on an individual basis.

Related parties include:

- Current and former Trustees,
- Current and former MCERA staff,
- Any member with a consanguineal or affinal relationship to a current or former Trustee or current or former MCERA staff, and
- Any member with a relationship to a current or former Trustee or current or former MCERA staff that could be construed as presenting the appearance of a conflict of interest.

The process will rely on the MCERA actuary to determine the retirement benefit, using all the required information to do so. The expected cost for the actuary to provide the retirement benefit estimate is up to \$1,000 per instance.

The actuary will provide the retirement benefit calculation to both Legal Counsel and the Executive Director, or the Board Chair if the Executive Director has a potential conflict, for comparison to the retirement benefit calculation provided by MCERA staff. Any discrepancies in the calculations will be investigated and, if necessary, reported to the Board.

## **625 Kings Court Emergency Backup Generator**

After the recent emergencies, County Executive Office staff suggested that MCERA consider installing an emergency backup generator. A very rough estimate of the cost to obtain an emergency backup generator is between \$20,000 and \$30,000 in one-time expenses with a potential for a relatively minor on-going annual expense for equipment rental, maintenance and service. I am seeking direction from the Board regarding whether to proceed or not.

## **Nossaman Annual Fiduciaries Forum**

Attached is a flier regarding this event hosted by our fiduciary counsel. If you are interested in attending, please let Judy or I know and we will help you with registration.

## **State Association of County Retirement Systems (SACRS) Legislative Report**

Attached is a copy of changes to the SACRS Legislative Report from August 8, 2018 for review.

# Please Join Us for Nossaman's Annual Invitation-Only Fiduciaries' Forum!

Presented by Nossaman LLP's Public Pensions and Investments Practice Group

October 18-19, 2018 | Marriott Union Square | San Francisco, CA

## Nossaman's 2018 Fiduciaries' Forum: *Risks and Responsibilities of Public Pension Funds Nationally*

We invite trustees (less than a quorum), executive staff, investment officers and in-house counsel of retirement system clients and colleagues to join us for this opportunity to learn, network and share best practices with their peers in a relaxed setting that encourages an open flow of communication and meaningful discussion.

This year's program will include the following:

### Thursday, October 18

#### **Marriott Union Square**

2:30 - 3:00 p.m.	Registration
3:00 - 5:00 p.m.	Key Pension Litigation Nationally with a Focus on California, Texas, Washington and Kentucky

#### **Jones Restaurant**

5:30 - 6:30 p.m.	Welcome Reception
6:30 - 9:00 p.m.	Dinner + Keynote Presentation

### Friday, October 19

#### **Marriott Union Square**

8:00 - 9:00 a.m.	Breakfast
9:00 - 10:00 a.m.	A Look at the Standard of Care in Private Fund Documentation and How This Plays Out in Litigation
10:15 - 10:45 a.m.	Key Intellectual Property Issues for Public Agencies
10:45 - 11:15 a.m.	Recent Market Trends in Private Fund Investment Transactions
11:15 - 11:35 a.m.	Tax Code Challenges as We Head Into 2019
11:45 a.m. - 12:45 p.m.	Defense and Indemnification Rights of Trustees and Staff: How Protected Are You?
1:00 - 2:00 p.m.	Lunch + How Technological Changes and Cyber Vulnerabilities Change the Risk Matrix for Investors <b>Guest Speaker:</b> Adam Cohen, <i>Managing Director at Berkeley Research Group</i>

We look forward to seeing you next month. **Remember to register before September 27 for an early bird rate on the program, as well as your hotel room.**

**YES, I WILL ATTEND.  
REGISTER NOW!**

Should you have any questions, concerns or suggestions, please contact Jessica Ku at [jku@nossaman.com](mailto:jku@nossaman.com) or 949.477.7667.

### NOSSAMAN HOSTS



**Ashley Dunning**  
Partner



**Yuliya Oryol**  
Partner



**Peter Mixon**  
Partner



**Katherine Jordan**  
Associate



**Courtney Krause**  
Associate



**Natasha Saggarr**  
Sheth  
Associate

### LOGISTICS

**Location**  
Marriott Union Square  
480 Sutter Street  
San Francisco, CA 94108  
[MAP](#)

**Hotel Rooms**  
Nossaman has reserved a block of rooms at a reduced rate of \$269 per night at the Marriott Union Square.

Please reserve your room by **5:00 p.m. on September 27, 2018.** After this date, the reduced rate cannot be guaranteed.

You will receive a link to book your hotel room in your registration confirmation email.

# SACRS Legislative Report

## Other Legislation 9/12/2018 Changes from 8/8/2018 Report

### Bill Description

**AB** (**Levine D**) Public employees' retirement: pension fund management.  
**161**

**Introduced:** 1/13/2017

**Last Amended:** 8/6/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/31/2018 - Failed Deadline pursuant to Rule 61(b)(18). (Last location was S. RLS. on 8/7/2018)

**Location:** 8/31/2018 - S . DEAD

**Summary:** Would require specified staff of the Public Employees' Retirement System to work with appropriate state agencies to produce an annual list, that may be provided to each board, of priority infrastructure projects most suitable for funding.

**AB** (**Nazarian D**) Public employee retirement systems: prohibited investments: Turkey.  
**1597**

**Introduced:** 2/17/2017

**Last Amended:** 8/24/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 9/11/2018 - Enrolled and presented to the Governor at 4:30 p.m.

**Location:** 9/11/2018 - A . ENROLLED

**Summary:** Would, upon the passage of a federal law that imposes sanctions on Turkey for failure to acknowledge the Armenian Genocide, prohibit the boards of administration of the Public Employees' Retirement System and State Teachers' Retirement System from making additional or new investments, or renewing existing investments, of public employee retirement funds in an investment vehicle in Turkey that is issued by the government of Turkey or that is owned, controlled, or managed by the government of Turkey. The bill would require the boards to liquidate existing investments in Turkey in these types of investment vehicles within 6 months of the passage of a federal law imposing those sanctions on Turkey.

**AB** **(Rodriguez D) Public employees' retirement: joint powers agreements: liability.**  
**1912**

**Introduced:** 1/23/2018

**Last Amended:** 8/24/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 9/11/2018 - Enrolled and presented to the Governor at 4:30 p.m.

**Location:** 9/11/2018 - A . ENROLLED

**Summary:** The Joint Exercise of Powers Act generally authorizes 2 or more public agencies, by agreement, to jointly exercise any common power. Under the act, if an agency is not one or more of the parties to the agreement but is a public entity, commission, or board constituted pursuant to the agreement, the debts, liabilities, and obligations of the agency are the debts, liabilities, and obligations of the parties to the agreement, unless the agreement specifies otherwise. This bill would specify that the parties to the joint powers agreement may not specify otherwise with respect to retirement liabilities of the agency if the agency contracts with a public retirement system, and would eliminate an authorization for a party to a joint powers agreement to separately contract or assume responsibilities for specific debts, liabilities, or obligations of the agency.

**AB** (Cooper D) Public employees' retirement: service credit: payments.  
**2196**

**Introduced:** 2/12/2018

**Last Amended:** 6/13/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/20/2018 - Approved by the Governor. Chaptered by Secretary of State - Chapter 168, Statutes of 2018.

**Location:** 8/20/2018 - A . CHAPTERED

**Summary:** Under the Public Employees' Retirement Law, members may make certain elections, including elections to purchase service credit for various types of public service, upon payment of additional contributions. Current law permits a member who retires before paying off the entire amount for service credit to pay the balance due or total amount if no payroll deductions had been made prior to retirement by deductions from his or her retirement allowance equal to those authorized as payroll deductions, as specified. The bill would permit the member, survivor, or beneficiary, as an alternative, on or after January 1, 2020, to elect to receive an allowance that is reduced by the actuarial equivalent of any balance remaining unpaid by the member.

**AB** (Aguiar-Curry D) Public Employees' Retirement System: contracting members.  
**2310**

**Introduced:** 2/13/2018

**Last Amended:** 3/20/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/27/2018 - Approved by the Governor. Chaptered by Secretary of State - Chapter 213, Statutes of 2018.

**Location:** 8/28/2018 - A . CHAPTERED

**Summary:** Under PERL, a contracting agency and its employees may agree in writing to share the costs of the employer contribution in accordance with specified procedures. Current law requires, in these circumstances, the collective bargaining agreement for a contracting agency and its employees to specify the exact percentage of member compensation that is to be paid toward the current service costs of the benefits by members. This bill would revise that provision to also refer to a memorandum of understanding ratified by the employee bargaining unit and the governing body of the contracting agency.

**AB (Calderon D) Public Employees' Retirement System: officers and directors: appointment and compensation.**  
**2415**

**Introduced:** 2/14/2018

**Last Amended:** 8/17/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 9/6/2018 - Enrolled and presented to the Governor at 3 p.m.

**Location:** 9/6/2018 - A . ENROLLED

**Summary:** The Public Employees' Retirement Law requires the Board of Administration to appoint and fix the compensation of an executive officer, a general counsel, a chief actuary, a chief investment officer, a chief financial officer and other investment officers and portfolio managers, as specified. PERL requires that specified principles guide the board when fixing compensation, consistent with its fiduciary responsibility to recruit and retain highly qualified and effective employees for these positions. This bill would additionally require the board to appoint and fix the compensation of a chief operating officer and a chief health director.

**AB (Daly D) County government: contract legal counsel: auditor-controller.**  
**3068**

**Introduced:** 2/16/2018

**Last Amended:** 4/16/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 9/7/2018 - Approved by the Governor. Chaptered by Secretary of State - Chapter 307, Statutes of 2018.

**Location:** 9/7/2018 - A . CHAPTERED

**Summary:** Current law requires a county board of supervisors, upon request of the county assessor or sheriff, to contract with legal counsel to assist the assessor or sheriff with duties for which the district attorney or county counsel would have a conflict of interest in representing the assessor or sheriff. In the event the board of supervisors does not concur with the assessor or sheriff that a conflict of interest exists, existing law authorizes the county assessor or sheriff to initiate an ex parte proceeding before the presiding judge of the superior court, as provided. This bill would extend these provisions to additionally require the board of supervisors to contract with legal counsel to assist the auditor-controller, as described above.

**AB** (Committee on Public Employees, Retirement, and Social Security) Public employees' retirement.  
**3245**

**Introduced:** 2/22/2018

**Last Amended:** 4/9/2018

**Fiscal:** N

**Urgency:** N

**Status:** 8/31/2018 - Failed Deadline pursuant to Rule 61(b)(18). (Last location was S. RLS. on 5/24/2018)

**Location:** 8/31/2018 - S . DEAD



**Summary:** Current law establishes various public agency retirement systems, including, among others, the Public Employees' Retirement System, the Judges' Retirement System, and the Judges' Retirement System II. These systems provide defined benefits to public employees based on age, service credit, and amount of final compensation. This bill would make various nonsubstantive changes to provisions governing these retirement systems.

**SB (Moorlach R) Judges' Retirement System II: deferred retirement.**  
**656**

**Introduced:** 2/17/2017

**Last Amended:** 8/24/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/31/2018 - In Senate. Concurrence in Assembly amendments pending. Ordered to special consent calendar. Assembly amendments concurred in. (Ayes 38. Noes 0.) Ordered to engrossing and enrolling.

**Location:** 8/31/2018 - S . ENROLLMENT

**Summary:** Current law authorizes a judge who, among other things, separates from office after accruing 5 or more years of service and has not reached 65 years of age to continue health care benefits if he or she assumes certain payments. Current law specifies benefits provided to a surviving spouse or other beneficiary in relation to these provisions. This bill would authorize a judge who is not otherwise eligible to retire and who has either attained 60 years of age with a minimum of 5 years of service or accrued 20 or more years of service to leave his or her monetary credits on deposit with the system, to retire, and upon reaching retirement age, as specified, to receive a monthly retirement allowance, as provided.

**SB (Allen D) Public Employees' Retirement Fund and Teachers' Retirement Fund:**  
**964 investments: climate-related financial risk.**

**Introduced:** 1/31/2018

**Last Amended:** 3/14/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 9/6/2018 - Enrolled and presented to the Governor at 4 p.m.

**Location:** 9/6/2018 - S . ENROLLED

**Summary:** Would, until January 1, 2035, require climate-related financial risk, as defined, to be analyzed to the extent the boards identify the risk as a material risk to the Public Employees' Retirement Fund or the Teachers' Retirement Fund. The bill, by January 1, 2020, and every 3 years thereafter, would require each board to publicly report on the climate-related financial risk of its public market portfolio, including alignment of the Public Employees' Retirement Fund and the Teachers' Retirement Fund with a specified climate agreement and California climate policy goals and the exposure of the fund to long-term risks, as specified.

**SB** **(Hertzberg D) Sales and use taxes: service tax: qualified business.**  
**993**

**Introduced:** 2/5/2018

**Last Amended:** 5/9/2018

**Fiscal:** Y

**Urgency:** Y

**Status:** 8/31/2018 - Failed Deadline pursuant to Rule 61(b)(18). (Last location was S. GOV. & F. on 5/9/2018)

**Location:** 8/31/2018 - S . DEAD

**Summary:** Would reduce the rate of tax imposed by the Sales and Use Tax Law incrementally every calendar year beginning on January 1, 2020, until January 1, 2022, at which time the rate would be reduced by a total of 2%. This bill would require the Director of Finance to estimate the amount of net revenue that will be derived for specified calendar years as a result of the changes made by this bill and would require the rate of tax imposed by the Sales and Use Tax Law to be

reduced or increased by a specified percentage amount for specified calendar years depending on the amount of the estimated revenue gains or losses.

**SB** **(Pan D) Public Employees' Retirement System: administration.**  
**1022**

**Introduced:** 2/7/2018

**Last Amended:** 4/12/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/22/2018 - Enrolled and presented to the Governor at 3:30 p.m.

**Location:** 8/22/2018 - S . ENROLLED

**Summary:** The Public Employees' Retirement Law (PERL) vests the Board of Administration of the Public Employees' Retirement System with the responsibility of administering the Public Employees' Retirement System. PERL provides that data filed by a member or beneficiary with the board is confidential, subject to certain exceptions, and is to be used only for carrying PERL into effect. This bill would specify that the confidentiality provisions, described above, apply to the Public Employees Medical and Hospital Care Act, which the board also administers, and would make conforming changes to account for this and to account for school district and university employer categories currently in effect.

**SB** **(Mendoza D) Public Employees' Retirement Law: employer contributions: notification.**  
**1060**

**Introduced:** 2/12/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/31/2018 - Failed Deadline pursuant to Rule 61(b)(18). (Last location was S. RLS. on 2/12/2018)

**Location:** 8/31/2018 - S . DEAD

**Summary:** The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS), which provides pension and other benefits to members of PERS. PERL requires certain public employers to contribute moneys to PERS. Current law prohibits the state, school employers, and contracting agencies, as defined, from refusing to pay the employers' contribution as required by PERL. This bill would require a contracting agency that fails to make a required contribution to PERS to notify members of the delinquency within 30 days, as specified.

**SB** **(Mendoza D) State Teachers' Retirement Plan: employer contributions: notification.**  
**1061**

**Introduced:** 2/12/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/31/2018 - Failed Deadline pursuant to Rule 61(b)(18). (Last location was S. RLS. on 2/12/2018)

**Location:** 8/31/2018 - S . DEAD

**Summary:** The State Teachers' Retirement Law establishes the Defined Benefit Program of the State Teachers' Retirement Plan. The law requires certain employers, as defined, to contribute moneys to the State Teachers' Retirement System (STRS). This bill would require an employer that fails to make a required contribution to STRS to notify members of the delinquency within 30 days, as specified.

**SB** **(Mendoza D) Retirement systems: employer contributions: notification.**  
**1062**

**Introduced:** 2/12/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/31/2018 - Failed Deadline pursuant to Rule 61(b)(18). (Last location was S. RLS. on 2/12/2018)

**Location:** 8/31/2018 - S . DEAD

**Summary:** Current law creates the State Teachers' Retirement System (STRS) and the Public Employees' Retirement System (PERS), which provide pension and other benefits to their respective members. Both STRS and PERS are funded by employer and employee contributions and investment returns. This bill would require certain employers that fail to make a required employer contribution to STRS or PERS to notify members of the delinquency within 30 days, as specified.

**SB (Leyva D) Public Employees' Retirement System: collective bargaining agreements: 1124 disallowed compensation.**

**Introduced:** 2/13/2018

**Last Amended:** 8/23/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 9/5/2018 - Enrolled and presented to the Governor at 3:30 p.m.

**Location:** 9/5/2018 - S . ENROLLED

**Summary:** Would establish new procedures under PERL for cases in which a member's benefits are erroneously calculated by the state or a contracting agency. The bill would require the system, upon determining on or after January 1, 2019, or on or after January 1, 2017, if an appeal has been filed and the employee member, survivor, or beneficiary has not exhausted his or her administrative or legal remedies, that compensation for an employee member reported by the state or a contracting agency conflicts with specified law, to discontinue the reporting of the disallowed compensation.

**SB (Pan D) State teachers' retirement.  
1165**

**Introduced:** 2/14/2018

**Last Amended:** 6/6/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/24/2018 - Enrolled and presented to the Governor at 4 p.m.

**Location:** 8/24/2018 - S . ENROLLED

**Summary:** Current law, applicable to both the Defined Benefit Program and the Cash Balance Benefit Program, defines "school year" as the fiscal year or the academic year. Current law defines "school term" with reference to a minimum period of time that creditable service is required to be performed by a member employed on a full-time basis, subject to certain exclusions. Under current law, the "school term" is the same for members employed less than full-time who perform the same duties as members employed on a full-time basis. This bill would redefine "school year" as the period of time beginning on July 1 of one calendar year and ending on June 30 of the following calendar year.

**SB (Pan D) Public Employees' Retirement System: contracting agency: contributions.  
1166**

**Introduced:** 2/14/2018

**Last Amended:** 6/18/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/31/2018 - Failed Deadline pursuant to Rule 61(b)(18). (Last location was A. INACTIVE FILE on 8/16/2018)

**Location:** 8/31/2018 - A . DEAD

**Summary:** PERL authorizes a public agency to contract to make its employees members of PERS and prescribes a process for this. PERL prohibits participating employers from failing or refusing to pay their contributions on time. PERL authorizes the board to charge interest on agency contributions due and unpaid. This bill would require a contracting agency that fails to make its required employer contributions on time, and that fails to cure the delinquency within 7 days, to notify members and retired members who are current or past employees of that agency, or their beneficiaries, of the agency's delinquency by mail within 30 days of the payment having become delinquent.

**SB** **(Nielsen R) Public employees' retirement: pension prefunding.**  
**1413**

**Introduced:** 2/16/2018

**Last Amended:** 6/21/2018

**Fiscal:** Y

**Urgency:** N

**Status:** 8/31/2018 - Read third time. Passed. Ordered to the Senate. In Senate. Concurrence in Assembly amendments pending. Ordered to special consent calendar. Assembly amendments concurred in. (Ayes 38. Noes 0.) Ordered to engrossing and enrolling.

**Location:** 8/31/2018 - S . ENROLLMENT

**Summary:** Would enact the California Employers' Pension Prefunding Trust Program and establish the California Employers' Pension Prefunding Trust Fund to allow state and local public agency employers that provide a defined benefit pension plan to their employees to prefund their required pension contributions.

**SCA 1** **(Moorlach R) Retirement savings plans: funding prohibition: General Fund.**

**Introduced:** 12/5/2016

**Fiscal:** Y

**Urgency:**

**Status:** 8/31/2018 - Failed Deadline pursuant to Rule 61(b)(18). (Last location was S. P.E. & R. on 1/12/2017)

**Location:** 8/31/2018 - S . DEAD

**Summary:** Would prohibit the state from incurring any liability for payment of the retirement savings benefit earned by program participants in the California Secure Choice Retirement Savings Program. The measure would also prohibit the appropriation, transfer, or encumbrance of moneys in the General Fund for the purposes of the program, including any unfunded liability that the program may incur, unless the appropriation, transfer, or encumbrance is for funding the startup and first-year administrative costs for the program.

**SCA 8 (Moorlach R) Public employee retirement benefits.**

**Introduced:** 2/15/2017

**Fiscal:** Y

**Urgency:**

**Status:** 8/31/2018 - Failed Deadline pursuant to Rule 61(b)(18). (Last location was S. P.E. & R. on 2/23/2017)

**Location:** 8/31/2018 - S . DEAD

**Summary:** Would permit a government employer to reduce retirement benefits that are based on work not yet performed by an employee regardless of the date that the employee was first hired, notwithstanding other provisions of the California Constitution or any other law. The measure would prohibit it from being interpreted to permit the reduction of retirement benefits that a public employee has earned based on work that has been performed, as specified. The measure would define government employer and retirement benefits for the purposes of its provisions.