

MEMORANDUM

DATE: August 17, 2016

TO: Board of Retirement

FROM: Jeff Berk, Legal Counsel
James Wilbanks Ph.D., Retirement Administrator

RE: Board Composition

At last month's meeting, the Board discussed the possibility of proposing legislation that would change the composition of the Retirement Board to add a new alternate trustee that would have voting power if one of the four trustees appointed by the Board of Supervisors is unable to attend a meeting. As discussed below two counties have enacted such legislation. Both were initiated by the County, not the retirement system.

Ventura County and Contra Costa County proposed and had enacted this exact legislation, Ventura's became effective January 1, 2016 and Contra Costa's in 2006. See Government Code sections 31520.12 and 31520.13, attached.

It is important to note that the new alternate trustee would be held to the same fiduciary duty standard as every other trustee. This means that he/she would need to attend all meetings and meet all applicable education and other requirements.

The question of adding an alternate member for the Board of Supervisor appointments to the Board of Retirement is more appropriate for the Board of Supervisors to consider, as that would be consistent with the statutory scheme and it does not affect the administration of the retirement association or its members. If the County wants to pursue such legislation (as done in Ventura and Contra Costa), we would recommend MCERA take a "Neutral" position on the legislation.

§31520.12. Counties of the ninth class; appointment of alternate members; voting rights; compensation; term

(a) Notwithstanding Section 31520.1, and subject to the limitations of subdivision (c), in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662), the board of supervisors may, by resolution adopted by majority vote, appoint an alternate member for the fourth, fifth, sixth, and ninth members. The term of office of the alternate member shall run concurrently with the term of office of the ninth member. The alternate member shall vote as a member of the board only in the event the fourth, fifth, sixth, or ninth member is absent from a board meeting for any cause. If there is a vacancy with respect to the fourth, fifth, sixth, or ninth member, the alternate member shall fill that vacancy until a successor qualifies.

(b) The alternate member for the fourth, fifth, sixth, or ninth member shall be entitled to the same compensation as the fourth, fifth, sixth, or ninth member for attending a meeting, pursuant to Section 31521, whether or not the fourth, fifth, sixth, or ninth member attends the meeting.

(c) If the board of supervisors appoints a supervisor as the fourth, fifth, sixth, or ninth member, an alternate member appointed pursuant to subdivision (a) may not serve as an alternate for that supervisor member unless service by an alternate member for an appointed supervisor member is approved by the majority of the electors in the county.

(d) This section shall apply only to a county of the ninth class, as defined in Sections 28020 and 28030.

(Added by Stats. 2005, Ch. 64 (AB 719), Sec. 1)

§31520.13. Counties of the 13th class; appointment of alternate members; term; voting rights; compensation

(a) Notwithstanding Section 31520.1, in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662), the board of supervisors may, by resolution adopted by majority vote, appoint an alternate member for the fourth, fifth, sixth, and ninth members. The term of office of the alternate member shall run concurrently with the term of office of the ninth member. The alternate member shall vote as a member of the board only in the event the fourth, fifth, sixth, or ninth member is absent from a board meeting for any cause. If there is a vacancy with respect to the fourth, fifth, sixth, or ninth member, the alternate member shall fill that vacancy until a successor qualifies.

(b) The alternate member for the fourth, fifth, sixth, or ninth member shall be entitled to the same compensation as the fourth, fifth, sixth, or ninth member for attending a meeting,

pursuant to Section 31521, whether or not the fourth, fifth, sixth, or ninth member attends the meeting.

(c) This section shall apply only to a county of the 13th class, as defined in Sections 28020 and 28034.

(Added by Stats. 2015, Ch. 38, (AB 663), Sec. 1)