

**Minutes of the Meeting of the Board of Directors**  
**Retired Employees of Alameda County**  
**Monday August 10, 2020, 9:30 A.M.**

**Zoom Video Conferencing Board Meeting**

Mary Miller, President of the Board, called the meeting to order at 9:30 A.M.

**Roll Call:** Mary Miller, Marian Breitbart, Paul Reeves, Suman Sharma, Renaye Johnson, Connie Land, Mike Smart, and Liz Koppenhaver were present. Dave Nelson, ACERA Chief Executive Officer, Nancy Reilly, REAC member and ACERA alternate retired board member, and Mike Fara, ACERA Staff Representative, were also present.

**Minutes:** Minutes of the July 13, 2020 were reviewed. No errors or corrections were noted. Marian motioned that the Minutes from the July 13, 2020 Board meeting be approved as submitted. Liz seconded the motion and the motion was approved with one abstention.

**ACERA CEO:** Dave Nelson, ACERA Chief Executive Officer, provided an update on the California Supreme Court decision in the 2012 “Vested Rights” Lawsuit. Laws that passed in 2012 (at the same time as the Public Employees’ Pension Reform Act “PEPRA” of 2013) ordered county retirement boards to stop counting certain cash received during service and at termination of employment in a legacy member’s benefit calculation. Legacy members generally are those members who have entry dates into ACERA membership prior to January 1, 2013, which was the effective date of PEPRA.

The case was about the definition of “compensation earnable,” which is the salary component of the formula used for determining a member’s retirement allowance. In 2012, the California Legislature made changes to the definition of “compensation earnable.” Those changes, which were set to go into effect on January 1, 2013, excluded from “compensation earnable” some items of pay that ACERA had been including for many years, pursuant to a court-approved settlement agreement.

The plaintiffs in the case sued to prevent ACERA from implementing the legislative changes that were set to go into effect on January 1, 2013. The plaintiffs argued that the changes violated the settlement agreement and the “California Rule,” which generally prevents reductions to members’ benefits after they start working. ACERA took a neutral position on the “California Rule,” but the State intervened to defend the legislative change. The trial court ordered ACERA not to implement the changes until July 12, 2014, at which time the trial court ordered ACERA to implement the changes, with some direction from the trial court regarding how to implement the changes.

The plaintiffs appealed the trial court’s decision. After an appellate decision by the First District Court of Appeals, the California Supreme Court decided to review the case. The California Supreme Court issued its opinion on July 30, 2020. The main point of the opinion is to affirm that ACERA must apply the original January 1, 2013 changes to the definition of “compensation earnable,” which is essentially how ACERA has been calculating “compensation earnable” for members who have retired since July 12, 2014.

Based in this decision, ACERA will continue its current practice regarding pay items and retirement allowance calculations. The trial court will have to settle certain remaining issues: The court-ordered

treatment of how ACERA currently addresses some pay items, such as stand-by-pay, will need to be examined and ruled on as to whether it complies with the Supreme County ruling. Some Tier 1, 2, and 3 members may be due a limited refund of retirement contributions on any disallowed pay items.

**Announcements:** No announcements or communications were reported.

### **Reports**

**ACERA:** Mike Fara reported on the August 5, 2020 Retirees Committee Meeting. There were two Action items and one Information item.

The first Action Item was a recommendation that the Retirees Committee recommend to the Board of Retirement a motion to continue the dental plan contributions for Plan Year 2021, which provides a monthly subsidy equal to the single-party dental plan coverage premium of \$44.15 for the PPO plan and \$22.18 for the DeltaCare USA plan for retirees who are receiving ACERA allowances with ten or more years of ACERA service, are service connected disability retirees, or are non-service connected disability retirees as of January 31, 2014. This represents an increase of 5.6% for PPO plans and no increase for DeltaCare USA. This is a non-vested benefit funded by contributions from the ACERA employers to the 401(h) account. After contributions are made in accordance with the County Employees Retirement Law, ACERA treats an equal amount of Supplemental Retiree Benefit Reserve (SRBR) assets as employer contributions for pensions. The Retirees Committee voted to approve the recommendation.

The second Action Item was a recommendation that the Retirees Committee recommend to the Board of Retirement a motion to continue the vision plan contributions for Plan Year 2021, which provides a monthly subsidy equal to the single-party vision plan coverage premium of \$3.97 for retirees who are receiving ACERA allowances with ten or more years of ACERA service, are service connected disability retirees, or are non-service connected disability retirees as of January 31, 2014. This represents a decrease of -6.4% for the Standard Plan and a -3.5% decrease for the Buy-Up-Plan. This is a non-vested benefit funded by contributions from the ACERA employers to the 401(h) account. After contributions are made in accordance with the County Employees Retirement Law, ACERA treats an equal amount of Supplemental Retiree Benefit Reserve assets as employer contributions for pensions. The Retirees Committee voted to approve the recommendation.

The Information Item was an update regarding the shift from an in-person Health and Wellness Fair to a virtual Health and Wellness Fair for the end of October 2020. In order to responsibly practice social distancing and help prevent the spread of COVID-19, ACERA is working with their carriers to provide their members a virtual opportunity to hear from them and interact with them online. As with every ACERA Health Fair Event, other vendors will also have an opportunity to provide information regarding their services and wellness resources during this virtual event.

Connie asked if there are currently any plans to change the Open Enrollment process. Mike reported that there are currently no plans to change to the current process.

**Treasurer's Report:** Suman presented the July 2020 Treasurer's Report. Receipts totaled \$8,469.47 and Disbursements were \$3,036.68. There were no unusual receipts. The only unusual disbursement was the addition of \$14.99 for the monthly cost of the Zoom Board Meetings. Paul motioned that the July 2020 Treasurer's Report be approved as submitted. Mike seconded the motion and the motion was approved.

Suman recommended that the Board consider transferring some of the funds currently in the REAC checking account, to the REAC Certificate of Deposit. After some discussion, Mike motioned that Suman be authorized to transfer \$50,000.00 from the REAC checking account to REAC's CD. Connie seconded the motion and the motion was approved.

**CRCEA:** There was no additional information to report.

**SACRS:** Paul reported that SACRS was still considering holding a Fall Conference. It is tentatively scheduled to take place November 10-13, 2020, at the Renaissance Esmeralda Resort & Spa, in Indian Wells, California. However, registration, event listings, etc., are currently on hold due to COVID-19 and he felt, given the logistical challenges, that it would probably be cancelled.

SACRS is continuing to offer webinars on a variety of subjects, many of which might be of interest to our Board members. The webinars dates and topics can be found on the SACRS website. Paul motioned that REAC Board members be authorized to attend SACRS webinars and be reimbursed for their expenses. Marian seconded the motion and the motion was approved.

**Retirement Board:** There was no additional information to report.

**Investment Committee:** There was no new information to report.

**Health Care:** Rosalie was unable to attend today's meeting and there was no new information to report.

**Activities:** Rosalie was unable to attend today's meeting and there were no updates to report. The Board discussed how to proceed with a Fall Luncheon, and a Spring Membership meeting, if COVID-19 was still a problem. Virtual meetings are certainly possible, but not ideal. Mary requested that the Board give some additional thought to various options and the item will be carried over to the September 14, 2020 Board meeting.

**Membership and Recruitment:** Connie reported that as of July 31, 2020 membership stood at 3,949 members.

**REAC News:** The next REAC News will include information concerning the Supreme Court decision, ACERA's new website, Open Enrollment and November Voting.

**New Business:** There was no new business to report.

**Administrative Staff Position:** Connie reported that she and Charo Panesi will be meeting on August 18, 2020 to discuss the issues related to a transfer of responsibility for Membership and Recruitment.

**New Business:** There was no new business to report.

**For the Good of the Order:** There was nothing new to report.

Meeting adjourned at 10:30 a.m.

Respectfully submitted by Paul Reeves, Board Secretary

**Next Meeting: September 14, 2020, 9:30 a.m. (Monday)**  
**Zoom Video Conferencing**