



San Bernardino County Employees' Retirement Assoc.

Staff Report Details (With Text)

File #: 19-412 **Name:**

Type: Action Item

File created: 7/3/2019 **In control:** EXECUTIVE COMMITTEE

On agenda: 8/1/2019 **Final action:** 7/17/2019

Title: Recommend that the Board support legislative proposals to SACRS on survivor continuance payments to children over 18 and military service purchases.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit A: 2020 SACRS Legislative Platform Worksheet - Continuance Payment to Children Over 18, 2. Exhibit B: 2020 SACRS Legislative Platform Worksheet - Military Service Purchases.V2.pdf

Date	Ver.	Action By	Action	Result
7/17/2019	1	EXECUTIVE COMMITTEE		

FROM: Barbara Hannah, Chief Counsel

SUBJECT: SACRS Legislative Proposals

RECOMMENDATION:

Recommend that the Board support legislative proposals to SACRS on survivor continuance payments to children over 18 and military service purchases.

BACKGROUND:

The State Association of County Retirement Systems (SACRS) encourages legislative proposals from member systems. Proposals are generally focused on improving and clarifying the County Employees' Retirement Law of 1937 (CERL). Proposals are first submitted to the SACRS Legislative Committee for review and recommendation. Once a proposal has been vetted by the Legislative Committee, it is put before the membership for vote at one of the biannual SACRS business meetings. Upon approval by the membership, the proposal is presented to potential sponsors in the Legislature.

Currently, the Legislative Committee is working on proposals for a CERL omnibus bill that will address a number of issues in the CERL such as correcting erroneous cross references, aligning CERL system retirement application deadlines with CalPERS, and clarifying service retirement dates.

SBCERA staff is recommending two proposals for the omnibus bill. The first would clarify existing language regarding survivor continuance payments to children over the age of 18. The second would bring the CERL into compliance with federal law concerning service purchases of leaves of absence for service in the armed forces. Those two proposals are discussed in further detail below, and in the accompanying legislative proposal worksheets.

Survivor Continuance Payments to Children Over 18

The CERL contains multiple sections that provide for survivor continuance payments to spouses and children. Payments to children are generally made to children up to age 18 if there is no surviving spouse. If a child remains unmarried and is enrolled as a full-time student in an accredited school, the benefit continues “through the age of 21.”

The language “through the age of 21” is vague. Retirement systems subject to CERL have interpreted the language to mean up to the date the child turns 22. Another interpretation, however, is that “through the age of 21” means through the child’s 21st birthday.

Adding to the confusion for SBCERA is Government Code section 31855.3 in CERL Article 15.6. This article provides for survivor benefits in lieu of Social Security. Section 31855.3 defines, in relevant part, a child as unmarried and “Between 18 and 22 years of age, and enrolled as a full-time student in an accredited school, as determined by the board. SBCERA interprets this section to provide a benefit up to the child’s 22nd birthday, but the section could be read to provide a benefit up to the child’s 23rd birthday.

SBCERA staff is proposing amendment of the relevant sections of the CERL to clarify these issues. The proposed language in Exhibit A would clarify that benefits are to be paid to a child up to the child’s 22nd birthday as long as other criteria are met. This clarification will benefit SBCERA and other CERL systems by providing definite parameters for payment of survivor benefits to children.

Military Service Purchases

The current sections of CERL concerning service purchases for members who take a leave of absence to enter active military service are not in compliance with federal law. Specifically, Government Code section 31649 provides that a retirement system shall begin taking member contributions for the leave of absence when the member returns to county or district service unless the member opts out of the service purchase within 90 days of returning to county or district service.

Conversely, federal law, specifically the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), provides that the member may opt to purchase the service at any time prior to retirement if the member qualifies for USERRA rights. The automatic deduction of contributions for military service in CERL are in conflict with USERRA. When state law conflicts with federal law, federal law will control.

SBCERA staff is proposing that Government Code section 31649 be amended to specifically comply with USERRA. Staff is further proposing that current sections implementing section 31649 be repealed. Finally, staff is proposing that provisions for military service purchases not covered by USERRA be combined so that military service purchases are covered under a single section of CERL. The proposed language in Exhibit B brings the CERL into compliance with USERRA; repeals sections 31649.5, 31649.6, 31650, and 31651; and, consolidates military service purchases under one section of the CERL.

These changes will provide clarity to SBCERA staff and to other CERL systems by deleting CERL provisions that are in conflict with federal law.

BUDGET IMPACT:

None.

STRATEGIC PLANNING GOAL/OBJECTIVE:

Operational Excellence & Efficiency

STAFF CONTACT:

David Lantzer

ATTACHMENTS:

Exhibit A: 2020 SACRS Legislative Platform Worksheet: Survivor Continuance
Payments to Children Over 18 Years of Age

Exhibit B: 2020 SACRS Legislative Platform Worksheet: Military Service Purchases