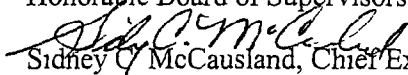


COUNTY OF SAN MATEO
INTER-DEPARTMENTAL CORRESPONDENCE

March 7, 2001

To Honorable Board of Supervisors
From  Sidney C. McCausland, Chief Executive Officer, SamCERA
Subject Approval of Amendments to the *Regulations of the Board of Retirement*

RECOMMENDATION

The Board of Retirement recommends that the Board of Supervisors adopt the attached Resolution (1) implementing Government Code §31485.7 and (2) approving the following amendments to the *Regulations of the Board of Retirement*

BACKGROUND Government Code §31525 states that *The board [of retirement] may make regulations not inconsistent with this chapter [the '37 Act] The regulations become effective when approved by the board of supervisors.* The *Regulations of the Board of Retirement* set forth San Mateo County's implementation of the provisions of the County Employees Retirement Law. The following proposed amendments are as set forth in the Minutes of the February 27, 2001 Meeting of the Board of Retirement.

Amendment 6 will only be effective if the Board of Supervisors implements GC§31485.7, as set forth in the attached resolution on page 6.

AMENDMENTS AND ADDITIONS TO THE *REGULATIONS OF THE BOARD OF RETIREMENT*

(1) **Amend Regulation 2.7.3**, as follows

2.7.3 *Regular Meetings* Regular meetings of the Board shall be held on the Fourth Tuesday of each month. Meetings shall begin at 1:00 p.m. ~~9:00 a.m.~~ Meetings shall be held in SamCERA's offices. The Board may approve a change in the date, time and/or location of meetings within the County, if the proposed change is included on the agenda of a regular meeting.

DISCUSSION This amendment will make it easier for the County to be represented at meetings of the Board. In the past, the Board of Retirement has met at the same time that the Board of Supervisors met, making it difficult for County officers to participate in both meetings.

(2) **Amend Article 3 - Election of Trustees**, as follows

3.1 **REGULAR ELECTIONS** ~~The Administrator shall designate for each election an Elections Officer.~~ The Chief Elections Officer for the County of San Mateo shall be responsible for the conduct of the election and shall report directly to the Board in all matters pertaining to the election. For the purposes of this Article, "Chief Elections Officer" shall mean "Chief Elections Officer, or his or her designee." ~~The Elections Officer shall be an employee of the County Elections Division.~~ The Chief Executive Officer Administrator shall provide to the Chief Elections Officer sufficient copies a copy of the Nominating Petition, Ballots, Candidates Statements, the "List of Eligible Candidates and Nominators", and the List of Eligible Voters" Election Regulations and other necessary election materials for timely use in accordance with the schedule set forth in this Article. There shall be two lists provided by the Chief Executive Officer. The lists shall be defined as follows: the "List of Eligible Candidates and Nominators" shall include those names of members who are eligible to sign Nomination papers and/or run for office as set forth in section 3.1.03 and 3.1.04 and shall be provided no later than the Friday prior to the third Monday in April of the election year, the "List of Eligible Voters" shall include those names of members who are eligible to vote in the election as set forth in section 3.1.12, and shall be provided no later than the Thursday prior to the first day ballots may be mailed to those voters.

3.1.01 **Election Day** Regular Elections shall be held on the second Monday in June of the years in which the terms of elected Trustees expire. Special Elections shall be held in accordance with section 3.2 of this Article. ~~Ballots shall be filed with the Elections Officer no later than 5:00 P.M. of the second Monday in June.~~

- 3 1 02 *Notice of Election* The Chief Executive Officer Administrator shall distribute a Notice of Election on or before the first Monday in April of election years. The Notice shall include, but not be limited to, the Qualification of Candidates, the process for obtaining copies of the Nominating petition and Election Regulations, the Date of the Election, and the name and address of the Chief Elections Officer.
- 3 1 03 *Qualifications of Candidates* A candidate for Second or Third Trustee shall be a General Member of SamCERA. A candidate for Seventh Trustee shall be a Safety Member of SamCERA. A candidate for Eighth Trustee shall be a Retired Member of SamCERA. To be eligible, a candidate shall be a member of his or her respective group at the close of the pay period immediately preceding the beginning of the Nomination/Declaration of Candidacy period. The Chief Elections Officer shall compare the names of candidates with the "List of Eligible Voters Candidates and Nominators" provided by the Administrator. If the Chief Elections Officer finds that the candidate does not meet the qualifications set forth in this Section and Section 3 1 04, the Chief Elections Officer shall disqualify the candidate.
- 3 1 04 *Nominating Petitions/Declaration of Candidacy* On and after the third Monday in April, Qualified Candidates may obtain a Nominating Petition or Declaration of Candidacy, a copy of the Code of Fair Campaign Practices as it appears in the California Elections Code, and a copy of these Election Regulations from the Chief Elections Officer. Candidates for Second, Third and Seventh Trustee shall be nominated by a petition signed by not less than ten SamCERA Members eligible to sign the candidate's petition. SamCERA's General Members are eligible to sign a petition for a candidate for Second or Third Trustee. SamCERA's Safety Members are eligible to sign a petition for a candidate for Seventh Trustee. SamCERA's Retired Members are eligible to nominate themselves as a candidate for Eighth Trustee by filing a Declaration of Candidacy with the Chief Elections Officer. To be eligible to sign petitions, or to nominate yourself, a member's name shall be included on the "List of Eligible Candidates and Nominators". No member shall sign more than one Nominating Petition for each election. Signed Nominating Petitions and Declarations of Candidacy must be filed with the Chief Elections Officer no later than 5 00 P M of the first Monday in May. Candidates who file Nominating Petitions filed after the deadline will be disqualified. Prospective candidates shall appear in person to receive candidate papers from, and to deliver candidate papers to the Chief Elections Officer. If a prospective candidate is unable to appear in person, they shall designate in writing an agent to receive and/or deliver the candidate's Nomination Papers or Declaration of Candidacy on their behalf.
- 3 1 05 *Withdrawal* Candidates may withdraw from the election no later than 5 00 P M of the first Monday in May by filing a written statement of withdrawal with the Chief Elections Officer.
- 3 1 06 *Qualification of Signatures-Candidates and Nominators* The Chief Elections Officer shall compare the names and signatures on Nominating Petitions and Declarations of Candidacy with the "Lists of Eligible Voters Candidates and Nominators" provided by the Administrator. If the Chief Elections Officer finds that less than the number of qualified signatures specified in 3.1 04 have been submitted, the Chief Elections Officer shall disqualify the candidate.
- 3 1 07 *Less than Two Qualified Candidates* If the Chief Elections Officer finds determines that there is one Qualified Candidate ~~or less~~, the Chief Elections Officer shall ~~advise the Board of this finding~~. ~~If there is only one candidate, the Board may cancel the election and declare~~ certify the single candidate elected. If there are no qualified candidates, the Chief Elections Officer shall notify the Board who shall reschedule the election. ~~and instruct the Administrator~~ The Chief Executive Officer shall re-notice the Election to distribute a new Notice of Election. Any election that has been re-noticed shall be held in accordance with the provision for Special Elections.
- 3.1 08 *Candidate Statements.* The Chief Elections Officer shall accept, ~~and the Administrator shall~~ reproduce and include with the ~~Ballet~~ ballot, a Candidate Statement listing the name of the candidate and of not more than ~~250~~ 300 words. Candidate Statements shall be limited to a recitation of the candidate's own personal background and qualifications and shall not make any reference to other candidates or to another candidate's qualifications. Statements that do not meet these requirements shall not be

accepted, but may be resubmitted up to the filing deadline. The counting of words will be in accordance with the California Elections Code. If the Chief Elections Officer determines that an acceptable Candidate Statement is not submitted by the deadline, the candidate will not have one included with the ballot. Candidate Statements must be filed with the Chief Elections Officer no later than 5:00 P.M. of the first Monday in May. Statements shall be printed as submitted. No Candidate, for any reason, may withdraw or change his or her Candidate's Statement after this deadline. Statements filed pursuant to this section shall remain confidential until the expiration of the filing deadline.

3.1.09 Challenges to Statements. No later than 5:00 P.M. on the first Thursday in May following the first Monday in May, a candidate may challenge by writ of mandate or injunction filed with the Superior Court of San Mateo County, which requests that the decision of the Chief Elections Officer to accept or reject a candidate's statement be reversed and/or that the statement in question is false, misleading, or inconsistent with the requirements of section 3.1.08. The peremptory writ of mandate or injunction shall be issued only upon clear and convincing proof and a finding that an order would not substantially interfere with the printing or distribution of official election materials.

3.1.10 Ballots. The Chief Elections Officer shall certify for inclusion on the ballot the names of Qualified Candidates who submitted Nominating Petitions containing the number of qualified signatures specified in 3.1.04. The Chief Elections Officer shall determine by lot the order in which Candidates candidates shall appear on the ballot. There is no provision for write-in candidates. The Administrator Chief Elections Officer shall provide for the preparation of a number of ballots sufficient to supply one to each SamCERA Member eligible to vote in each election. The Administrator Chief Elections Officer shall provide for the mailing of ballots to the member's home address. Ballots shall be in the mail no later than midnight of the fourth Monday in May. Ballots shall be mailed no earlier than the third Friday in May and no later than the fourth Friday in May. Ballots mailed to Retired Members shall include a return envelope bearing prepaid postage. The Elections Officer shall provide for the replacement of lost ballots. The Chief Elections Officer shall make available a replacement ballot upon request by any eligible member who lost or did not receive his or her ballot. Requests may be made in person, in writing, by e-mail, fax or by telephone. A replacement ballot will not be provided to any one other than the member who requested the replacement ballot. Candidates are specifically prohibited from handling ballots, whether voted or unvoted, sealed or unsealed, other than their own. Voted ballots must be east received by the Chief Elections Officer on or before Election Day. Any voted ballot that is U.S. Postmarked on or before Election Day and received by the Chief Elections Officer on or before 5:00 P.M. on the Friday following the Election Day, shall also be counted.

3.1.11 Ballot Designation. There shall be no ballot designations on the ballot.

3.1.12 Qualification of Voters. The Chief Elections Officer shall confirm the name on the outer ballot envelope with the "List of Eligible Voters" provided by the Administrator. SamCERA's General Members are qualified to elect the Second and Third Trustees. SamCERA's Safety members are qualified to elect the Seventh Trustee. SamCERA's Retired Members are qualified to elect the Eighth Trustee. To be eligible to vote, a member shall be a part of his or her respective group at the close of the pay period immediately preceding the first day that ballots may be mailed per these bylaws. The Elections Officer shall void all duplicate and invalid ballots east, all ballots which bear the signature of the voter on the ballot itself and all ballots which do not bear the signature of the voter on the outside of the envelope.

3.1.13 Counting of Ballots. Ballots shall be counted on the Tuesday immediately following Election Day. The Chief Elections Officer shall supervise the counting of ballots. A candidate certified as the winner must receive the highest number of votes cast. In the event of a tie vote, the Chief Elections Officer shall determine the winning candidate by lot.

3.1.14 Voided Ballots. The Chief Elections Officer shall void all of the following ballots: duplicate ballot cast, all ballots which bear the signature or initials of the voter on the ballot itself, ballots which do

not bear the signature of the voter on the outside of the envelope or where it is not possible to determine who submitted the ballot, envelopes containing more than one ballot, and ballots where the Chief Elections Officer cannot determine the voter's intent. Any names written in on a ballot, other than the name of a qualified candidate, will not be counted or reported in the Certification of the Election Results.

- 3 1 15 Certification of Election Results The Chief Elections Officer shall canvass and certify the results of the election no later than the Friday following the election ~~to the Board on the form provided by the Administrator~~
- 3.1 16 Receipt & Safekeeping of Ballots Cast. The Chief Elections Officer shall accept and provide for the safekeeping of all ballots cast. Ballots must be retained for 180 days after Election Day, and, in the absence of litigation, may be discarded thereafter
- 3 1 17 Recount Upon written application to the Chief Elections Officer, and within five (5) calendar days of the Chief Elections Officer's Certification of Election Results, any candidate may order a recount of all votes cast. Prior to a recount, the candidate requesting a recount must agree to pay for the actual cost of the recount. The Chief Elections Officer shall determine an estimated cost for a recount and the candidate requesting the recount must deposit with the Elections Officer payment for the estimated cost. The candidate will be under no obligation to pay for the recount if the recount shows a change in the outcome of the election. The recount shall be conducted in the same manner as the original count.
- 3 1 18 Appeals Contests ~~Decisions~~ Election results of the Elections Officer and the Administrator may be appealed contested by a candidate upon filing a verified petition with the Superior Court of the County of San Mateo to the Board in writing within 15 calendar days of the issuance of the Certified Election Results by the Chief Elections Officer ~~written decision~~ Candidates may contest the election on the following grounds: a) that the person who has been declared elected to an office was not, at the time of the election, eligible for that office, b) that the candidate or his or her agent has given to a member a bribe or reward or offered any bribe or reward for the purpose of procuring his or her election, c) that a sufficient number of votes were illegal, fraudulent, forged, or otherwise improper, and that had those votes not been counted, the person having been declared elected would not have received more votes than the contestant, and/or d) that the Chief Elections Officer in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election as to any person who has been elected. The acceptance or rejection of a candidate's statement of qualifications by the Chief Elections Officer shall not constitute grounds for a new election. A hearing on the contest shall be set by the Court. The decision of the Board shall be final, subject to review by the court. The Court's decision shall be based upon clear and convincing proof of the allegations. If the Board orders a new election based upon the Court's decision, it shall be held in accordance with the provisions for Special Elections.
- 3 1 19 Oath of Office Newly elected Trustees shall be sworn-in during the Board's first meeting in July
- 3 2 SPECIAL ELECTIONS The Chief Executive Officer ~~Administrator~~ shall advise the Board when a vacancy occurs and shall recommend a date for a Special Election to fill the vacancy. If the vacancy occurs within nine months of the end of the term of the seat which has been vacated, ~~then~~ there shall be no Special Election ~~need be called~~. If the vacancy occurs more than nine months prior to the end of the term, the Board shall call a Special Election, which shall be held not less than 90 nor more than 120 days from the date the seat was vacated. Special Elections shall be conducted in conformance with the provisions of this Article for Regular Elections, except that the schedule shall be adjusted by the ~~Administrator~~ Chief Elections Officer to comply with the date of the Special Election set by the Board
- 3 3 REIMBURSEMENT FOR SERVICES The SamCERA Board of Retirement will reimburse the Chief Elections Officer for the election services provided.
- 3 4 PUBLIC INFORMATION During the ninety days preceding Election Day, no newsletter or other one-time publication intended for the use of SamCERA's members will be distributed by SamCERA which

includes the name of any incumbent candidate for an election conducted pursuant to these regulations
This moratorium shall not apply to standard publications such as member booklets, annual reports and other documents of a similar nature

DISCUSSION The County's Chief Elections Officer and County Counsel prepared the Election Regulation amendments based upon concerns and recommendations raised by trustees and candidates during past elections

(3) Add the following amendment at the end of Regulation 6.6.6

A member who redeposits previously withdrawn funds will be reinstated into the Plan from which the funds were withdrawn

DISCUSSION The *Acquilino* decision requires 37 Act Systems to reinstate members who redeposit into the plan they left. This amendment formalizes action already approved by motion of the Board

(4) Add the following amendment at the end of Regulation 6.8.2.1

6.8.2.1 Compensation earnable includes all base pay (001) and 001 replacement pay which the Board defines as compensation paid to employees when they are off work and paid for those hours under County leave programs for which the County provides compensation, including sick leave with pay (035), family sick leave (038), vacation pay (041), holiday regular pay (043), holiday hours used (048), compensatory time used (052), administrative leave (054), jury duty (055), military leave (056), educational leave with pay (057), other leave with pay (058), disability leave with pay (059), management overtime (064), and voluntary time off (090), annual in-service vacation cash-outs and annual in-service management administrative leave cash-outs (102)

DISCUSSION This amendment completes the Board's compliance with the provisions of the Supreme Court's *Ventura* decision. The County was not allowing in-service cash-outs when the Regulations were last amended. The current policy is restricted and will not result in significant actuarial cost. However, if in-service cash-outs are extended to bargaining units in the future, the actuarial cost could become significant.

(5) Add the following amendment at the end of Regulation 6.7.2.

Credit shall be given for all County service reported as Voluntary Time Off Hours Used (090), retroactive for Active Members to the inception of the program in 1977.

DISCUSSION VTO participants' hourly pay is reduced by the percentage of their total biweekly hours that they contract to take as VTO. SamCERA has been collecting contributions on the VTO hours, but not crediting service credit for those hours, in accordance with the County policy adopted at the inception of the VTO program. County Counsel and the County Manager concur that VTO hours should be included in service credit.

(6) Adopt the attached Resolution implementing GC§31485.7 and add the following new regulation at the end of Regulation 10.1.4

10.1.5 A member who elects to purchase service credit pursuant to these Regulations shall complete that purchase within 120 days after the effective date of his or her retirement per GC§31485.7. This regulation shall not be operative unless and until GC§31485.7 is implemented by the Board of Supervisors.

DISCUSSION 1996 SACRS-sponsored legislation added GC§31485.7. The new section permits retiring members to complete the purchase of service within 120 days after their date of retirement. Currently all purchases must be completed prior to retirement. The change would allow members to use their terminal pay to complete the purchase of service. There would be a small actuarial cost to the County if a significant number of members chose to purchase service credit at retirement, but in reality the cost impact should be insignificant. Usually the only service available for purchase is extra help time.

RESOLUTION NO _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

RESOLUTION ADOPTING RECOMMENDATIONS
MADE BY THE BOARD OF RETIREMENT
PURSUANT TO GOVERNMENT CODE SECTION 31525

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, Government Code §31525 states that *The Board [of Retirement] may make regulations not inconsistent with this chapter [the '37 Act] The regulations become effective when approved by the Board of Supervisors;* and

WHEREAS, Government Code §31485 7 states, in pertinent part, that *.A member who elects to purchase retirement service credit . shall complete that purchase within 120 days after the effective date of his or her retirement This section shall not be operative in any county until the Board of Supervisors, by resolution, makes this section applicable in the county,* and

WHEREAS, the Board of Retirement has recommended the implementation of Government Code §31485 7, and

WHEREAS, the Board of Retirement has recommended the approval of amendments to the *Regulations of the Board of Retirement* as set forth in the Minutes of the February 27, 2001 Meeting of the Board of Retirement, and

WHEREAS the Board has reviewed the recommendations and finds them to be in the best interest of the members, retirees and beneficiaries of the Retirement System

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED, that

- 1 The provisions of Government Code §31485 7 are applicable in this county.
- 2 The amendments to the *Regulations of the Board of Retirement* as set forth in the Minutes of the February 27, 2001 Meeting of the Board of Retirement are approved.