MEETING

STATE OF CALIFORNIA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF ADMINISTRATION

PENSION & HEALTH BENEFITS COMMITTEE

OPEN SESSION

CALPERS AUDITORIUM

LINCOLN PLAZA NORTH

400 P STREET

SACRAMENTO, CALIFORNIA

TUESDAY, NOVEMBER 15, 2022

9:00 A.M.

JAMES F. PETERS, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

APPEARANCES

COMMITTEE MEMBERS:

Rob Feckner, Chairperson

Ramon Rubalcava, Vice Chairperson

Lisa Middleton

David Miller

Eraina Ortega

Jose Luis Pacheco

Theresa Taylor

Mullissa Willette

Betty Yee, represented by Karen Greene Ross

BOARD MEMBERS:

Fiona Ma, represented by Frank Ruffino

STAFF:

Marcie Frost, Chief Executive Officer

Matt Jacobs, General Counsel

Donald Moulds, PhD, Chief Health Director

Anthony Suine, Deputy Executive Officer

Rob Jarzombek, Chief, Health Account Management Division

Julia Logan, Chief Medical Officer

Renee Ostrander, Chief, Employer Account Management Division

APPEARANCES CONTINUED

ALSO PRESENT:

Tim Behrens, California State Retirees

Al Darby, Retired Public Employees Association

David De Alba

Johnnie Pina, League of California Cities

William Stewart

Patrick Whalen, CASE

Larry Woodson, California State Retirees

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PROCEEDINGS

CHAIRPERSON FECKNER: Good morning, everybody. We'd like to call the Pension and Health Benefits Committee meeting to order. The first order of business will be to call the roll

COMMITTEE SECRETARY: Rob Feckner?

CHAIRPERSON FECKNER: Good morning.

COMMITTEE SECRETARY: Ramon Rubalcava?

VICE CHAIRPERSON RUBALCAVA: Present.

COMMITTEE SECRETARY: Lisa Middleton?

COMMITTEE MEMBER MIDDLETON: Present.

COMMITTEE SECRETARY: David Miller?

COMMITTEE MEMBER MILLER: Here.

COMMITTEE SECRETARY: Eraina Ortega?

COMMITTEE MEMBER ORTEGA: Here.

COMMITTEE SECRETARY: Jose Luis Pacheco?

COMMITTEE MEMBER PACHECO: Present.

COMMITTEE SECRETARY: Theresa Taylor?

COMMITTEE MEMBER TAYLOR: Here.

COMMITTEE SECRETARY: Mullissa Willette?

COMMITTEE MEMBER WILLETTE: Here.

COMMITTEE SECRETARY: Karen Greene Ross for Betty Yee.

ACTING COMMITTEE MEMBER GREENE ROSS: Here.

CHAIRPERSON FECKNER: Thank you. We're now going to recess into closed session for items 1 to 4 of the closed session agenda. Immediately upon adjournment of the closed session, we will be going into open session. I would assume it will be around an hour, so don't run too far away in the hour time period. It could go a little longer depending on questions, but we hope to back somewhere around 10 o'clock.

So at this time, we are going to recess the open session and go into close. If we could please clear the room.

(Off record: 9:01 a.m.)

(Thereupon the meeting recessed into closed session.)

(Thereupon the meeting reconvened Open session.)

(On record: 10:37 a.m.)

CHAIRPERSON FECKNER: All right. We'd like to convene the open session of the Pension and Health Committee. Thanks for coming back and taking the time to wait for us outside. We were able to ask a lot of questions, which should help streamline today.

We start with our number two, Executive Report, Mr. Suine.

DEPUTY EXECUTIVE OFFICER SUINE: Good morning, Mr. Chair, members of the Committee. I'm Anthony Suine, CalPERS steam member, and again grateful for the opportunity to be in front of you today.

Today, our team will be presenting on a couple of agenda items, an action item on defining limited duration and regulation -- in regulations, and also an information item providing you an overview of the internal revenue code 415(b).

So I'll keep my update short. I just want to touch on our Contact Center performance during open enrollment and a few remarks on our team's involvement at the Ed Forum earlier this month. But first, I'd like to thank Controller Yee through Ms. Greene Ross for her service on our Committee, and the support she's provided our team over the years. And I got -- glad I got a chance to work with her and her reps over the years, so I wish her well in her future endeavors.

And to you, Mr. Feckner, your tenure on the Board has spanned nearly my entire career here at CalPERS. I thank you for all you've done for me to help me along my career, the recognition you've provided our team over the years, and the advocacy for our members and their right to the very best service, which I hope we've been able to deliver on a majority of the time. You always fought for the rights of the member, but also understood and helped communicate our need to uphold the laws when the outcomes were not exactly what was expected and appreciate that balance you provided. Thank you for all the fun and energy you brought to the organization and all the great times we enjoyed together. I appreciate your friendship and look forward to starting our bocce ball consulting business when I enter retirement.

(Laughter).

DEPUTY EXECUTIVE OFFICER SUINE: Congratulations, Rob. Thank you.

CHAIRPERSON FECKNER: Excellent and thank you very much and you earned it. Thank you.

(Applause).

DEPUTY EXECUTIVE OFFICER SUINE: So on to business during our recent open enrollment period, the Contact Center repeated their excellent performance from last year. We received over 113,000 calls during the period, which was one percent more than 2021. We still managed an average wait time of under eight minutes during that time frame, which was on par with last year and we received thousands of customer satisfaction surveys from that period of time. And our agents received over a 93 percent satisfaction rating, which was also on par with last year.

While this is always a stressful time for our agents, trainers, and support teams, getting to the end and being successful makes it all worth it. So I wanted to express my sincere appreciation to the team for all their hard work during the time.

I also wanted to take a moment to acknowledge our CSS presenters and exhibitors, who represented CalPERS at our educational forum earlier this month. Our team members presented at most of the highest attended sessions and exhibits and they all did a great job. And meeting face-to-face with our employers is great for building our relationships and collaborating on solutions. We had a few issues that cropped up at the time of the forum and were able to resolve them quickly in real-time without multiple back and forth, so we really value that time with the employers face-to-face.

That concludes my report and I'm happy to take any questions.

CHAIRPERSON FECKNER: Well, thank you, Mr. Suine. I do want to comment on the Ed Forum. Again, it was a wonderful experience. I wish that more of our -- the attendees would have talked to our folks at the little kiosks in the vendor area. They seemed to be a little forlorned in there every now and then, but it was overall a great presentation again. And I want to give a shout-out to you and your team and everybody that was involved. It was great work. I want to tell Mr.

Teykaerts, he did a great job at quote/unquote hosting the event. Everything seemed to run very smoothly from our point of view. I'm sure it was like ducks under the water at some point for you folks, but for us it was very smooth, so thank you.

Mr. Moulds.

CHIEF HEALTH DIRECTOR MOULDS: Great.

CHAIRPERSON FECKNER: Microphone.

CHIEF HEALTH DIRECTOR MOULDS: Just like clock work. Good morning.

(Laughter)

CHIEF HEALTH DIRECTOR MOULDS: Mr. Chair committee members, Don Moulds, Chief Health Director. So I also want to take a moment of personal privilege, if that's okay, to thank Controller Yee and to thank Ms. Greene Ross both for their support of me, of my team, and all of the things that we're trying to accomplish in the health, program and also for never sparing us a hard question.

(Laughter).

CHIEF HEALTH DIRECTOR MOULDS: They make us better and we appreciate them, and we know where they're coming from, so it was -- it's been wonderful working with you for the last three plus years.

And I also want to take a moment on behalf of the entire team to thank you, Mr. Feckner, for your years of dedication and service to our one and a half million members. As Chair of this Committee, you've provided our team with exceptional leadership, and particularly with exceptional support, and advocated and made our program better for all of our members, which as you constantly remind us, is what it's all about.

It's been a pleasure and a privilege to work with you. We mean that from our hearts. And so we say thank you and we wish you the best in your retirement and we hope that you do not be as -- please don't be a stranger.

We're --

CHAIRPERSON FECKNER: Well, thank you. It's been a pleasure and an honor to work with all of you, so thank you.

CHIEF HEALTH DIRECTOR MOULDS: I do have a couple of updates before we dive into the agenda. First, I'm pleased to report that we now have over 150,000 health demographic profiles completed by our members. That's a nearly hundred thousand member improvement since September, so much higher than we would have anticipated. We want to thank the Committee for its support and promotion of the profile to its constituents and we thank our members who have completed their profiles so far.

For members, I'll add that it's still not too late to complete it between now and December of 3rd. You're still entitled to receive a $10 Target gift card from your plan, if you complete it. You can complete it in your myCalPERS account or through the link available on our website.

Next, I'm happy to share that we once again completed a successful open enrollment period. This year's plan choices included several service area expansions and benefit design changes you approved. And this year we added new technology to allow active employees with their employers consent to make most health care enrollment changes online in their myCalPERS account.

The -- for 2023 plan year, we saw a 219 percent increase in open enrollment transactions through myCalPERS. I want to thank our Health Account Management Division, the Office of Public Affairs, IT, and our partners sitting to our right in customer service and support. Our collaboration once again provided great service to our members. It was a very smooth open enrollment process this year, guiding them during this very important time.

Finally, two quick items, I want to draw your attention to Item 4c on your agenda today. This is our health benefits annual report for the 2021 plan year. We hope you find it informative and a good resource.

I'd like to thank our team and the CalPERS team members across the enterprise who contributed to the development and delivery of the report.

And lastly, I want to let the Committee and our members know that our 2023 health plan member survey and the supplemental health care experience survey will kick off in January. These annual surveys ask members to tell us about their care and rate their experience with their plan and their pharmacy benefits during the 2022 plan year.

We also use the survey results to measure outcomes and trends, members' care experiences, and their access to care. We would also ask members who receive a survey to respond. It goes a long way to help us make the health program better for all of our members.

And that's it. I'm happy to answer any questions.

CHAIRPERSON FECKNER: Thank you. Ms. Taylor.

COMMITTEE MEMBER TAYLOR: Yes. Thank you, Mr. Chair. Thank you, Don. I really appreciate your update, but what I wanted to comment on was open enrollment. I thought it was amazing. I haven't had to change for a long time. So, of course, I'm remembering having to fill out at your employer, the actual physical form and then turn it in and hope that you guys get it, and I was able to just go online. So I just want to say what a great experience that was and thank you guys very much for making it electronic for us.

CHIEF HEALTH DIRECTOR MOULDS: Well, thank you for -- thank you for that and thank you for doing it that way also.

(Laughter).

COMMITTEE MEMBER TAYLOR: Way easier.

CHIEF HEALTH DIRECTOR MOULDS: Yeah.

CHAIRPERSON FECKNER: Very good. Thank you. Brings us to Agenda Item 3, action consent items. It's the approval of September 21 minutes and today's timed agenda. What's the pleasure of the Committee?

COMMITTEE MEMBER PACHECO: So moved.

CHAIRPERSON FECKNER: Moved ny Mr. Pacheco.

COMMITTEE MEMBER MIDDLETON: Second.

CHAIRPERSON FECKNER: Second by Ms. Middleton.

Any discussion on the motion?

Seeing none.

All in favor say aye.

(Ayes.)

CHAIRPERSON FECKNER: Opposed, no?

Motion carries.

Item 4, information consent items. Having no requests to withdraw anything, we move on to Agenda Item

5, the action agenda.

5a is the proposed regulation for the definition of limited duration employment. Ms. Ostrander, Mr. Suine.

(Thereupon a slide presentation).

DEPUTY EXECUTIVE OFFICER SUINE: Thank you, Mr. Chair, members of the Committee. Again, Anthony Suine, CalPERS team member. With me today is our Chief of our Employer Account Management Division, Renee Ostrander to help me present this item.

DEPUTY EXECUTIVE OFFICER SUINE: This agenda item is an action item to approve the revised proposed regulation to define limited duration with a 15-day comment period, followed by a submission to the Office of Administrative Law if no additional revisions are needed to the regulation.

As a reminder, these limited duration regulations were originally brought forward to the Committee and Board in April, earlier this year. The initial 45-day comment period was mid-June through July. And the attachments to the agenda item include an edited version of the original regulation with the marked changes, a clean version of the new regulation, a detailed summary of all comments received with our proposed responses, and two attachments containing each of the actual comment letters received.

Overall, we received nearly 40 comments from a variety of interested parties. All actionable comments received during the comment period were addressed and incorporated into the revised regulation. Most comments surrounded around three common themes, one being the definition of an appointment, two being the 24 to 48 month consecutive periods, and three, the level of effort needed by employers and any intervention or slow downs from CalPERS, and developing processes to remove too much overhead into the various extension or exemption periods.

So we took all comments into consideration balancing varying views from stakeholders about the regulation being either too restrictive and others claiming it to be too liberal. We did our best to balance the opposing views and feel we have provided employer's need for flexibility and a retired annuitant's desire to continue providing their expertise to public service, while also balancing the requirement to define the term to provide more clarity to all parties on how to administer retired annuitant and temporary upgrade pay appointments.

The process in the regulation is designed to provide efficiency for employers, but builds in rigor and transparency to the public as time in those retired annuitant positions progress.

Throughout the process, we have worked to educate our stakeholders on our revisions to the regulations to adequately address all questions in appropriation for this agenda item. I'd like to turn it over to Renee now to provide a few more specifics on the revisions we've made.

EMPLOYER ACCOUNT MANAGEMENT DIVISION CHIEF OSTRANDER: Good morning. Renee Ostrander, CalPERS team member.

So base on all of those comments that we received during the public comment period as well as our own continued analysis of this, we've made some changes to the proposed regulation from the initial submission that you saw back in April. And while, if you look at the red-lined version, it may look like the changes are pretty significant, much of it is just context. There's not large Substantive changes.

So one of the things that we did was we provided clarity around the term "appointment", so it's understood that a retiree can work for an agency in retirement for someone that they served active. So that was one of the large questions that Anthony talked about. Another one is clarity around the needs of what needs to be documented for the extension period. So if you recall, it's two years plus two one-year extensions, and then there's an exemption period. So we've clarified the needs around the documentation for those, and for the extension periods, so those two one-year extensions, after the initial 24 months. Those are allowed to be on a consent calendar for employers.

As Anthony talked about, we also had some clarity around the two plus one, plus one for those extensions, that is 48 continuous months. So that retired annuitant appointment starts with that first 24 months and then the two 12 months are continuous to that.

We also updated the language to allow for extensions to be after the -- if they're requested after the end date. I know that was a comment I believe that came from you, Ms. Greene Ross about the -- ensuring that if something happens and they do need to bring them back and they didn't realize that, they would be able to do that. So that is now in there. They're just not allowed to work until after it goes through that approval process. In addition, the exemptions are allowed to be requested up to 12 months after the end of the 48-month continuous period.

We've also updated the language to account for bargaining units that have specific time rate -- time frames already designated for the retired annuitants up to a maximum of 60 months. So if an employer has this in place, the employer would provide that documentation and the end date of that appointment would automatically be moved to whatever that extended date is.

They would run on a separate path. So there is no need for the extensions or the exemptions that are called for in the process that you've originally seen that has come back forward as well.

So as Anthony mentioned, if approved, it will be released for a 15-day comment period. We do recognize that there are holidays at the end of this month and next month, so our intention is to begin that 15-day period in early December, so that way it's still running outside of those holiday periods, so -- and then I think that's it. We're happy to answer any questions you might have

CHAIRPERSON FECKNER: Very good. Thank you.

Ms. Greene Ross.

ACTING COMMITTEE MEMBER GREENE ROSS: I just wanted to thank the staff, because I know how much work went into this. It needed to be clarified. And it never was clear and you guys are -- here at CalPERS are charged with many implementing it. And I know you got a lot of comments and feedback, and you were able to explain all the comments, summarized them, and came up with hopefully workable solutions for everybody, including all the local governments. You know, ideally, having spent eight years helping Controller Yee run our office, you know, in the ideal world, we would very much have a good pipeline and training for employees to keep moving up. That would --

that would be fantastic. And I hope -- I hope that that work continues throughout State government, but we appreciate the work that you did put into this. So thank you.

CHAIRPERSON FECKNER: Thank you.

EMPLOYER ACCOUNT MANAGEMENT DIVISION CHIEF OSTRANDER: Thank you so much. We've had -- I will just, to that -- to that end, talk about the team that has been on this. While Anthony and I have done most of the speaking with our stakeholders, there's been a large team behind us with Kelli Aoki and our Policy and Research team, our Legal team, our Legislative Affairs team. So there's been a huge group that has been a part of bringing this forward.

Thank you.

CHAIRPERSON FECKNER: Thank you.

Ms. Middleton.

COMMITTEE MEMBER MIDDLETON: All right. Thank you. And I want to echo the comments of Ms. Greene Ross in saying thank you. I know that a lot of work went into what you're recommending and I very much appreciate the reach out that was done with stakeholders, most particularly local government. One of the great challenges for those of us in local government today in delivering the public services that people count on is simply the talent that we need to make decisions, and to execute decisions is just not there in the supply that we need.

Could you give us an overview of the commentary that you received in the meetings that you had with the League of California Cities and how that contributed to the final recommendations you're making today?

EMPLOYER ACCOUNT MANAGEMENT DIVISION CHIEF OSTRANDER: So the meetings that we've had recently have -- the public comment period had already closed and so we did take all of that into consideration. I know the league in those comments did bring up concerns over the turnaround time. That was a big thing that they talked about, that turnaround time, for CalPERS. And we've talked about the processes. We changed those to make them more streamlined and more efficient.

Some of the other feedback we received during the comment period from them also had to do with just defining solutions -- having solutions exist, concerns over appointment. We addressed that, also concerns over being able to have something happen after the expiration date, which Ms. Green Ross had originally brought up. So all of those, yes, have definitely been addressed. The more recent meetings that we've had with them and the webinars that we've done from them and others have been -- have been more logistical questions and understanding. There hasn't been any additional feedback. So I believe we've been able to address all of their initial concerns that they bought forward in this current version that you're seeing.

DEPUTY EXECUTIVE OFFICER SUINE: Okay. And I would just add, Ms. Middleton, that, you know, once we have that verbal dialogue with them and are able to take out, you know, some of the legalese of the regulation, they seem really comfortable with the path forward, in that they have an opportunity to, you know, keep the retired annuitants that they need for the specific periods of time.

COMMITTEE MEMBER MIDDLETON: Well, again, I appreciate the work that you've done and we now have 15 days of comments and encourage everyone to take those comments as they come in with the seriousness that I know you always give to them, so that we get a product that actually works for all of us.

EMPLOYER ACCOUNT MANAGEMENT DIVISION CHIEF OSTRANDER: Absolutely. And to your point, Ms. Middleton, on education, we are just at the beginning. Anthony and I have done several webinars with a large variety of groups. We'll continue to do that. Assuming we have approval, we move forward with the comment period, and it does move to the Office of Administrative Law, we'll continue that education process. There will be written materials. We'll continue to do webinars to ensure that all of our employers and our retirees are well educated.

COMMITTEE MEMBER MIDDLETON: Incredibly important. Most of our employers -- overwhelmingly, our employers want to do the right thing, want to follow the rules --

EMPLOYER ACCOUNT MANAGEMENT DIVISION CHIEF OSTRANDER: Absolutely.

COMMITTEE MEMBER MIDDLETON: -- and we know you also have a responsibility to deal with that very small percentage of individuals who try to find the way around the rules. So thank you.

EMPLOYER ACCOUNT MANAGEMENT DIVISION CHIEF OSTRANDER: Thank you.

CHAIRPERSON FECKNER: Thank you.

Ms. Ortega.

COMMITTEE MEMBER ORTEGA: Yeah. Thank you. I just have a question to clarify the applicability of the new regulations. So is it it does not apply to any current retired annuitants only those appointed after it become effective?

EMPLOYER ACCOUNT MANAGEMENT DIVISION CHIEF OSTRANDER: No. So it will apply to all retired annuitants as of the date of publication. So we anticipate the date of publication, should everything approve and move forward, to likely be summer or fall of next year. But what is specifically in the regulation is that the date starts from there. So even if a current retiree has been here for two years, they get a new two-year start to that period. So we will be -- we'll be starting that 24-month cycle at the date of publication.

COMMITTEE MEMBER ORTEGA: Okay. Thank you.

I think to that point, I appreciate all of the clarifications that have been added as well, but I do still -- the comment in the analysis that there's no impact on State budget or a fiscal impact, the whole premise of this was that there were a lot of retired annuitants. So presumably at some point, 24 months in the future after it's effective, CalHR at least is going to get requests from dozens of departments to review these -- being able to keep those who they think they need to keep. So I do have quite a bit of concern about what the administrative cost is to employers to be able to implement this.

And I think, you know, there are policies we can think about to limit the use and create kind of criteria around this that -- that can reduce that, but it's a lot for us to think through in terms of what has been the practice and what would be the practice going forward.

CHAIRPERSON FECKNER: Anything else, Ms. Ortega?

COMMITTEE MEMBER ORTEGA: No.

CHAIRPERSON FECKNER: All right. This is an action item, what's the pleasure of the Committee?

COMMITTEE MEMBER MIDDLETON: Move approval.

COMMITTEE MEMBER TAYLOR: Second.

CHAIRPERSON FECKNER: Moved by Ms. Middleton, seconded by Ms. Taylor.

Ms. Taylor, you wanted to speak.

COMMITTEE MEMBER TAYLOR: Yeah, just -- I just wanted to say I really appreciate the work on this. And I urge a yes vote. My thinking behind this is that retired annuitants are use instead of State employees, and we need to be hiring new State employees rather than paying a retired annuitant to do the work. I understand there's a lot of technical expertise that they bring to the table. Hopefully, employers are thinking about succession planning when their employees retire, so that they are teaching their, you know, succession -- successors to do the job. So I really support this.

Thank you very much.

CHAIRPERSON FECKNER: Thank you. We have a motion before us, but I do have a request to speak from the audience. Patrick Whalen, please come down, identify yourself for the record, and you'll have up to three minutes for your comments. Over here in the corner. The microphone will be turned on for you. The clock will be in front of me.

MR. WHALEN: Good morning.

CHAIRPERSON FECKNER: Microphone, please.

There you go.

MR. WHALEN: Good morning, Board members. Pat Whalen here on behalf of CASE, that is the union that represents all of the attorneys, and administrative law judges, and hearing officers that work for the State of California. We have members in over a hundred different agencies, boards, commissions.

First of all, I just wanted to thank the staff very much for the work in addressing all of the comments, including ours. And I very much appreciate the fact that they incorporated some of our suggestions, so that is very much appreciated. Nevertheless, I'm here, so I'm still not satisfied.

I just wanted to go through kind of two categories real quickly. One kind of a big picture look at the issue and then I just want to give you kind of a narrow specific example of some of the problems here.

The big picture here is you're purporting to define the term limited duration, that is in statute. And yes, it is very much in need of definition. There's no other definition of it. This is the chance to do it. Limited duration, and the rule that is on the table literally allows a retired annuitant to work indefinitely. There's's no hard cap. Let me -- let me walk through why that's so. They get an initial two years for free. Then, the employer can extend it two times for 12 months each, so now we're up to four years. Then, the employer can come before you and say, hey, I need an exemption. And while the exemptions are only limited to 12 months, the rule specifically contemplates that employers can apply for that exemption more than once. No cap, meaning they can keep coming back and saying we need to keep this retired annuitant, we need them, we need them, we need them. There's no limit.

So the big picture here is you're defining the term limited duration with a rule that allows it to go forever. So that's a -- that's a problem right out of the gate.

Now, let me get a little more specific. You -- someone might say, well, yeah, but -- but the various certifications that have to be done along the way to get those various extension exemptions, those really operate as a practical limit on this -- on what would otherwise be an indefinite appointment. But do they? Do they really?

Here's what -- I'm looking at it from the perspective of the State employer. So this would be something CalHR would do, but the same -- the same logic applies to local government and other public employers. After the first initial two years, what CalHR would have to do is certify by memorandum a number of items. And I won't go through them all. They're in -- you know, the position title that it is et cetera. They have to write a memo. That's it. That gets -- that gets the employer another 12 months.

And here's -- here's the interesting part, who checks the process and the validity of the memo? In other words, one the things they have to certify is the reason the work can't be done by a non-retired employee. Who decides how good the reason has to be? The rule contains no standards, not even a process to challenge the determination that there's a good reason or a good succession plan. The same applies for when the employer comes before you to ask for an extension.

CHAIRPERSON FECKNER: Your time has expired, sir. Thank you. We get your point.

MR. WHALEN: Thank you.

CHAIRPERSON FECKNER: I understand we have someone on the line, Mr. Teykaerts.

STAKEHOLDER STRATEGY MANAGER TEYKAERTS: Yes, Mr.

Chair. We have one caller for this item.

Johnnie, go ahead.

MR. PINA: Thank you and good morning, Chair Feckner.

CHAIRPERSON FECKNER: Good morning.

MR. PINA: Good morning, members and CalPERS staff.

This is Johnnie Pina with the League of California Cities. I appreciate the opportunity to speak on this item. I want to start by giving a special thank you to CalPERS staff for taking the time to talk to employers and explain the updated regulations to our member cities.

I also want to thank staff for listening to the public comments, taking our concerns into consideration, and making many positive changes to the regulations. As a result, the regulations before us today are a vast improvement to the previous version. We look forward to continuing to work with all of you to further refine these regulations to strike a proper balance and allow cities to continue to provide quality services in a time really when, you know, cities are facing significant hiring challenges.

Thank you and we look forward to providing additional public comment when the comment period opens.

Thank you.

CHAIRPERSON FECKNER: Thank you.

Anyone else, Mr. Teykaerts?

STAKEHOLDER STRATEGY MANAGER TEYKAERTS: No further callers for this item, Chair Feckner.

CHAIRPERSON FECKNER: Thank you.

So the motion being before you.

Any further discussion?

Seeing none.

All in favor say aye?

(Ayes).

CHAIRPERSON FECKNER: Opposed, no?

Motion carries.

Before we leave this item, first of all, thank you for all the hard work. It was a lot that went into this, but I do have something I want to add as Committee direction. I won't be here to oversee that, however I do want to hear what comes from this at some point. So it will be direction of the Chair, I want staff to explore and bring back to the PHBC the possibility about charging the employer a rate -- not the employees, not the annuitants, but the employer. And I know people are going to say, well, that's now an increase to the budget. Quite frankly, these positions are already out there. They should have been budgeted for when you looked for them, when you did that annual budget. That PERS contribution should have already been included in your budget item. So it should not be an increase.

Right now, there is no -- as Mr. Whalen said, there is really no incentive for the employer to fill those positions. They can keep coming back and asking again. So in my opinion, these employees, although very much needed in some areas, they're holding a position that could be a active member paying into the system. They're withdrawing -- now withdrawing a check and paying nothing back in. So my opinion is is that these employers should be paying a pay -- employer rate for these annuitants that they're keeping on the payroll. So I would like that to be explored and brought back to this committee at a future point.

DEPUTY EXECUTIVE OFFICER SUINE: Thank you, Chair Feckner. I've noted it accordingly.

CHAIRPERSON FECKNER: Thank you.

All right, that brings us to Agenda Item 5b, Health Benefits Program Proposals. Mr. Jarzombek.

(Thereupon a slide presentation).

HEALTH PLAN RESEARCH & ADMINISTRATION CHIEF JARZOMBEK: Good morning, Mr. Chair and members of the Committee. Rob Jarzombek, CalPERS team member. I'm here with Dr. Julia Logan to present the health benefits program proposals for the 2024 plan year.

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HEALTH PLAN RESEARCH & ADMINISTRATION CHIEF JARZOMBEK: So first on background. At the June Pension and Health Benefits Committee meeting, we shared some of the near and long-term challenges facing the basic PPO program. This was because the Basic PPO plans have experienced premium increases and volatility over the last few years and they also faced a particularly challenging year in 2021 leading to a reserve deficit.

We've shared concerns about the short-term sustainability of the PERS Gold Basic Plan and the need the curb costs to ensure it can remain competitively priced with our lower cost HMO products. As Don mentioned then, there are several key goals of our work, which include identifying potential interventions that could help curb near and longer term costs, keeping pricing for the PERS Gold Basic Plan in line with pricing of our lower cost HMO products, ensuring that both PPO Basic plans are aligned with our strategic goals, and finally developing the foundation for our upcoming PPO contract solicitation for 2025 through 2029 plan years.

As we shared in September, and is important to restate today, our analysis identified several areas where PPO costs need to be improved. However, it also showed that generally the underlying medical and pharmacy cost to growth in the PPO is in line with that of our HMO products. This is good news, because it tells us that the PPO is not facing an immediate sustainability crisis.

Today, we seek your approval on the interventions we've identified to curb costs and promote the appropriate site of care for services. While we're aware that these interventions do not address the entirety of the unit cost issues in the PPO, we do think they move us in the right direction towards better cost containment. If the Board approves, these items will be incorporated into the rate development process for the 2024 plan year.

Before I pass it to Dr. Logan to talk about the specific proposals, I'd like to mention two additional items. First, we held a special meeting with stakeholders in October to share our proposals and hear their comments and input. I'd like to thank all the members, employers, labor reps and retiree groups who attended both in-person and virtually to share their perspectives with us.

Second, through our recent PPO strategic alignment work, we've identified other areas to enhance to ensure a sustainable PPO program. While they are not benefit design changes that require Board approval, they are new programs that will help improve our members' experience and further support them with high quality care.

I'll now pass it to Julia to talk about our proposals and the additional programs we're pursuing.

CHIEF MEDICAL OFFICER LOGAN: Thank you, Rob, and good morning, Mr. Chair, and members of the Committee.

CHAIRPERSON FECKNER: Good morning.

CHIEF MEDICAL OFFICER LOGAN: Julia Logan, CalPERS team member. We have two proposals that we're recommending for your approval today. The first is a site of care program for labs for our PPO Basic members only. The second is a mail order opt-out program for maintenance medications for our PPO and our HMO -- PBM HMO plans. This excludes Kaiser and Blue Shield who don't work with our PBM.

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CHIEF MEDICAL OFFICER LOGAN: As part of our analysis of our claims data, we found a large variation in that cost of lab services, as well as higher lab costs in the PPO when compared to the HMOs. As an example a cholesterol panel, which is a very common lab test, costs between $9 and $230 in 2021 in the PPOs. On the high end, health system labs and certain other private labs are significantly higher than some non-hospital based labs.

To mitigate this variation, we propose a site-of-care program for labs modeled after the success of similar programs that have implemented benefit design modifications to address unwarranted price variation, such as our own well known CalPERS Reference Based Pricing Program for hips and knees, which has since expanded to 15 additional procedures. This site-of-care program would decrease cost variation and improve affordability of lab service for individual members, while also improving long-term affordability of the PPO program.

Here's how the program would work. CalPERS will identify preferred lab providers across the state. Typically, this would be Labcorp or Quest, where that cholesterol test that I just mentioned earlier typically costs between $10 and $39, rather than up to $230. These large labs are located all throughout the state.

If a member uses these pre-designated preferred lab providers for their routine labs, their coinsurance would be waived. If a member chooses to use a non-preferred provider, the member would be obligated to pay co-insurance. Our intention with this program is to incentivize the lower cost option and certainly not to impede access or choice. So a member will always have a choice of which lab to choose. If the preferred lab is too far for the member to travel to, for example, the member can continue to use that non-preferred lab and will continue to pay their co-insurance for the visit. The estimated savings for this program is up to $9 million annually, with a percentage of that savings going back to members as coinsurance savings.

This estimated savings is based on our preliminary analysis. However, to achieve the full benefit of the intended savings, we may need to adjust the coinsurance amounts with a carrot and stick approach to incent members to the preferred low -- lower cost site of care. If adjustments are needed, we will bring those back to you in March along with the other proposals.

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CHIEF MEDICAL OFFICER LOGAN: Our second proposal for you today is the pharmacy mail order opt-out program. Pharmacy costs, as you know, continue to be a significant cost driver in our health program. As part of our PPO alignment project, we work with Optum to find long-term solutions to put downward pressure on our pharmacy spend, without sacrificing clinical quality or increasing memoranda cost sharing.

This program that we bring to you today is a mail order opt-out program for non-specialty maintenance medications. Those are medications that members take on a regular basis. During the pandemic, we encouraged use of mail order and many members switched their maintenance meds to mail order. In fact, 245,000 basic members currently use Optum's mail order option. However, there still remains an opportunity for members who continue to use retail pharmacies for their maintenance medications and for our CalPERS Health Program to save money. The member would save money on copays and the program would save money on those retail pharmacy fees. If a member prefers not to fill maintenance medications through the mail order program, they may opt out.

The process of opting out is actually quite simple. The member may call the number on the back of their card or use Optum's website portal to indicate their preference. By opting out, members can continue to fill their maintenance medications at their retail pharmacy.

By using the mail order option, members pay less money per 90-day supply. Instead of three copays or one copay for 30-day -- a 30-day fill, they only pay two copays for a 90-day supply. To minimize disruption for those who haven't yet switched to mail order, we will be doing extensive member communication. And members will be notified at least three times before the program goes into effect. It's important to know that even if a member doesn't opt out after these reminders, a member has the ability to opt out at any time moving forward.

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CHIEF MEDICAL OFFICER LOGAN: In addition to the two proposals that I just walked through, I wanted to talk through a few key areas that we continue to work on that are critical to achieve our goals of improved outcomes and population health. As we refine them, and when they need Board approval, we will be bringing them back to you in March. We're working closely with Anthem on network management solutions, such as Centers of Excellence and expanding in-network options for behavioral health. These and potentially other care management and navigation programs could be brought to you for approval in March 2023.

Additionally, we're working with Anthem on an oncology Medical Home program to address the high costs of cancer care in the PPOs compared to the HMOs. This is a cancer care program for members that would provide navigation and care coordination for members with cancer. It provides a value based approach to cancer care focused on quality measurement and improving outcomes. We expect to implement this program in 2023.

I'll add that there will be no premium impact as 2023 premiums are set. Think of it as a member benefit program based on our data analysis and similar to others we've done in the past.

Mr. Chair, at our PHBC meeting in September, you raised a really important question about the large disparity between the PPO and HMO and cancer costs. We analyzed our data further and found some interesting information that we wanted to share with you on severity of disease, screening rates, providers, and age. We found that there are really no statistically significant differences between members in the HMO versus the PPO, in terms of severity, amount of cancer screenings, or location or type of provider. The only difference was in the age. Members with these five cancers in the PPO were older statistically than in the HMO plans. Thank you for asking the question. It really helped us make -- learn more about this very important topic.

CHAIRPERSON FECKNER: Thank you.

CHIEF MEDICAL OFFICER LOGAN: In pharmacy, we're working with Optum on a few clinical programs to help improve outcomes and member experience. In particular, I wanted to highlight polypharmacy program. Polypharmacy is a reference to a person taking several medications at the same time, usually about four to five at least. And while this is often clinically necessary and appropriate, it can have negative consequences for patients and the health care system.

Some effects can include increased risk for adverse drug events, increased hospital readmissions, and even increased mortality. This particular program uses a case management structure to engage members who are taking five or more chronic medications. These members would receive a comprehensive medication review to see if there are any medications that present a lack of efficacy, side effects, or known interactions with this information in hand, sharing decisions among the pharmacist, the member, and the provider. This clinical program has potential savings of $3.6 million across both the PPOs and the HMOs. We hope to launch it by early 2023.

I'll now turn it back to Rob for next steps.

HEALTH PLAN RESEARCH & ADMINISTRATION CHIEF JARZOMBEK: Thank you, Julia.

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HEALTH PLAN RESEARCH & ADMINISTRATION CHIEF JARZOMBEK: For next steps, if you approve the two proposals today, they'll be incorporated into the rate development process for the 2024 plan year.

We will return to you next March with any HMO plan proposals and service area changes, as well as any additional PPO changes, as our work with Anthem continues.

All of the approved changes will be incorporated into the RDP process as well. We'll bring premiums to you again next summer for approval and begin communicating out everything in advance of open enrollment next fall. This concludes our presentation and we're happy to answer any questions.

CHAIRPERSON FECKNER: Thank you very much for the presentation. Very inclusive. And no questions, which must mean you hit the mark.

This is an action item, what's the pleasure of the Committee?

COMMITTEE MEMBER TAYLOR: Move approval.

VICE CHAIRPERSON RUBALCAVA: I move it.

CHAIRPERSON FECKNER: Moved by Mr. Rubalcava, seconded by Ms. Taylor.

Before we take action -- I got you Larry. Before we take an action on the vote, we have a motion before us, we have a request to speak from the audience.

Mr. Woodson.

MR. WOODSON: Good morning. Larry Woodson, California State Retirees. Chairman Feckner, thank you --

CHAIRPERSON FECKNER: Good morning.

MR. WOODSON: -- for the opportunity to comment. And I wish you and Ms. Greene Ross well in your retirement from the Board and hope you find fun things to do with your extra time.

We have carefully reviewed the two proposals before you today. The site of care member incentive for labs and pharmacy mail order opt-out program, which we heard more details about Thursday in the stakeholder briefing, and I did attend the special meeting too, which we appreciated. Since neither proposal penalizes members for not participating, but rather gives them financial incentive if they do, they seem reasonable, and we support them. We are skeptical that they'll achieve the projected savings of nine million and five million, but any savings is welcomed.

And I did ask some questions at the meeting Thursday, which no one could answer. For example, what assumptions were made regarding the exact number of members who would be participating, since that directly determines savings. And I was asked to submit those questions by email, which I did, and I actually just got an email during this meeting with answers, so I appreciate that.

It's worth noting that this proposal is promoted on findings that PPO costs are higher than HMOs, at least for labs, and I guess for drugs. However, the 2021 annual report shows really, as Dr. Logan, I guess just said, but for 2021, PPO costs are actually eight percent lower than HMO costs overall on a per person per year basis, which I again calculated myself, but -- and I'm glad to share that data with staff.

Also, regarding the mail order option, I expressed that affected members should not have to opt-out, but rather encouraged to opt-in, but I understand the chosen default is that they are in unless they opt out. There are many reasons why members maybe not want mail order, including frequent break-ins at their mail boxes, extreme weather conditions, frequent travel away from home, and et cetera. And as I -- I was able to clarify before this meeting, and as Dr. Logan reported, that members can opt out at any time during the year, so that's great.

We hope that the three meetings -- mailings and whatever additional advertising CalPERS has done is effective. And in closing, we support this effort and hope it's effective.

Thank you.

CHAIRPERSON FECKNER: Thank you.

So a motion being before you.

Seeing no other further discussion.

All in favor say aye?

(Ayes).

CHAIRPERSON FECKNER: Opposed, no?

Motion carries.

Brings us to -- thank you very much, for the presentation, both of you.

Item 6a, information agenda items. 6a is Internal Revenal Code -- Revenue Code.

Mr. Suine.

DEPUTY EXECUTIVE OFFICER SUINE: Good morning once again, Mr. Chair, and members of the Committee. Anthony Suine, CalPERS team member. This is an information item.

I'll wait a minute for Kimberly to queue up the -- all right.

(Thereupon a slide presentation).

DEPUTY EXECUTIVE OFFICER SUINE: So this is an information item to provide you an overview of the very complex topic of the Internal Revenue Code section 415(b) that can limit the benefit amount an individual can receive from an employer's tax qualified defined benefit plans and CalPERS's administration of the Replacement Benefit Plan, which replenishes those benefits through employer funding.

Unlike some Internal Revenue Codes that create contribution limits or laws that limit the amount of compensation that can be used towards retirement benefits, IRC 415(b) limits the actual benefit amount that is calculated at the time of retirement, based on a member's years of service, retirement formula, and final compensation amount.

Therefore, the longer a member works, the better their formula, and the higher their salary it will make them more likely to be impacted by these limits. The limits are set annually by the U.S. Department of Treasury, and may be adjusted for inflation each year. These limits are defined for a maximum age of 62 and are generally adjusted downwards for benefits paid at an early age with some exceptions. The current limit for 2022 is $245,000 at age 62. However, due to inflation, this amount is increasing to 265,000 in 2023.

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DEPUTY EXECUTIVE OFFICER SUINE: In accordance with Government Code and California Code of Regulations, CalPERS is the administrator of the Replacement Benefit Plan for retirees of employers participating in our system. And the laws and regulations define how we collect funds from employers to pay the excess benefits and how we generally administer the program.

The CalPERS RBP currently has a population of approximately 1,700 participants and 600 employers that are invoiced proportionately for the service earned with their respective agencies. Each year, participants of the plan are retested against the new limits to determine if they are still limited. Based on the increased limit projected for 2023, we anticipate the number of participants in the plan could be reduced by as much as 50 percent. In previous years, the increase may have only been $5,000, but this year it's up to $20,000.

We do also retest those who are close to the limit annually to determine if any changes to their benefits have occurred that may have spiked them over the limit, which is unlikely to occur this year with the large increase.

The majority of participants in the plan are long tenured senior leaders from our public agencies, as you can see in the percentages. However, we do have participants from our State and school employers as well.

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DEPUTY EXECUTIVE OFFICER SUINE: A little bit about how the process works. So once a member has been identified as limited, employers are invoiced accordingly. An employer is billed once the member additionally retires, but is also billed annually, and then again each year when the participant is eligible for and receives a cost of living adjustment, since that entire increase would be considered over the limit.

Once the employer pays their invoice, the participant of the plan is paid a separate retirement benefit fund check monthly. The RBF checks are paper checks sent via U.S. mail at this time, but we are actively working with the State Controller's office to explore options for direct deposit for these monies.

Participants of the plan receive an average monthly check of approximately $1,800 from the RBF, in addition to their normal CalPERS retirement benefit. So while the average is 1,800, the range can vary greatly from a few dollars to over $15,000 for some participants.

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DEPUTY EXECUTIVE OFFICER SUINE: The IRS classifies the income received through the Replacement Benefit Plan as employer wages, as opposed to a pension. Therefore, the RBP funds are subject to a one-time FICA tax, which consists of Social Security and Medicare taxes. These taxes are calculated on the actuarial present value of the lifetime Replacement Benefit Plan benefit and are taken from the initial RBP payments until they are satisfied.

At year end, the Replacement Benefit Plan participants are issued a W-2 for the wages they've received from the IRC 415 limits, in addition to a 1099 for their non-limited CalPERS benefit.

In accordance with the Government Code and regulations, CalPERS must charge an administrative fee to maintain and administer this Replacement Benefit Plan. The administrative fee is applied to each RBP payment a participant receives and is reviewed annually and may change periodically to ensure compliance with applicable

State laws and regulations. The current admin fee is 1.5 percent, but is likely to increase in 2023 due to the projected decrease of participants in the plan to cover those fees.

Although only one quarter of one percent of our retirees fall into this plan, we have a dedicated team of analysts and leaders helping to administer this complex program for those who are limited, in addition to those who are hovering around the limit, the new retirees subject to the limit, and the ever-changing complex IRS rules and actuarial calculations surrounding these benefits.

This team, in addition to team members from our Legal Office, Actuarial Office, and Financial Office spend a significant amount of effort to ensure we are in compliance with these laws and regulations.

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DEPUTY EXECUTIVE OFFICER SUINE: With that overview being provided, I wanted to bring your attention to one issue we are currently encountering. While the program I described supports our CalPERS retirees, retirees from our Judges' and Legislators' Retirement System do not have a similar statute that provides for a Replacement Benefit Plan. So while we are required to limit their benefits per the IRC rules, we do not have a

Replacement Benefit Plan to administer the excess benefits that are above the limit.

The maturity of certain contribution accounts authorized for judges, in addition to the defined benefits they have earned for their many years of service, coupled with their lengths of stay on the bench and retirement at later ages, this -- these situations have started to push most of the member -- mostly members from our Judges' Retirement System over the limit.

We have been working with stakeholders, including the California Judges Association and the Judicial Council to help find a solution to this issue and our Legislative Affairs Division is also engaged. We have been communicating with judges on this potential impact to retirement benefits, so they can be aware in their retirement planning process and we plan to expand that communication as well.

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DEPUTY EXECUTIVE OFFICER SUINE: As was brought up earlier, communication is key on a complex issue such as IRC 415(b), therefore we communicate with our employers frequently on their role in the process through annual circular letters, employer specific letters when they have a retiree who is limited and dialogues we have throughout the state with senior officials at our participating agencies.

We also include IRC 415 information in our retirement workshops, counseling sessions, and publications, and our retirement estimate letters have information about the program, if a member is anywhere near the IRC 415 limits. Once a member is limited, they are provided letters on the plan and what to expect going forward. We also have a fact sheet on our CalPERS website that covers much of the information in my presentation for anyone interested in the plan.

That concludes my presentation, and I'm happy to take any questions.

CHAIRPERSON FECKNER: Thank you. Great presentation.

Mr. Miller.

COMMITTEE MEMBER MILLER: Yeah. Thank you for the presentation. It's quite timely. And I started to look at this in a little bit more detail and I find it bogglingly complex, confusing, counterintuitive, and frankly, in some cases, grossly unfair. I've heard from a number of people who now fear they're going to be impacted by this, including one person who has been who's spent over 40 years as a State employee and the rest of their long tenure in public service as a judge, and nobody from their employer told them about this. They literally didn't find out that they were going to get a huge cut to their monthly income. Literally the day they retired, they got the call telling them, oh, by the way.

And the frustration that I have is trying to figure out how -- you know, we make these promises to public employees, here is the deal that you've signed on for. You're going to forgo some opportunities and benefits perhaps in the private sector, perhaps in more lucrative business ventures and you're going to serve the public, and we promise you, you will get these benefits, based on these formulas. And then they retire and find out oh, by the way, the IRS changed some things and you're not going to get this big portion of what you thought you were going to get now. And no one told you ahead of time. Nobody mentioned it. You never found out until you actually retired and found out, wow, the income I thought I had that was going to be sufficient for my needs and my family's needs now isn't. And I don't have much recourse, because it's -- you know, unless it's some sort of legal recourse. I don't know. We'll see.

But it's very troubling, and it -- this business of taking actuarial calculations of net present value of multiple different retirements, lumping them together and saying, oh, see, that exceeds this threshold that the IRS put in who knows when, and now you're not going to get what you were promised, I think is very troubling. And I think there are probably certainly a lot of -- I'm thinking judges who are probably going to bump headlong into this now. And I just hope that we can find a way to resolve this, because I don't think we -- as the -- as the State anticipated this for -- I think we anticipate it for highly compensated public officials. We contemplated it for, you know, say psychiatrists and other highly paid professionals in our correctional employment. But I don't think we ever contemplated that this would impact the judges. But with the changes over the years, it seems like it's going to impact quite a few of them. So I'm very concerned about that.

Thank you.

DEPUTY EXECUTIVE OFFICER SUINE: Thank you, Mr. Miller. We're working diligently To resolve this issue for the judges.

CHAIRPERSON FECKNER: Ms. Taylor.

COMMITTEE MEMBER TAYLOR: Yes. Thank you, Mr. Chair. So I'm as concerned as Mr. Miller is -- excuse me. So I guess one of the things -- I appreciate the analysis on the front page of 1,700-member participants and then 600 employers. I guess what I'm a little confused about is how long ago did this 415 go into effect?

DEPUTY EXECUTIVE OFFICER SUINE: In the 90s.

COMMITTEE MEMBER TAYLOR: Okay. So it's been around for a while.

DEPUTY EXECUTIVE OFFICER SUINE: Yes.

COMMITTEE MEMBER TAYLOR: Not -- and it looks like 73 percent public agencies, 22 percent State agencies, five percent schools make up the majority of it. This ends after PEPRA anyway, right?

DEPUTY EXECUTIVE OFFICER SUINE: That's correct. PEPRA eliminated the replacement benefit. It's likely eliminated anyway, because of the compensation caps.

COMMITTEE MEMBER TAYLOR: Exactly, yeah, because there's compensation caps. Is that also in effect for our judicial system and -- legislators no longer get it anyway, but --

DEPUTY EXECUTIVE OFFICER SUINE: That's correct.

COMMITTEE MEMBER TAYLOR: Okay. I mean, this -- I work for a taxing agency, so I just have a hard time with the interference in a retirement plan from the federal government through taxes. I just think that's very interesting when wealthy people can continue to receive Social Security, but they have all this wealth, and yet our members who paid into these systems for all their lives don't get this. So I just -- I do have a problem. I do hope that you guys are working through some legislative and, you know, federal legislation to help the judges et cetera -- and the legislators that are still around for that. So I do appreciate an update on this and I thought this was a long-term problem, but I couldn't remember how long. So thank you.

CHAIRPERSON FECKNER: Thank you.

Ms. Ortega.

COMMITTEE MEMBER ORTEGA: Yeah, I just had a question about PEPRA the restriction. So PEPRA prohibits a new replacement benefit plan, right?

DEPUTY EXECUTIVE OFFICER SUINE: It prohibits a Replacement Benefit Plan.

COMMITTEE MEMBER ORTEGA: For anybody who is subject to PEPRA?

DEPUTY EXECUTIVE OFFICER SUINE: Yes. Yes. Yes.

COMMITTEE MEMBER ORTEGA: Okay. Because I'm just --

DEPUTY EXECUTIVE OFFICER SUINE: So we would continue to pay those who are in the plan or come into the plan prior to PEPRA, our classic members.

COMMITTEE MEMBER ORTEGA: I was just curious what the -- what the options might be under current law to provide it to people who weren't previously part -- even if they're not PEPRA members yet to people who were not previously part of the program. I don't recall from the time, like if the intention was to say, like if you're not part of a replacement plan, now you can't ever be or was it only PEPRA members?

DEPUTY EXECUTIVE OFFICER SUINE: PEPRA members.

COMMITTEE MEMBER ORTEGA: Okay.

DEPUTY EXECUTIVE OFFICER SUINE: Yeah. And again PEPRA members theoretically could not even hit the limit --

COMMITTEE MEMBER ORTEGA: Right.

DEPUTY EXECUTIVE OFFICER SUINE: -- because of the compensation caps.

COMMITTEE MEMBER ORTEGA: Right. And I feel like -- and my memory is not that good, but I feel like get at the time of PEPRA and the restrictions on the replacement benefit, that judges salaries might have been low enough to not be bumping up against the IRS cap, but --

DEPUTY EXECUTIVE OFFICER SUINE: Potentially.

COMMITTEE MEMBER ORTEGA: -- they've grown. Okay. Thanks.

CHAIRPERSON FECKNER: Thank you.

Mr. Rubalcava.

VICE CHAIRPERSON RUBALCAVA: Thank you.

Good presentation, Mr. Suine, and thank you for bringing the -- making the Board apprised of your efforts to address this issue, especially for the judges.

President Taylor raised one of the points, which is for PEPRA members, this will not be an issue. The other thing is speaking of IRS codes, I mean, there's -- it's one way and the other, because there's also the governmental pension offset and wind fall elimination provision that also hits some of our Social Security recipients, who also have a public sector pension, not just CalPERS, but other '37 Act counties.

But on the other side is con -- if we do not -- we are not in compliance, we could lose our IRS tax exempt status, is that correct?

DEPUTY EXECUTIVE OFFICER SUINE: That's correct.

VICE CHAIRPERSON RUBALCAVA: So we do have to try to do the balancing act. And I am appreciative of you bringing it to us and doing whatever -- doing every effort to try to be in compliance and still provide a benefit to our recipients. Thank you very much Mr. Suine. Thank you for your staff.

CHAIRPERSON FECKNER: Thank you.

Mr. Pacheco.

DEPUTY EXECUTIVE OFFICER PACHECO: Yes. Thank you. Thank you, Chairman Feckner and thank you, Mr. Suine.

I'd like to ask you a question about back to communication. And I also want to reemphasize what Mr.

Miller said about the promise. I mean -- I mean, that's what we're here for. We're here to make sure that when our members serve in the public service and public space that they are -- you know, they are going to retire with dignity and respect, so -- and that's what -- that's our -- that's our -- that's our underlying theme here.

And I'm just curious in terms of steps, you know, if any, are we doing in terms of State -- at the State or federal level to address this issue? You know, are we -- are we trying to address it at the level of -- at the Treasury Department or -- and so forth to give them an understanding of what's -- what's going on here in California and see if we can find some resolution.

DEPUTY EXECUTIVE OFFICER SUINE: Yeah. We're really working with the stakeholders on some legislation that would just create an RBP or a Replacement Benefit Plan for the judges and allow us to administer it in the same fashion we do for our CalPERS members. We feel that's the quickest and easiest way to resolve the majority of these issues.

COMMITTEE MEMBER PACHECO: And this would only apply for the judges that are in the -- that are classical members, am I correct?

DEPUTY EXECUTIVE OFFICER SUINE: Do we know?

Yeah, that's our expectation. Yes, because

PEPRA --

COMMITTEE MEMBER PACHECO: Prohibits them.

DEPUTY EXECUTIVE OFFICER SUINE: -- prohibits the --

COMMITTEE MEMBER PACHECO: That's right. So that's -- I just wanted be clear on that. Okay.

DEPUTY EXECUTIVE OFFICER SUINE: Yeah. Thank you.

COMMITTEE MEMBER PACHECO: Thank you.

DEPUTY EXECUTIVE OFFICER SUINE: Needed my team's help on that one.

COMMITTEE MEMBER PACHECO: No worries. Thank you very much.

CHAIRPERSON FECKNER: Thank you. Seeing no other requests, we do have a request from the audience. David De Alba, please come forward, identify yourself for the record, and you'll have up to three minutes for your comments.

MR. DE ALBA: Thank you, sir. Good morning.

CHAIRPERSON FECKNER: Good morning.

MR. DE ALBA: And thank you for allowing me to address you. My name is David De Alba. And I am celebrating two months of having retired from the Sacramento Superior Court, so I'm a retired Superior Court Judge, the former presiding judge of the superior court.

And I'm not here to represent an association and a group -- or a group at all. I'm just making an individual observation about this quagmire that Mr. Suine has so accurately described that surrounds this 415(b) problem. And I listened carefully to one sentence that he said, when he mentioned that there are Legal, Actuarial, and I think he said Benefit teams that are all examining how this impacts judges, and to the extent it may impact others.

So this 415(b) act -- I call it actuarial quagmire is a horrible problem, and I appreciate Mr. Miller, Ms. Taylor, Mr. Pacheco, and Mr. Rubalcava's comments, especially to the extent that you emphasize we give, and should respect, and honor what was promised. And when I walked into this building this morning, I saw the core values statement on the wall about respect, about integrity, et cetera. And I was heartened by that. I thought good and that's why I'm heartened by your comments.

And my message and purpose for being here today is really simple, whatever this complex problem is and how it's going to be resolved, there are a lot of smart people working on it, should be prospective, in other words, into the future. Correct whatever the problem is, but not apply it retroactivity to those that have vested pensions that were promised a certain benefit that relied upon those benefits to plan their lives.

The few people that I've talked to about this, colleagues, judges who want to retire or are in the pipeline, they're shocked. They said this is so unfair. This is so unjust. Some have used the word "punitive". How did this happen? Where did it come from?

And Mr. Suine has been very responsive I must say, very cordial, very professional in the dealings that I have had with him to try to navigate this. But again, whatever the solution be, my message and purpose for being here is to say prospective. Fix it and deal with it, whether it's legislative by rule, regulation, whatever it be, at a certain point in the future, and not for those of us that were promised or believed that we are, in fact, vested in a particular benefit that we're entitled to.

So thank you for listening. I appreciate the comments and the opportunity to be heard.

CHAIRPERSON FECKNER: Thank you.

MR. DE ALBA: And I want to thank Mr. Suine and his staff. They've been very gracious.

CHAIRPERSON FECKNER: Very good. Thank you for your comments. Appreciate it.

MR. DE ALBA: Thank you.

CHAIRPERSON FECKNER: All right. Seeing no other requests to speak. Mr. Suine, thank you.

That brings us to Item 6b, Summary of Committee direction. Mr. Suine, Mr. Moulds.

CHIEF HEALTH DIRECTOR MOULDS: I did not have Committee direction. I think you did, so --

DEPUTY EXECUTIVE OFFICER SUINE: I sure did. I have the Committee direction to research the possibility to charge employers a rate for employing retired annuitants into the future and then also just continuing efforts to address these IRC 415 issues for the judges --

CHAIRPERSON FECKNER: Very good.

DEPUTY EXECUTIVE OFFICER SUINE: -- through the various means.

CHAIRPERSON FECKNER: Very good. Thank you.

That brings us to Item 6c, public comment. Before I call on the list that I have here, I want to make a public comment and this is mainly for the health plans. I've been on this Committee for 24 years, chaired it for about six or seven of those years, and I will tell you that over the years, I could look out in the audience and tell who the health plans were. They -- we had built relationships. We had talked to folks at the breaks, et cetera, not during procurement time, not during RFP.

But I encourage you to build those relationships with current Board members. You don't have those now.

You have Board members that sit up here and look out and don't even think the plans are in the audience and that's a disservice. So I encourage you to bridge that gap. I mean, over the years, I've actually met with CEOs. I've met with Bernard, with Steve, Paul, Gary, CEOs of almost every plan that we've dealt with. Yet, most of the Board members couldn't tell you who these folks are. So I encourage you to build those relationships.

But more importantly, and the mantra that I've used for many years, our staff works very hard to do what they can for our members. Now, frankly, we are probably one of your single largest plans, you know, your purchasers. You know, outside of the federal government, we're the largest supplier of health care. So I imagine we're a big part of your book of business, so you should be paying attention to that. But our staff works very hard to make sure they're getting the best benefit and bang for the buck for our membership out there. I encourage you to realize that and do your part as well.

As I've said many times over the years, you know, we don't want to have to come back in May or June and tell you to redo these things. We want you to get it right the first time. So bring in your best offers, so it makes it easier for both you and our staff members.

And as I've heard many years as I watched the

Indy 500, I heard the comments it used to be gentleman, start your engines, then it went to ladies start your engines, then it went ladies and gentlemen, start your engines. Well, I will tell you, I hope the mantra continues on this Board. And I know our Vice Chair is well poised to continue working this forward. But what I want to be able to hear is, ladies and gentlemen, sharpen your pencils. Make sure that you're doing it right the first time.

So thank you. And I hope that the message has been sent, whether you're in the audience or you're listening on line, I hope that people pay attention to that, because our members deserve the best that they can get.

So with that, I'm going to move on to my list of requests to speak and I have Mr. Woodson followed by Mr. Behrens.

MR. WOODSON: Well, I guess I'll start out in a role reversal. Thank you for your comments, Chairman Feckner.

Good morning again and I want to talk about ACO REACH, which is a rebranding of the direct contracting pilot implemented in the last part of the Trump Administration. And as you know, CSR strongly opposes it, as have 54 members of Congress in a letter to HHS asking them to halt it. Over 250 local, State, and national health advocacy groups asking for its halt. As I reported in my public comments back in June and in a written report to all of the Board members, it does move CalPERS retirees out of traditional Medicare and into a plan managed by a for-profit middle man without the approval or knowledge of the member.

I urge CalPERS to oppose this program and I thank the Board for directing staff to research it, and with subject matter experts, and further investigate and report back. And as a result, staff has scheduled a panel discussion with SMEs pro and con for the January 17th Board Education Day. And we much appreciate that effort. I hope it better informs you of the program's dangers to approximately 150,000 current CalPERS retirees on TM and would also close the door to this popular program eventually to any future retirees.

When we saw the schedule for future Pension and Health Benefit Committee meetings that included the March -- it included the March Pension and Health Benefits Committee meeting, and we found no topic on ACO REACH, nor was it mentioned today. This would be the most logical meeting in March for the Board to have public discussion with public comment, since it follows the panel discussion after which you would presumably in a better informed po -- place to take a position pro, con, or neutral. And the Board Education Day isn't a vehicle that can -- actually, you can take action, vote, and take public comments as I understand it or it never has been.

So I raised our concerns at the stakeholder briefing last Thursday, as did Stephanie Hueg, our President. I'm told by staff that the Board can add to the March agenda at their discretion, since it's over four months from now. And I'll be sending all of you and staff another report on more recent developments on REACH, which I hope you find as disturbing as we have.

Please direct staff to add a discussion of ACO REACH to the March meeting or even consider a special February meeting for this topic.

Thank you.

CHAIRPERSON FECKNER: Thank you.

Mr. Behrens.

MR. BEHRENS: Chairman Feckner, we're going to miss you. I always repeat your sharpen the pencil at least once a year, so -- and your advice to the Board I thought was outstanding, or the Board members. I hope they will take you up on that.

I'm also talking about the privatization of Medicare care today. I was told, I thought, two months ago that it would be an agenda item, an informational item this week. And I must have misunderstood that, because it's not on the agenda and it hasn't been brought up, and I haven't heard anybody talk about it.

So I would echo Larry's remarks. And even if you had to have a special meeting in February, I think it would be well worth it. Our members are very, very nervous about the possibility of their Medicare being privatized and run by private equity companies that don't even have to show any knowledge or ability to have done something like that before. They just buy their way into it.

I think that we're worried about the quality of our Medicare services that we've become very comfortable with going away. So I would urge the health team and this Committee and the Board to try to get this started, get some momentum going before the March meeting, so you can become informed and know why we are so nervous.

Thank you for your time.

CHAIRPERSON FECKNER: Thank you.

Now, next I have Al Darby followed by a phone call.

MR. DARBY: Good afternoon, Mr. Chairman and Committee. Al Darby, Retired Public Employees Association Vice President. RPEA joins CSR in opposing ACO REACH for the very same reasons that were just stated by Mr. Woodson and Mr. Behrens. We believe that this privatized Medicare Advantage Plan would raise Medicare costs even more than current Advantage plans that are already exceeding fee-for-service Medicare costs. So again, we support the work of CSR and any others who are opposing this proposal.

Also, we want to thank Mr. Feckner for his long service here at the CalPERS Board and his excellent work at getting the pencils sharpened over at all these insurance companies that are benefiting so greatly from this huge, huge source of income for them.

So thank you.

CHAIRPERSON FECKNER: Thank you.

Mr. Teykaerts, we have someone on the line.

STAKEHOLDER STRATEGY MANAGER TEYKAERTS: Yes, Mr. Chair. We have one called on the line. Will Stewart go ahead.

MR. STEWART Hello. Good morning, Mr. Chair and Board members. Are you able to hear me clearly?

CHAIRPERSON FECKNER: We are. Good morning, sir.

MR. STEWART: Thank you for this opportunity to provide comment and request information related to health insurance for retirees. My name is William Stewart. Since retiring, I have been offered only one health insurance plan option, and that option will require that I pay $7,727 in premiums next year. If I may offer a nautical analogy, this is similar to a platinum anchor threatening to drowned me in a sea of insurance premium debt.

So I wish to field a question related to your suggestion that the companies build relationships. I would like to do so now and find out who can I speak to and what steps do State retirees and other retirees such as myself need to take, so that we can find access to more affordable health insurance?

CHAIRPERSON FECKNER: I would recommend you stay on the line when you're done talking and give the information to Mr. Teykaerts who will advance that to the Health staff.

MR. STEWART: Okay. Thank you, sir.

CHAIRPERSON FECKNER: You're welcome.

Anyone else, Mr. Teykaerts?

STAKEHOLDER STRATEGY MANAGER TEYKAERTS: No, Mr. Chair. That's all.

CHAIRPERSON FECKNER: Thank you.

I do see I have on other request to speak, Mr. Ruffino.

ACTING BOARD MEMBER RUFFINO: Thank you, Mr. Chair. And I would like to ask for a point of personal privilege, if I may, Mr. Chairman.

CHAIRPERSON FECKNER: You may.

ACTING BOARD MEMBER RUFFINO: Thank you.

So quickly, I just wanted to, on behalf of the Treasurer, Treasurer Fiona Ma, would like to commend Don Moulds and his team for their aggressive approach to using CalPERS as a health benefit manager to create innovative approaches that contains and manage costs for PERS members and by extension others. These actions are also maintaining or improving health outcomes.

Now, because a prefunding of benefits under Governor Brown and Newsom, the reduction in Medicare Part B premiums in 2023, including IRMAA B, and CalPERS aggressive actions, it appears that CalPERS is bending the curve on these costs, so that CalPERS members, particularly retirees, get affordable and quality benefits which are sustainable.

As to the IRMAA issue, because of the reduction in Part B premiums as well as the bracket changes and the State increasing per enrollee reimbursements in 2023, based on what we've seen for 2023, CalPERS Medicare reimbursement costs should go down substantially. And those who pay IRMAA surcharges should see a greater amount of reimbursement.

So again, thank you, Mr. Don Moulds, and Ms. June Ramos for working for our -- with our office on this very important subject, for your assistance to our Treasurer's office, and for your service to our members.

Thank you, Mr. Chair.

CHAIRPERSON FECKNER: Thank you, Mr. Ruffino.

All right. I turned myself off.

Seeing no other requests, we are going to adjourn the Health Benefits meeting. We are going to now go into lunch, and we will be back in Finance Administration at 12:45.

Everyone have a great Holiday.

This meeting is adjourned.

(Thereupon California Public Employees' Retirement System, Pension and Health Benefits Committee open session meeting adjourned at 12:02 p.m.)

CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing California Public Employees' Retirement System, Board of Administration, Pension and Health Benefits Committee open session meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and was thereafter transcribed, under my direction, by computer-assisted transcription;

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of November, 2022.

James F. Peters

JAMES F. PETERS, CSR
Certified Shorthand Reporter
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