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May 16, 2006

AGENDA ITEM 5

TO: MEMBERS OF THE BENEFITS AND PROGRAM ADMINISTRATION

I. SUBJECT: Annual Request for Reimbursement to Employers of Elected Board Members: George Diehr

II. PROGRAM: Administration

III. RECOMMENDATION: To be presented by Board Member Diehr

IV. ANALYSIS:

Government Code section 20092 provides that CalPERS must reimburse a public employer of an elected CalPERS Board member for the direct and reasonable costs of employing a replacement incurred on or after February 1, 2003.

In February 2004, the Benefits and Program Administration Committee ("BPAC") recommended and the Board approved the revisions to the "Board's Policy on Reimbursement to Employers of Elected Board Members." Under the new Policy, the employer of an elected CalPERS Board member is to be reimbursed for the direct and reasonable costs of employing a replacement. To initiate the reimbursement process, the Board member is to complete a "Request for Employer Reimbursement" and submit it, along with any supporting documentation, to the Chief Executive Officer and Board President. A neutral agenda item is then prepared by the Chief Executive Officer for consideration by this Committee. Mr. Diehr is requesting approval of reimbursement to his employer pursuant to this new Policy for the time period April 1, 2006 through March 31, 2007.

The Policy states that beginning on April 1, 2004, every Board determination that additional employer reimbursement is necessary shall cover a one-year period, unless the Board specifies a shorter period. (See attached, Procedures, page 2,

par. 4.) In accordance with this procedure, Mr. Diehr is requesting approval for reimbursement to his employer in the amount of $96,311.00 for the period of April 1, 2006 through March 31, 2007. See attached Request for Employer Reimbursement Form for George Diehr with supporting documentation attached.

V. STRATEGIC PLAN:

This is not a product of either the Strategic or Annual Plans.

VI. RESULTS/COSTS:

The approval of the reimbursement will result in corresponding cost to the Public Employees' Retirement Fund.

FRED BUENROSTRO
Chief Executive Office

STATE OF CALIFORNIA
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

RESOLUTION

Subject: Reimbursement to State, School, and Public Agency Employers of Elected Board Members

No: 03-07-BD

Whereas 1 Government Code section 20120 charges the Board of Administration of the Public Employees' Retirement System ("CalPERS") with the administration and management of the Public Employees' Retirement System ("the System").

Whereas 2 Government Code section 20171 charges the CalPERS Board with the exclusive control of the administration and investment of the Public Employees' Retirement Fund ("the Fund").

Whereas 3 Under Government Code section 20099, the CalPERS Board may appoint a committee of one or more of its members, or may delegate authority to the chief executive officer, to perform any act within its power.

Whereas 4 The term "elected Board members" refers to the six members elected by the membership of CalPERS.

Whereas 5 Government Code section 20092 provides that a public employer of an elected CalPERS Board member, which employs a person to replace the member while he or she is attending Board meetings, attending Board committee or subcommittee meetings, serving as a panel member, or when carrying out other powers and duties as approved the Board, shall be reimbursed from the Fund for the direct and reasonable costs incurred by employing a replacement.

THEREFORE, BE IT RESOLVED:

(A) That the CalPERS Board shall reimburse, from the Fund, the public employers of elected Board members the direct and reasonable costs incurred by employing a person to replace the member while he or she is fulfilling his or her responsibilities or duties to CalPERS..

(B) That, in making these reimbursements, the Board will consider the following to be direct and reasonable costs of employing a replacement:

The actual out of pocket expenses incurred by the public employer in replacing the member. Out of pocket expenses shall include, but are not limited to, the salary and benefits payable to the replacement and any other costs that are directly related to hiring and retaining a person to replace the member while he or she is fulfilling his or her responsibilities or duties to CalPERS.

(C) Reimbursement shall be provided to the public employer of a CalPERS elected Board member only upon certification by both the Board member and his or her employer as to the amount of reimbursement necessary to compensate the employer for the actual out of pocket expenses incurred by the public employer in replacing the member.

(D) That the authority under this Resolution is subject to all of the following:

(1) The individual Board members must discharge their duties solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions to the System, and defraying reasonable expenses of administering the System, with the duty to participants and their beneficiaries taking precedence over all other duties.

(2) The individual Board members must discharge their duties with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(3) The Board shall make its determinations based upon factual findings and all determinations must be documented to the Board.

(E) As provided in Government Code section 20092, costs incurred in employing a replacement on or after February 1, 2003 are subject to reimbursement under this Resolution.

(F) All previously dated delegations in this regard, including without limitation No. BD-94-100, are rescinded.

I hereby certify that this Resolution was adopted on February 19, 2004.

SEAN HARRIGAN, President
Board of Administration
California Public Employees' Retirement System

POLICY FOR APPROVAL OF REIMBURSEMENT TO STATE, SCHOOL AND PUBLIC AGENCY EMPLOYERS OF BOARD MEMBERS

By resolution adopted February 18, 2004, the CalPERS Board shall reimburse, as necessary, a state, school, or public agency employer of an elected Board member for the direct and reasonable costs that are incurred by the employer when employing a replacement for the Board member while he or she is fulfilling his or her responsibilities to CalPERS. The Resolution was adopted to implement the provisions of Government Code section 20092 as amended effective January 1, 2004, which allows CalPERS to reimburse the employers of elected board members for the direct and reasonable costs of employing a replacement incurred on or after February 1, 2003.

The direct and reasonable costs for which an employer can be reimbursed under this policy shall include the actual out of pocket expenses incurred by the employer when hiring a replacement. Out of pocket expenses include, but are not limited to, the salary and benefits payable to the replacement and any other costs that are directly related to hiring and retaining persons to replace the member while he or she is fulfilling his or her responsibilities or duties to CalPERS.

All acts taken in accordance with this policy are subject to the strictest fiduciary standards. The Board must exercise their authority in accordance with its fiduciary duties – in particular, the duties to deliver benefits promptly, to pay only reasonable expenses, to minimize employer contributions, and to act with the care, skill, prudence and diligence appropriate to the task at hand.

PROCEDURE

1. **Board Member Request.** To initiate the reimbursement process, the attached Request for Employer Reimbursement Form must be completed by the Board member. To the extent possible, the Board member shall provide supporting documentation explaining the costs for which the member is seeking reimbursement on behalf of his or her employer. The Board member shall submit the completed Form and supporting documentation to the Chief Executive Officer and Board President. The Chief Executive Officer will prepare a neutral agenda item for submission to the Benefits and Program Administration Committee.

   The Form should be signed by the Board member as well as the employer and should itemize the amount of reimbursement claimed.

2. **BPAC/Board to Approve Reimbursement.** The Benefits and Program Administration Committee will review the Form and supporting documentation. If necessary or appropriate, the Committee may request

additional information. Based upon its review and analysis, the Committee will make a recommendation to the Board. The Board's decision is final. There is no appeal process.

When the BPAC recommendation/Board decision is to approve the request for reimbursement, the motion should include a statement that the BPAC/Board has made a determination, based on factual findings, that reimbursement is necessary, based upon the Board member's statement, to compensate the employer for the direct and reasonable costs of employing a replacement.

3. **Advise Employer of Decision**. If the Board approves the request for reimbursement, CalPERS staff will advise the employer that CalPERS will reimburse the employer for the costs claimed.

4. **Duration of Board Determination**. Each Board determination made under this procedure between January 1, 2004 and March 31, 2004 shall extend through April 30, 2004. Beginning April 1, 2004, every Board determination that reimbursement is necessary shall cover a one-year period, unless the Board specifies a shorter period. To the extent possible, all requests for employer reimbursement should be submitted to the Board president and CEO by April 1 of every year in or after 2004.

5. **End of the Year Reports.** Beginning on April 1, 2004, every Board member who has requested and been approved for employer reimbursement during the previous 12 months will submit to the Board records verifying the expenses that have been reimbursed.

REQUEST FOR EMPLOYER REIMBURSEMENT FORM

Name of Board Member: _____

Name of State, School, or
Public Agency Employer: _____

I request that the CalPERS' Board approve reimbursing my employer for the direct and reasonable costs of employing a replacement for me while I am fulfilling my responsibilities and duties as an elected CalPERS Board member.

These costs are itemized as follows:

1.

2.

3.

4.

I therefore request that the Board approve reimbursement to my employer in the amount of $_____ to compensate my employer for the direct and reasonable costs of employing a replacement while I fulfill my responsibilities and duties as an elected CalPERS Board member.

_____ _____
Signature Date

****

EMPLOYER CERTIFICATION OF REIMBURSEMENT AMOUNT:

I hereby certify that I am an authorized representative for the employer of the CalPERS Board member named above. I acknowledge that by signing this form, I am certifying that the amount of reimbursement requested constitutes the direct and reasonable costs incurred by the employer in replacing this Board member.

_____ _____
Signature of Employer Representative Date

_____
Name Title

REQUEST FOR EMPLOYER REIMBURSEMENT FORM

Name of Board Member: George Diehr

Name of State, School, or Public Agency Employer: California State Univ, San Marcos

I request that the CalPERS' Board approve reimbursing my employer for the direct and reasonable costs of employing a replacement for me while I am fulfilling my responsibilities and duties as an elected CalPERS Board member.

These costs are itemized as follows:

1. Replacement Employee Salary 04/01/06 to 03/31/07 $70,300
2. Replacement Employee Benefits 04/01/06 to 03/31/07 $26,011
3.
4.

I therefore request that the Board approve reimbursement to my employer in the amount of $96,311 to compensate my employer for the direct and reasonable costs of employing a replacement while I fulfill my responsibilities and duties as an elected CalPERS Board member.

Signature 5/5/06 Date

EMPLOYER CERTIFICATION OF REIMBURSEMENT AMOUNT:

I hereby certify that I am an authorized representative for the employer of the CalPERS Board member named above. I acknowledge that by signing this form, I am certifying that the amount of reimbursement requested constitutes the direct and reasonable costs incurred by the employer in replacing this Board member.

Signature of Employer Representative 5.6.06 Date

Robert Skenk Provost

Name Title

REQUEST FOR EMPLOYER REIMBURSEMENT FORM

Name of Board Member: George Diehr

Name of State, School, or Public Agency Employer: California State Univ, San Marcos

I request that the CalPERS' Board approve reimbursing my employer for the direct and reasonable costs of employing a replacement for me while I am fulfilling my responsibilities and duties as an elected CalPERS Board member.

These costs are itemized as follows:

1. 80% Replacement Employee Salary $70,300
2. 37% Replacement Rate for Employee Benefits $26,011

Requested amount is based on an 80% time base of the cost of replacement of $87,876 plus 37% benefit rate. = $96,311

I therefore request that the Board approve reimbursement to my employer in the amount of $ 96,311 to compensate my employer for the direct and reasonable costs of employing a replacement while I fulfill my responsibilities and duties as an elected CalPERS Board member.

[signature] 5/8/06

Signature Date

EMPLOYER CERTIFICATION OF REIMBURSEMENT AMOUNT:

I hereby certify that I am an authorized representative for the employer of the CalPERS Board member named above. I acknowledge that by signing this form, I am certifying that the amount of reimbursement requested constitutes the direct and reasonable costs incurred by the employer in replacing this Board member.

[signature] 5.8.06

Signature of Employer Representative Date

Robert Sheath, Provost

Name Title