



Agenda Item 5

May 20, 2014

ITEM NAME: Assembly Bill 1163 – Board Member Education

As Amended January 14, 2014

Sponsor: Author

PROGRAM: Legislation

ITEM TYPE: Action

RECOMMENDATION

Adopt a **Neutral** position on Assembly Bill (AB) 1163 because it imposes training and education requirements which are generally consistent with the existing policies of the CalPERS Board of Administration (Board) for Board Member training and education (Education Policy), and does not impose significant administrative costs.

EXECUTIVE SUMMARY

AB 1163 requires the Board to adopt an Education Policy for Board Members that identifies appropriate topics and training opportunities related to pension fund administration and investments. The bill also requires each Board Member to receive at least 24 hours of education in each two-year period, and directs the Board to post its Education Policy and an annual report on Board Member compliance on the CalPERS Web site.

The Board's State Legislative Policy Standards do not specifically address issues of Board governance as contained in this proposal. There does not appear to be a clear need to impose these education requirements on the CalPERS Board when its existing Education Policy differs only to the extent that all Board members would be required to meet specified minimum education requirements on an ongoing basis and the System would be required to publicly report on their compliance. AB 1163 does not appear to significantly affect the benefit interests of our stakeholders and does not significantly impact CalPERS benefits or the administration of the System.

STRATEGIC PLAN

This item is not a specific product of the Annual or Strategic Plans, but addressing legislation that affects CalPERS is a part of the regular and ongoing workload of the Office of Governmental Affairs.

BACKGROUND

1. Board Governance Initiatives

The CalPERS Board is committed to continuous learning and adapting to changing conditions, and its members currently engage in training associated with their fiduciary, investment, actuarial, and other responsibilities through participation in internal workshops and industry conferences. The Board also conducts a regular assessment of its performance and capabilities, identifies the skills and capabilities required to fulfill its fiduciary roles and responsibilities, and maintains an inventory of existing trustee skills and capabilities, as well as strengths, weaknesses, gaps and priority development needs.

Following the recommendations made in a 2011 Board Governance Study that it commissioned, the Board adopted a set of Key Competencies in order to provide a foundational element for an official Education Policy. The Key Competencies specify more than 20 criteria in the areas of Board governance, health care, pension plans, financial markets and communication, and include such things as understanding financial statements, balance sheets, economic principles and actuarial methodologies. These competencies are part of the existing CalPERS Board Governance Policy and will be used to develop future training and educational opportunities for Board Members, pursuant to the formal Board Education Policy adopted at its March 2014 meeting.

2. Board Education Policy

The Education Policy requires new Members attend orientation within three months of joining the Board, and describes the mandatory elements of new Member training, including individual briefings by the CEO, the Board President, and the Executive Management. The Education Policy also requires new Members to receive education on specified topics during the first year of their term, including the duties and responsibilities of a System trustee, CalPERS health benefits plan design and funding, and CalPERS investment policy.

Furthermore, the Education Policy requires all Members to attend annual training on the fiduciary duties applicable to trustees of a public pension system, and addresses training areas mandated by law, including governmental ethics and sexual harassment prevention. It also identifies the kinds of activities that qualify as educational and encourages Members to focus education activities on subjects relevant to their committee assignments, and develop knowledge and expertise in the matters and policy areas set forth in the Board Member Competencies.

3. 1937 Act County System Board Education Policies

In 2012, the State Association of County Retirement Systems (SACRS) sponsored legislation (AB 1519, Wieckowski–Chapter 15, Statutes of 2012) that required each 1937 Act County Retirement System Board to adopt a Board Member Education Policy. SACRS explained the need for the bill in its letter to the Assembly Committee on Public Employees, Retirement and Social Security:

"Now more than ever, county retirement systems need the most professional and well trained people making investment decisions. Most investment professionals who already possess the knowledge and expertise that greatly benefit retirement boards choose not to serve on county retirement boards because of existing conflict of interest laws. Therefore, it is important for trustees who do not work in the financial and investment world to gain as much knowledge and training as possible about duties they must perform."

Staff reviewed the public websites of five of the twenty County Retirement Systems and found that each of them appear to have complied with AB 1519. Some Systems appeared to have simply adopted the text of AB 1519 as their Education Policy, while others have adopted policies with greater detail and prominently posted each Board member's compliance.

ANALYSIS

1. Proposed Changes

Specifically, AB 1163 does the following:

- Requires the CalPERS Board of Administration to adopt a policy for providing education to Board Members.
- Requires the education policy to identify appropriate topics that may include, but are not limited to, the following:
 - Fiduciary responsibilities.
 - Ethics.
 - Pension fund investments and investment program management.
 - Actuarial matters.
 - Pension funding.
 - Benefits administration.
 - Disability evaluation.
 - Fair hearings.
 - Pension fund governance.
 - New Board Member orientation.
- Requires the education policy to establish a means for determining the programs, training, and sessions that qualify for Board Member education.
- Requires each CalPERS Board Member to receive a minimum of 24 hours of education within the first two years of assuming office and for every subsequent two-year period that Member holds membership on the Board.
- Requires the CalPERS Board to maintain a record of each Board Member's compliance with the policy.
- Requires the adopted education policy and an annual report on Board Member compliance to be placed on the CalPERS Internet Web site.

AB 1163 is nearly identical to the SACRS bill, AB 1519 of 2012. The only difference between the two bills is that AB 1519 specified that educational seminars sponsored by the State or national public pension organizations or

accredited academic institutions would be deemed to meet Board Member education requirements. AB 1163 does not contain this provision, leaving the CalPERS Board discretion to determine what seminars and programs qualify for Board Member education.

2. Supporting Arguments

In support of the bill, the author states, “In October of 2011, Governor Brown proposed a twelve-point pension reform plan. This plan included changing the composition of the CalPERS Board. Ultimately much of the reform plan was adopted in the form of AB 340 (Furutani 2012, known as the Public Employees’ Pension Reform Act (PEPRA)), but board composition was not changed. The stated purpose of reforming board composition was to bring financial sophistication to the board. This bill would achieve that goal while maintaining the existing board structure.”

“AB 1163 would build upon both PEPRA and board policy in a way that will codify the commitment to increase the financial expertise on the board while bringing greater information about board member financial training to the public.”

The California Professional Firefighters state in support of the bill, “As fiduciaries of our firefighter members’ hard earned pension dollars, the value of informed decision making by board members over a pension system’s management and investments is invaluable to both our members and the public they serve.”

Also in support, the California School Employees Association states, “We believe that training is an important educational component to strengthen the skills and knowledge of any board – public or private.”

3. Opposition Arguments

There is no formal opposition to this bill.

4. Proposal Codifies Existing Board Practice

In general, legislation is proposed to address a real or perceived deficiency in current law. This legislation proposes to mandate activities by the CalPERS Board that are, for the most part, already adopted as Board policy. In these situations, it is common to raise concerns about the necessity or appropriateness of mandating Board action, particularly when the legislative mandate has not identified a deficiency in the Board’s current practices, and does not apply to all public retirement systems, such as those pension reforms recently adopted by the Legislature in the PEPRA.

This legislation addresses an issue, Board Member education, which is an integral part of the Board’s plans to meet the CalPERS Strategic Plan goal of cultivating a high-performing, risk-intelligent and innovating organization. In fact, the Board Education Policy is more detailed and comprehensive than the general topics

identified in the bill, particularly because the Board Policy is linked to Board Member Competencies that were adopted in November 2013.

However, there are a few high-level differences between the two:

- The bill requires each Member to complete 24 hours of education and training each two years on the Board, while the Board Policy does not specify hour requirements. It should be noted that the training time under Board Policy is expected to meet or exceed 24 hours each two years.
- The bill requires an annual report on each Member's compliance to be posted on the CalPERS Internet Web site, while the Board Policy does not require such reporting.
- The bill identifies broad categories for education and training, while the Board Policy includes specific topics for new Member orientation and encourages education plans targeting each Member's committee assignments and interests.

As noted above, the Board Education Policy would only need to be revised to conform to the requirement of 24 hours of training each two years and the requirement to post each Member's compliance on an annual basis. Furthermore, the administrative burdens of recording and reporting each Board Member's education and training activities are projected to have minor cost and resource impacts.

BUDGET AND FISCAL IMPACTS

1. Benefit Costs
None.

2. Administrative Costs
Staff estimates \$3,650 in one-time costs to develop and construct the Internet Web page to report on Board Member compliance, and ongoing costs of less than \$1,000 annually to update the Web page. The costs associated with the requirement to record each Board Member's education and training hours are expected to be absorbable within existing staff levels and resources. The costs to update the Board Member education policy to ensure consistency with AB 1163 are expected to be minor or absorbable.

BENEFITS/RISKS

1. Benefits of AB 1163 Becoming Law:
- Requiring the establishment of a Board Education Policy will ensure that there is a clear path for current and future Board Members to continuously improve their knowledge and abilities in order to fulfill their responsibilities as fiduciaries of the System.

2. Risks of AB 1163 Becoming Law:

- CalPERS would add administrative costs to record Board Member education and training and to post-compliance records to the public Web site.
- The publishing and posting of an annual Board Member compliance report could become of source of public scrutiny regardless of whether full compliance is maintained.

ATTACHMENTS

Attachment 1 – Legislative History

Attachment 2 – Support/Opposition

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