

STATE OF CALIFORNIA
BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

DELEGATION RESOLUTION

No. BD-94-04 (Rev.)

Subject: Finance Committee – Discharge of Accountability of
Uncollectible Debt

WHEREAS, In accordance with Government Code sections 20103, 9353, 75005, and 50953, the Board of Administration of the California Public Employees' Retirement System (hereafter "the Board") is charged with the administration and management of the: Public Employees' Retirement System; Legislators' Retirement System; and, Judges' Retirement System (hereafter collectively "the System").

WHEREAS, In accordance with Article XVI, section 17(a) of the California Constitution, System assets are held in trust and must be used for the exclusive purposes of providing benefits to CalPERS members and their beneficiaries and defraying reasonable expenses of administering the System. Pursuant to this same section, the Board must discharge its duties with respect to the System "solely in the interest of, and for the exclusive purposes of providing benefits to participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system." However, the Board's duty to its participants and their beneficiaries takes precedence over any other duty. (Cal. Const. art. XVI, sec. 17(b).)

WHEREAS, California Government Code 13940 et seq, provides generally for the "discharge from accountability" of state agencies charged by law with the collection of money owing to the State of California for any reason. Specifically, "money owing to the State for any reason, which is due and payable, may be discharged by the Board [of Control] from accountability for the collection of the . . . money if it is uncollectible or the amount does not justify the cost of collection."

WHEREAS, On November 3, 1992, the people of the State of California passed Proposition 162, which amended California Constitution article XVI, section 17, to expressly provide that the CalPERS Board of Administration has plenary authority and fiduciary responsibility for, among other things, administration of the System.

WHEREAS, California Constitution, article XVI, section 17, provides that the Board has sole and exclusive responsibility to administer the System in a manner that will assure prompt delivery of benefits and related services to participants and their beneficiaries.

WHEREAS, California Constitution, article XVI, section 17, specifies that the Board has sole and exclusive responsibility over the System's assets.

RESOLVED, (A) In accordance with its constitutionally-mandated authority, the Board shall take exclusive control over determinations regarding whether to discharge claims of the system, including overpayments and other debts.

RESOLVED, (B) CalPERS' internal policies and procedures regarding the writing-off of uncollectible overpayments, shall be reviewed and revised by the Fiscal Services Division and Divisions that originate requests for discharge of accountability, to insure consistency with the Board's fiduciary duties. The procedures shall include safeguards to insure compliance with the constitutionally-mandated standards of diligence, care, prudence, and skill. The final discharge of accountability policies and procedures will be presented to the Board for review, revision and approval.

RESOLVED, (C) In the spirit of the policies underlying Government Code sections 13940 et seq., CalPERS shall notify control agencies of the Board's action and changes in practice, and shall continue to submit documentation regarding discharged claims to oversight agencies, on an information only basis.

RESOLVED, (D) CalPERS' authority is limited by and subject to the following:

- (1) The Board and its delegates must discharge their duty "solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the System", but with the duty to participants and beneficiaries taking precedence over all other duties. (Cal. Const. art. XVI, sec.17 (b).)

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

RESOLVED, (E) That an annual report listing the number and dollar amount of all CalPERS' debts discharged during the year shall be provided to the Finance Committee.

RESOLVED, (F) That this Resolution shall be effective immediately upon adoption, and is cumulative to all other delegations to the Board and its delegees.

I hereby certify that the foregoing Resolution was adopted by the Board of Administration of the California Public Employees Retirement System, on October 19, 1994, and was amended on October 18, 2000.

**WILLIAM DALE CRIST, PRESIDENT
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM**