September 26, 2018

**Item Name:** Proposed Decision – In the Matter of the Appeal Regarding the Uniform Allowance of ENCINA WASTEWATER AUTHORITY, Respondent, and SAN ELIJO JOINT POWERS AUTHORITY, Respondent.

**Program:** Employer Account Management Division

**Item Type:** Action

**Parties’ Positions**

Staff argues that the Board of Administration should decline to adopt the Proposed Decisions.

Respondent Encina Wastewater Authority’s (Respondent EWA) and Respondent San Elijo Joint Powers Authority’s (Respondent SEJPA) (collectively Respondents) position is included in Attachment C, if any.

**Strategic Plan**

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

**Procedural Summary**

On February 19, 2016, Respondents concurrently submitted appeals of CalPERS’ determination that Respondents failed to report the monetary value related to the purchase, rental and maintenance of employee uniforms as compensation. On February 2, 2018, the matters were consolidated. The consolidated matter was heard by the Office of Administrative Hearings on April 16, 2018. The Proposed Decisions were issued on June 29, 2018, granting the appeals.

**Alternatives**

A. For use if the Board decides to adopt the Proposed Decisions as its own Decision:

   **RESOLVED,** that the Board of Administration of the California Public Employees’ Retirement System hereby adopts as its own Decision the Proposed Decisions dated June 29, 2018, concerning the appeals of Encina Wastewater Authority and San Elijo Joint Powers Authority; **RESOLVED FURTHER** that this Board Decision shall be effective 30 days following mailing of the Decision.
B. For use if the Board decides not to adopt the Proposed Decisions, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, after consideration of the Proposed Decisions dated June 29, 2018, concerning the appeals of Encina Wastewater Authority and San Elijo Joint Powers Authority, hereby rejects the Proposed Decisions and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board’s Decision shall be made after notice is given to all parties.

C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, after consideration of the Proposed Decisions dated June 29, 2018, concerning the appeals of Encina Wastewater Authority and San Elijo Joint Powers Authority, hereby rejects the Proposed Decisions and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

D. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

   RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System requests the parties in the matter concerning the appeals of Encina Wastewater Authority and San Elijo Joint Powers Authority, as well as interested parties, to submit written argument regarding whether the Board’s Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

   RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, hereby designates as precedential its Decision concerning the appeals of Encina Wastewater Authority and San Elijo Joint Powers Authority.
Budget and Fiscal Impacts: Not applicable

Attachments
Attachment A: Proposed Decisions
Attachment B: Staff’s Argument
Attachment C: Respondents’ Argument

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support