



## Finance and Administration Committee

# Agenda Item 7c

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**February 18, 2020**

**Item Name:** Revised Proposed Regulation for Social Security Administration Fees

**Program:** Customer Services and Support

**Item Type:** Action

### **Recommendation**

Approve the revised proposed regulations to establish a fee structure to fund the State Social Security Administrator (SSSA) program with a 15-day public comment period, followed by submission of the final rulemaking package to the Office of Administrative Law (OAL) upon conclusion of the comment period, if no public comments are received.

### **Executive Summary**

CalPERS amended the proposed regulation text (Attachment 1) to adjust the methodology for calculating fees to fund the SSSA program. The new methodology stipulates that CalPERS will complete an annual review of the Old Age and Survivors' Insurance Revolving Fund (OASI Fund) balance to meet the requirements of Government Code (GC) section 22600, and that CalPERS will adjust the fees to maintain a fund balance of no less than fifty percent and no more than 100 percent of program expenditures authorized in the State Budget Act.

### **Strategic Plan**

This proposed regulation supports the 2017-22 CalPERS Strategic Plan goal to mitigate risks by ensuring that CalPERS has the funds necessary to operate the SSSA program.

### **Background**

On September 17, 2019, the Board of Administration (Board) approved the proposed regulatory action to establish a fee structure to fund the SSSA program. The Notice of Proposed Regulatory Action was published in the California Regulatory Notice Register (File Number Z-2019-1022-06) on November 1, 2019. The 45-day comment period commenced on November 1, 2019 and closed on December 17, 2019. CalPERS received one public comment during this period.

Included in the proposed rulemaking was the following proposed fee structure to cover the SSSA program's administrative costs of approximately \$1.0 million annually:

- Establish initial coverage under the Section 218 Agreement, \$650
- Modify coverage under the Section 218 Agreement, \$650
- Annual fee for public agencies with coverage under the Section 218 Agreement that is based on total number of persons employed by each public agency and is designed to support equity among employers of different sizes:

Number of Employees	Fee
1-4.....	\$200
5-9.....	\$250
10-19.....	\$300
20-49.....	\$400
50-99.....	\$500
100-249.....	\$1,000
250-499.....	\$1,500
500-999.....	\$2,000
1,000 and over.....	\$2,500

The originally-proposed regulations specified that the proposed fees were subject to an annual review to determine if they should be adjusted according to fluctuations in the *Consumer Price Index for All Urban Consumers: U.S. City Average (CPI-U)*.

**Analysis**

CalPERS' team members received one public comment about the proposed regulation during the 45-day comment period which commenced on November 1, 2019 and closed on December 17, 2019. The following is a summary of the comment and response to the comment received during the initial public notice period of November 1, 2019 through December 17, 2019:

COMMENT: Ms. Hawes expressed concern that the proposed regulatory action would include non-classified (certificated) staff that are not subject to the employing agency's Section 218 Agreement in the count that determines the annual fee. She contends that non-classified staff should not be included in the count that determines the annual fee as they are not covered under the Section 218 Agreement and do not receive any benefits from Social Security.

RESPONSE: The State Social Security Administrator serves as a bridge between public employers and the Social Security Administration to administer and maintain the State of California's Section 218 Agreement that governs voluntary Social Security coverage by public employers. This includes assisting all public employers regarding their covered and non-covered employees. Therefore, all employees, including those who are and those who are not covered under the Section 218 Agreement, will be included in the employee count that determines the annual fee.

CalPERS did not receive any public comments regarding the use of CPI-U to adjust the annual fees. However, after additional internal discussions and analysis of future program cost increases that will be driven by collectively bargained salary and benefit increases and may exceed the CPI-U, CalPERS revised the proposed regulations. The revised text aligns fees to cover program costs, while complying with the fund balance limitations specified in Government Code section 22600. The revised proposed regulations have been amended to clarify:

- CalPERS will review the OASI Fund annually to ensure the fund balance is no less than 50 percent and nor more than 100 percent of the budgeted SSSA program expenditures as authorized in the State Budget Act for the prior fiscal year.
- If the OASI Fund balance is less than 50 percent or greater than 100 percent of the budgeted SSSA program expenditures, CalPERS will adjust the annual fee structure to target an OASI Fund balance of 50 percent of budgeted SSSA program expenditures.

This amendment ensures that CalPERS will be compliant with GC sections 22551 and 22600. The amendments to the proposed regulation text are as follows:

- Section 592.1(a): This subsection was amended to clarify that CalPERS will collect fees and deposit them into the OASI Fund.
- Section 592.1(d): This subsection states that CalPERS will review the OASI Fund annually to ensure that the fund balance is between 50 percent and 100 percent of the budgeted SSSA program expenditures as authorized in the State Budget Act for the prior fiscal year. If the OASI Fund balance is outside of those parameters, the Board will adjust the annual fees to target an OASI Fund balance of 50 percent of one year's SSSA program expenditures. The annual review will begin in fiscal year 2020-21.
- Sections 592.1(d)(1)-(d)(4): These subsections provide the new adjustment calculation for the annual fee only if the OASI Fund balance is outside of the parameters. It will set the target OASI Fund balance by multiplying the current year SSSA Budget Act Appropriation by 50 percent. It will then estimate the revenue required to target a 50 percent OASI Fund balance. If the calculated fee revenue required is greater than the anticipated revenue from the established fees, then the Board will increase the fees by the percentage difference. If the calculated fee revenue required is less than the anticipated revenue from the established, then the Board will decrease the fees by the percentage difference.

### **Budget and Fiscal Impacts**

Assessing the proposed fees will provide the funds necessary to cover the costs for CalPERS to administer the SSSA program.

### **Benefits and Risks**

This proposed regulation establishes the fees necessary to continue administering the SSSA program now and into the future. If CalPERS is unable to assess and collect fees, CalPERS will be unable to administer the SSSA program and will be out of compliance with its delegated authority.

**Attachments**

Attachment 1 – Text of proposed regulation

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