

VIDEOCONFERENCE MEETING
STATE OF CALIFORNIA
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
BOARD OF ADMINISTRATION
OPEN SESSION

ROBERT F. CARLSON AUDITORIUM
LINCOLN PLAZA NORTH
400 P STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 16, 2020

1:16 P.M.

JAMES F. PETERS, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

A P P E A R A N C E S

BOARD MEMBERS:

Mr. Henry Jones, President

Ms. Theresa Taylor, Vice President

Ms. Margaret Brown

Mr. Rob Feckner

Ms. Fiona Ma, represented by Mr. Frank Ruffino

Ms. Lisa Middleton

Mr. David Miller

Ms. Stacie Olivares

Ms. Eraina Ortega

Mr. Jason Perez

Mr. Ramon Rubalcava

Ms. Shawnda Westly

Ms. Betty Yee, represented by Ms. Lynn Paquin

STAFF:

Ms. Marcie Frost, Chief Executive Officer

Mr. Dan Bienvenue, Interim Chief Investment Officer

Mr. Michael Cohen, Chief Financial Officer

Mr. Christian Farland, Chief Information Officer

Mr. Douglas Hoffner, Chief Operating Officer

Mr. Matthew Jacobs, General Counsel

Dr. Donald Moulds, Chief Health Director

A P P E A R A N C E S C O N T I N U E D

STAFF:

Mr. Brad Pacheco, Deputy Executive Officer, Communications & Stakeholder Relations

Mr. Anthony Suine, Deputy Executive Officer, Customer Services & Support

Mr. Scott Terando, Chief Actuary

Ms. Marlene Timberlake D'Adamo, Chief Compliance Officer

Mr. Danny Brown, Chief, Legislative Affairs Division

Ms. Pam Hopper, Board Secretary

Mr. Kelly Fox, Chief, Stakeholder Relations

Mr. Simiso Nzima, Investment Director

Mr. John Shipley, Senior Attorney

ALSO PRESENT:

Mr. Tim Behrens, California State Retirees

Mr. Dillon Gibbons, California Special Districts Association

Mr. Bijan Mehryar, League of California Cities

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P R O C E E D I N G S

1
2 PRESIDENT JONES: I call the Board of
3 Administration meeting to order and the first order of
4 business is roll call.

5 Mrs. Hopper.

6 BOARD SECRETARY HOPPER: Henry Jones?

7 PRESIDENT JONES: Here.

8 BOARD SECRETARY HOPPER: Margaret Brown?

9 BOARD MEMBER BROWN: Here.

10 BOARD SECRETARY HOPPER: Rob Feckner?

11 BOARD MEMBER FECKNER: Good morning -- good
12 afternoon.

13 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
14 Ma?

15 ACTING BOARD MEMBER RUFFINO: Present.

16 BOARD SECRETARY HOPPER: Lisa Middleton?

17 David Miller?

18 BOARD MEMBER MILLER: Here.

19 BOARD SECRETARY HOPPER: Stacie Olivares?

20 BOARD MEMBER OLIVARES: Here.

21 BOARD SECRETARY HOPPER: Eraina Ortega?

22 BOARD MEMBER ORTEGA: Here.

23 BOARD SECRETARY HOPPER: Lisa Middleton?

24 BOARD MEMBER MIDDLETON: Present.

25 BOARD SECRETARY HOPPER: Jason Perez?

1 BOARD MEMBER PEREZ: Here.

2 BOARD SECRETARY HOPPER: Ramon Rubalcava?

3 BOARD MEMBER RUBALCAVA: Here.

4 BOARD SECRETARY HOPPER: Theresa Taylor?

5 VICE PRESIDENT TAYLOR: Here.

6 BOARD SECRETARY HOPPER: Shawnda Westly?

7 BOARD MEMBER WESTLY: Here.

8 BOARD SECRETARY HOPPER: Betty Yee -- Lynn Paquin
9 for Betty Yee?

10 ACTING BOARD MEMBER PAQUIN: Here. Thank you.

11 PRESIDENT JONES: Okay. Thank you.

12 Mrs. Hopper.

13 Okay. We'll now recess into closed session for
14 Items 1 and 2 from the closed session agenda.

15 So, at this time, the Board members will exit
16 this open session meeting and connect to the closed
17 session meeting.

18 To the members of the public watching on
19 livestream, the Board of Administration open session
20 meeting will convene immediately following the closed
21 session.

22 So we'll see you in a little while.

23 (Off record: 1:18 p.m.)

24 (Thereupon the meeting recessed
25 into closed session.)

1 (Thereupon the meeting reconvened
2 open session.)

3 (On record: 2:01 p.m.)

4 PRESIDENT JONES: So good afternoon. I would
5 like to convene the Board of Administration meeting. And
6 the first order of business is roll call.

7 Mrs. Hopper, please.

8 BOARD SECRETARY HOPPER: Henry Jones?

9 PRESIDENT JONES: Here.

10 BOARD SECRETARY HOPPER: Margaret Brown?

11 BOARD MEMBER BROWN: Good afternoon.

12 BOARD SECRETARY HOPPER: Rob Feckner?

13 BOARD MEMBER FECKNER: Good afternoon.

14 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
15 Ma?

16 ACTING BOARD MEMBER RUFFINO: Present.

17 BOARD SECRETARY HOPPER: Lisa Middleton?

18 BOARD MEMBER MIDDLETON: Present.

19 BOARD SECRETARY HOPPER: David Miller?

20 BOARD MEMBER MILLER: Here.

21 BOARD SECRETARY HOPPER: Stacie Olivares?

22 BOARD MEMBER OLIVARES: Here.

23 BOARD SECRETARY HOPPER: Eraina Ortega?

24 BOARD MEMBER ORTEGA: Here.

25 BOARD SECRETARY HOPPER: Jason Perez?

1 BOARD MEMBER PEREZ: Here.

2 BOARD SECRETARY HOPPER: Ramon Rubalcava?

3 BOARD MEMBER RUBALCAVA: Here.

4 BOARD SECRETARY HOPPER: Theresa Taylor?

5 VICE PRESIDENT TAYLOR: Here

6 BOARD SECRETARY HOPPER: Shawnda Westly?

7 BOARD MEMBER WESTLY: Here.

8 BOARD SECRETARY HOPPER: Lynn Paquin for Betty

9 Yee?

10 ACTING BOARD MEMBER PAQUIN: Here.

11 BOARD SECRETARY HOPPER: All in attendance, Mr.
12 President.

13 PRESIDENT JONES: Thank you, Ms. Hopper.

14 The next item on the agenda is approval of the
15 September 16 Board of Administration timed agenda. Do I
16 have a motion?

17 VICE PRESIDENT TAYLOR: Move approval.

18 PRESIDENT JONES: Moved by Ms. Taylor.

19 Second by?

20 BOARD MEMBER MILLER: Second.

21 PRESIDENT JONES: Second by Mr. Miller.

22 Roll call, Ms. Hopper.

23 BOARD SECRETARY HOPPER: Margaret Brown?

24 BOARD MEMBER BROWN: Aye.

25 BOARD SECRETARY HOPPER: Rob Feckner?

1 BOARD MEMBER FECKNER: Aye.
2 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
3 Ma?
4 ACTING BOARD MEMBER RUFFINO: Aye.
5 BOARD SECRETARY HOPPER: Lisa Middleton?
6 BOARD MEMBER MIDDLETON: Aye.
7 BOARD SECRETARY HOPPER: David Miller?
8 BOARD MEMBER MILLER: Aye.
9 BOARD SECRETARY HOPPER: Stacie Olivares?
10 BOARD MEMBER OLIVARES: Aye.
11 BOARD SECRETARY HOPPER: Eraina Ortega?
12 BOARD MEMBER ORTEGA: Aye.
13 BOARD SECRETARY HOPPER: Jason Perez?
14 BOARD MEMBER PEREZ: Aye.
15 BOARD SECRETARY HOPPER: Ramon Rubalcava?
16 BOARD MEMBER RUBALCAVA: Aye.
17 BOARD SECRETARY HOPPER: Theresa Taylor?
18 VICE PRESIDENT TAYLOR: Aye.
19 BOARD SECRETARY HOPPER: Shawnda Westly?
20 BOARD MEMBER WESTLY: Aye.
21 BOARD SECRETARY HOPPER: Lynn Paquin for Betty
22 Yee?
23 ACTING BOARD MEMBER PAQUIN: Aye.
24 BOARD SECRETARY HOPPER: I have a motion by
25 Theresa Taylor, seconded by David Miller. All eyes, Mr.

1 President.

2 PRESIDENT JONES: Okay. Thank you, Ms. Hopper.

3 Next item on the agenda is Pledge of Allegiance
4 to the flag. And I've asked Mr. Middleton to lead us in
5 the Pledge.

6 BOARD MEMBER MIDDLETON: Thank you, Mr.
7 President. Please join me in saluting the flag of our
8 country.

9 (Thereupon the Pledge of Allegiance was
10 recited in unison.)

11 PRESIDENT JONES: Thank you, Ms. Middleton
12 The next item on the agenda is the Board
13 President's report.

14 And so good afternoon again. And I want to begin
15 by recognizing and thanking the firefighters, police
16 officers, highway patrol, and all of the first responders
17 who have been fighting these wildfires in California.
18 They put their lives on the line each and every day to
19 save the lives of others, protect homes, businesses, and
20 historic places that are grounded in California's history.
21 It's an honor and a privilege to serve them and ensure
22 that they receive the retirement and health benefits that
23 they deserve. Our hearts go out to anyone who has lost a
24 family member, a friend, or home to these devastating
25 fires.

1 I now -- I'd to speak of all of us, we hope that
2 the days of this smoke-filled -- smoke-filled skies are --
3 will soon be behind us. The fires are a clear reminder
4 that climate change is real. The evidence of rapid
5 climate change is compelling. In addition to the fires in
6 the west, we are witnessing extreme weather events across
7 the United States. Globally, ice sheets are shrinking,
8 oceans are warming, sea levels are rising, and snowpacks
9 are decreasing.

10 This is why climate change is one of CalPERS' top
11 priorities and risks to the success of our fund. So on
12 behalf of the Board, I also want to thank CalPERS team
13 members for their dedication and their commitment to
14 serving our members and what has been a very, very
15 challenging year.

16 We recognize that while you're working remotely,
17 you're balancing that with home schooling children,
18 carrying for family members, and a new way of living
19 during a pandemic. We're grateful for all the work you
20 and -- work that you do and your resilience.

21 Finally, I want to thank my colleagues for the
22 insightful and constructive dialogue we had yesterday
23 afternoon on Board Governance. It's good that we revisit
24 how the changes we've made are working. And we should
25 continue to do that in a very thoughtful and structured

1 manner. I want to thank Anne Simpson for pulling these
2 agenda items together in such a short time, and for
3 helping remind us why we made the decisions that we did.

4 So that concludes my report. I'll turn it over
5 to our CEO, Ms. Frost.

6 CHIEF EXECUTIVE OFFICER FROST: Thank you,
7 President Jones. And as you indicated, we're rounding out
8 month number six of our work-from-home orders and I think
9 the challenges in 2020 are still coming. On top of the
10 COVID-19 pandemic and an extremely volatile investment
11 environment, Cal -- California is experiencing some of the
12 worst fire seasons I think they've had -- or we've had in
13 our history. And it's not just California, it's
14 Washington, it's Oregon as well.

15 But what we know at CalPERS is that it's an honor
16 to serve the CalPERS members protecting people and
17 communities throughout the state.

18 Let me bring you up-to-date a bit on how we're
19 meeting the members needs, starting with our members
20 affected by the Loyalton, the Jones and Lake fires. We've
21 reached out to about 30 retirees living in those
22 communities trying to make direct contact with them, to
23 ensure that they will be able to receive their retirement
24 checks. Some of opted in to direct deposit, which we
25 certainly appreciate and would advise them to do so, if

1 possible, while others have chosen to continue to receive
2 their paper checks.

3 Our teams who are processing retirement and
4 survivor benefit applications are exceeding the service
5 level agreements of 95 percent, while maintaining
6 consistently high satisfaction ratings. And a number of
7 retirement applications that are now being done through
8 the myCalPERS system is now over 65 percent, which is a
9 significant increase from the last time I reported this
10 number to you.

11 Some of that could be due to the education that
12 many of our members are receiving during the CalPERS
13 education events. We held one online in July. It was a
14 week-long event, with modules around self-education, and
15 learning sessions that were hosted by our team members.
16 And really, it was intended to guide members through the
17 various resources that are available to them, in order for
18 them to make the informed decisions that they need to
19 make. There are about 3,300 members who attended. And
20 the satisfaction rating for that event was at 98 percent.

21 Because of the success of the virtual CBEE, the
22 CalPERS Benefit Education Event, we are planning another
23 one in November.

24 Also, with our internal operations, this really
25 has been a time of dedication, and resilience, and

1 flexibility on the part of our team members, who are all
2 doing their best to balance all the new needs that have
3 been presented to them. I have heard from many of our
4 team members who have shared their own experiences, and
5 they tell me it's a tough balancing act, but they're
6 managing to remain productive all the same.

7 That productivity might look a little bit
8 different in their home offices than it did while they
9 were working at one of the CalPERS buildings, but people
10 are very dedicated to the mission that we have at CalPERS.

11 Many of them also have expressed appreciation for
12 our culture we have here that really supports their
13 ability to be successful in both arenas. And I think it's
14 really one of the things that makes working here worth it.

15 The number one thing that I hear over and over is
16 that our employees care for and really appreciate the
17 people they work with and the people they work for. The
18 executive team is also very focused on making sure all of
19 our team members have the information they need, the
20 resources they need, and the support that they need to be
21 successful.

22 I now turning now over to some outreach. Over
23 the last month, I've met with several business
24 organizations, over the last likely four to six weeks.
25 The first one being the Silicon Valley Leadership Group,

1 which represents one if every three private sector jobs in
2 the area, and Jim Wunderman, CEO of the Bar Area Council.
3 That council is made up of business leaders working with
4 public and community leaders to drive innovation in the
5 Bay Area to be competitive, to be inclusive and to be a
6 sustainable region in the world.

7 I had productive conversations with both and
8 fielded several questions about creating a better business
9 climate for CalPERS to be invested in California.

10 That was true also of my meeting that I had just
11 a couple of weeks ago with the Orange County Business
12 Council President CEO Lucy Dunn.

13 And then finally, Dan Bienvenue and I
14 participated in a presentation to the members of the
15 California Society of Municipal Finance Officers, which
16 includes many of our 3,000 participating employers. These
17 are all great opportunities for CalPERS to share our
18 plans, to protect the retirement security of our members,
19 and strengthen, you know, really our role with them as a
20 reliable partner, that we can't offer these retirement
21 benefits without healthy business partners and healthy
22 employers along the way.

23 And then that does bring me to some work that
24 we're doing with our employers next month. On October
25 14th and October 15th, we'll host the Annual Education

1 Forum. But, of course, this one will be online. In
2 addition to a few general sessions on the first day that
3 cover CalPERS's basics, participants will be able to
4 connect one-on-one with our team to be able to ask
5 questions and discuss key issues that their agencies might
6 be facing.

7 As usual, we will also hold the Spotlight on
8 Excellence award presentation. And that will be done on
9 the first day again.

10 The second day of the forum will feature more
11 advanced learning sessions to help employers with the
12 operational details of managing CalPERS' Pension and
13 Health Benefits. The virtual exhibits and one-on-one
14 consultations will also be available to ensure that people
15 don't leave this virtual setting with questions that are
16 unanswered.

17 And then the online format for the event will be
18 highly interactive, at least to the extent that we can
19 make it so and likely will be a unique experience for
20 people who are able to attend. The event will be free for
21 all CalPERS' contracting agencies, which we hope will
22 improve the access to all employers who are interested and
23 would benefit from the experience.

24 And just a couple of last items before I close.
25 I told you earlier this summer that we had 18 team members

1 receive our highest form of recognition here, which is the
2 APEX award. Last month in August, we hosted a virtual
3 award ceremony that honored them all during my weekly
4 webchat. And I think you can see the recipients on your
5 screen now.

6 PRESIDENT JONES: Very nice.

7 CHIEF EXECUTIVE OFFICER FROST: We took time to
8 share some excerpts of each person's work that made their
9 colleagues take notice and ultimately led to their
10 nominations.

11 What does impress me about this group is that
12 while they're very honored by the recognition. They're
13 also extremely humble about it. Many of them will just
14 tell you I'm doing my job and that reason they strive for
15 excellence is because we want to stay focused on serving
16 our members. It is a very inspiring event.

17 And then lastly, I do want to make sure that the
18 2020 Our Promise, the California State employees giving at
19 work campaign, letting you all know that that has also
20 launched. This is something that I got to be a co-sponsor
21 of in my first year at here in California. The campaign
22 goes all State employees the option to make charitable
23 donations through payroll deduction. Leading the team as
24 co-chairs of the CalPERS Our Promise campaign for the
25 second year are Don Martinez, who is the Chief of Member

1 Account Management, and then Forrest Grimes who is the
2 Chief Risk Officer.

3 Anthony Suine will also once again be leading the
4 team of key connectors who are responsible for
5 distributing and collecting contribution forms from our
6 employees. And new this year, Suzi Ishikawa, from our
7 Office of Public Affairs is serving as an executive on
8 loan throughout the Our Promise campaign.

9 With all of the turmoil, and anxiety, and the
10 chaos that's out there, that everyone really has
11 experienced in some form this year, there are really a lot
12 of people in need of help and non-profit organizations as
13 well. So this is a great opportunity, if you're able, to
14 contribute to a very worthy cause. And employees just
15 need to set up a Cal Employee Connect account to get
16 started.

17 And then I'm going to end with the investment
18 performance and this performance is through June 30th of
19 2020. One year -- the one-year number is 4.7, the
20 three-year number is 6.6, the five-year number is 6.3, the
21 ten-year number is 8.5. And that does conclude my report,
22 President Jones, and I'm happy to take questions if there
23 are any.

24 PRESIDENT JONES: No, I see no questions. Thank
25 you very much, Ms. Frost. And on behalf of the Board,

1 congratulations to the APEX 2020 members. So thank you
2 very much for sharing that.

3 (Applause.)

4 PRESIDENT JONES: The next item on the agenda is
5 the -- is action consent items. We have two items, 6a and
6 6b, approval of the minutes and also the Board travel
7 approvals. Do we have a motion?

8 VICE PRESIDENT TAYLOR: Move approval.

9 BOARD MEMBER MILLER: So moved.

10 PRESIDENT JONES: Moved by Mrs. Taylor, second by
11 Mr. Miller.

12 Mrs. Hopper.

13 BOARD SECRETARY HOPPER: Margaret Brown?

14 BOARD MEMBER BROWN: Aye.

15 BOARD SECRETARY HOPPER: Rob Feckner?

16 BOARD MEMBER FECKNER: Aye.

17 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
18 Ma?

19 ACTING BOARD MEMBER RUFFINO: Aye.

20 BOARD SECRETARY HOPPER: Lisa Middleton?

21 BOARD MEMBER MIDDLETON: Aye.

22 BOARD SECRETARY HOPPER: David Miller?

23 BOARD MEMBER MILLER: Aye.

24 BOARD SECRETARY HOPPER: Stacie Olivares?

25 BOARD MEMBER OLIVARES: Aye.

1 BOARD SECRETARY HOPPER: Eraina Ortega?

2 BOARD MEMBER ORTEGA: Aye.

3 BOARD SECRETARY HOPPER: Jason Perez?

4 BOARD MEMBER PEREZ: Aye.

5 BOARD SECRETARY HOPPER: Ramon Rubalcava?

6 BOARD MEMBER RUBALCAVA: Aye.

7 BOARD SECRETARY HOPPER: Theresa Taylor?

8 VICE PRESIDENT TAYLOR: Aye.

9 BOARD SECRETARY HOPPER: Shawnda Westly?

10 BOARD MEMBER WESTLY: Aye.

11 BOARD SECRETARY HOPPER: Lynn Paquin for Betty
12 Yee?

13 ACTING BOARD MEMBER PAQUIN: Aye.

14 BOARD SECRETARY HOPPER: Mr. President, I have
15 all ayes, Theresa Taylor making the motion, David Miller
16 seconding it. And is this for just 6a and 6b?

17 PRESIDENT JONES: No, I'm sorry, 6c also.

18 BOARD SECRETARY HOPPER: Okay. Thank you.

19 PRESIDENT JONES: Thank you. Okay. Thank you
20 very much, Ms. Hopper.

21 Mr. Feckner.

22 BOARD MEMBER FECKNER: Yes. Thank you, Mr.
23 President. I do have a comment on the Board travel
24 approvals, not talking about this one in particular. I'm
25 talk about in general from now on. Consider adding a

1 column for estimated expenditures. I mean, we keep
2 pushing along these line for complete transparency. We
3 know how much these trips are going to cost. We can
4 estimate the travel and the hotel. I just think we need
5 to a line on there, so that our stakeholders can see the
6 value that they're getting. And I think it's just
7 important that we all are transparent with that amount.
8 Thank you.

9 PRESIDENT JONES: Okay. You're welcome. And,
10 Mr. Feckner, are you also -- I mean, you said estimate,
11 but after the trip has occurred, many times the actual is
12 different from the estimate. Are you suggesting also that
13 we provide the actuals later or just go with the
14 estimates?

15 BOARD MEMBER FECKNER: No, absolutely. I think
16 if we're going to be transparent, we need to show the
17 actual amount.

18 PRESIDENT JONES: Okay. Thank you.

19 BOARD MEMBER FECKNER: Thank you.

20 PRESIDENT JONES: Okay. Okay. The next --

21 CHIEF EXECUTIVE OFFICER FROST: And, President
22 Jones, we do put down on a quarterly basis all of the
23 travel, and the travel does list the actual expenditures.
24 So this would be the new part to the process and I'll take
25 that as Committee direction.

1 PRESIDENT JONES: Okay. Thank you, Ms. Frost.
2 Okay. The next item on the agenda is the information
3 consent items, and I have no request to remove anything
4 from the consent items.

5 So we would now move to Item 8, Committee Reports
6 and Actions. The first one is Item 8a, Investment
7 Committee. For that, I call on the Chair, Mrs. Taylor.

8 VICE PRESIDENT TAYLOR: Thank you, Mr. President.

9 The Investment Committee met on September 14th,
10 2020. The Committee received reports on the following
11 topics:

12 An update on economic conditions, commentary on
13 performance and risk positioning across CalPERS' fund, and
14 a review of investment and business objectives for the
15 investment program. An update on market conditions,
16 CalPERS performance, and annual program review commentary
17 from the Board's investment consultants. A presentation
18 on the results of the annual evaluation of the Board
19 investment consultants. An overview of the long-term
20 fund's strategic asset allocation, investment management
21 services, and the plan's for review.

22 The chair directed staff to provide definitions
23 for the various reasons a contractor may be exempt from
24 the usual contracting selection process, to return in
25 November with a climate change strategy update, answer

1 questions posed by two of the public commenters, explore
2 the ability to ensure investment fund naming consistency
3 between the Investment Office reports and the CAFR.

4 The Committee heard public comment on the
5 following topics, investment strategy and risks and labor
6 disputes.

7 At this time, I'd like to share some highlights
8 of to what expect in the November Investment Committee
9 meeting. An overview of tracking error and the
10 Responsible Contractor Policy Program annual report, and
11 an update on the climate change strategy.

12 The next meeting of the Investment -- Investment
13 Committee is scheduled for November 16th, 2020 in
14 Sacramento, California or wherever we all may be.

15 Thank you.

16 PRESIDENT JONES: Okay. Thank you, Mrs. Taylor.

17 The next item on the agenda is 8b, Pension and
18 Health Benefits Committee. For that, I call on the Chair,
19 Mr. Feckner.

20 BOARD MEMBER FECKNER: Thank you, Mr. President.

21 The Pension and Health Benefits Committee met on
22 September 15th, 2020. The Committee recommends and I move
23 the Board approve the following:

24 Agenda Item 6a, the transition of California
25 Public Employees' Retirement System existing traditional

1 spread and rebate-driven pharmacy benefit manager contract
2 with OptumRx to a market-leading acquisition-based
3 contract with a one-year contract extension and an option
4 fr a second year extension at CalPERS discretion.

5 You're muted.

6 PRESIDENT JONES: On the motion of the Committee.
7 Mrs. Hopper.

8 BOARS SECRETARY HOPPER: I'm sorry, Mr.
9 President, who made the motion on that?

10 PRESIDENT JONES: Mr. Feckner.

11 BOARD SECRETARY HOPPER: And do we have a second?

12 BOARD MEMBER RUBALCAVA: I'll second.

13 PRESIDENT JONES: It doesn't require a second.

14 It's from the Committee

15 BOARD SECRETARY HOPPER: I gotcha. Than you.
16 Margaret Brown?

17 BOARD MEMBER BROWN: Aye.

18 BOARD SECRETARY HOPPER: Rob Feckner?

19 BOARD MEMBER FECKNER: Aye.

20 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
21 Ma?

22 ACTING BOARD MEMBER RUFFINO: Aye.

23 BOARD SECRETARY HOPPER: Lisa Middleton?

24 BOARD MEMBER MIDDLETON: Aye.

25 BOARD SECRETARY HOPPER: David Miller?

1 BOARD MEMBER MILLER: Aye.

2 BOARD SECRETARY HOPPER: Stacie Olivares?

3 BOARD MEMBER OLIVARES: Aye.

4 BOARD SECRETARY HOPPER: Eraina Ortega?

5 BOARD MEMBER ORTEGA: Aye.

6 BOARD SECRETARY HOPPER: Jason Perez?

7 BOARD MEMBER PEREZ: Aye.

8 BOARD SECRETARY HOPPER: Ramon Rubalcava?

9 BOARD MEMBER RUBALCAVA: Aye.

10 BOARD SECRETARY HOPPER: Theresa Taylor?

11 VICE PRESIDENT TAYLOR: Aye.

12 BOARD SECRETARY HOPPER: Shawnda Westly?

13 BOARD MEMBER WESTLY: Aye.

14 BOARD SECRETARY HOPPER: Lynn Paquin for Betty

15 Yee?

16 ACTING BOARD MEMBER PAQUIN: Aye.

17 BOARD SECRETARY HOPPER: Mr. President, I have
18 all eyes for Item 6a for the Pension and Health Benefits
19 Committee.

20 PRESIDENT JONES: Thank you, Ms. Hopper.

21 Mr. Feckner.

22 BOARD MEMBER FECKNER: Thank you. The Committee
23 received reports on the following topics.

24 The Committee approved proposed changes to the
25 PHBC delegation, the Committee received information

1 regarding HMO and PPO risk mitigation strategies, and the
2 Long-Term Care Program's competitive strategy.

3 The Committee received public comment regarding
4 the conversion of the PBM contract with OptumRx to an
5 acquisition-based contract, long-term care competitive
6 strategy, risk mitigation strategies, and looking beyond
7 the U.S. for leverage on drug pricing.

8 The Chair directed staff to share a list of
9 chronic conditions used in performance measures with the
10 Board, discuss chronic conditions among CalPERS members by
11 type at a future PHBC meeting, share plan enrollment
12 figures and trends with stakeholders when explaining the
13 new rating methodology, provide pharmacy information
14 targeted at fire victims on the CalPERS website.

15 At this time, I'd like to share some highlights
16 of what to expect at the November PHBC meeting. The
17 Committee will receive a behavioral health update and
18 approved benefit design and service area changes, long-term
19 care benefit design changes, and HMO and PPO risk
20 mitigation strategies.

21 The next meeting of the PHBC is scheduled for
22 November 17th 2020. That concludes my report, Mr.
23 President.

24 PRESIDENT JONES: Okay. Thank you, Mr. Feckner.
25 I do have a -- no, that's a request from outside.

1 Okay. Thank you, Mr. Feckner. The next item on
2 the Agenda is 8c, Finance and Administration Committee.
3 For that, I call on the Chair, Mrs. Taylor.

4 VICE PRESIDENT TAYLOR: Thank you, Mr. President.
5 The Finance Com -- and Administration Committee met on
6 September 15th, 2020.

7 The Committee recommends and I move the Board
8 approve the following:

9 Item -- Agenda Item 4b, approve the
10 recommendation to release a focused Request for Proposal
11 solicitation for an external investment manager for the
12 Long-Term Care Fund. And -- do we want to take these
13 separately or do we want to do them all at once?

14 PRESIDENT JONES: Unless someone requests that
15 they be pulled out, why don't you do them all Mrs. Taylor
16 and then we'll take one vote.

17 VICE PRESIDENT TAYLOR: Okay. Agenda Item 6a,
18 adopt the revised State and schools employer contribution
19 rates for the period July 1, 2020 to June 30th, 2021.

20 Agenda Item 6b, approve the revised Asset
21 Liability Management Policy.

22 Item 6c, approve the proposed amendments to
23 Sections 554.5, 554.6, 554.8 of the California Code of
24 Regulations and approve the submittal of the follow --
25 final rulemaking package to the Office of Administrative

1 Law.

2 PRESIDENT JONES: On the motion of the Committee.
3 Mrs. Hopper, please.

4 BOARD SECRETARY HOPPER: Margaret Brown?

5 BOARD MEMBER BROWN: Aye.

6 BOARD SECRETARY HOPPER: Rob Feckner?

7 BOARD MEMBER FECKNER: Aye.

8 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona

9 Ma?

10 ACTING BOARD MEMBER RUFFINO: Aye.

11 BOARD SECRETARY HOPPER: Lisa Middleton?

12 BOARD MEMBER MIDDLETON: Aye.

13 BOARD SECRETARY HOPPER: David Miller?

14 BOARD MEMBER MILLER: Aye.

15 BOARD SECRETARY HOPPER: Stacie Olivares?

16 BOARD MEMBER OLIVARES: Aye.

17 BOARD SECRETARY HOPPER: Eraina Ortega?

18 BOARD MEMBER ORTEGA: Aye.

19 BOARD SECRETARY HOPPER: Jason Perez?

20 BOARD MEMBER PEREZ: Aye.

21 BOARD SECRETARY HOPPER: Ramon Rubalcava?

22 BOARD MEMBER RUBALCAVA: Aye.

23 BOARD SECRETARY HOPPER: Theresa Taylor?

24 VICE PRESIDENT TAYLOR: Aye.

25 BOARD SECRETARY HOPPER: Shawnda Westly?

1 BOARD MEMBER WESTLY: Aye.

2 BOARD SECRETARY HOPPER: Lynn Paquin for Betty
3 Yee?

4 ACTING BOARD MEMBER PAQUIN: Aye.

5 BOARD SECRETARY HOPPER: Mr. President, I have
6 all ayes for Agenda Items 6 -- 4b, 6a, 6b, 6c for the
7 Finance and Administration Committee.

8 PRESIDENT JONES: Thank you, Mrs. Hopper.
9 Mrs. Taylor.

10 VICE PRESIDENT TAYLOR: Thank you.

11 The Committee received reports on the following
12 topics: annual actuarial valuation Terminated Agency Pool,
13 pension contract program annual report, long-term care
14 valuation.

15 The Chair directed staff to provide additional
16 details on the actual expenditures on internal staff and
17 administrative expenses and the FedEx contract.

18 The Chair also directed staff to bring back in
19 November 2020 an agenda item on Board elections regarding
20 wet signatures in light of the pandemic.

21 At this time, I'd like to share some of the
22 highlights of what to expect at the November Finance and
23 Administration Committee meeting: 2019-20 basic financial
24 statements, 2020-21 mid-year budget revision, and annual
25 review of funding levels and risk reports.

1 The next meeting of the Finance and
2 Administration Committee is scheduled for November 17th,
3 2020. And that is my report, Mr. President.

4 PRESIDENT JONES: Okay. Thank you, Ms. Taylor.

5 Okay. The next item on the Agenda is 8d,
6 Performance, Compensation and Talent Management Committee.
7 For that, I call on the Chair, Mr. Feckner.

8 BOARD MEMBER FECKNER: Thank you, Mr. President.
9 The Performance, Compensation and Talent Management
10 Committee met on September 16th, 2020. The Committee
11 recommends and I move the Board approve the following:

12 Agenda Item 7a, Chief Executive Officer's 2019-20
13 incentive award. Approve the CEO's 2019-20 incentive
14 award of \$100,617.

15 PRESIDENT JONES: On the motion of the Committee.
16 Mrs. Hopper.

17 BOARD SECRETARY HOPPER: Margaret Brown?

18 BOARD MEMBER BROWN: No.

19 BOARD SECRETARY HOPPER: Rob Feckner?

20 BOARD MEMBER FECKNER: Aye.

21 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
22 Ma?

23 ACTING BOARD MEMBER RUFFINO: Aye.

24 BOARD SECRETARY HOPPER: Lisa Middleton?

25 BOARD MEMBER MIDDLETON: Aye.

1 BOARD SECRETARY HOPPER: David Miller?

2 BOARD MEMBER MILLER: Aye.

3 BOARD SECRETARY HOPPER: Stacie Olivares?

4 BOARD MEMBER OLIVARES: Aye.

5 BOARD SECRETARY HOPPER: Eraina Ortega?

6 BOARD MEMBER ORTEGA: No.

7 BOARD SECRETARY HOPPER: Jason Perez?

8 BOARD MEMBER PEREZ: No.

9 BOARD SECRETARY HOPPER: Ramon Rubalcava?

10 BOARD MEMBER RUBALCAVA: Aye.

11 BOARD SECRETARY HOPPER: Theresa Taylor?

12 VICE PRESIDENT TAYLOR: Aye.

13 BOARD SECRETARY HOPPER: Shawnda Westly?

14 BOARD MEMBER WESTLY: Aye.

15 BOARD SECRETARY HOPPER: Lynn Paquin for Betty

16 Yee?

17 ACTING BOARD MEMBER PAQUIN: No.

18 BOARD SECRETARY HOPPER: Mr. President, I have
19 eight ayes and four noes. And the noes were from Margaret
20 Brown, Eraina Ortega, Jason Perez, and Lynn Paquin for
21 Betty Yee.

22 PRESIDENT JONES: Okay. Thank you. The item
23 passes. Thank you, Mrs. Hopper.

24 Mr. Feckner.

25 BOARD MEMBER FECKNER: Thank you.

1 Agenda Item 7b, Board's primary executive and
2 investment compensation consultant request for proposal
3 finalist approval. Approve Global Governance Advisors as
4 the Board's primary executive and investment compensation
5 consultant. Approve CalPERS to enter contract
6 negotiations with Global Governance Advisors, and if those
7 negotiations are unsuccessful, approve CalPERS to enter
8 contract negotiations with the next highest scoring
9 finalist.

10 PRESIDENT JONES: On the motion of the Committee.
11 Mrs. Hopper.

12 BOARD SECRETARY HOPPER: Margaret Brown?

13 BOARD MEMBER BROWN: Aye.

14 BOARD SECRETARY HOPPER: Rob Feckner?

15 BOARD MEMBER FECKNER: Aye.

16 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
17 Ma?

18 ACTING BOARD MEMBER RUFFINO: Aye.

19 BOARD SECRETARY HOPPER: Lisa Middleton?

20 BOARD MEMBER MIDDLETON: Aye.

21 BOARD SECRETARY HOPPER: David Miller?

22 BOARD MEMBER MILLER: Aye.

23 BOARD SECRETARY HOPPER: Stacie Olivares?

24 BOARD MEMBER OLIVARES: Aye.

25 BOARD SECRETARY HOPPER: Eraina Ortega?

1 BOARD MEMBER ORTEGA: Aye.

2 BOARD SECRETARY HOPPER: Jason Perez?

3 BOARD MEMBER PEREZ: Aye.

4 BOARD SECRETARY HOPPER: Ramon Rubalcava?

5 BOARD MEMBER RUBALCAVA: Aye.

6 BOARD SECRETARY HOPPER: Theresa Taylor?

7 VICE PRESIDENT TAYLOR: Aye.

8 BOARD SECRETARY HOPPER: Shawnda Westly?

9 BOARD MEMBER WESTLY: Aye.

10 BOARD SECRETARY HOPPER: Lynn Paquin for Betty

11 Yee?

12 ACTING BOARD MEMBER PAQUIN: Aye.

13 BOARD SECRETARY HOPPER: Mr. President, I have
14 all ayes for Item 7b for the Performance, Compensation and
15 Talent Management Committee.

16 PRESIDENT JONES: Thank you, Mrs. Hopper.

17 Mr. Feckner.

18 BOARD MEMBER FECKNER: Thank you.

19 The Committee received a report on the following
20 topic: financial interest separation requirements for
21 Chief Investment Officer position.

22 The Committee heard public comment on the
23 following topics, financial interest separate requirements
24 for Chief Investment Officer position.

25 The Chair directed staff to provide additional

1 information and research on how financial interest
2 separation requirements should apply to the CIO position
3 and other executive and investment management positions as
4 well as members of the Board.

5 At this time, I would like to share some
6 highlights of what to expect at the November Performance,
7 Compensation and Talent Management Committee meeting.
8 Incentive compensation recommendations for the Chief
9 Investment Officer.

10 The next meeting of the Performance, Compensation
11 and Talent Management Committee will be in November.
12 Thank you, Mr. President. That ends my report.

13 PRESIDENT JONES: Okay. Thank you, Mr. Feckner.

14 And there was no Risk and Audit Committee so we
15 will move to the next item on the agenda, 8f, Board
16 Governance Committee. For that, I call on the Vice Chair
17 Ms. Middleton.

18 BOARD MEMBER MIDDLETON: All right. My apology.
19 I was having trouble with mute.

20 This -- the Board Governance Committee met on
21 September 15, 2020. The Committee recommends and I move
22 the Board approve the following:

23 Agenda Item 5b, approve the expansion of the
24 Investment Committee to include all 13 Board members,
25 making it a committee of the whole.

1 Agenda Item 5c, approve the attached language in
2 section IX.A page 16 of 25 of the Board Governance Policy
3 to establish shared responsibility between the Board and
4 the Chief Executive Officer for the hiring, evaluating,
5 and terminating of the Chief Investment Officer.

6 PRESIDENT JONES: Ms. Middleton, I've received a
7 request to separate these items. So if we can go back to
8 the first one and we'll take them one at a time.

9 BOARD MEMBER MIDDLETON: All right. Thank you.

10 BOARD SECRETARY HOPPER: Margaret Brown?

11 BOARD MEMBER BROWN: 5b is aye.

12 BOARD SECRETARY HOPPER: Rob Feckner?

13 BOARD MEMBER FECKNER: Aye.

14 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
15 Ma?

16 ACTING BOARD MEMBER RUFFINO: Aye.

17 BOARD SECRETARY HOPPER: Lisa Middleton?

18 PRESIDENT JONES: You're muted Mrs. Middleton.

19 BOARD MEMBER MIDDLETON: Aye.

20 BOARD SECRETARY HOPPER: David Miller?

21 BOARD MEMBER MILLER: Aye.

22 BOARD SECRETARY HOPPER: Stacie Olivares?

23 BOARD MEMBER OLIVARES: Aye.

24 BOARD SECRETARY HOPPER: Eraina Ortega?

25 BOARD MEMBER ORTEGA: Aye.

1 BOARD SECRETARY HOPPER: Jason Perez?

2 BOARD MEMBER PEREZ: Aye.

3 BOARD SECRETARY HOPPER: Ramon Rubalcava?

4 BOARD MEMBER RUBALCAVA: Aye.

5 BOARD SECRETARY HOPPER: Theresa Taylor?

6 VICE PRESIDENT TAYLOR: Nay.

7 BOARD SECRETARY HOPPER: Was that a yes, Ms.

8 Taylor

9 VICE PRESIDENT TAYLOR: No.

10 BOARD SECRETARY HOPPER: Shawnda Westly?

11 BOARD MEMBER WESTLY: Aye.

12 BOARD SECRETARY HOPPER: Lynn Paquin for Betty

13 Yee?

14 ACTING BOARD MEMBER PAQUIN: Aye.

15 BOARD SECRETARY HOPPER: Mr. President, I have 11
16 ayes and one no. The no was made by Theresa Taylor.

17 PRESIDENT JONES: Okay. The next item, Ms.
18 Middle -- that item passes. The next -- Mrs. Taylor, if
19 you want to comment now, I see you have a thing in the
20 queue.

21 VICE PRESIDENT TAYLOR: No, I just didn't think
22 you'd catch my separation.

23 PRESIDENT JONES: Okay. Okay. Okay. The next
24 item, Ms. Middleton.

25 BOARD MEMBER MIDDLETON: I move, and the Board

1 approve Item 5c. And I will not read that again, unless
2 requested.

3 PRESIDENT JONES: Okay. I don't see a request.
4 So on the motion by the Committee, Mrs. Hopper.

5 BOARD SECRETARY HOPPER: Margaret Brown?

6 BOARD MEMBER BROWN: Aye.

7 BOARD SECRETARY HOPPER: Rob Feckner?

8 BOARD MEMBER FECKNER: Aye.

9 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
10 Ma?

11 ACTING BOARD MEMBER RUFFINO: Aye.

12 BOARD SECRETARY HOPPER: Lisa Middleton?

13 BOARD MEMBER MIDDLETON: Aye.

14 BOARD SECRETARY HOPPER: David Miller?

15 BOARD MEMBER MILLER: Aye.

16 BOARD SECRETARY HOPPER: Stacie Olivares?

17 BOARD MEMBER OLIVARES: Aye.

18 BOARD SECRETARY HOPPER: Eraina Ortega?

19 BOARD MEMBER ORTEGA: Aye.

20 BOARD SECRETARY HOPPER: Jason Perez?

21 BOARD MEMBER PEREZ: Aye.

22 BOARD SECRETARY HOPPER: Ramon Rubalcava?

23 BOARD MEMBER RUBALCAVA: No.

24 BOARD SECRETARY HOPPER: Theresa Taylor?

25 VICE PRESIDENT TAYLOR: No.

1 BOARD SECRETARY HOPPER: Shawnda Westly?

2 BOARD MEMBER WESTLY: Aye.

3 BOARD SECRETARY HOPPER: Lynn Paquin for Betty
4 Yee?

5 ACTING BOARD MEMBER PAQUIN: Aye.

6 BOARD SECRETARY HOPPER: Mr. President, I have
7 ten ayes, two noes, and the noes were made by Ramon
8 Rubalcava, Theresa Taylor.

9 PRESIDENT JONES: Thank you, Mrs. Hopper. The
10 item passes.

11 Ms. Middleton.

12 BOARD MEMBER MIDDLETON: All right. The
13 Committee also reviewed and discussed the proposed
14 revision to the Board Governance Policy regarding the
15 reporting of investigations to the Board and asked
16 management to bring back revised language that
17 incorporates input from the State Personnel Board and
18 CalHR, as well as the comments made during the discussion
19 of this item, and considers adding the Chair of the Risk
20 and Audit Committee to the notification process.

21 The Committee also discussed and considered the
22 2021 Board and Committee meeting schedule. And the Chair
23 asked the Chair of the Investment Committee to bring back
24 proposed dates and content for additional meetings in 2021
25 for consideration at the Investment Committee's November

1 meeting.

2 The next meeting of the Board Governance
3 Committee is tentatively scheduled for November 17 in
4 Sacramento, California or wherever we may be.

5 PRESIDENT JONES: Okay. Ms. Brown.

6 BOARD MEMBER BROWN: Thank you. I thought you
7 might miss me. I want to thank the Governance Committee
8 for expanding the Investment Committee to include all
9 members. You know, one thing I don't see here on the
10 notes, Ms. Middleton, is the discussion about Pension
11 Health Benefits Committee being also a committee of the
12 whole. And so I'm hoping maybe we can bring that back in
13 November as well. I just -- I don't know, but it seemed
14 like quite a few of us were concerned about that and
15 thought that might also be appropriate.

16 Thank you.

17 BOARD MEMBER MIDDLETON: It is my understanding
18 that we did not have authority to bring that back, but you
19 are correct, many of us have that same concern.

20 PRESIDENT JONES: Okay. Thank you.

21 Okay. We now -- before we go to Item 9, I see
22 that we've had a couple of late requests just came in that
23 want to talk about some of the previous items that we've
24 already covered and several of them. So 6b, 7a, 8b, and
25 8d.

1 Oh, is this -- he's saying he will speak at
2 public comment on those now, Ms. --- Cheree?

3 MS. SWEDENSKY: That's correct.

4 PRESIDENT JONES: Okay. So we don't have to go
5 back. Okay. Good. I appreciate that. Okay. That's
6 great.

7 Okay. Now, we will go to Agenda Item 9. And
8 we've got a request, Mrs. Taylor. When we get to 9c, they
9 want to have a comment on that before we take a vote.

10 So for the proposed decisions of administrative
11 law judges, I call on the Vice President, Mrs. Taylor.

12 VICE PRESIDENT TAYLOR: Thank you, Mr. President.
13 I'm trying to read this to see how we do that.

14 So 9c1 is that what we're talking about, is that
15 the request?

16 PRESIDENT JONES: Yeah, it's 9c, and then we have
17 9c and then we have a question on 9c1

18 BOARD MEMBER ORTEGA: Mr. Chair, I also had a
19 comment here. I need to -- I need to recuse on one of the
20 nine items as well, so...

21 PRESIDENT JONES: Which 9 item did you need to
22 recuse yourself?

23 BOARD MEMBER ORTEGA: I need TO recuse from 9a.
24 So I would like to ask that 9a be taken up as separate
25 vote.

1 PRESIDENT JONES: The whole, all of those under
2 9a.

3 BOARD MEMBER ORTEGA: Just A. The -- I think
4 it's --

5 VICE PRESIDENT TAYLOR: There's 1 through 8.
6 (Multiple voices at once.)

7 BOARD MEMBER ORTEGA: The Los -- Los Alamitos
8 Fire I need to have taken up separately so I can recuse
9 myself on that item.

10 PRESIDENT JONES: So 9a1. Okay.

11 BOARD MEMBER ORTEGA: Thank you.

12 PRESIDENT JONES: So we're excluding 9a1 from
13 this vote. So move forward, Mrs. Taylor.

14 VICE PRESIDENT TAYLOR: Okay. Boy, this is
15 confusing. Okay. I move to adopt the proposed decisions
16 at Agenda Items 9a2 through 8 as the Board's own decision
17 with minor modifications argued by staff to Agenda Items
18 9a2 and 5 through 8.

19 BOARD MEMBER MILLER: Second.

20 GENERAL COUNSEL JACOBS: Can I interject?

21 PRESIDENT JONES: Moved by Ms. Taylor. Second by
22 Mr. Miller.

23 VICE PRESIDENT TAYLOR: Hold it. Hold on Matt is
24 objecting to this.

25 PRESIDENT JONES: Okay. Matt.

1 GENERAL COUNSEL JACOBS: Yeah. It's not
2 objecting to it, but I did -- I think that the request --
3 we had asked that the 9a3 be put over to November, Susan
4 Galloway. What happened there is that we uploaded the
5 respondent's argument late. And so the respondent
6 requested that that go over to November. We do have time,
7 because of the Governor's Executive Order extending the
8 deadlines on OAH matters, to have that heard in November.
9 So in light of that request by the respondent.

10 VICE PRESIDENT TAYLOR: Matt, is that 9a3?

11 GENERAL COUNSEL JACOBS: Yes, 9a3.

12 VICE PRESIDENT TAYLOR: Okay. So et me redo this
13 then. So 9a1 and 9a3. So let me redo this.

14 I move to adopt the proposed decisions at Agenda
15 Items 9a2, 9a4 through 8 as the Board's own decision with
16 the minor modifications argued by staff to Agenda Items
17 9a2, and 5 through 8.

18 PRESIDENT JONES: Okay. Moved by Ms. Taylor.

19 BOARD MEMBER MILLER: Second that.

20 PRESIDENT JONES: Second by Mr. Miller.

21 Mrs. Hopper, please.

22 BOARD SECRETARY HOPPER: Margaret Brown?

23 BOARD MEMBER BROWN: Aye.

24 BOARD SECRETARY HOPPER: Rob Feckner?

25 BOARD MEMBER FECKNER: Aye.

1 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
2 Ma?

3 ACTING BOARD MEMBER RUFFINO: Aye.

4 BOARD SECRETARY HOPPER: Lisa Middleton?

5 BOARD MEMBER MIDDLETON: Aye.

6 BOARD SECRETARY HOPPER: David Miller?

7 BOARD MEMBER MILLER: Aye.

8 BOARD SECRETARY HOPPER: Stacie Olivares?

9 BOARD MEMBER OLIVARES: Aye.

10 BOARD SECRETARY HOPPER: Eraina Ortega?

11 BOARD MEMBER ORTEGA: Aye.

12 BOARD SECRETARY HOPPER: Jason Perez?

13 BOARD MEMBER PEREZ: Aye.

14 BOARD SECRETARY HOPPER: Ramon Rubalcava?

15 BOARD MEMBER RUBALCAVA: Aye.

16 BOARD SECRETARY HOPPER: Theresa Taylor?

17 VICE PRESIDENT TAYLOR: Aye.

18 BOARD SECRETARY HOPPER: Shawnda Westly?

19 BOARD MEMBER WESTLY: This includes the Los

20 Alamitos case?

21 VICE PRESIDENT TAYLOR: No.

22 BOARD MEMBER WESTLY: No. Then aye.

23 BOARD SECRETARY HOPPER: So Ms. Westly was that
24 an aye?

25 BOARD MEMBER WESTLY: That's an aye.

1 BOARD SECRETARY HOPPER: Thank you.

2 Lynn Paquin for Betty Yee?

3 ACTING BOARD MEMBER PAQUIN: Aye.

4 BOARD SECRETARY HOPPER: Mr. President, I have
5 Theresa making the motion, David Mille seconding it. I
6 have all ayes for Items 9, 2 through 9, 8 with excluding
7 9a1 and 9a3.

8 PRESIDENT JONES: Okay. Thank you, Mrs. Hopper.
9 Then we go back to 9a1, Mrs. Taylor.

10 VICE PRESIDENT TAYLOR: I recommend -- or I move
11 the Board adopt the proposed decision at 9a1. We're going
12 to do that separately.

13 PRESIDENT JONES: Yes. It's move by Ms. Taylor.

14 BOARD MEMBER PEREZ: I have a question, sir.

15 PRESIDENT JONES: Okay. Let's gets a second
16 first and then we'll --

17 BOARD MEMBER BROWN: Second.

18 PRESIDENT JONES: Ms. Brown. Okay.
19 Mr. Perez.

20 BOARD MEMBER PEREZ: Do we have Mr. Shah on the
21 line?

22 VICE PRESIDENT TAYLOR: Yes.

23 PRESIDENT JONES: Yes.

24 MR. SHAH: Yes, I'm right here.

25 PRESIDENT JONES: Okay.

1 MR. SHAH: Sorry. Good morning.

2 BOARD MEMBER PEREZ: Good morning -- or
3 afternoon. Two questions.

4 MR. SHAH: Good afternoon, yeah.

5 BOARD MEMBER PEREZ: Number one, why did this
6 come to -- why did this come to the CalPERS Board, and
7 number two, how is a firefighter at Los Alamitos Base any
8 different than any other State firefighter?

9 MR. SHAH: That's a great question. It came to
10 the CalPERS Board, because it went through the
11 administrative process. The staff denied the member's
12 request and it was appealed to the Office of
13 Administrative Hearings. So it resulted in a -- in a
14 proposed decision and that's how it came to the CalPERS
15 Board.

16 Now, how as to -- as to the second part of your
17 question, the gist of the proposed decision is that the
18 members here are active duty service members and not civil
19 service employees. And that's the reason why they're in a
20 separate classification, not as traditional firefighters.
21 That's what the proposed decision finds and we believe
22 that it is a correct finding.

23 VICE PRESIDENT TAYLOR: Does that work for you
24 Jason?

25 PRESIDENT JONES: Okay. It was moved by Ms.

1 Taylor and second by Mr. Miller. So we have a question.

2 Ms. Brown. I'm sorry.

3 BOARD MEMBER BROWN: It was seconded by me.

4 (Laughter.)

5 PRESIDENT JONES: Second by Ms. Brown. Thank you
6 Ms. Brown.

7 (Laughter.)

8 PRESIDENT JONES: Okay. So, Ms. Hopper.

9 BOARD SECRETARY HOPPER: Margaret Brown?

10 BOARD MEMBER BROWN: Aye.

11 BOARD SECRETARY HOPPER: Rob Feckner?

12 BOARD MEMBER FECKNER: Aye.

13 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
14 Ma?

15 ACTING BOARD MEMBER RUFFINO: Aye.

16 BOARD SECRETARY HOPPER: Lisa Middleton?

17 (Automated phone voice.)

18 BOARD MEMBER MIDDLETON: That's not me

19 BOARD SECRETARY HOPPER: Lisa Middleton?

20 BOARD MEMBER MIDDLETON: Aye. Still aye.

21 BOARD SECRETARY HOPPER: David Miller?

22 BOARD MEMBER MILLER: Aye.

23 BOARD SECRETARY HOPPER: Stacie Olivares?

24 BOARD MEMBER OLIVARES: Aye. Sorry. I'm going
25 to dial in now.

1 BOARD SECRETARY HOPPER: Eraina Ortega?

2 BOARD MEMBER ORTEGA: Abstain.

3 BOARD SECRETARY HOPPER: Jason Perez?

4 BOARD MEMBER PEREZ: Aye.

5 BOARD SECRETARY HOPPER: Ramon Rubalcava?

6 BOARD MEMBER RUBALCAVA: Aye.

7 BOARD SECRETARY HOPPER: Theresa Taylor?

8 VICE PRESIDENT TAYLOR: Aye.

9 BOARD SECRETARY HOPPER: Shawnda Westly?

10 BOARD MEMBER WESTLY: Abstain.

11 BOARD SECRETARY HOPPER: Lynn Paquin for Betty

12 Yee?

13 ACTING BOARD MEMBER PAQUIN: Aye.

14 BOARD SECRETARY HOPPER: Mr. President, I have
15 Theresa Taylor making the motion, Margaret Brown seconding
16 it. I have ten ayes, two abstains, one made by Eraina
17 Ortega and the other by Shawnda Westly, for item 9a1.

18 PRESIDENT JONES: Okay. Thank you. The item
19 passes.

20 So we're withdrawing 9a3 for additional
21 information at a later date.

22 VICE PRESIDENT TAYLOR: Right.

23 PRESIDENT JONES: Okay.

24 VICE PRESIDENT TAYLOR: So let me go on to 9b
25 then.

1 PRESIDENT JONES: 9b.

2 VICE PRESIDENT TAYLOR: Okay. I move to deny the
3 petition for reconsideration at Agenda Item 9b -- 9b1.

4 BOARD MEMBER MILLER: I'll second.

5 PRESIDENT JONES: Second -- moved by Ms. Taylor,
6 second by Mr. Miller.

7 Mrs. Hopper, please.

8 BOARD SECRETARY HOPPER: Margaret Brown?

9 BOARD MEMBER BROWN: Aye.

10 BOARD SECRETARY HOPPER: Rob Feckner?

11 BOARD MEMBER FECKNER: Aye.

12 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona
13 Ma?

14 ACTING BOARD MEMBER RUFFINO: Aye.

15 BOARD SECRETARY HOPPER: Lisa Middleton?

16 BOARD MEMBER MIDDLETON: Aye.

17 BOARD SECRETARY HOPPER: David Miller?

18 BOARD MEMBER MILLER: Aye.

19 BOARD SECRETARY HOPPER: Stacie Olivares?

20 VICE PRESIDENT TAYLOR: I think she's trying to
21 get on the phone.

22 BOARD SECRETARY HOPPER: Eraina Ortega?

23 BOARD MEMBER ORTEGA: Aye.

24 BOARD SECRETARY HOPPER: Jason --

25 BOARD MEMBER OLIVARES: I'm on the phone.

1 BOARD SECRETARY HOPPER: Stacie Olivares?

2 BOARD MEMBER OLIVARES: Aye.

3 BOARD SECRETARY HOPPER: Jason Perez?

4 BOARD MEMBER PEREZ: Aye.

5 BOARD SECRETARY HOPPER: Ramon Rubalcava?

6 BOARD MEMBER RUBALCAVA: Aye.

7 BOARD SECRETARY HOPPER: Theresa Taylor?

8 VICE PRESIDENT TAYLOR: Aye.

9 BOARD SECRETARY HOPPER: Shawnda Westly?

10 BOARD MEMBER WESTLY: Aye.

11 BOARD SECRETARY HOPPER: Lynn Paquin for Betty

12 Yee?

13 ACTING BOARD MEMBER PAQUIN: Aye.

14 BOARD SECRETARY HOPPER: Mr. President, I have
15 Theresa Taylor making the motion, David Miller seconding
16 it on Item 9b1.

17 PRESIDENT JONES: Okay. Thank you. We have a
18 number -- so that item passes.

19 We have a number --

20 VICE PRESIDENT TAYLOR: Thank you.

21 PRESIDENT JONES: We have a number of requests to
22 speak on 9c.

23 GENERAL COUNSEL JACOBS: President Jones.

24 VICE PRESIDENT TAYLOR: So on 9c this isn't my
25 stuff here, so we're not going to be taking action on 9c.

1 PRESIDENT JONES: Say that again, Ms. Taylor.

2 VICE PRESIDENT TAYLOR: 9c isn't on my paperwork
3 here, so we're not taking action --

4 PRESIDENT JONES: 9c1?

5 VICE PRESIDENT TAYLOR: No, we're not taking
6 action on 9c.

7 PRESIDENT JONES: So that must be updated from my
8 agenda then.

9 BOARD MEMBER FECKNER: Mine, too.

10 VICE PRESIDENT TAYLOR: Yeah, I just got this
11 from Cheree. Did that get added?

12 PRESIDENT JONES: Mr. Jacobs.

13 GENERAL COUNSEL JACOBS: Thank you. 9c1, the
14 request for precedential decision, Dudley Lang, that has
15 been on the agenda for action since the agenda was posted.
16 But before we get to that, I have a different issue --

17 VICE PRESIDENT TAYLOR: It's not even here.

18 GENERAL COUNSEL JACOBS: -- (inaudible) President
19 Jones --

20 PRESIDENT JONES: Yes.

21 GENERAL COUNSEL JACOBS: -- which is that I think
22 you need to go back on Agenda Item 6 to get a revote on
23 that, because the motion that was made was actually for
24 approval of A and B, and then there was a suggestion at
25 the last moment that that was for C as well, but I

1 understand there's been an objection to how -- the way
2 that that proceeded and that C should have been separated
3 out. So I think we need to redo the vote on 6a through c.

4 PRESIDENT JONES: Okay. I will -- before we
5 go -- since we got it seems like a number of requests to
6 speak to -- on 9c. So let's take care 6A through C, that
7 was the -- who moved that? Can I ask you to remake that
8 motion?

9 BOARD MEMBER FECKNER: It's the action consent.

10 PRESIDENT JONES: Yeah. Who moved that, Ms.
11 Hopper.

12 BOARD MEMBER FECKNER: It's Theresa Taylor.

13 BOARD MEMBER FECKNER: We need a motion.

14 BOARD SECRETARY HOPPER: It was Theresa Taylor
15 and David Miller seconding the motion.

16 PRESIDENT JONES: Yeah, but -- Right. Right.
17 Yeah. We need another motion, what Mr. Jacobs is saying,
18 because we didn't include C, so I'm asking to redo the
19 whole thing. Mr. Jacobs, are you suggesting we redo the
20 whole thing or just C?

21 GENERAL COUNSEL JACOBS: You can do it either
22 way. You can take 6a and b together, which I think was
23 the original motion and then go 6c separately. You can do
24 6a through c in one fell swoop. Although, I believe
25 you'll have a request on that particular one to separate

1 them out.

2 PRESIDENT JONES: Okay. Mr. Perez, I saw your
3 hand.

4 BOARD MEMBER PEREZ: No, I was seconding or
5 motioning to clean that up.

6 PRESIDENT JONES: Okay. Okay. So why don't --
7 Margaret Brown says she would like to be -- 6c to be
8 separate. So let's -- so we have actually approved A and
9 B, so let's take a motion for Item 6c. Do I have a --

10 BOARD MEMBER MILLER: So moved.

11 PRESIDENT JONES: Moved by Mr. Miller.

12 BOARD SECRETARY HOPPER: Okay. One second, Mr.
13 President, please.

14 BOARD MEMBER PEREZ: She excluded 6b, isn't that
15 the one we need to vote on?

16 PRESIDENT JONES: No, we excluded 6c. I thought
17 that's what happened.

18 BOARD SECRETARY HOPPER: So, Mr. President, for
19 the initial vote, I had it down for 6a through 6c and that
20 was all ayes. So we're going to remove 6c from that vote,
21 correct?

22 PRESIDENT JONES: Yes.

23 BOARD SECRETARY HOPPER: Okay. And this next
24 vote will just be on 6c.

25 PRESIDENT JONES: Yes. So it's been moved Mr.

1 Miller.

2 Do we have a second?

3 VICE PRESIDENT TAYLOR: Second.

4 BOARD MEMBER PEREZ: (Waved hand.)

5 PRESIDENT JONES: Second by Mr. Perez.

6 Mrs. Hopper, please.

7 BOARD SECRETARY HOPPER: Okay. Second was Mr.

8 Perez. Okay. Thank you.

9 Margaret Brown?

10 BOARD MEMBER BROWN: No.

11 BOARD SECRETARY HOPPER: Rob Feckner?

12 Rob Feckner?

13 BOARD MEMBER FECKNER: Aye.

14 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona

15 Ma?

16 ACTING BOARD MEMBER RUFFINO: Aye.

17 BOARD SECRETARY HOPPER: Lisa Middleton?

18 BOARD MEMBER MIDDLETON: Aye.

19 BOARD SECRETARY HOPPER: David Miller?

20 BOARD MEMBER MILLER: Aye.

21 BOARD SECRETARY HOPPER: Stacie Olivares?

22 BOARD MEMBER OLIVARES: Aye.

23 BOARD SECRETARY HOPPER: Eraina Ortega?

24 BOARD MEMBER ORTEGA: Aye.

25 BOARD SECRETARY HOPPER: Jason Perez?

1 BOARD MEMBER PEREZ: Aye.

2 BOARD SECRETARY HOPPER: Ramon Rubalcava?

3 BOARD MEMBER RUBALCAVA: Aye.

4 BOARD SECRETARY HOPPER: Theresa Taylor?

5 VICE PRESIDENT TAYLOR: Aye.

6 BOARD SECRETARY HOPPER: Shawnda Westly?

7 BOARD MEMBER WESTLY: Aye.

8 BOARD SECRETARY HOPPER: Lynn Paquin for Betty
9 Yee?

10 ACTING BOARD MEMBER PAQUIN: Aye.

11 BOARD SECRETARY HOPPER: Mr. President, I have
12 David Miller making the motion, Jason Perez is second.
13 All ayes, one no made by Margaret Brown for Agenda Item
14 6c, approval of the nomination of Board member to outside
15 board.

16 PRESIDENT JONES: Okay. Thank you, the item
17 passes.

18 Okay. Now we will go to 9c and we have a couple
19 of --

20 VICE PRESIDENT TAYLOR: Henry, it looks like you
21 have comments. You already addressed that.

22 PRESIDENT JONES: Yeah, that's what I'm looking
23 at. We've got -- we ask the -- ask the Board comments
24 first. Ms. Westly. Ms. Brown -- Ms. Westly, do you have
25 a comment on this one?

1 BOARD MEMBER WESTLY: I did not.

2 PRESIDENT JONES: Okay. Ms. Brown.

3 No. That's 6. Okay.

4 So I think that is all that -- so the rest are
5 from the public. We have public -- requests from the
6 public to speak on this item.

7 VICE PRESIDENT TAYLOR: Okay. For 6c, so do you
8 want me to go to 9c now?

9 PRESIDENT JONES: No, not 6c, 9c.

10 VICE PRESIDENT TAYLOR: 9c.

11 PRESIDENT JONES: I think.

12 VICE PRESIDENT TAYLOR: I don't know. I saw
13 something from -- Margaret, did you already talk on 6c?

14 PRESIDENT JONES: Yeah.

15 BOARD MEMBER BROWN: I'm all good.

16 VICE PRESIDENT TAYLOR: Okay. All right. So let
17 me do 9c.

18 PRESIDENT JONES: Yeah.

19 VICE PRESIDENT TAYLOR: And then we can have --
20 do we want to have the public talk first or do 9c?

21 PRESIDENT JONES: Let's just go ahead and take
22 the public, because it's --

23 VICE PRESIDENT TAYLOR: Okay.

24 PRESIDENT JONES: Yeah. So, Mr. Fox.

25 STAKEHOLDER RELATIONS CHIEF FOX: Yes. Mr.

1 President, we have two speakers on Item 9c. The first
2 from the League of California Cities Bijan Mehryar.

3 MR. MEHRYAR: Good afternoon, Mr. President and
4 Board members. This is Bijan Mehryar with the League of
5 California Cities.

6 We respectfully request that you do not adopt the
7 Lang decision as precedential. Our objection to that is
8 rooted in kind of two main reasons. I would say first we
9 find the legal reasoning put forward by the administrative
10 law judge as insufficient to really explain the
11 interaction between the three-year statute of limitations
12 and the violations of the PERL for post-employment
13 retirement.

14 We are not excusing, or justifying, or defending
15 the finding within the context of the Lang decision, but
16 we are deeply concerned that making this precedential
17 would then kind of open a Pandora's Box for going back,
18 and auditing, and recouping, and clawing back retirement
19 payments that were made to retirees and potentially even
20 contributions that employers would have to make.

21 I would also say that, secondly, there is a deep
22 concern among employers over a pattern of behavior that
23 seems to arise with ALJ decisions being put forward to be
24 made precedential, so as to justify getting more
25 contributions and bringing more money back into the PERF.

1 I think the fear is that as opposed to working
2 collaboratively and relying on your employer partners to
3 pursue either regulations that include stakeholder
4 feedback or to advance legislation in the Legislature to
5 make clear fair changes in the PERL that benefit the
6 system without negatively impacting employers. A route is
7 being pursued to use these ALJ decisions to get the
8 contri -- the contributions necessary to make up for the
9 lack of sufficient investment performance by the fund.

10 So as I have mentioned a couple of times in my
11 comments throughout this week's meetings, the employers
12 are always ready to work with the Board. We don't condone
13 any violations of the PERL, but we think the path forward
14 is working on guidance and assistance to employers and not
15 speaking to measures and opening the door through ALJ
16 decisions to elicit funds from either employees --
17 employers or retirees, given the current state of the
18 world and the current demands on government at all levels,
19 given the recession and given the global pandemic.

20 So again, we respectfully request that you do not
21 adopt the Lang decision as precedential.

22 Thank you very much.

23 PRESIDENT JONES: Okay. Thank you.

24 Mr. Fox.

25 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.

1 President. The next speaker from the California Special
2 Districts, Mr. Dillon Gibbons.

3 MR. GIBBONS: Hello. Good afternoon. This is
4 Dillon Gibbons with the California Special Districts
5 Association. I'm calling to express my opposition -- or
6 our opposition to the adoption of the decision in the
7 matter of the appeal regarding the post-retirement
8 employment of Dudley J. Lang as precedential.

9 I'd like to align my comments with the previous
10 speaker from the League of Cities. We're not contesting
11 the decision, but we are opposed to adopting that decision
12 as precedential.

13 CSDA is opposed to the adoption of the decision
14 as precedential, because it substantively fails to meet
15 the Board's stated requirement to include a clear and
16 complete analysis of the issues in sufficient detail so
17 the interested parties can understand why the findings of
18 fact were made and how the law was applied.

19 Of particular concern to the Special Districts in
20 the decision is the finding that the three year limitation
21 on actions where the system makes an erroneous payment
22 or -- to a member or beneficiary is not applicable. The
23 decision instead applies Government Code section 21220,
24 which requires reimbursement of all retirement benefits
25 paid during that period, regardless of time such payments

1 were made.

2 The decision simply provides a conclusory
3 statement regarding what the Legislature intended and
4 argues that applying section 20164 would lead to absurd
5 results without articulating what absurdities may arise.

6 VICE PRESIDENT TAYLOR: Careful --

7 MR. GIBBONS: The decision provides no --

8 VICE PRESIDENT TAYLOR: Sorry.

9 MR. GIBBONS: The decision provides no external
10 analysis -- excuse me?

11 PRESIDENT JONES: No. Go ahead.

12 MR. GIBBONS: The decision provides no other
13 analysis supporting why section 21220 is appropriate,
14 rather than section 21 -- 20164 as applied to the factual
15 circumstances in the case. To date, no other finding or
16 precedential decision in the California courts has reached
17 the same conclusion.

18 Many public agencies have reported passing
19 multiple CalPERS audits only to have subsequent audits
20 find a violation for post-retirement relationship that
21 previously had no issues. The adoption of this decision
22 would allow CalPERS to have no consequences for these
23 types of inconsistencies, while local governments would
24 simultaneously face the financial burden of paying the
25 amount of dis -- disallowed compensation to the retired

1 member.

2 For these reasons, CSDA respectfully urges the
3 Board to decline to adopt the decision in the mater of the
4 Dudley Lang decision as precedential.

5 Thank you.

6 PRESIDENT JONES: Thank you.

7 Mr. Fox.

8 STAKEHOLDER RELATIONS CHIEF FOX: Mr. President,
9 that concludes public comment on Item 9c.

10 PRESIDENT JONES: Okay. Thank you. We do have a
11 couple of requests from Board members.

12 Ms. Middleton.

13 BOARD MEMBER MIDDLETON: Okay. Thank you, Mr
14 President. I as well am concerned about making the Lang
15 decision a precedential decision. I think the finding in
16 Lang was quite appropriate and the behavior here is one
17 that we were right to audit and we were right to -- the
18 ALJ was correct in the decision.

19 But in making this precedential, we take away
20 somewhat our ability to work with the League, to work with
21 the Special District Association, work with other
22 employers on a solution moving forward that addresses
23 everyone's concerns.

24 The use of annuitant employees is a critical part
25 of local government. And I think this is a broad area

1 that we need to have more exploration with our employer
2 partners before proceeding with a precedential decision.

3 PRESIDENT JONES: Thank you. Mr. Ruffino.

4 ACTING BOARD MEMBER RUFFINO: Thank you, Mr.
5 Chair.

6 So we -- in reading the letter from California
7 Special Districts Association and the League, they're
8 asking, and I quote, "Urging the Board to postpone such a
9 decision until the public health crisis in California has
10 subsided", so that they could have more time to comment
11 and to prepare a legal analysis.

12 So my question is for Legal. First, do we have
13 to make a decision today, and two, if we -- if not, you
14 know, what's the harm -- what's the harm to delay the
15 hearing until a later date when everybody will have ample
16 time to do their analysis and research?

17 So I guess, Mr. Jacobs, the question is directed
18 to you. Do we need to do it today?

19 GENERAL COUNSEL JACOBS: Sure. I appreciate the
20 question. I appreciate the concern, Mr. Ruffino. The
21 answer is no we don't need to do it today. But I will
22 point out that we first sent out the notice of this in
23 February for a March date. And at the employer's request,
24 particularly Mr. Dillon's, I believe, we continued it for,
25 I believe, three months. And then Mr. Dillon and/or the

1 employers or an employer requested a further continuance.
2 And we again put it out another three months.

3 And I at least have not heard from them in the
4 meantime. So at some point, it just becomes important to
5 go forward or not. I mean we do have continuing
6 discussions with employers about related issues pertaining
7 to the employer -- excuse me, the employee vendor -- the
8 employee/contractor relationship and that continues.

9 This seems to us to be a pretty straightforward
10 application of the law. And by the way, with respect to
11 the suggestion by Mr. Bijan that we would be pursuing
12 these cases to bring in more funds for the Fund, I don't
13 think that is well taken. I mean, we just -- you know,
14 the PERL just tells us what's the -- how we're supposed to
15 administer the fund and we just administer it as best we
16 can according to what the PERL says.

17 I would suggest that we elevate John Shipley, my
18 colleague in the Legal Office who handled this litigation,
19 to address any additional issues. He is standing by. And
20 it looks like Mr. Miller has a question for Mr. Shah as
21 well.

22 But anyway, Mr. Shipley can well articulate how
23 we believe that this is a straightforward application that
24 aids the interpretation of the law for us, for
25 respondents, for ALJs down the road, and that we should

1 just go ahead and move forward.

2 Mr. Shipley, did you have anything to add to
3 that?

4 SENIOR ATTORNEY SHIPLEY: I would just briefly
5 add that the administrative law judge did consider the
6 history of the legislation. It was changed in 1987 to
7 include the current penalty that the person who violated
8 the working-after-retirement would have to forfeit all
9 retirement allowance. That was the Legislature's
10 decision. And so what CalPERS is doing is simply
11 following what the Legislature ha told us we have to do as
12 far as the penalty.

13 The ALJ found that there was no mistake, that
14 this is simply a penalty for somebody who violated the
15 law. And that's what the Legislature is requiring CalPERS
16 to do when that type of violation occurs.

17 And I'm happy to answer any other questions that
18 anybody might have.

19 ACTING BOARD MEMBER RUFFINO: Well, I -- I
20 appreciate -- you know, I appreciate the answer, counsel,
21 and I -- and I noted, you know, that staff believes in
22 your response that -- it believes that there was
23 sufficient time given to all the interested parties,
24 but -- and I know you mentioned three months -- I believe
25 three months extension, which seems to be reasonable under

1 normal circumstances. But I -- if this does not cause any
2 harm at all and we are not compelled to act today, I'm
3 not -- you know, we're don't -- we don't have concerns
4 about the legal analysis or the legal aspect. We have
5 concerns about making sure that everybody gets ample time
6 and no one comes back and said we haven't had sufficient
7 time to prepare a rebuttal or having an analysis --
8 thorough analysis, so, you know, to clearly make a
9 decision or making some decision.

10 So that's -- that's our concern. If possible,
11 perhaps, we can delay this to and agendize for the next
12 Board meeting. That should give sufficient time to --
13 indeed to everyone to be ready.

14 PRESIDENT JONES: Okay. We have other
15 requests --

16 ACTING BOARD MEMBER RUFFINO: That's it.

17 PRESIDENT JONES: We have other requests to speak
18 on this.

19 Ms. Brown.

20 BOARD MEMBER BROWN: Thank you, President Jones.
21 This is for our legal counsel or maybe for outside
22 counsel. By the way, Ms. Middleton, I think she read my
23 speech. I had it written down here.

24 You know, making this precedential means other
25 ALJs will rely on this decision. And that means that it

1 will sort of force them to rule this way, is that correct?

2 GENERAL COUNSEL JACOBS: It does give it more
3 importance.

4 BOARD MEMBER BROWN: I'm sorry, I didn't hear
5 that.

6 GENERAL COUNSEL JACOBS: Yes.

7 BOARD MEMBER BROWN: Okay. So how many -- how
8 many other of these cases do we -- do we have in the
9 queue, are we working on internally from audits or
10 problems? I mean, are there a lot of these coming?

11 GENERAL COUNSEL JACOBS: I don't know. John, do
12 you have a thought on that?

13 SENIOR ATTORNEY SHIPLEY: I would -- I would say
14 that there's -- this isn't something that you see every
15 month or every other month, but we do have a dozen or more
16 cases that deal with these similar type of issues.

17 GENERAL COUNSEL JACOBS: Would you say a dozen a
18 year, John?

19 BOARD MEMBER BROWN: That's a lot.

20 SENIOR ATTORNEY SHIPLEY: I'd probably say a
21 dozen in the queue that deal with these type of issues.
22 Maybe not -- maybe over a couple year period. So it is
23 something that reoccur -- that reoccurs, which is why
24 CalPERS staff sought to make this precedential, so that we
25 wouldn't be relitigating the same issues.

1 BOARD MEMBER BROWN: All right. I just -- what I
2 don't want to do is take away any, you know, plaintiff's
3 or appellant's rights by making this precedential. That's
4 -- I kind of feel like we're taking away the case-by-case
5 if we do that, is that correct?

6 GENERAL COUNSEL JACOBS: Well, I don't think
7 you're taking away the case-by-case. I mean, this is the
8 way litigation works is that cases, and, you know, now we
9 can cite to a bunch of cases that are along the same
10 lines, but they're not precedential, so they're more
11 easily cast aside. You know, in normal litigation, a case
12 goes up on appeal, all of sudden you have an appellate
13 case, and somebody's case down below get stronger or
14 weaker, so...

15 BOARD MEMBER BROWN: Right. So -- so, yeah,
16 basically, this will require the other ALJs to look at
17 this case as -- right, is that right?

18 Okay.

19 GENERAL COUNSEL JACOBS: It makes a -- it makes
20 it a -- yeah, a stronger precedent. I mean, you're
21 supposed to look at it --

22 BOARD MEMBER BROWN: More uniform.

23 GENERAL COUNSEL JACOBS: -- unless you can
24 distinguish it.

25 BOARD MEMBER BROWN: All right. Thank you.

1 SENIOR ATTORNEY SHIPLEY: And could I just add
2 one thing just to address your question, Ms. Brown?

3 BOARD MEMBER BROWN: Sure. Sure.

4 SENIOR ATTORNEY SHIPLEY: The -- each respondent
5 would still be able to present their own specific facts.
6 And so what we're really asking for is a precedential
7 decision on the law. The ALJ in this decision rejected
8 the arguments and the facts that were presented by the
9 respondent, but each respondent would obviously be able to
10 present their own facts as to why the law shouldn't apply.
11 And that's all we're asking for is to have the law
12 clarified and so that it's following what the PERL
13 requires.

14 BOARD MEMBER BROWN: All right. Thank you.

15 PRESIDENT JONES: Okay. Mr. Miller.

16 BOARD MEMBER MILLER: Yeah. My question is
17 probably for Mr. Shipley, but Mr. Shah would be welcome to
18 weigh in as well. As a layperson, without the legal
19 background in this, I was concerned that one of our
20 commenters raised what seemed like he was saying that the
21 administrative law judge erred in using one section of law
22 versus another, which seems like that would be a pretty
23 fundamental error. So I'm wondering if we had looked at
24 those sections and if we had -- if that was something we
25 thought about or whether that's just something we disagree

1 with in our view or whether it's something we need to
2 research further or come back later.

3 MR. SHAH: May I, Mr. President? This is Chirag.

4 PRESIDENT JONES: Yes.

5 MR. SHAH: Okay.

6 PRESIDENT JONES: Please.

7 MR. SHAH: Thank you. Mr. Miller, good question.

8 Just reasonable minds can disagree. I reviewed
9 this proposed decision thoroughly, probably about four or
10 five times, every time it was agendized since this was
11 brought to the Board. And I've concluded that it is
12 accurate. It's actually an excellent decision on all the
13 legal points, including the statute of limitations issues
14 that were addressed in the decision.

15 BOARD MEMBER MILLER: Thank you.

16 PRESIDENT JONES: Okay. Ms. Taylor.

17 VICE PRESIDENT TAYLOR: So I just was -- I'm not
18 sure what we're -- I guess the precedential issue is what
19 the issue is. I'm just not sure that it matters,
20 because isn't -- I mean, in legal decisions, generally
21 they do reference other legal decisions, so that's --
22 that's the other thing about that. Does it -- do we -- I
23 guess I should leave it to everybody else. When I bring
24 it up for a vote, we can either not vote on it now -- I'm
25 just confused now, at this point, so Henry, go ahead.

1 PRESIDENT JONES: This is just for discussion
2 right now. We'll get to that part.

3 VICE PRESIDENT TAYLOR: Okay.

4 PRESIDENT JONES: Mrs. Ortega.

5 BOARD MEMBER ORTEGA: Thank you, Mr. Chair. I
6 have a question about the -- the question came up about
7 how often we -- we see these types of cases, but I -- my
8 understanding, and certainly the -- kind of the
9 information I have is that both the State and local
10 agencies are using retired annuitants a lot right now.
11 And I've received several letters from local governments
12 that I think have been sent to both CalHR and CalPERS
13 asking for more flexibility on the use of retired
14 annuitants, because of the staffing challenges in
15 particular in the health care industry around COVID. And
16 I know -- I know certainly at the State, there are several
17 departments who have had to bring in additional expertise
18 to help in public health and -- and again, largely in the
19 health care settings, but probably in other areas as well.

20 And so while I'm not concerned with the decision
21 here, I am concerned that we're perhaps entering into an
22 era of more mistakes and misuse of retired annuitants,
23 because I don't think that people are -- I think there are
24 a lot of entities out there who don't follow the rules or
25 don't understand the rules closely, and then these issues

1 come up after the fact in the audits.

2 And I worry that we're narrowing our opportunity
3 to resolve -- to resolve those issues in a way, other than
4 finding out, you know, two years later that an employee
5 owes -- a retiree owes \$50,000. And those are real-world
6 examples that I've seen where there's a finding that both
7 the retiree and the employer owe tens of thousands of
8 dollars.

9 And I -- you know, I think that if it's a
10 situation where people should have known or did know and
11 acted inappropriately anyway, that's one thing. But I
12 feel like some of these rules are a bit complex. They're
13 especially complex when people are members of multiple
14 systems or had multiple retirement formulas.

15 And so I'm just concerned about narrowing our
16 options for resolving these issues in a way that isn't
17 particularly harmful to retirees and public entities. And
18 these -- this precedent would also apply to the State in
19 these kind of issues.

20 So just would like to get some feedback on
21 whether it would, in fact, narrow that or whether that's
22 kind of an over -- you know, maybe an unwarranted concern.

23 PRESIDENT JONES: Mr. Jacobs and then Mr. Shah.

24 GENERAL COUNSEL JACOBS: Yeah. I'm going to try
25 and pitch that -- try and pitch that to my colleague Mr.

1 Shipley, because he's more familiar with these cases. And
2 I wish that we had had Ms. Lisa -- I always forget her
3 last name -- on the line, because she's the true expert on
4 all of this stuff and how it interacts.

5 But, Mr. Shipley, do you have any comment on
6 that?

7 Let me just say this, I don't think it's a big
8 deal if we kick this for a couple of months, given the
9 level of concern. It's just not that big a deal, getting
10 back to Mr. Ruffino's concern. I understand that there
11 was a letter that was sent -- I just saw it 30 seconds ago
12 and I didn't even know that it was sent from Mr. -- from
13 Bijan, so I -- we would like a chance to review that.

14 So why don't we just kick this thing to November
15 and revisit it then.

16 PRESIDENT JONES: Okay.

17 GENERAL COUNSEL JACOBS: Anyway, I don't make
18 those decision, but I'm not opposed to it is what I'm
19 saying.

20 PRESIDENT JONES: Okay. I would like to hear
21 from Mr. Shah on that suggestion also, since he's the
22 board's counsel on this matter.

23 MR. SHAH: Yeah. I think that's a great idea.
24 And I can also offer a brief comment to Ms. Ortega's
25 questions concerns, if I may.

1 PRESIDENT JONES: Yes.

2 MR. SHAH: You know, the proposed -- the decision
3 here doesn't really change the law in any meaningful --
4 anyway whatsoever. It actually seeks to clarify the law.
5 So to the extent that there's some ambiguity, confusion --
6 and these are -- this decision, you know, from a
7 layperson's perspective, is actually very, very complex,
8 because the rules are very complex.

9 And what I think -- what I see staff doing here,
10 and this is the reason why I support it is to bring some
11 clarity to a very confusing area of the law. So one
12 perspective, if I may offer that, you know, is to say that
13 this kind of helps to kind work through all these
14 issues -- these complex issues and kind of tells you what
15 you can and can't do any way. Clarifies it a little more.

16 But the law will be the law, and staff's duty to
17 enforce the law stays the same, regardless.

18 Does that make sense?

19 PRESIDENT JONES: Yeah. Okay.

20 SENIOR ATTORNEY SHIPLEY: Mr. President Could
21 I -- this is John Shipley, could I address Ms. Ortega's
22 comments or questions

23 PRESIDENT JONES: Sure.

24 SENIOR ATTORNEY SHIPLEY: Okay. I do just want
25 to -- because you were concerned about what happens during

1 this time. The Governor did issue an Executive Order that
2 it's -- that essentially suspended the
3 working-after-retirement restriction to provide the
4 employers, the local agencies, and the State with
5 flexibility to get work done during this time. And so
6 that Executive Order would essentially suspend the
7 working-after-retirement restrictions during this time, so
8 that there wouldn't be -- I know that there's a lot of
9 confusion and everybody is trying to work through what's
10 happening. There wouldn't be the same type of
11 restrictions in place now.

12 And so as long as that Executive Order is in
13 place, it provides the employers, the agencies with
14 flexibility to -- you know, to hire retired annuitants,
15 and get the work done that needs to be done on behalf of
16 all the people.

17 PRESIDENT JONES: Okay. And I don't think we
18 reach a point where there was a motion yet, because we
19 started to hear everyone's questions first. So --

20 VICE PRESIDENT TAYLOR: Yeah, we didn't.

21 PRESIDENT JONES: -- unless I see otherwise, we
22 will pull this and move it to November, unless any Board
23 member have a concern about that and want to discuss it
24 further?

25 BOARD MEMBER ORTEGA: Mr. Chair.

1 PRESIDENT JONES: Yeah.

2 BOARD MEMBER ORTEGA: Could I just ask that when
3 we do discuss it, that we have the program folks involved
4 too, because I think this notion that the decision helps
5 clarify the rules and will help entities, you know, follow
6 the complex rules better going forward is a very helpful
7 bit of information. But I feel like it would be good to
8 know that from the program perspective, rather just from
9 the case interpretation.

10 PRESIDENT JONES: Okay. That's so directed.

11 BOARD MEMBER MIDDLETON: Mr. President, if I
12 could ask one question?

13 PRESIDENT JONES: Ms. Middleton.

14 BOARD MEMBER MIDDLETON: Thank you.

15 So the issue here is whether or not this is
16 precedential. So in delaying this to November, are we
17 delaying adoption of the decision that was made in the
18 Lang case, because I think everyone agrees that the ALJ
19 made the correct decision. It's just the question of
20 whether this is precedential.

21 GENERAL COUNSEL JACOBS: No, Ms. Middleton. It
22 does not delay it at all. In fact, the Lang decision has
23 been final for a number of months now.

24 BOARD MEMBER MIDDLETON: All right. Thank you.

25 GENERAL COUNSEL JACOBS: You're welcome.

1 PRESIDENT JONES: Okay. Mr. Rubalcava.

2 VICE PRESIDENT TAYLOR: No. I'm --

3 PRESIDENT JONES: Wait a minute, Theresa. You're
4 right. You're right. Theresa, I'm sorry.

5 VICE PRESIDENT TAYLOR: Sorry. I just wanted to
6 reiterate, because it's not only the decision is already
7 made, I get that. But when it comes back, does it have to
8 be precedential? That's the other thing we need to
9 reconsider. And staff, I think, needs to reconsider that,
10 because that's the big problem here. So if we're going to
11 delay it again, because we've delayed it twice, so this
12 will be the third time, does it need to be precedential,
13 because that is the issue -- that's the issue at hand?

14 GENERAL COUNSEL JACOBS: Well, we'll review that
15 as well. Our thought was that it did need to be
16 precedential and that's why we brought it forward. You're
17 looking at me like maybe you can't hear what I'm saying.

18 VICE PRESIDENT TAYLOR: No, I get. I get it. So
19 in other words, you guys delayed it twice and said, yeah,
20 we still want to do it precedential. So we've already
21 taken this into consideration.

22 PRESIDENT JONES: Okay. We've decided to go
23 ahead and delay it, but we have to rely on legal for their
24 recommendation, so we'll have to wait until we get back to
25 that.

1 So, Mr. Rubalcava, did you have a comment you
2 wanted to make?

3 BOARD MEMBER RUBALCAVA: I did. But since I
4 think the momentum is to delay and bring it back to -- I
5 wanted to speak to whether it should be precedential or
6 not. But I -- I'll hold my comments till it comes back.
7 So thank you.

8 PRESIDENT JONES: Okay. Mr. Ruffino.

9 ACTING BOARD MEMBER RUFFINO: Well, Mr.
10 President, I was going to make a substitute motion, but
11 since it's been agreed to delay, there is -- it's a moot
12 point.

13 PRESIDENT JONES: Okay. And then Ms. Taylor
14 again.

15 VICE PRESIDENT TAYLOR: No, no, no. You got me.
16 I had waved a couple of times and then you missed me,
17 so...

18 PRESIDENT JONES: Okay. Okay. So that item is
19 removed and that completes the agenda items under the --
20 under the precedential decisions.

21 So thank you, Mr. Shah. We will now --

22 MR. SHAH: Thank you, Mr. President.

23 PRESIDENT JONES: And stay safe. And we will now
24 move to information agenda items. The first one is 10a,
25 State and federal legislation update. Mr. Brown.

1 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: Good
2 afternoon, Mr. President and members. Danny Brown,
3 CalPERS team member. (Inaudible) State and federal
4 legislative update.

5 BOARD MEMBER MILLER: I can't understand you.

6 PRESIDENT JONES: Yeah. You're breaking up, Mr.
7 Brown.

8 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: Okay.
9 Can you hear me now?

10 PRESIDENT JONES: Yes.

11 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: I
12 guess I'll have to hold my mic up a little bit farther.
13 Sorry about that.

14 So on the State side, the Legislature has
15 finished its session for this year and all bills passed,
16 have been sent to the Governor's desk for signature or
17 veto. The Governor has until the end of this month to
18 make his decision to sign and veto legislation. Of those
19 bills, there are three bills that the Board has a support
20 position on that are on his desk.

21 First AB 2101, which is the CalPERS Omnibus Bill.
22 This measure was amended by the legislative committee to
23 include housekeeping items for both CalSTRS and the '37
24 Act County systems. The bills passed the Legislature
25 without opposition.

1 AB 1140, the bill making a change to the contract
2 merger and successor agency law for two Santa Cruz County
3 fire districts passed without opposition and was signed by
4 the Governor last Friday.

5 And the third bill, AB 2967, which prohibits
6 future exclusions through the CalPERS contract amendment
7 process passed the Legislature with bipartisan votes.

8 Both AB 2101 and AB 2967 are awaiting action by
9 the Governor.

10 As you probably already know, our other sponsored
11 bill, AB 2473, regarding private loan investments, was
12 shelved in early August prior to being heard in the Senate
13 policy committee.

14 And then the last bill I will mention, since it
15 was raised in July, is SB 977. This is the bill that
16 would require the Attorney General's office to review and
17 approve specified health care system consolidations. This
18 bill ended up dying on the Assembly floor without getting
19 taken up for a vote.

20 Overall, the Legislature sent less than half the
21 number of bills to the Governor compared to most years.
22 Largely, this is due to the calendar and logistical
23 challenges imposed by the COVID-19 pandemic.

24 Additionally, the bill volume was restricted because of
25 projected budget shortfalls and challenges. Barring an

1 emergency session, the Legislature has recessed and is
2 scheduled to resume activities in the first week of
3 December, after the election and when the new legislative
4 session is convened.

5 Moving to the federal side and starting with
6 Congress, right now it appears that the only thing that
7 might get done before the election is a passage of a clean
8 continuing resolution to continue funding the federal
9 government beyond the end of the federal fiscal year,
10 which ends on September 30th.

11 And what I mean by a clean resolution is
12 they're -- they're not planning on putting any type of
13 COVID-19 aid in the continuing resolution. As for the
14 COVID-19 relief package, The White House, Senate
15 Republicans, and the House Democrats remain at an impasse
16 over the size and scope of another aid bill. As we
17 discussed before, in May, the House Democrats passed a
18 package that amounted to about \$3.5 trillion. The Senate
19 Republicans initially proposed several bills totaling
20 about \$1.1 trillion, and then last week tried to pass, but
21 was unsuccessful, in a \$500 billion bill, which really
22 only included about 300 billion in new money.

23 Yesterday, a bipartisan group of about 50 members
24 of Congress, known as the Problem Solving -- Solvers
25 Caucus, which has 25 Republicans, 25 Democrats, introduced

1 a one point trillion dollar proposal that could go up or
2 down if certain triggers are met.

3 As far as the State and local funding is
4 concerned, the House Bill included \$875 billion for State
5 and local governments. The initial Republican bill did
6 not include any new money for State and local governments.
7 It only added some flexibility to the CARES Act fund, so
8 that those funds could be used to replace lost revenue
9 rather than just towards COVID-19 expenses. Their second
10 bill included no new money or additional flexibility.

11 Now, the bipartisan bill that was introduced
12 yesterday, it did include \$500 billion for State and local
13 governments, as well as additional flexibility of CARES
14 Act's funds.

15 So kind of where does that leave us? In most
16 negotiations, the parties actually get closer together,
17 but publicly they seem to be getting farther apart. So
18 it -- you know, we had -- the House Democrats went from
19 three point -- started a 3.5 trillion. They said they
20 would be willing to go down to 2.2 trillion. But as I
21 mentioned earlier, the Senate Republicans started at 1.1
22 trillion and went down to 500 billion.

23 And The White House, you know, they've put out
24 different numbers at different times. I would say on a
25 positive note, the Treasury Secretary, Mr. Mnuchin, has

1 put on the record saying he is open to providing
2 additional funds to State and local governments.

3 So as you can see, the discussions have been all
4 over the map, so it is difficult to handicap. Both sides
5 seem to be at least posturing that a deal would be -- that
6 no deal would be better than accepting a bad deal. It is
7 possible that a deal could happen before the end of the
8 month, but it could be pushed off until after the election
9 too.

10 The speaker did announce yesterday, she is
11 willing to keep the House in session until the -- up until
12 the election to get a deal done. And many are hoping that
13 the recent \$1.5 trillion proposal is a roadmap to reaching
14 an agreement. We will monitor and report back as needed.

15 Moving to the regulatory front, the SEC, and now
16 the Department of Labor have, and what I will I guess
17 diplomatically say, continue to propose rules that appear
18 to favor companies and management over shareowners.

19 The most recent is a proposed by DOL on proxy
20 voting that would prohibit fiduci -- fiduciaries and other
21 asset managers from voting on proxy proposals impacting a
22 retirement plan, unless a matter has an economic impact on
23 the pension and 401(k) plans.

24 According to DOL, the proposal is intended to
25 clarify prior proxy voting guidance and noted that

1 fiduciaries must consider factors that may affect the
2 value of the plan's investments and not subordinate the
3 interest of participants and beneficiaries in their
4 retirement income to unrelated objectives.

5 Further, the Department of Labor said the
6 proposed change is meant to ensure that fiduciaries are
7 acting in an appropriate and cost-efficient manner. When
8 exercising shareowner rights, critics say that the rule
9 would benefit corporate executives at the expense of
10 investors.

11 Investors and consumer advocates have also raised
12 concerns that this proposed rule is another attempt at
13 limiting the ability of fiduciaries to consider ESG
14 factors when making investment decisions.

15 Since this rule only applies to ERISA plans, it
16 doesn't have a direct impact on CalPERS nor would it
17 change our decision-making or voting processes, but we are
18 watching it closely.

19 I believe that Simiso is with me today, so he can
20 speak more directly to this proposal, if there are any
21 questions.

22 But before that, the last thing I want to mention
23 is we are currently working on a comment letter to the SEC
24 on a proposal to raise quarterly reporting thresholds for
25 institutional investment managers from 100 million to 3.5

1 billion. Institutional manager disclosures enhance
2 confidence among all investors in the integrity of
3 securities markets. We are concerned by limiting such
4 disclosures, this proposal undermines that confidence and
5 may lead to increased market unpredictability and
6 instability.

7 And with that, I'll end and happy to answer any
8 questions you may have.

9 PRESIDENT JONES: Thank you, Mr. Brown.

10 Yes, Mr. Perez.

11 BOARD MEMBER PEREZ: Thank you, Mr. President.
12 My question was before -- for 9a. It's not related to
13 this report. So I can wait or I can ask now.

14 PRESIDENT JONES: Okay. All right. Then we'll
15 move to Mr. Miller.

16 BOARD MEMBER MILLER: Yeah. Thank you for the
17 report Mr. Brown. I appreciate it. I was wondering if
18 you could just tell us a little more about why our
19 sponsored bill was withdrawn by the author and whether we
20 expect it to be reintroduced next session, or whether
21 we'll be looking for a new author, because it's very
22 important and it's important to our strategy, and we need
23 to get that flexibility to be able to carryout our
24 strategic efforts.

25 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: Sure.

1 Yes. Thank you, Mr. Miller. The bill was shelved. I
2 mean, after discussions between, you know, CalPERS and the
3 author, it had to do obviously with some of the news that
4 came out about CalPERS. But also, you know, in light of
5 that and the COVID-19, it just was a difficult time to
6 really get out and advocate for a bill and have the
7 discussion that we needed to have to count votes and know
8 whether or not that bill was going to be successful, so
9 that we all -- all parties thought it would be best to
10 wait, and regroup, and come back next year. And
11 obviously, you know, at the direction of the Board, we
12 would -- we would entertain moving that forward next year.
13 And we would, you know, come to the Board at the
14 appropriate time to have that discussion.

15 BOARD MEMBER MILLER: Yeah. Thank you. It was a
16 very unfortunate time for us to have leaks of such
17 important information that -- that's going to delay us
18 quite a while in getting that, I think.

19 PRESIDENT JONES: Are you finished, Mr. Miller?

20 BOARD MEMBER MILLER: Yes.

21 PRESIDENT JONES: Okay. Ms. Taylor.

22 VICE PRESIDENT TAYLOR: Yes. Thanks, Danny,
23 for -- I love your reports. They're rather disappointing,
24 you know, right now --

25 (Laughter.)

1 VICE PRESIDENT TAYLOR: -- but -- so the HEROES
2 Act -- or not the HEROES Act, but any kind of help for the
3 COVID-19 issue right now, I found it interesting - I just
4 heard or read, I can't remember - that Trump himself is
5 saying that we need more money. So maybe something will
6 get done before the end of the year. I don't know. He
7 could change his mind. I don't know. I'm hoping that
8 something will get done, which is inclusive of putting
9 money to states. I know that we've all been busy trying
10 to help that through, but -- and then in addition, the --
11 the DOL rules are we going to do a letter on that, just --
12 I know it's ERISA only. And I had asked before if we
13 did -- I think it was the SEC ruling on ESG for us to
14 participate in a letter, because I think it's important
15 regardless of whether it impacts us, that we protect the
16 ability of everyone to have a say in this and ESG.
17 Considering the climate right now is just crazy, I can't
18 even imagine. So I would think we would have an interest.
19 I don't know. So did we do a letter from the other one
20 and are we going to do one for this one?

21 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: We did
22 not do a letter for -- there was another DOL proposed rule
23 on ESG and we did not do -- doing a letter on that one.

24 On this one, as of right now, we -- you know,
25 there's been a lot of discussion about that. I don't

1 think we are planning on it, but I would like to -- I
2 probably should have done this before I started. But
3 Jared can promote Simiso and maybe he can also -- as the
4 expert, can speak to these issues.

5 VICE PRESIDENT TAYLOR: I'd appreciate it.

6 Thank you.

7 CONFERENCE MODERATOR: I'm sorry, what was that
8 name again, Danny?

9 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN:

10 Simiso.

11 CONFERENCE MODERATOR: Simiso. Okay.

12 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: Is he
13 on the line?

14 CONFERENCE MODERATOR: Simiso, you should be able
15 to share your audio and video.

16 VICE PRESIDENT TAYLOR: There he is.

17 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: And I
18 believe that CII is planning on writing a letter, and
19 Simiso can probably -- might be able to speak to that as
20 he's, you know, on that Board.

21 VICE PRESIDENT TAYLOR: I just think CalPERS has
22 such clout, the name itself. And I know that we don't get
23 involved in these, but I -- I think there comes a time
24 where we have to draw a line and say, yeah, this is going
25 too far.

1 INVESTMENT DIRECTOR NZIMA: Thank you, Danny.
2 And good afternoon, President Jones and members of the
3 CalPERS Board. Simiso Nzima Investment Director, Global
4 Equities.

5 As Danny put it our, really this ruling
6 doesn't -- or proposal doesn't affect us, because we're
7 not governed by ERISA. However, we do follow closely the
8 ERISA rules. And I think this is something which we can
9 take into consideration internally in terms of whether we
10 should comment or not. And we didn't comment in the
11 earlier proposal by the DOL regarding investments in ESG
12 strategies, which was in June -- june this year.

13 And my understanding really was that maybe we're
14 not going to comment on this, but that's something which
15 we can -- we can take back and look at, you know, between
16 Legislative Affairs and the Investment Office.

17 VICE PRESIDENT TAYLOR: Could you let me know if,
18 at some point, you guys have decided to do or not do,
19 just -- because I was asked by other trustees across the
20 country, not for us to sign on to a letter with them or
21 thinking like that, but they asked if we had signed on.
22 And I said, no, but I didn't know if we were going to. So
23 I'd kind of like to know in the -- if we've decided not
24 to, at least I can talk to Henry Levy who's in Alameda
25 County and say, hey, no, we didn't do it, so...

1 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: And
2 I've had discussions on this. I mean, I've been contacted
3 by other retirement -- public retirement systems. And I
4 think everybody is struggling with it, because some out
5 there are saying that, you know, you send it in and
6 they're not really going to pay attention to non-ERISA
7 comments, so -- but I think it's something that we can
8 discuss. You know, we do have a short time frame, because
9 the one thing about DOL is it's a 30-day window.

10 VICE PRESIDENT TAYLOR: Yeah.

11 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: -- a
12 30-day comment period, so the comment period does end at
13 the end of the month. And so we would have to, you know,
14 get on something pretty quickly.

15 VICE PRESIDENT TAYLOR: Okay.

16 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: But
17 most of the -- most of the State retirement systems it
18 doesn't sound like they are -- you know, I think
19 they're -- while we're having this same conversation, I've
20 haven't heard of -- any that are -- that are -- actually
21 decided to send one in.

22 VICE PRESIDENT TAYLOR: So they're doing it
23 through CII instead, probably.

24 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN:

25 Probably, yes.

1 VICE PRESIDENT TAYLOR: Okay. All right. Thank
2 you, Danny.

3 PRESIDENT JONES: Okay. Ms. Middleton.

4 BOARD MEMBER MIDDLETON: Thank you, Mr.
5 President. And I simply want to compliment Danny and all
6 of the team that has been working in D.C. for the work
7 that they have done to try to help bring funding for local
8 government. It is incredibly important. Local government
9 is hurting terribly, and it's -- it's important that
10 CalPERS steps up and supports State and local government
11 in this effort.

12 So thank you.

13 PRESIDENT JONES: Thank you.

14 Ms. Paquin.

15 ACTING BOARD MEMBER PAQUIN: Thank you, Mr.
16 President. I also share the concerns that Theresa Taylor
17 expressed regarding this new ERISA-focused rule on ESG.
18 And hopefully, we can really take a look and see if
19 there's something that CalPERS can do to weigh in, if
20 that's appropriate.

21 And I also am curious, Simiso, how would they
22 define economic impact in this rule and what level would
23 you need to reach before and ERISA-sponsored plan could
24 actually vote.

25 INVESTMENT DIRECTOR NZIMA: Yeah. So in terms of

1 economic impact, I think that's where, you know, the issue
2 is in terms of how do you define what is economic impact.
3 And so what the DOL also did, they kind of came out with
4 this exemptions or safe harbor for ERISA plans where they
5 say that, you know, you don't have to -- you know, if you
6 have a standing rule to say that you will vote with
7 management all the time, then you don't have to do this
8 sort of economic impact, sort of, analysis, or you could
9 adopt a rule that says you only focus on, you know, a few
10 issues of economic interest and they identify a few
11 circumstances, like M&A share issuances, proxy context,
12 and so forth. So they have these safe harbor sort of
13 provisions in there.

14 Or the other thing that an ERISA plan could do is
15 really to adopt a policy from refraining from voting, if
16 they have a small shareholding in a company. And so,
17 again, you know, it -- as Dennis said, it seems like, you
18 know, the push really is to either you vote with
19 management or you don't vote at all, and -- which is --
20 which is really interesting. So, you know, we expect that
21 we'll see a lot of public comments from, you know, even
22 the large asset managers.

23 We know that the large asset managers did comment
24 against the June proposals in terms of, you know, a
25 requirement that they shouldn't invest in ESG strategies.

1 And we think we'll see the same public comments in this
2 instance. And then the issue really becomes whether
3 there's sufficient time for this to be -- you know, to be
4 put in place before -- you know, before the end of the
5 year, and again depending on what happened -- what happens
6 during the November elections. You know, we don't know
7 whether this actually would become a rule or not. And
8 even if the DOL moves fast, even if, you know, they want
9 to put this in place, I think, you know, the estimates
10 that we've had out there is that the earliest this could
11 be put in place would probably be -- you know, come up
12 with a final ruling in December or it was the end of
13 December, and maybe be able to put it in place towards
14 mid-to-late January.

15 And again, so I -- you know, it's really hard to
16 tell. And we just have to -- you know, to wait and see in
17 terms of, you know, whether there's going to be a final
18 rule, because again this is a proposal, there's 30-day
19 comment period, and what the DOL will do once they get
20 those comments from the public.

21 ACTING BOARD MEMBER PAQUIN: Thank you.

22 PRESIDENT JONES: Okay. I think that's all the
23 questions on that. Thank you, Mr. Brown and Simiso.

24 We now will move on to -- does that complete your
25 report, Mr. Brown?

1 LEGISLATIVE AFFAIRS DIVISION CHIEF BROWN: Yes,
2 it does. Thank you, Mr. President.

3 INVESTMENT DIRECTOR NZIMA: Thank you.

4 PRESIDENT JONES: Okay. We move to summary of
5 board direction. Ms. Frost.

6 CHIEF EXECUTIVE OFFICER FROST: President Jones,
7 I noted two, one would be to move the Lang precedential
8 decision to the November Board meeting and also ensure
9 that we bring a program area to analyze the impacts as it
10 relates to, in particular, the Executive Order.

11 And then the second one was that future agenda
12 items for approval of Board travel, that they would
13 include any expected travel costs associated with that
14 assignment.

15 PRESIDENT JONES: Thank you. Got them both.

16 BOARD MEMBER PEREZ: Mr. President, I have a
17 question.

18 PRESIDENT JONES: Yes, Mr. Pere.

19 BOARD MEMBER PEREZ: Can I just -- I just don't
20 know where it goes, and where to ask it, or how it gets
21 done. But how do we put on the next agenda for the
22 Pension and Health Benefits Committee to be a Committee of
23 the whole? How do we go about --

24 PRESIDENT JONES: I think at a future Governance
25 Committee, we would include that. Because it wasn't on

1 the agenda, that's why it couldn't be discussed when we
2 were discussing the Investment Committee.

3 BOARD MEMBER PEREZ: So when is the next Board
4 Governance Committee meeting?

5 PRESIDENT JONES: When is that, Ms. Frost? Or
6 would that be appropriate --

7 GENERAL COUNSEL JACOBS: The next meeting -- this
8 is --

9 PRESIDENT JONES: Go ahead.

10 GENERAL COUNSEL JACOBS: This is Matt Jacobs.
11 The next meeting is scheduled for November.

12 PRESIDENT JONES: November. Okay.

13 BOARD MEMBER PEREZ: So that will be on the
14 agenda?

15 PRESIDENT JONES: Yes, we could put it on the
16 agenda for a discussion.

17 BOARD MEMBER PEREZ: Thank you, sir.

18 PRESIDENT JONES: Okay, you're welcome.

19 Okay. I got something here. I guess, David,
20 I've already done what you asked about, I think.

21 Okay. So that's it.

22 Then we did have some public comments that came
23 in, Mr. Fox?

24 STAKEHOLDER RELATIONS CHIEF FOX: Yes, Mr.
25 President. Mr. Tim Behrens from CSR who wanted to comment

1 on several items, but we missed him earlier on. So he's
2 going to try to roll those all in and has asked for your
3 indulgence in the event that he goes over the three
4 minutes.

5 PRESIDENT JONES: Okay. Tell him three and a
6 half.

7 (Laughter.)

8 MR. BEHRENS: Yes. Thank you, Henry and Board.
9 Let me correct something you said earlier, Henry, because
10 you said that public comments came in late. I put in my
11 request while you were doing roll call for this meeting
12 and then I called in three more times, then I wrote two
13 emails, and finally, thanks to Mr. Teykaerts and Mr. Fox,
14 I was able to get on the final public comments.

15 PRESIDENT JONES: Okay.

16 MR. BEHRENS: So I didn't you them in late.
17 Their system just has some flaw in it, I guess.

18 PRESIDENT JONES: Okay. Well, thank you for
19 the --

20 MR. BEHRENS: So I'll be -- I'll be brief. I'll
21 be brief.

22 I thank Rob Feckner for adding the cost for Board
23 travel approvals and am looking forward to future Board
24 travel approvals being reported out at Board meetings.

25 I agree on the Board meeting calendar that we

1 need to add more meetings. I really like the off-site
2 meeting, where we went to Sacramento and CalPERS
3 Headquarters and met with CalPERS staff and Board members.
4 I thought that was very enlightening.

5 Let's see. PHB, Pension and Health Benefits
6 Committee. I support the Board, as a whole, being
7 assigned to the Pension and Health Benefits Committee. I
8 hope that lively discussion will occur at the next Board
9 meeting.

10 And then finally, on 8d, I wanted to thank the
11 rank-and-file members of CalPERS for their outstanding
12 work during this pandemic. I think they've gone above and
13 beyond in all the departments. And I wanted to give a
14 quick example of how good the service is that I get from
15 CalPERS. I mentioned yesterday to Don Moulds that I would
16 like to get something in writing about disaster victims
17 having access to their medication.

18 And then with one hour -- within one hour, I
19 received a fax sheet from David Teykaerts, Assessing
20 Health Care During a Disaster. And we're going to be
21 publishing that in our next paper. That's the kind of
22 great service CalPERS give sus.

23 So thank you. Have a good day and please improve
24 the public comment system.

25 PRESIDENT JONES: Okay. Thank you, Tim.

1 Okay. Mr. Fox.

2 STAKEHOLDER RELATIONS CHIEF FOX: Mr. President,
3 that concludes all public comment and we are done.

4 Thank you.

5 PRESIDENT JONES: Okay. Thank you very much.

6 Okay. So we're now -- this afternoon, we have
7 three items in closed session, an information security
8 update and cybersecurity briefing involving staff's work
9 to protect the system and an update on litigation matters.
10 In particular, we will receive updates on the litigation
11 in Sanchez v. CalPERS, and Nancy Michaels v. CalPERS.

12 In order to hold a closed session to consider
13 matters posing a potential threat of criminal activity
14 against CalPERS property or equipment, including
15 electronic data and where disclosure would compromise
16 CalPERS' security, the Bagley-Keene Open Meeting Act
17 requires a two -- at least two-thirds of the Board to
18 affirmatively vote in order to utilize this exception.

19 Based on consultation with our Legal Office,
20 discussions concerning CalPERS information security and
21 cybersecurity qualifies for this closed session exemption.

22 After the closed session, the Board will briefly
23 report out in open session that we met under this
24 exception, and if any action was taken.

25 What's the pleasure of the Board? I'm looking

1 for a motion and a second to meet in closed session for
2 the information security and cybersecurity briefing.

3 Is there a motion.

4 BOARD MEMBER MILLER: So moved.

5 PRESIDENT JONES: Moved by Mr. Miller.

6 VICE PRESIDENT TAYLOR: Second.

7 PRESIDENT JONES: Second by Ms. Taylor.

8 Mrs. Hopper, please.

9 BOARD SECRETARY HOPPER: Margaret Brown?

10 BOARD MEMBER BROWN: Tired. Oh, aye.

11 BOARD SECRETARY HOPPER: Rob Feckner?

12 PRESIDENT JONES: Mr. Feckner?

13 BOARD MEMBER FECKNER: Aye.

14 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona

15 Ma?

16 ACTING BOARD MEMBER RUFFINO: Aye.

17 BOARD SECRETARY HOPPER: Lisa Middleton?

18 BOARD MEMBER MIDDLETON: Aye.

19 BOARD SECRETARY HOPPER: David Miller?

20 BOARD MEMBER MILLER: Aye.

21 BOARD SECRETARY HOPPER: Stacie Olivares?

22 BOARD MEMBER OLIVARES: Aye.

23 BOARD SECRETARY HOPPER: Eraina Ortega?

24 BOARD MEMBER ORTEGA: Aye.

25 BOARD SECRETARY HOPPER: Jason Perez?

1 BOARD MEMBER PEREZ: Aye.

2 BOARD SECRETARY HOPPER: Ramon Rubalcava?

3 BOARD MEMBER RUBALCAVA: Aye.

4 BOARD SECRETARY HOPPER: Theresa Taylor?

5 PRESIDENT JONES: You're muted.

6 VICE PRESIDENT TAYLOR: Tired also, aye.

7 BOARD SECRETARY HOPPER: I have Shawnda Westly?

8 BOARD MEMBER WESTLY: Aye.

9 BOARD SECRETARY HOPPER: Lynn Paquin for Betty
10 Yee?

11 ACTING BOARD MEMBER PAQUIN: Aye.

12 BOAR SECRETARY HOPPER: Mr. President, that's all
13 ayes for Item 11 made by David Miller, seconded by Theresa
14 Taylor.

15 PRESIDENT JONES: Okay. Thank you, Ms. Hopper.

16 So, at this time, we'll recess the -- we'll
17 recess the open session of the Board meeting. Board
18 members will exit this open session meeting and connect to
19 the closed session meeting.

20 To members of the public watching on livestream,
21 the Board of Administration open session meeting will
22 convene immediately following the closed session. And we
23 will take a ten minute break before we convene the closed
24 session meeting.

25 Thank you.

1 (Off record: 3:51 p.m.)

2 (Thereupon the meeting recessed

3 Into closed session.)

4 (Thereupon the meeting reconvened

5 Open session.)

6 (On record: 5:33 p.m.)

7 PRESIDENT JONES: Ms. Hopper.

8 BOARD SECRETARY HOPPER: Yes. Yes.

9 PRESIDENT JONES: Would you take role, please?

10 BOARD SECRETARY HOPPER: I sure can.

11 Margaret Brown -- Henry Jones?

12 PRESIDENT JONES: Here.

13 BOARD SECRETARY HOPPER: Margaret Brown?

14 BOARD MEMBER BROWN: Here.

15 BOARD SECRETARY HOPPER: Rob Feckner?

16 PRESIDENT JONES: His WiFi went out I think

17 earlier, so...

18 BOARD SECRETARY HOPPER: Frank Ruffino for Fiona

19 Ma?

20 ACTING BOARD MEMBER RUFFINO: Present.

21 BOARD SECRETARY HOPPER: Lisa Middleton?

22 BOARD MEMBER MIDDLETON: Present.

23 BOARD SECRETARY HOPPER: David Miller?

24 BOARD MEMBER MILLER: Here.

25 BOARD SECRETARY HOPPER: Stacie Olivares?

1 BOARD MEMBER OLIVARES: Here.

2 BOARD SECRETARY HOPPER: Eraina Ortega?

3 BOARD MEMBER ORTEGA: Here.

4 BOARD SECRETARY HOPPER: Jason Perez?

5 BOARD MEMBER PEREZ: Here.

6 BOARD SECRETARY HOPPER: Ramon Rubalcava?

7 BOARD MEMBER RUBALCAVA: Here.

8 BOARD SECRETARY HOPPER: Theresa Taylor?

9 PRESIDENT JONES: I see her.

10 BOARD SECRETARY HOPPER: Shawnda Westly?

11 BOARD MEMBER WESTLY: Here.

12 BOARD SECRETARY HOPPER: Lynn Paquin for Betty

13 Yee?

14 ACTING BOARD MEMBER PAQUIN: Here.

15 BOARD SECRETARY HOPPER: Mr. President, I don't
16 have Rob Feckner or Theresa Taylor checking in yet.

17 PRESIDENT JONES: Okay. Okay. Well, I think we
18 have a quorum, so why don't we go ahead and indicate that
19 the Board met in closed session today pursuant to
20 Government Code 11126 subdivision (c)(18)(A). During the
21 closed session, the Board received information security
22 update and cybersecurity briefing on staff's work to
23 protect the system. The Board took no action.

24 That completes the agenda and we are adjourned.

25 Thank you very much for a very productive week, I

1 would say. Thank you very much.

2 BOARD MEMBER MILLER: Stay safe out there folks.

3 PRESIDENT JONES: Yeah, be safe. Okay. Bye-bye.

4 BOARD MEMBER MIDDLETON: Take care, everyone.

5 PRESIDENT JONES: Okay.

6 (Thereupon California Public Employees'
7 Retirement System, Board of Administration
8 meeting open session adjourned at 5:35 p.m.)

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C E R T I F I C A T E O F R E P O R T E R

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing California Public Employees' Retirement System, Board of Administration open session meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and was thereafter transcribed, under my direction, by computer-assisted transcription;

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of September, 2020.

JAMES F. PETERS, CSR
Certified Shorthand Reporter
License No. 10063