

**DATE:** October 30, 2012  
**BOARD MEETING DATE:** November 20, 2012  
**SPECIAL NOTICE/HEARING:** None  
**VOTE REQUIRED:** Majority

**TO:** Honorable Board of Supervisors  
**FROM:** David Bailey, Chief Executive Officer, SamCERA  
**SUBJECT:** Amendment to Board of Retirement Regulation 4.14 Relating to "Required Break In Service Prior to Post Retirement Employment"

**RECOMMENDATION:**

Adopt a Resolution approving an Amendment to Board of Retirement Regulation 4.14 Relating to "Required Break In Service Prior to Post Retirement Employment."

**BACKGROUND:**

SamCERA is governed by the County Employees Retirement Law ("CERL") contained in the Government Code. Government Code section 31525 authorizes the Board of Retirement to adopt regulations that are consistent with the CERL. Section 31525 further provides that the regulations become effective when approved by the Board of Supervisors.

In 2008, the Board of Supervisors approved changes to the Board of Retirement Regulations to establish post-retirement employment regulations and "Normal Retirement Ages" in order to ensure compliance with Internal Revenue Code and state law. In doing so, the Board adopted Regulation 4.14 which currently provides that a member who retires at an age younger than the "Normal Retirement Age" (age 60 for general members and age 53 for safety members), must have at least a continuous 90-day break in service from the date of the member's retirement prior to being reemployed while retired by the County or by any other employer whose employees are members of SamCERA.

**DISCUSSION:**

The newly enacted California Public Employees' Pension Reform Act ("PEPRA"/AB340) added Government Code section 7522, which mandates a 180-day break in service, regardless of whether the employee retires at an age above or below the Normal Retirement Age. It provides that a retiree shall not serve, be employed by, or be employed through a contract directly by, an employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement or "loss or interruption of benefits provided by the retirement system" unless one of two conditions applies: "during an emergency to prevent stoppage of public business"; or "because the retired employee has skills needed to perform work of limited duration."

In addition, there must be a 180-day waiting period until re-employment unless:

- Employer certifies necessity and governing body approves the employment in public meeting (not on a consent calendar); or
- Retiree is a public safety officer.

The proposed amendment to Board of Retirement regulation 4.14 reflects the requirements under both the Internal Revenue Code and Government Code section 7522 that must be met in order to allow SamCERA retirees to return to work as extra help for the County (or any other employer whose employees are members of SamCERA). It would apply to all members and provides that if a member is reemployed within the 180 days, pursuant to Government Code section 7522.56, and the member retired at an age younger than the Normal Retirement Age, there must be at least a 90-day break in service unless such reemployment is to respond to an emergency declared by a government agency or an emergency that may prevent the stoppage of public business.

**FISCAL IMPACT:**

None.