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**DATE:** August 26, 2014  
**BOARD MEETING DATE:** September 9, 2014  
**SPECIAL NOTICE/HEARING:** None  
**VOTE REQUIRED:** Majority

**TO:** Honorable Board of Supervisors

**FROM:** David Bailey, Chief Executive Officer, SamCERA

**SUBJECT:** Revision and renumbering of existing Board of Retirement Regulations and addition of Article I "Purpose, Scope and Amendments" and Article VIII "Internal Revenue Code Compliance"

**RECOMMENDATION:**

Adopt a Resolution approving the revision and renumbering of existing Board of Retirement Regulations and addition of Article I "Purpose, Scope and Amendments" and Article VIII "Internal Revenue Code Compliance."

**BACKGROUND:**

On January 29, 2014, the Internal Revenue Service ("IRS") issued SamCERA a favorable tax determination letter. As part of the determination letter submission process, SamCERA stated to the IRS that the Board of Retirement (BOR) would adopt certain regulations reflecting SamCERA's compliance with IRS requirements. To that end, on July 25, 2014 the BOR adopted the addition of Article I "Purpose, Scope and Amendments" and Article VIII "Internal Revenue Code Compliance" to its regulations along with some clean up revisions and renumbering. On August 26, 2014, the BOR made two minor changes to technical language in Article VIII to ensure IRS compliance.

Government Code section 31525 authorizes the BOR 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. Accordingly, the BOR is submitting these changes to its regulations to this Board for approval.

**DISCUSSION:**

New Article I "Purpose, Scope and Amendments" establishes that the Board's regulations are in accordance with Government Code §31525, sets an October 1, 2014, effective date for the revisions and states that the regulations reaffirm and clarify the existing practices of SamCERA.

New Article VIII "Internal Revenue Code Compliance," confirms that SamCERA's practices shall be in accordance with the IRC and related Treasury Regulations. The major topic areas that Article VIII's regulations address are listed below and reflect provisions in the IRC that SamCERA already complies with, and hence the adoption of



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the revisions to the regulations will have no effect on SamCERA's current practice and procedure. These topic areas are:

1. Maximum annual amount of contributions that can go into member account. [IRC 415(c).]
2. Maximum annual amount of compensation earnable/pensionable compensation to be counted toward pension calculations. [IRC 401(a)(17).]
3. Maximum annual amount of benefits paid to members/beneficiaries. [IRC 415(b).]
4. Allowable rollovers of funds into and out of member's accounts. [IRC 402(c).]
5. Procedures and limits for minimum required distributions. [IRC 401(a)(9).]
6. Normal retirement age and separation of service. Note these regulations move current regulations 4.12 - 4.14 to Article XIII with slight revisions. [IRC 401(a).]

In addition to the above, the proposed regulations have been updated to reflect the following:

1. Moving up the BOR's regular meeting time from 1:00 p.m. to 10:00 a.m. on the Fourth Tuesday of the month in order to have additional time to address investment matters.
2. Employees whose tenure is temporary, seasonal and intermittent have been and will continue to be excluded from membership by the BOR consistent with CERL [Gov. Code § 31527(e)]. The revised regulation reflects the current employment by SamCERA employers of extra help employees. The County and the Courts have a pilot program for a category of extra help employees who are hired for a fixed term not to exceed three years. While extra help employees have always been exempted, for purposes of clarity, the revised regulation specifically exempts these term employees who are hired for a fixed term or terms that do not exceed 6,240 hours in the aggregate. Finally, currently employees that are hired to temporarily fill a position that is already filled by another employee are members. Under the revision, any such temporary employees first hired on or after October 1, 2014, will be excluded from membership.
3. Existing regulations only refer to contributory Plans 1, 2 and 4. However, PEPRA Plan 7, and General Plan 5, Safety Plans 5 and 6 have been added. Due to the number of plans, the revised regulations just refer to the plans as "contributory" with no reference to a plan number.
4. By operation of law, the ability to enter a purchase agreement for Additional



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Retirement Credit ended December 31, 2012. [Gov. Code § 7522.46.] The revision states that fact.

5. The ability to file a written notice to purchase prior military time under Gov. Code §31641.97 ended on January 1, 1995. [Gov. Code § 7522.46.] The revised regulation states that fact.
6. References to “registered domestic partners” have been added where certain regulations refer to “spouses.”

In advance of the BOR’s adoption of the changes, SamCERA distributed the proposed changes to the regulations to representatives of the bargaining units for their review, provided them with the opportunity to ask questions to SamCERA staff, and to appear and provide comments to the BOR. SamCERA has not received any questions or feedback regarding the proposed changes.

SamCERA will file for its new determination letter in early 2015. At that time, SamCERA will submit the revised BOR regulations to the IRS among other required documents.

County Counsel has reviewed and approved the resolution as to form.

**FISCAL IMPACT:**

None.