



County of San Mateo

Inter-Departmental Correspondence

Department: RETIREMENT

File #: 19-892

Board Meeting Date: 9/17/2019

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: Scott Hood, SamCERA (Retirement)
Subject: Amendments to the Board of Retirement Regulations

RECOMMENDATION:

Adopt a resolution approving amendments to the Board of Retirement Regulations 2.1, 2.2, 2.3 of Article II Board Officers and Chief Executive Officer; Regulations 3.4 and 3.9 of Article III Meetings; Regulations 4.8, 4.16, 4.18, 4.22 of Article IV Election of Trustees; Regulations 5.5, 5.7, 5.10, 5.11, and adding Regulation 5.13 to Article V Membership Duties & Rights; Regulations 6.1, 6.2, 6.5 of Article VI Disability Retirement, and Regulation 8.8 of Article VIII Internal Revenue Compliance.

BACKGROUND:

Government Code section 31525 authorizes the Board of Retirement (BOR) to adopt regulations and further provides that its regulations become effective when approved by the Board of Supervisors. Prior to their approval by the BOR at its August 27th meeting, these proposed changes were sent to the three participating employers for questions and comments and none were received. The BOR is now submitting the regulation changes to this Board for approval.

DISCUSSION:

The following is a summary of the regulation changes.

Article II Board Officers and Chief Executive Officer

Regulations 2.1, 2.2, and 2.3 provide that the election to the Board Chair, Vice Chair, and Secretary positions is in July. The amendment provides that this election can occur in August or July because sometimes not all BOR members are seated by July.

Article III Meetings

Regulation 3.4 states the BOR regular meeting day and time and provides that changes to the schedule are to be made at a regular meeting. The amendment clarifies that these changes are done by resolution and expressly states that additional regular meetings can be added.

Regulation 3.9 provides that formal roll call votes must be taken by the Chief Executive Officer (CEO) in alphabetical order, with the Chair voting last. The amendment eliminates the requirement that the CEO be the one to take the roll call vote and does not mandate the voting order.

Article IV Election of Trustees

Regulation 4.1 provides that the County's Elections Officer conducts elections for seats on the BOR and reports directly to the BOR in all matters pertaining to the election. Regulation 4.8 provides that the Elections Officer can cancel the election if there are fewer than two candidates. Government Code section 31523 provides that the Board of Supervisors is to cancel elections where there is only one candidate for a trustee election. However, through its past approval of Regulations 4.1 and 4.8, this Board has delegated the running of trustee elections to the BOR. The proposed change to Regulation 4.8. expressly reflects this delegation and confirms the current process.

Regulation 4.16 provides that if there are two or more safety member candidates for the seventh member position, the candidate with the highest number of votes is elected. The safety member candidate who is of a different safety membership group and who received the next highest number of votes is elected as Alternate Safety Member. The amendment clarifies that if there is no eligible candidate for Alternate Safety Member, a vacancy occurs which triggers a special election.

Regulation 4.18 currently provides that ballots be retained for 180 days after Election Day and, in the absence of litigation, may be discarded thereafter. The amendment clarifies that all election materials, not just ballots, be retained for this period.

Regulation 4.22 addresses special election processes. The amendment deletes the difference in process for those vacancies occurring near the end of the term. It also sets forth the timing of the special election.

Article V Membership Duties & Rights

Regulation 5.5 lists the types of documents accepted for proof of birthdate. The amendment adds REAL ID cards and clarifies that a passport or a passport card is acceptable.

Regulation 5.7 is amended to reflect existing procedure for determining the effective date of retirement for deferred members. It also deletes the term "the County" to reflect that SamCERA has three participating employers.

Regulation 5.10 provides that members be given a statement at retirement which constitutes the annuity certificate set forth in Government Code section 31526. The amendment clarifies the information to be included in the statement.

Regulation 5.11 provides that members going into deferred retirement be furnished with a statement. The amendment is a minor wording change acknowledging that members can either elect a deferred status or be automatically placed in deferred status.

Regulation 5.13 is a new regulation authorized by Government Code section 31527(i). It allows the BOR to accept an electronic signature on member documents, if the document and electronic signature are submitted consistent with BOR policy. The BOR policy will set forth acceptable technology to ensure integrity, security, and authenticity. A document submitted pursuant to the policy

will be treated as a signed valid original.

Article VI Disability Retirement

The following amendments will apply only to disability retirement applications filed after the effective date of the changes.

Regulation 6.1 will require the member to update SamCERA with any address changes as staff needs to send important notices regarding the application process. It also clarifies that medical information is gathered to make a decision on the application without having the Board specifically "require" the information.

The BOR does an initial review of all disability applications and indicates if it will be granted or denied, after which the member may request a hearing before a hearing officer. Regulation 6.2 is amended to provide that if there is a failure to cooperate or any other act by the member which prevents the hearing to occur within one year of the request, the BOR can nullify the request and the initial review decision shall be deemed final and binding. Before the BOR can take such action, the member will be given notice and an opportunity to address the BOR.

Regulation 6.5 is amended to clarify that a disability application could be terminated for a member's failure to submit to a requested medical examination and or if there is unwarranted period of delay(s) of six or more months caused by the member which prevent staff from presenting the application to the BOR. Before the BOR can terminate the application, the member will be given notice and an opportunity to address the BOR.

Article VIII "Internal Revenue Code Compliance

Regulation Section 8.8 (B)(9)(a) lists the pay items that are included in Total Compensation for the collection of contributions as limited by the Internal Revenue Code. "Differential wage payments," consistent with the definition in IRC section 3401(h)(2) and pursuant to section 105(b) of the Heroes Earnings Assistance and Relief Tax Act of 2008 are included. The amendment reflects this existing practice.

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

FISCAL IMPACT:

None