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SCERS Will Appeal Court Ruling Mandating Disclosure of Individual Records

The Sacramento County Employees' Retirement System (SCERS) has determined it will appeal the recent ruling by the Sacramento County Superior Court that SCERS must disclose the names, benefit amounts, and other detailed individual information regarding the retirees and beneficiaries who receive benefits from SCERS.

The Court ruling was in response to a lawsuit brought by the Sacramento Bee and the First Amendment Coalition seeking to compel SCERS to disclose certain information under the California Public Records Act (PRA) regarding retirees and beneficiaries receiving more than \$100,000 annually in benefits from SCERS. SCERS had voluntarily provided extensive information to the requesting parties, including a listing of the monthly benefit amounts, retirement dates, length of service, and employers at retirement for the payees in question. SCERS had not, however, provided the names of the payees because the law governing SCERS expressly requires that "... individual records of members shall be confidential and shall not be disclosed" SCERS argued that this requirement reflects the decision by the legislature that certain information must be kept confidential because its disclosure could subject those individuals to harm or loss, and that this risk overrides the general public policy favoring disclosure. The Court did not agree and ordered disclosure of a broad range of individual information.

SCERS has chosen to appeal the Court ruling because SCERS believes the ruling is erroneous on several fronts and that the information SCERS voluntarily provided was sufficient to allow for public oversight of the benefits it pays. SCERS further believes that 'naming names' adds no material value to the oversight of public employee benefits, and by contrast, makes it easier for parties to prey upon vulnerable retirees. Finally, SCERS has chosen to appeal in order to obtain definitive guidance on what the statutory mandate to keep individual information confidential means, and how SCERS should respond to requests for such information in the future.

SCERS also believes that it is important to correct certain statements or implications raised in the media coverage of the Court ruling:

- There is nothing 'secret' about the benefits SCERS provides. In addition to the detailed information described above that was provided to the parties to the lawsuit, there is a wealth of information regarding SCERS benefits readily available on the SCERS website (www.SCERS.org) including how much SCERS pays in benefits each year, how many people receive benefits, the average benefit payment, and how much employers and employees contribute toward the benefits each year. There is also information that breaks down the benefit payments to show, by year of retirement, the average monthly benefit and the average monthly salary at retirement for the people who retired that year. This information also shows how benefit amounts vary based on the years of service the person had and how many years they have been in retirement.
- Not all public employees receive 'overly generous' pensions. The 255 people who receive \$100,000 or more annually from SCERS represent less than 3% of the more than 8,300 SCERS retirees and beneficiaries. More than 70% of SCERS' retirees and beneficiaries receive \$36,000 or less annually and 26% receive less than \$12,000 annually. The average career for a SCERS retiree is 22 years. The average career for retirees receiving \$100,000 or more is 31 years. SCERS agrees that there is room for reasonable debate about what should be the 'right' level of an employer-provided retirement benefit. SCERS respectfully submits, however, that the discussion should be fact-based and should look at the full range of workers and not just a very small segment.
- Pension benefits are different from public employee salaries. First, SCERS benefits are paid from the SCERS pension trust, which is a separate governmental entity and the trust assets can only be used to pay benefits and administer the costs of running the retirement system. The law recognizes the distinct nature of trust funds, and thus, unlike salaries, pension benefits cannot be attached or garnished by outside parties. Second, the pension trust is pre-funded and the benefits paid each year do not reduce what the County has available to provide services in that year. It is true that funding for future benefit payments comes from the County each year, but funding also comes from the employees each year. These funds are then invested by SCERS. Third, historically, 70% of every benefit dollar paid comes from investment earnings, with 20% coming from the employer's contributions and 10% coming from the employees' contributions. Also, in many cases employees purchase additional service credit in SCERS with their own funds. In such a case the employee is paying an even greater component of the ultimate benefit he or she receives in retirement. SCERS respectfully contends that these are important distinguishing characteristics that warrant a different degree of confidentiality for pension benefits.

In sum, SCERS believes that it has adhered to the principles of 'open government' that underlie the PRA, and that the Court's ruling fails to properly recognize the distinct nature of pension benefits, and to properly weigh the mandate of confidentiality contained in the law governing SCERS. SCERS has determined that appealing the Court's ruling is necessary because the issues raised by the current case are important and the direction provided by an appellate court decision will help provide for clear and consistent application of the law going forward.