



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 14

MEETING DATE: April 18, 2018

SUBJECT: Membership Policy – Discussion Draft

SUBMITTED FOR: ___ Consent X **Deliberation and Action** ___ **Receive and File**

RECOMMENDATION

Staff recommends the Board authorize the release of the Discussion Draft of the Proposed Membership Policy to SCERS' participating employers for review and comment by June 1, 2018.

PURPOSE

The purpose of the proposed policy is to clarify application of existing law and SCERS Bylaws in determining an employee's eligibility for membership in SCERS. The purpose of this agenda item is to present the "Discussion Draft" of the policy staff intends as the starting point for a dialogue with SCERS' participating employers. The ultimate goal is to ensure the scope and standards specified in the proposed policy are appropriate, clearly communicated, and applicable for all SCERS' participating employers.

DISCUSSION

SCERS Bylaws currently provide a general description of exclusions from membership. Setting more specific, objective standards through administrative policy would provide clearer guidance and direction to participating employers, special districts in particular, and to SCERS staff.

Current terminology and standards have been driven primarily by the terms and practices of the County. More specifically, for example, a "Regular Employee" is defined as an employee who occupies a permanent position, whether full-time or part-time, established in accordance with the annual salary ordinance. Generally, the County's "Regular" part-time employees work at least 20 hours per week and are eligible for health and welfare and other benefits, including membership in SCERS, for their part-time service.

The current standards for membership generally lead to the result that employees who work half-time or more in a year in a regular or permanent position are eligible for SCERS membership. Regular part-time employees of Sacramento County who work 20 or more hours per week or 40 or more hours in a biweekly pay period are eligible for benefits, including SCERS membership.

The proposed Membership Policy clarifies the standards for determining which employees are eligible for SCERS membership, and which employees are properly excluded from membership. The policy also gives the Board the final discretion to determine an employee's eligibility for membership, and to determine appropriate correction procedures based on the facts and circumstances of each case.

Prior to formally adopting a proposed rule, it is quite common for a rulemaking body to issue an exposure or discussion draft for comments from the individuals or entities impacted by the new rule. Staff recommends a discussion draft of the proposed Membership Policy be distributed to all participating employers with a request for review and written comments by June 1, 2018. Staff may also arrange for a forum or workshop for employers to provide feedback and identify any issues or concerns raised by the proposed policy.

Currently, SCERS must rely on each participating employer to appropriately apply the membership eligibility rules to its employees, as SCERS only receives data from the payroll system for employees who are SCERS members. Government Code Section 31543 provides, and the proposed policy states, that SCERS may periodically review participating employers' payroll practices to assure compliance in properly enrolling employees in SCERS membership.

In the future, with the implementation of SCERS' new pension administration system, SCERS will receive data on all participating employers' employees, whether eligible or ineligible for SCERS membership, which will enable SCERS to validate that employers have properly enrolled or excluded their employees from SCERS membership.

In drafting this policy, staff surveyed the 19 other county retirement systems established pursuant to the County Employees' Retirement Law. Of the 12 systems that include part-time employees in membership, 8 set the hours/time worked threshold for mandatory membership at 50% or more of full-time; 2 systems use 75% or more of full-time; and 1 system uses 80% or more of full-time. The remaining system requires a person be employed as "regular" part-time, rather than "extra help", but does not specify an hours or percent of full-time threshold for mandatory membership.

BACKGROUND

Government Code Section 31527 authorizes the Board to adopt regulations for a variety of plan administration matters. Subdivision (e) authorizes the Board to provide for the "exemption or exclusion from membership as a peace officer member or as a safety member or from membership altogether, in the discretion of the board, of persons whose tenure is temporary, seasonal, intermittent, or for part time only, or persons whose compensation is fixed at a rate by the day or hour."

Chapter 3 of SCERS Bylaws addresses “Membership” and provides that certain types of employees (temporary, seasonal, intermittent, and non-“Regular” part-time) are excluded from membership in SCERS.

During a recent financial audit of a participating special district, the district’s auditor raised questions about the employers’ interpretation and application of the rules for SCERS membership to the district’s employees. The district advised SCERS of the situation, and staff worked with the district to review the facts and develop a corrective action plan. Ultimately, the district had to retroactively enroll employees in SCERS membership who were improperly excluded for a number of years. Depending on the number of employees affected and the length of time involved, such corrections can be expensive, both in terms of retroactive contributions to be paid with interest to SCERS and time involved to determine, communicate, and implement the corrective action.

This situation, coupled with staff’s challenge, in the absence of a policy, to review and validate employees’ proper enrollment into SCERS membership against an objective standard, led to the development of this proposed policy for the Board’s consideration.

Staff looks forward to working with SCERS’ participating employers to discuss the proposed policy and make any necessary revisions. The goal of establishing the proposed Membership Policy is to ensure participating employers have clear guidance to properly enroll their employees in SCERS membership and avoid enrollment errors that continue for multiple years requiring retroactive correction.

ATTACHMENTS

Discussion Draft of proposed Membership Policy
Excerpt of Chapter 3, MEMBERSHIP, from SCERS Bylaws

Prepared by:

/S/

Annette St. Urbain
Assistant Retirement Administrator

/S/

Robert Gaumer
General Counsel

Reviewed by:

/S/

Eric Stern
Chief Executive Officer



MEMBERSHIP POLICY

DISCUSSION DRAFT

4/18/18

Revision Date:	Policy Number: 00x
Revision Number:	

PURPOSE

The purpose of this policy is to establish an employee's eligibility for membership in SCERS. Once approved by the Board, this policy shall be operative beginning July 1, 2018.

DEFINITIONS

As used in this policy the terms below have the following meaning:

Extra Help Employee – An employee who is employed for a period of short duration, whether part-time or full-time, in a position which is either designated as extra help in the annual salary ordinance or publicly available pay schedule, or is not contained therein.

Participating Employer – The County of Sacramento, the Superior Court in Sacramento County, and the special district employers that have taken formal action to provide the retirement and related benefits administered by SCERS to their employees.

Part-Time Employee – An employee who is hired to work substantially less than 8 hours per day or 40 hours per week during the employee's period of employment. A part-time employee may be either a Regular Employee or an Extra Help Employee.

Permanent Position – A position established in the annual salary ordinance or publicly available pay schedule, except a position established to accomplish a specific project which is limited in its duration.

Regular Employee – An officer or employee of a Participating Employer who occupies a permanent position, whether part-time or full-time, established in accordance with the annual salary ordinance or publicly available pay schedule, or any elected official.

Temporary Employee – An employee whose appointment to a position is of limited duration not to exceed one day less than six months.

Year – The twelve (12) consecutive months of a calendar year January 1st through December 31st.

POLICY

All persons eligible to be members of SCERS who have not executed a lawful waiver of membership must be enrolled as members of SCERS, and persons ineligible for membership must be excluded from SCERS membership.

A. Mandatory Membership

All Regular Employees not expressly excluded from membership (as provided in Section C of this policy) shall become members of SCERS on the first day of their employment in a position requisite for membership.

B. Optional Membership

A Regular Employee first hired in a position requisite for SCERS membership after attaining the age of sixty (60) years may irrevocably waive membership in SCERS by submitting to SCERS within sixty (60) days of beginning employment a written and signed waiver of membership on a form prescribed by SCERS.

Elective officers may file a written declaration with SCERS to establish SCERS membership, which will be effective on the first day of the calendar month following the filing of a declaration. Within 60 days after the expiration of the elective officer's term of office or within 60 days after the officer ceases to hold the office, the officer may rescind the declaration and withdraw from SCERS membership, and all contributions paid by the officer as a SCERS member shall be refunded. Any elective officer who does not declare in writing his or her intention to become a member of SCERS as required by Government Code Section 31553 is ineligible for SCERS membership.

C. Excluded from Membership

Any employee of a Participating Employer whose employment is described by one or more of the following conditions are ineligible for membership and shall not be enrolled as a member of SCERS:

1. The employee is eligible to waive, and has executed a lawful waiver of, SCERS membership.
2. The employee is a retired member of SCERS who satisfies the requirements of Government Code Section 7522.56 to serve a Participating Employer without reinstatement from retirement.
3. The employee is hired with an agreement between the employee and the Participating Employer that the duration of employment will be for:
 - a. Less than six months, or
 - b. Less than 20 hours per week, or
 - c. Less than 1,044 hours in a calendar year.

4. It is anticipated that Part-Time Employees who are not Regular Employees, Extra Help Employees, Temporary Employees, and any other employees whose service is for less than one-half of a full-time schedule, of limited duration, or seasonal or intermittent and not regular in nature would typically be excluded from membership in SCERS.
5. SCERS may determine an employee's eligibility for SCERS membership based on the actual number of hours worked by the employee and/or the duration of employment.

APPLICATION

Each Participating Employer is responsible for determining, in accordance with this policy, which of the Participating Employer's employees are eligible for membership in SCERS and is responsible for enrolling those eligible employees into SCERS membership.

When a Participating Employer fails to comply with the requirements of this policy, the Board will exercise its discretion to decide an employee's eligibility for membership and determine an appropriate correction procedure based on the facts of each case.

An employee hired with an agreement between the employee and the Participating Employer that the duration of employment will for less than six months, or less than 20 hours per week, or less than 1,044 hours per year are properly excluded from SCERS membership under Section C.3. above, regardless of how the Participating Employer designates or labels the position the employee holds.

If an employee properly excluded from SCERS membership under Section C.3. at the outset of employment actually works more than 1,044 hours in a year, the employee may be enrolled into SCERS membership as of the later of January 1st or the first day of period of employment during the calendar year in which the employee worked more than 1,044 hours.

SCERS may periodically review Participating Employers' payroll practices as authorized by Government Code Section 31543 to assure compliance with this policy.

BACKGROUND

The County Employees' Retirement Law authorizes a county retirement board to include in its regulations provisions for the exemption or exclusion from membership, in the discretion of the board, of "persons whose tenure is temporary, seasonal, intermittent, or for part time only, or persons whose compensation is fixed at a rate by the day or hour." [Government Code Section 31527(e)].

Chapter 3 of SCERS Bylaws contains broad provisions describing the employees who are eligible for, and those who are excluded from, membership in SCERS. More specificity is needed at the administrative policy level for Participating Employers to consistently and correctly apply the standards for SCERS membership to their employees.

This policy was established to clarify the SCERS membership standards, describe their application, and define the roles and responsibilities of Participating Employers and SCERS to ensure the membership standards are correctly applied, and provide for corrective action when necessary.

RESPONSIBILITIES

Executive Owner: Chief Benefits Officer

POLICY HISTORY

Date	Description
	<i>Discussion Draft of proposed policy submitted for Board review and direction on 4/18/2018</i>

Excerpt from SCERS Bylaws

(As approved by Board of Supervisors on 2-27-2018)

CHAPTER 3

MEMBERSHIP

Sec. 16. Regular Employees/Permanent Part-time Employees

All regular employees shall become members of the Retirement System on the first day of their employment in a position requisite for membership, except as otherwise provided herein.

A regular employee hired after turning sixty (60) years of age may waive membership in the retirement System upon proper application to the Retirement Board.

As used in these Regulations, "Regular Employee" means an employee occupying a full-time position or permanent part-time position and paid a salary as provided in the annual salary ordinance.

Sec. 17. Regular Pay

The retirement contributions of regular employees shall be based upon regular salary in a two- week pay period as provided in the annual salary ordinance.

Sec. 18. Exclusions

In accordance with Subdivision (e) of Section 31527 of the Government Code, temporary, seasonal, intermittent, and part-time employees who work less than the full standard hours required in the District or County, are excluded from membership in the Sacramento County Employees' Retirement System. Notwithstanding the foregoing, any regular employee whose employment is changed to part-time shall continue to be a member and make contributions on a pro rata basis.

- a. "Temporary Employee," as used in these Regulations, means any employee whose position is paid on a per diem basis until he is reported to the County Auditor as a regular employee by the head of the Department or Agency by which he is employed.
- b. "Seasonal or Intermittent Employee," as used in these Regulations, means an employee whose service is not regular in nature, but periodic, and recurrent at intervals.
- c. "Part-time Employees," as used in these Regulations, means an employee whose services are not required for the full standard hours required by the County or District.

Sec. 19. Minimum Compensation

Employees receiving compensation amounting to less than \$80 per month, including maintenance valued according to the schedule adopted by the Board of Supervisors in the current Salary Ordinance, are hereby excluded and exempted from membership in the Retirement System.

For the purpose of these Regulations, any member of the Retirement System whose salary is reduced to an amount less than \$80 per month may discontinue his membership in the Retirement System and withdraw his accumulated contribution if he so elects in writing to the Retirement Board. If he does not file such written notice with the Board within 180 days after the effective date of such reduction in salary, he shall remain a member.

Sec. 20. Compensation Earnable or Pensionable Compensation

The amount of retirement contributions from a member or an employer, shall be determined according to the County Employees' Retirement law of 1937 (CERL) or Public Employees' Pension Reform Act of 2013 (PEPRA), as applicable.

Sec. 21. Installment Payments of Contributions Redeposit.

Under unusual circumstances, the Board may authorize the deposit or redeposit of contributions required to be made by installment payments over a period of time not to exceed the time for which the member has elected to receive credit, or a longer period as determined by the Board. In no event shall any installment payment be less than twenty-five dollars (\$25) biweekly.