



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 14

MEETING DATE: February 21, 2024

SUBJECT: Sacramento Area Sewer District Pension Protection Act

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

RECOMMENDATION

Approve a “support, if amended” position on legislation regarding the allocation of pension assets and liabilities, and treatment of pension benefits, for the reorganized Sacramento Area Sewer District.

PURPOSE

This item supports the Strategic Management Plan goal to promote plan sustainability.

DISCUSSION

The Sacramento Regional County Sanitation District and the Sacramento Area Sewer District are distinct, independent special districts. The agencies have long functioned as one entity operating as a department of Sacramento County, staffed by County employees who are members of SCERS. The two entities legally merged into one consolidated district on January 1, 2024, called SacSewer.

SacSewer is now in the process of formally separating from Sacramento County as of January 1, 2025, with the intent to transfer all current County employees to the new district. SCERS has taken an active role in the separation talks between the County and SacSewer to ensure that the pension liabilities of current and former SacSewer employees are adequately addressed and accounted for, and to facilitate the transfer of accrued and future retirement benefits for approximately 730 current employees so they are held harmless.

SCERS' outside actuary, Segal, had earlier identified a \$101.5 million unfunded liability attributable to the district, as of June 30, 2022, that will be updated and transferred from the County to SacSewer as part of the separation.

The proposed legislation, AB 2301 (the Sacramento Area Sewer District Pension Protection Act of 2024), reflects the intent to apportion the pension liabilities and assets between the County

and the District, based on the recommendation of SCERS' actuary, in a manner that will protect the pension fund and its members in the long run and avoids potential disputes in the future.

The legislation also ensures that current "legacy" employees will retain their retirement benefit tier (e.g. the Miscellaneous Tier 3 "2% at 55 ½ formula). Otherwise, the Public Employee Pension Reform Act (PEPRA) would require that transferring employees to the new district would be placed in the PEPRA Miscellaneous Tier 5 "2% at 62" formula.

Further amendments have been submitted to the Legislature and are pending approval in committee. During the drafting process, there were version-control issues and SCERS-required edits were not incorporated in the final version of the bill. The amendments clarify that SacSewer pension liabilities are inclusive of all members—current and prior SacSewer employees, retirees, and beneficiaries—and provide clarity regarding the County's Pension Obligation Bonds. The amendments are expected to be adopted.

By taking a formal "support, if amended" position on AB 2301 and actively engaging the Legislature, a SCERS endorsement can provide confidence and comfort to stakeholders that the SacSewer transition will proceed smoothly and fairly regarding retirement benefits and funding.

Future actions will be necessary by the SCERS Board to formally approve SacSewer's inclusion into SCERS as a separate employer and to establish separate contribution rates for SacSewer. Additionally, SCERS is involved in drafting a three-party agreement with the County and SacSewer to further detail the unfunded liability and pension funding obligations of SacSewer, which will be presented to the respective governing boards this spring.

ATTACHMENTS

- Board Order
- AB 2301, as introduced
- AB 2301, with submitted amendments

Prepared by:

/s/

Eric Stern
Chief Executive Officer



Retirement Board Order

Sacramento County Employees' Retirement System

Before the Board of Retirement
February 21, 2024

AGENDA ITEM:

Sacramento Area Sewer District Pension Protection Act

THE BOARD OF RETIREMENT hereby approves Staff's recommendation to approve a "support, if amended" position on legislation regarding the allocation of pension assets and liabilities, and treatment of pension benefits, for the reorganized Sacramento Area Sewer District.

I HEREBY CERTIFY that the above order was passed and adopted on February 21, 2024 by the following vote of the Board of Retirement, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ALTERNATES:

(Present but not voting)

James Diepenbrock
Board President

Eric Stern
Chief Executive Officer and
Board Secretary

ASSEMBLY BILL

No. 2301

Introduced by Assembly Member Stephanie Nguyen
(Coauthors: Assembly Members Hoover and McCarty)
(Coauthors: Senators Dodd and Niello)

February 12, 2024

An act to add Article 4.6 (commencing with Section 31574) to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, relating to public employee retirement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2301, as introduced, Stephanie Nguyen. Sacramento Area Sewer District Pension Protection Act of 2024.

Existing law, the County Employees Retirement Law of 1937, authorizes a county to establish a retirement system, as specified, in order to provide pension benefits to county, city, and district employees. Under that law, all officers and employees of a district become members of the county's retirement association on the first day of the calendar month after adoption, by specified vote thresholds, of a resolution by the governing body of the district providing for inclusion of the district in the retirement association and, if the county board of supervisors is not the governing body of the district, the board of retirement consents by majority vote.

This bill would enact the Sacramento Area Sewer District Pension Protection Act of 2024, which, on and after the effective date of a resolution of the Board of Retirement of the Sacramento County Employees' Retirement Association consenting to membership by employees of the Sacramento Area Sewer District as described above,

would provide that all employees of the county allocated exclusively to the successor entity, would be deemed to be employees of the sewer district and that all duties and obligations in the employment relationship would be assumed by the sewer district. The bill would specify that the sewer district is a “district” for purposes of the County Employees Retirement Law of 1937. The bill would provide that the sewer district would assume the rights, obligations, and status previously occupied by the County of Sacramento with regard to the portion of the county safety plan, which is that portion of the county’s defined benefit plan attributed to employees allocated exclusively to the sewer district, as specified, to the replacement benefits program, and to all benefit provisions, including optional benefits, within the County Employees Retirement Law of 1937 or the Public Employees’ Pension Reform Act of 2013, as those rights exist at the time of the transfer of rights, duties, and obligations to the sewer district. The bill would state that its provisions are severable.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Sacramento.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 4.6 (commencing with Section 31574) is
2 added to Chapter 3 of Part 3 of Division 4 of Title 3 of the
3 Government Code, to read:

4
5 Article 4.6. Sacramento Area Sewer District Pension Protection
6 Act of 2024

7
8 31574. It is the intent of the Legislature that this article
9 authorize the Sacramento Area Sewer District to assume all of the
10 revenues, debts, obligations, and liabilities of the County of
11 Sacramento with regard to the portion of the county defined benefit
12 plan, administered by the Sacramento County Employees’
13 Retirement System, attributed to employees allocated exclusively
14 to the Sacramento Area Sewer District, as of a date to be agreed
15 upon by the county and the Sacramento Area Sewer District.

1 31575. This article shall be known, and may be cited, as the
2 Sacramento Area Sewer District Pension Protection Act of 2024.

3 31576. For purposes of this article, the following definitions
4 shall apply:

5 (a) “County” means the County of Sacramento.

6 (b) “County sanitation plan” means the portion of the county’s
7 defined benefit plan, administered by the Sacramento County
8 Employees’ Retirement System, attributed to employees allocated
9 exclusively to the Sacramento Area Sewer District, as of a date to
10 be agreed upon by the county and the successor entity.

11 (c) “Legacy benefit formulae” means the formulas available to
12 county employees before January 1, 2013.

13 (d) “Successor entity” means the Sacramento Area Sewer
14 District, an entity organized and established pursuant to and
15 operating under the authority of the County Sanitation District Act
16 (Chapter 3 (commencing with Section 4700) of Part 3 of Division
17 5 of the Health and Safety Code).

18 31577. (a) (1) On and after the effective date of a resolution
19 of the Board of Retirement of the Sacramento County Employees’
20 Retirement System consenting to membership of the successor
21 entity’s employees, pursuant to subdivision (b) of Section 31557,
22 all employees of the county allocated exclusively to the successor
23 entity shall be deemed to be employees of the successor entity and
24 all duties and obligations of the employment relationship shall be
25 assumed by the successor entity. The status of each employee
26 deemed to have become an employee of the successor entity
27 pursuant to this section, with respect to membership in the
28 retirement system, shall, in all respects, be as if the employee had
29 remained a member of the retirement system without any break in
30 service or change of employer.

31 (2) The successor entity shall be deemed to be a “district” as
32 defined in this chapter, and shall, in all respects, assume all of the
33 rights, obligations, and status previously occupied by the county,
34 with regard to the county sanitation plan, as a participating district
35 in the retirement system, including, but not limited, to all of the
36 following:

37 (A) The payment of employer contributions.

38 (B) The payment of unfunded actuarial liability, including
39 unfunded actuarial liability accrued as a result of all service

1 rendered before separation from county employment as determined
2 by the Sacramento County Employees’ Retirement System.

3 (C) The withholding of employee contributions.

4 (D) The reporting of compensation earnable and pensionable
5 compensation.

6 (E) Record retention and audit compliance.

7 (F) The enrollment of eligible employees in membership.

8 (G) Compliance with restrictions on the employment of retired
9 persons.

10 (H) The pickup of employee contributions pursuant to Section
11 414(h)(2) of the Internal Revenue Code and any agreement or
12 resolution implementing that section.

13 (3) The successor entity shall assume all rights, duties,
14 obligations and liabilities related to the county sanitation plan with
15 respect to all legacy benefit formulae provided to county employees
16 and shall be eligible to continue all available benefits, including
17 all default and optional benefit provisions provided to county
18 employees and in effect at the time of the transfer of rights, duties,
19 and obligations to the successor entity, without interruption,
20 effective as of a date to be agreed upon by the county and the
21 successor entity.

22 (b) The successor entity shall assume the prior obligations of
23 the county sanitation plan for the payment of unfunded actuarial
24 liability, which shall continue to be included in contribution rates
25 calculated and approved pursuant to this chapter, including, but
26 not limited to, Sections 31453, 31453.5, 31454, 31454.7, 31581,
27 31585, and 31586, as if no change in the participating employer
28 had occurred.

29 (c) The successor entity shall succeed to the rights, duties, and
30 obligations of the county sanitation plan with respect to the
31 following:

32 (1) The replacement benefits program pursuant to Chapter 3.9
33 (commencing with Section 31899). The rights of each retirement
34 system member to participate in the replacement benefits program,
35 as those rights exist at the time of the transfer of rights, duties, and
36 obligations to the successor entity, whether the member is actively
37 employed, deferred, or retired, shall continue as if there had been
38 no change in the status of the employer. The transfer of rights,
39 duties, and responsibilities, and documentation thereof as may be
40 required by the Internal Revenue Code, shall not be deemed to be

1 the creation of a new replacement benefit program, and the
2 continuation of employees' rights pursuant to the operation of this
3 section shall not be deemed the offering of a new plan to any
4 employee, for purposes of Section 7522.43 and subdivision (c) of
5 Section 31899.

6 (2) All benefit provisions, including optional benefits, within
7 the County Employees Retirement Law of 1937 or the Public
8 Employees' Pension Reform Act of 2013, as those rights exist at
9 the time of the transfer of rights, duties, and obligations to the
10 successor entity, whether the member is actively employed,
11 deferred, withdrawn and redeposits, or retired, shall continue as
12 if there had been no change in the status of the employer.

13 (d) (1) The successor entity will continue to receive the benefits
14 for excess contributions, including proceeds of pension obligation
15 bonds, that the county paid to the Sacramento County Employees'
16 Retirement System before the date that the successor entity assumes
17 all rights, duties, obligations and liabilities related to the county
18 sanitation plan through the Sacramento County Employees'
19 Retirement System, as if no change in the participating employer
20 had occurred.

21 (2) Pension obligation bonds issued to the Sacramento Area
22 Sewer District by the county due to the county paying additional
23 contributions to the Sacramento County Employees' Retirement
24 System on behalf of the Sacramento Area Sewer District and in
25 order to decrease the unfunded actuarial accrued liability
26 contribution rate, shall be effectively combined into a single debt
27 of the successor entity. Debt payment obligations and any previous
28 agreements related to the pension obligation bonds between the
29 county and the Sacramento Area Sewer District shall be transferred
30 to the successor entity, unaltered, to be resolved by the successor
31 entity, independent of the Sacramento County Employees'
32 Retirement System.

33 SEC. 2. The provisions of this act are severable. If any
34 provision of this act or its application is held invalid, that invalidity
35 shall not affect other provisions or applications that can be given
36 effect without the invalid provision or application.

37 SEC. 3. The Legislature finds and declares that a special statute
38 is necessary and that a general statute cannot be made applicable
39 within the meaning of Section 16 of Article IV of the California
40 Constitution because of the unique circumstances regarding pension

1 and employment obligations relating to sanitation services in the
2 County of Sacramento.

3 SEC. 4. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety within
5 the meaning of Article IV of the California Constitution and shall
6 go into immediate effect. The facts constituting the necessity are:

7 In order to facilitate the transfer of employment from the County
8 of Sacramento to the Sacramento Area Sewer District, in a timely
9 and expeditious manner while preserving vested pension rights, it
10 is necessary that this act take effect immediately.

(not an official product of the OLC)

Article 4.6. Sacramento Area Sewer District Pension Protection Act of 2024

31574. It is the intent of the Legislature that this article authorize the Sacramento Area Sewer District to assume all of the revenues, debts, obligations, and liabilities of the County of Sacramento with regard to the portion of the county defined benefit plan, administered by the Sacramento County Employees' Retirement System, attributed to ~~employees allocated exclusively to the Sacramento Area Sewer District,~~ retirement system members and beneficiaries of the Sacramento Area Sewer District, whether the member is actively employed, deferred, or retired, as determined by the retirement system, as of a date to be agreed upon by the County and the Sacramento Area Sewer District.

31575. This article shall be known, and may be cited, as the Sacramento Area Sewer District Pension Protection Act of 2024.

31576. For purposes of this article, the following definitions shall apply:

(a) "County" means the County of Sacramento.

(b) "County sanitation plan" means the portion of the county's defined benefit plan, administered by the Sacramento County Employees' Retirement System, attributed to ~~employees allocated exclusively to the retirement system members and beneficiaries of the~~ Sacramento Area Sewer District, whether the member is actively employed, deferred, or retired, as determined by the retirement system, as of a date to be agreed upon by the county and the successor entity.

(c) "Legacy benefit formulae" means the formulas available to county employees before January 1, 2013.

(d) "Successor entity" means the Sacramento Area Sewer District, an entity organized and established pursuant to and operating under the authority of the County Sanitation District Act (Chapter 3 (commencing with Section 4700) of Part 3 of of Division 5 of the Health and Safety Code.

31577. (a) (1) On and after the effective date of a resolution of the Board of Retirement of the Sacramento County Employees' Retirement System consenting to membership of the successor entity's employees, pursuant to subdivision (b) of Section 31557 of the Government Code, all employees of the county allocated exclusively to the successor entity, shall be deemed to be employees of the successor entity and all duties and obligations of the employment relationship shall be assumed by the successor entity. The status of each employee deemed to have become an employee of the successor entity pursuant to this section, with respect to membership in the retirement system, shall, in all respects, be as if the employee had remained a member of the retirement system without any break in service or change of employer.

(2) The successor entity shall be deemed to be a “district” as defined in this chapter, and shall, in all respects, assume all of the rights, obligations, and status previously occupied by the county, with regard to the county sanitation plan, as a participating district in the retirement system, including, but not limited, to all of the following:

(A) The payment of employer contributions.

(B) The payment of unfunded actuarial liability, including unfunded actuarial liability accrued as a result of all service rendered before separation from county employment as determined by the Sacramento County Employees’ Retirement System.

(C) The withholding of employee contributions.

(D) The reporting of compensation earnable and pensionable compensation.

(E) Record retention and audit compliance.

(F) The enrollment of eligible employees in membership,

~~(G) e~~Compliance with restrictions on the employment of retired persons.

~~(H)~~G The pickup of employee contributions pursuant to Section 414(h)(2) of the Internal Revenue Code and any agreement or resolution implementing that section.

(3) The successor entity shall assume all rights, duties, obligations and liabilities related to the county sanitation plan with respect to all legacy benefit formulae provided to county employees and shall be eligible to continue all available benefits, including all default and optional benefit provisions provided to county employees and in effect at the time of the transfer of rights, duties, and obligations to the successor entity, without interruption, effective as of a date to be agreed upon by the county and the successor entity.

(b) The successor entity shall assume the prior obligations of the county sanitation plan for the payment of unfunded actuarial liability, which shall continue to be included in contribution rates calculated and approved pursuant to this chapter, including, but not limited to, Sections 31453, 31453.5, 31454, 31454.7, 31581, 31585, and 31586, as if no change in the participating employer had occurred.

(c) The successor entity shall succeed to the rights, duties, and obligations of the county sanitation plan with respect to the following:

(1) The replacement benefits program pursuant to Chapter 3.9 (commencing with Section 31899) of Part 3 of Division 4 of Title 3 of the Government Code. The rights of each retirement system member to participate in the replacement benefits program, as those rights exist at the time of the transfer of rights, duties, and obligations to the successor entity, whether the member is actively employed, deferred, or retired, shall continue as if there had been no change in the status of the employer. The transfer of rights, duties, and responsibilities, and documentation thereof as may be required by the Internal Revenue Code, shall

not be deemed to be the creation of a new replacement benefit program, and the continuation of employees' rights pursuant to the operation of this section shall not be deemed the offering of a new plan to any employee, for purposes of Section 7522.43 and subdivision (c) of Section 31899.

(2) All benefit provisions, including optional benefits, within the County Employees Retirement Law of 1937 or the Public Employees' Pension Reform Act of 2013, as those rights exist at the time of the transfer of rights, duties, and obligations to the successor entity, whether the member is actively employed, deferred, withdrawn and redeposits, or retired, shall continue as if there had been no change in the status of the employer.

(d) (1) The successor entity will continue to receive the benefits for excess contributions, including proceeds of pension obligation bonds, that the county paid to the Sacramento County Employees' Retirement System before the date that the successor entity assumes all rights, duties, obligations and liabilities related to the county sanitation plan through the Sacramento County Employees' Retirement System, as if no change in the participating employer had occurred.

(2) ~~Pension obligation bonds issued to the Sacramento Area Sewer District by the county due to the county paying additional contributions to the Sacramento County Employees' Retirement System on behalf of the Sacramento Area Sewer District and in order to decrease the unfunded actuarial accrued liability contribution rate, shall be effectively combined into a single debt of the successor entity.~~ Debt payment obligations and any previous agreements related to the pension obligation bonds between the county and the Sacramento Area Sewer District shall be transferred to the successor entity, ~~unaltered~~, to be resolved by the successor entity, independent of the Sacramento County Employees' Retirement System.

SEC. 2. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances regarding pension and employment obligations relating to sanitation services in the County of Sacramento.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate the transfer of employment from the County of Sacramento to the Sacramento Area Sewer District, in a timely and expeditious

manner while preserving vested pension rights, it is necessary that this act take effect immediately.

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