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June 9, 2011

Dear SCERS Benefit Recipient,

As you may be aware, for some time the Sacramento County Employees' Retirement System (SCERS) has been under pressure to release detailed information regarding the benefits paid to you – SCERS' retirees and beneficiaries. Those efforts started with requests under the California Public Records Act (PRA), and because SCERS declined to release all the information requested, SCERS was sued to compel disclosure of the information. The lawsuit eventually progressed to the appellate courts and on May 11, 2011, the Third District Court of Appeals ruled that SCERS must disclose the requested information.

The original PRA requests were made by parties who were interested in information regarding those retirees and beneficiaries receiving more than \$100,000 annually in benefits from SCERS. Subsequently, the request submitted by *The Sacramento Bee* (which became the basis for the lawsuit) was broadened to include information regarding all SCERS' retirees and beneficiaries.

Specifically, under the ruling by the Court of Appeals, SCERS will now be required to disclose the following information regarding all retirees and beneficiaries:

- The name of each retiree and beneficiary receiving a benefit payment.
- The person's date of retirement (or the retiree's date of retirement in the case of the beneficiary of a deceased retiree).
- The department or agency the person retired from.
- The position the person held when he/she retired.
- The person's years of service with SCERS.
- The person's original retirement allowance.
- The cost of living allowance that has been added to the original benefit.
- The person's current retirement allowance.

Based on the Court of Appeals ruling, it appears that SCERS will not be required to disclose the benefit recipient's address or phone number.

SCERS' resistance to releasing the requested information was not motivated by a desire to 'hide' the information or to prevent people from gaining knowledge about how SCERS operates or the amount or level of benefits SCERS provides. To the contrary, SCERS supports and adheres to the principles of 'open government' that underlie the PRA and concurs that access to information about how government operates is vital to preserving the trust of the public. Consistent with this position, in addition to the wealth of information SCERS always makes publicly available, SCERS provided the parties to the lawsuit with much of the information they had requested – however, SCERS did

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not provide the names of the benefit recipients or supply the information in a way that allowed retirees and beneficiaries to be identified individually.

SCERS responded to the PRA request in this manner because SCERS believed it was required by law to keep individually identifiable information confidential. Specifically, Section 31532 of the County Employees Retirement Law of 1937 (1937 Act) expressly declares: "... individual records of members shall be confidential and shall not be disclosed" Given this seemingly clear directive, over the course of its history SCERS has scrupulously kept such information confidential in its dealings with any and all third parties, including the County and all other participating employers.

In the lawsuit, SCERS argued that the specific confidentiality requirement in the 1937 Act reflects the decision by the legislature that certain information must be kept confidential because its disclosure could subject the affected individuals to harm or loss, and that this risk overrides the general public policy favoring disclosure. Unfortunately, however, both the trial court and the Court of Appeals concluded that the disclosure principles of the PRA outweigh the confidentiality provisions of the 1937 Act.

SCERS does not agree with the conclusion reached by the courts, and continues to believe that 'naming names' adds minimal value to the oversight of public employee benefits. SCERS also continues to be concerned that in this digital age the release of such detailed information could be used by people with questionable motives to prey upon vulnerable retirees and beneficiaries. Nevertheless, the courts have spoken and SCERS is required to comply with their rulings by disclosing the noted information.

SCERS recognizes that in the current, highly charged environment, people will have different perspectives regarding whether the information in question should be disclosed or should have been disclosed sooner. However, in making decisions regarding the administration of the retirement system SCERS has the fiduciary obligation to act in the best interests of the participants of the retirement system. The actions taken by SCERS throughout this matter have been based on thoughtful consideration of this duty and with the goal of assuring that SCERS is properly meeting its legal responsibilities.

SCERS hopes this letter helps you to understand the kind of information about your retirement benefits that will now have to be disclosed under the recent court ruling. In the near term, it is highly likely that *The Sacramento Bee* and other media organizations will issue news reports featuring this information. It is also likely that this information will be utilized in the ongoing debates regarding public employee compensation. Beyond that, SCERS cannot predict who might seek this information and how the information might be used.

Additional information regarding the PRA requests, the lawsuit and SCERS' position on the issues can be found in the 'News and Developments' section of the SCERS website – www.scers.org.

Sincerely,

A handwritten signature in black ink that reads "Richard Stensrud". The signature is written in a cursive, flowing style.

Richard Stensrud
Chief Executive Officer