



**VENTURA COUNTY  
SUPPLEMENTAL RETIREMENT PLAN COMMITTEE**

**Channel Island Conference Room, CEO 4<sup>th</sup> floor  
Hall of Administration, County Government Center  
800 S. Victoria Ave, Ventura CA 93009**

**April 13, 2023  
10:30 a.m.**

- 1. Public Comments.**
- 2. Committee Member Comments.**
- 3. Minutes of December 8, 2022.**
- 4. Consideration of IRS Ruling Request**

*If any accommodations are needed, please contact the Safe Harbor program at **805-654-2921** or by email at: [Safe.Harbor@ventura.org](mailto:Safe.Harbor@ventura.org).*

*Requests should be made as soon as possible but at least 48 hours prior to the scheduled meeting.*

**VENTURA COUNTY  
SUPPLEMENTAL RETIREMENT COMMITTEE  
Pacific Conference Room**

**Meeting Minutes for December 8, 2022  
2:00 p.m.**

**Members present**

Shawn Atin  
Kaye Mand  
Emily Gardner  
Jeff Burgh  
Steven Hintz

**Members absent**

**Also present**

Patti Dowdy  
Jake O'Shaughnessy  
Joan Steel  
Suzanne Rogers  
Andrew Kremer  
Patty Zoll  
Amanda Diaz  
Andrew Gratt  
Anna Toy  
Eric Lee

**Ms. Mand called the meeting to order at 2:02 p.m.**

**1. Public Comments.**

No public comments were provided.

**2. Committee Member Comments.**

A round table of introductions was conducted.

**3. Minutes of Regular Meeting October 25, 2022**

Motion to approve: 1. **Mr. Atin**    2. **Mr. Burgh**    **Motion Carries**

**4. Q3 2022 Quarterly Client Report and Asset Allocation Analysis**

Ms. Anna Toy, Senior Relationship Manager, and Mr. Eric Lee, Senior Portfolio Manager with Principal Global Advisors, spoke to the current investment report and asset allocation analysis for quarter ending September 30, 2022. Mr. Lee spoke to the majority of findings in both quarterly reports but initially he reviewed overall highlights specific to the plan. Beginning 2022,

the market value of the plan was approximately \$35.8 million with a total of roughly \$4.34 million being disbursed as of October 31, 2022. Total fees paid as of October 31, 2022 for management of the plan totaled \$128,144.45. Total ending market value of

assets in the plan as of October 31, 2022, equated to \$26,147,177 which accounted for disbursements, periodic payments, and fees. In addition to the monetary value of the plan, Mr. Lee also spoke to the services performed by Principal Portfolio Managers which included fiduciary and regulatory support along with communication with administrative staff and participants.

Specific to the Quarterly Client Report, Mr. Lee emphasized general market trends and statistics effecting performance of assets. An area of concern included the Federal Reserve Bank (the Fed) hiking interest rates to combat inflation however, Mr. Lee sees the Fed has slowed down rate hikes. Other notable mentions include growth stocks outperforming value stocks, inflation has slowly been decreasing since its peak of 9% in June 2022, and unemployment has risen slightly from a recent low but wage growth and consumer spending are consistent. Market has shown negative returns for the quarter in the 5% range; coming close to bear market territory. However, over the last 10 years, net contributions have been around \$2.1 million though gains are in the area of \$14 million, and the long-term plan – 3, 5, and 10 years – have performed well.

Asset allocation overview shows 43.91% in U.S. Equity holdings, followed by 40.02% in fixed income holdings, 14.63% in non-U.S. equity, and 1.44% in money market funds. This follows suit with the SRP 457 portfolio mix strategy of 60% equity and 40% fixed income. Scenarios were run by Principal to show potential returns and risks at a portfolio mix of 65/35 and 70/30 equity to fixed income assets, respectively.

This prompted discussion over initiating research into other investment strategies between Mr. Atin, Ms. Dowdy, Mr. Hintz, and Mr. Lee. Mr. Atin posed the question as to why the target return rate needs to stay at 7% when an aggressive 70/30 mix strategy will not achieve desired returns. Mr. Hintz added that the committee may choose to mirror VCERA investment portfolio although initiating actuarial analysis may be beneficial in shining light on cost impact to adjust target return rate. Ms. Dowdy commented on looking at an IPS to help with investment strategies after actuarial evaluation. A suggested conference call between Mr. Lee, Ms. Dowdy, Ms. Zoll, and Mr.

O'Shaughnessy, along with County actuaries, was made. Mr. Lee and Ms. Zoll to collaborate on setting up said call.

**A. Motion to Receive and File Q3 2022 Quarterly Client Report and Asset Allocation Analysis**

Motion made: 1. **Mr. Burgh** 2. **Mr. Atin**

**Motion Carries**

**Ms. Mand adjourned the meeting at 2:46 p.m.**

Respectfully submitted,



Andrew Gratt  
Deferred Compensation Personnel Assistant

# COUNTY OF VENTURA

## MEMORANDUM

### HUMAN RESOURCES DIVISION

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DATE: April 13, 2023

TO: Supplemental Retirement Plan Committee

FROM: Patti Dowdy, Employee Benefits Manager

SUBJECT: Consideration of IRS Ruling Request

#### **Background**

The Ventura County Employees Retirement Association (VCERA) has requested that the County obtain an IRS ruling that the Safe Harbor Plan is a qualified plan under section 401(a). The County's Supplemental Retirement Plan Document, which includes the defined benefit (DB) Safe Harbor provision, has been reviewed by County Counsel and is believed to be compliant with all IRS requirements. The filing for a determination letter by a plan sponsor is voluntary and the County has not previously elected to do so. The following is provided as background for the Committee to consider as it weighs this request.

Within the VCERA membership, there are individuals who served in positions excluded from VCERA membership before becoming regular County employees. Such excluded positions include Extra-Help, Intermittent, and Part-Time roles covered by the Safe Harbor retirement plan. Historically, VCERA has not allowed these members to buy this excluded service due to Government Code section 31614.4, which prohibits public employees from receiving credit for the same service in two different retirement systems funded by public funds. This prohibition is based on the fact that the Safe Harbor Plan was initially established as a DB plan under IRC section 401(a), and those who participate in the plan become entitled to a pension or retirement allowance.

More recently, your Committee approved a change in the SRP benefit type from the DB plan to a 457 deferred compensation (DC) plan for all new employees. It's important to note that the prohibition of receiving credit for the same service in two different retirement systems, which is supported by public funds, does not apply to participation in a DC plan. This means that VCERA members who previously participated in the Safe Harbor Plan can purchase service credit in VCERA for the time period(s) they were in a position excluded from VCERA membership, provided they have rolled over their Safe Harbor Plan service to the County's Supplemental 457 DC Plan. Employees currently enrolled in the Safe Harbor DB plan cannot, however, rollover their benefits to the 457 DC Plan until they separate from County service.

In 2008, section 31482.5 was added to the California Employees Retirement Law (CERL) to specifically allow members to participate in both CERL and a public employer's supplemental retirement plan if three conditions are met:

1. The CERL (VCERA) plan is the County's primary plan, and the County has also adopted the Safe Harbor Plan as a supplemental plan.

2. Employee's participation in the Safe Harbor Plan does not interfere with the employee's rights to membership in the CERL plan.
3. The County has obtained a ruling from the IRS that the Safe Harbor Plan qualifies under section 401(a).

In Ventura, conditions one and two are met but the third condition is not met since a determination letter has never been requested by the County from the IRS regarding the qualified status of the Plan.

## **Discussion**

The Committee should weigh the pros and cons of obtaining an IRS determination letter for the Safe Harbor Plan. Pros include allowing VCERA members who previously worked at the County in a VCERA ineligible position to purchase additional VCERA service credit at a lower rate than if they were required to wait until they separated from County service. Cons include the cost to review the plan for compliance, potential risks associated with an IRS review of the Plan, and additional costs to the County.

With the introduction of the SRP 457 DC Plan, regular County employees who were previously enrolled in Safe Harbor now have the opportunity to purchase service credit through VCERA. This credit can be purchased while the employee is still active if the service was covered by the 457 DC plan, or after separation when the employee is given the DB to DC conversion option. Through this service credit purchase, the employee will receive credit with both VCERA and Safe Harbor for the same period of employment. The same holds true if an active employee is given the option to purchase prior Safe Harbor DB service through VCERA, as they will remain eligible to receive their earned Safe Harbor benefit upon separation from County service.

The ability for VCERA members to purchase the time spent in a position covered by Safe Harbor prior to becoming regular County employees has long been desired by some County employees. While this would be a welcomed benefit to this population the Committee should weigh a number of considerations. Below we have enumerated some of the possible pros and cons of obtaining an IRS determination letter for the Safe Harbor Plan. This list is not intended to be exhaustive.

## **Pros**

- VCERA members who previously worked in a VCERA ineligible position at the County can purchase additional VCERA service credit. The cost to buy excluded service through VCERA is the amount of contributions the employee would have paid to VCERA for the period being purchased plus the interest that would have accrued on these contributions since the prior service period. Employees can pay less interest for purchasing their Safe Harbor service if they complete the purchase before their separation.

## **Cons**

- The cost of reviewing the plan for compliance with the IRS' most recent Cumulative List by external counsel is estimated to be around \$25,000 to \$30,000. The determination letter process will also require significant staff time. In addition, there is a mandatory IRS filing fee of \$2,700 for a determination letter request. If the Committee decides to request a determination letter for both the defined benefit and deferred compensation components of the SRP, the cost of counsel fees will increase, and an additional IRS filing fee of \$2,700 will be incurred.
- While we believe that the Plan(s) are in compliance, there are potential risks associated with an IRS review of the Plan.

- The option for employees to purchase prior service credit through VCERA for their period as a Safe Harbor member (whether in the DB or 457 DC plan) comes at an additional cost. This is because the County will now be funding the employee's earned Safe Harbor benefit as well as the increase in the VCERA lifetime annuity benefit that the employee will receive based on the additional service credit that has been added to their pension calculation.

If the Committee decides that the County should pursue obtaining an IRS determination letter for the Supplemental Retirement Plan DB staff will engage outside counsel to begin the process.

If the Committee decides not to pursue obtaining a determination letter staff will inform VCERA of the decision.

### **Action**


- Decide whether to direct staff to obtain a determination letter from the IRS for the Supplemental Retirement DB Plan If you have any questions, please contact me at 805-648-9218.

### **Attachment:**

Letter of Support Regarding Pursuing IRS Tax Qualification Letter for County Safe Harbor Plan

DATE: April 11, 2023

TO: County of Ventura Supplemental Retirement Plan (SRP) Committee

FROM: Mike Sedell  
Chair, VCERA BOARD OF RETIREMENT 

SUBJECT: LETTER OF SUPPORT REGARDING PURSUING IRS TAX QUALIFICATION LETTER  
FOR COUNTY SAFE HARBOR PLAN

SRP Committee:

The Board of Retirement of the Ventura County Employees' Retirement Association (VCERA) is in support of the County of Ventura pursuing an IRS Plan Qualification Letter for its Safe Harbor Plan.

Background

The County Employees Retirement Law of 1927 (CERL) contains a provision that allows members to purchase service credit for past county service that was excluded from membership, such as Extra Help, Intermittent and Part-Time. (Govt. Code sec. 31641.5.) VCERA has historically not permitted purchase of such service credit where the service has been credited in the Safe Harbor Plan. This is based on Government Code section 31641.4, which prohibits the purchase of public service credit if the member is entitled to receive a pension or retirement allowance on that service from a public agency.

The County of Ventura Safe Harbor Plan was set up as a defined benefit plan under IRC section 401(a) and participants in the Plan become entitled to a pension or retirement allowance. In 2008, section 31482.5 was added to the CERL (modeled after a similar provision in the PERL, which governs CalPERS) to specifically allow members to participate in both CERL and a public employer's supplemental retirement plan, including a supplemental defined benefit or defined contribution plan. Subdivision (d) of this section allows participation in an employer's supplemental 401(a) Plan if three (3) conditions are met. Currently, two (2) of the conditions are met – namely, (1) that the VCERA plan is the County's primary plan and the County has also adopted the Safe Harbor Plan as a supplemental plan (subd. (d)(1)); and (2) an employee's participation in the Safe Harbor Plan does not interfere with the employee's rights to membership in VCERA (subd. (d)(3)).

However, the third condition has not yet been met yet, and requires that the County obtain a ruling from the IRS that the Safe Harbor Plan qualifies under IRC section 401(a) (subd. (d)(2)).



The VCERA Board of Retirement is requesting that the County obtain such a ruling to enable its members to purchase service credit for their past County service.

In absence of such a determination letter, it is not impossible for members to purchase such service credit, but to do so requires a member to wait until separation from County service, then defer his/her retirement, roll over the Safe Harbor service/contributions to the recently established Supplemental 457 Plan and initiate a service credit purchase, and retire only after the purchase process is complete. The member would suffer the consequence of losing 1-2 months of retirement benefits while these steps are pursued.

Note that County employees hired subsequent to the County's adoption of the Supplemental 457 Plan on January 26, 2021, and placed into positions excluded from membership may purchase service credit for such service under section 31482.5(c) at any time during active membership in VCERA.

If the County of Ventura were to obtain an IRS Qualification Letter for its Safe Harbor Plan, the statutory criteria under section 31482.5(d), thereby enabling many VCERA members with Safe Harbor Plan service to purchase service credit for excluded pre-membership County service and would be of great benefit to these members.

Thank you for your consideration of this important matter.