**VENTURA COUNTY**
**SUPPLEMENTAL RETIREMENT PLAN COMMITTEE**
***CEO POINT MUGU Conference Room – 4th floor***

**Hall of Administration, Ventura County Government Center**
**800 S. Victoria Avenue, Ventura, CA 93009**

**~ Special Meeting ~**

**March 13, 2024**
**8:00 a.m.**

1. **Public Comments**

2. **Committee Member Comments**

3. **Minutes of Regular Meeting – February 15, 2024**

4. **Continuation of IRS Ruling Consideration and Request Board Letter Review**

*If any accommodations are needed, please contact the Safe Harbor program at **805-654-2620** or by email at:* *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 PLAN COMMITTEE**

**Point Mugu Conference Room, 4th floor**
**Hall of Administration, County Government Center**
**800 S. Victoria Ave, Ventura CA 93009**

**Meeting Minutes for February 15, 2024**
**2:00 p.m.**

| **Members present** | **Members absent** | **Also present** |
|---|---|---|
| Kaye Mand | Sue Horgan | Patti Dowdy |
| Emily Gardner | | Patty Zoll |
| Jeff Burgh | | Andrew Gratt |
| Shawn Atin | | Amanda Diaz |
| | | Eric Lee |
| | | Eric Schlossberg |
| | | Paul Donahue |
| | | David Thompson |
| | | Tia Scott |
| | | Jackie Cayden |

**Ms. Mand called the meeting to order at 2:00 p.m.**

1. **Public Comments.**
   None.

2. **Committee Member Comments.**
   Ms. Zoll, Deferred Compensation (DC) Program Manager, providing a summation of last Supplemental Retirement Plan (SRP) Committee meeting during which the SRP Committee (the "Committee") made a motion to seek outside Counsel to research and advise on the escheatment process for those Safe Harbor participants that staff are unable to locate. A requisition for outside counsel, Ice Miller, has been approved and is currently being reviewed by Procurement. More information will be forthcoming by Ms. Zoll at the next regularly scheduled Committee meeting.

3. **Minutes of Regular Meeting September 19, 2023**
   Motion to approve: 1**. Mr. Burgh** 2. **Ms. Gardner** **Motion Carries**

4. **Q4 2023 Principal Quarterly Client Report**
   Mr. Eric Lee (via Zoom), Senior Portfolio Manager with Principal, provided an overview of the Q4 2023 Principal Quarterly Client Report from Principal Global Advisors which is being presented for the Committee's review. Areas of note in the review included current Q1 2024 key themes within the market. Items of interest pertained to the central bank hinting at lowering

rates in the near future but will most likely happen in slower increments than what markets are hoping for. Additionally, Mr. Lee mentioned overall economic growth appearing to cool, price pressures for consumer goods have eased significantly largely due to supply chain resolutions, and an economic slowdown in the first half of the year, coupled with slightly later-than-expected rate cuts, suggesting some volatility in the market. A positive key point of interest is that markets are primed to pivot toward a rate cut when looking at the historical YTD ending for the S&P 500 and Bloomberg U.S. Aggregate Index. Furthermore, falling interest rates during the quarter boosted fixed income and equity markets to end the year in positive territory with the two previously mentioned indices finishing at 26.29% and 5.53%, respectively.

Turning the attention of the Committee to the asset allocation of the fund, Mr. Lee began with the total market value review noting the fiscal year-to-date total increasing slightly from $26,301,223 to $26,650,436, largely due to withdrawals heavily outweighing the contributions. The increase is due to the gain/loss on funds standing at a positive $1,390,565 for the fiscal year-to-date. In a more specific breakdown, Mr. Lee highlighted the equity, fixed income, and cash & cash equivalents portions of the funds. In comparison to the benchmark set forth by the Committee for diversification, equity holdings were slightly overweight by 0.37% at 60.37% with both fixed income and cash/cash equivalents slightly under benchmark by -0.04% and -0.33% at 38.96% and 0.67%, respectively. Total portfolio performance by benchmark standards was in the negative by 0.37% at 14.93% but was in the positive when compared to the peer average of 13.51% for the year.

**A. Motion to Receive and file the Q4 2023 Principal Quarterly Client Report:**
Motion to approve: 1. **Ms. Gardner** 2. **Ms. Mand** **Motion Carries**

**5. IRS Ruling Request Board Letter Review**

Ms. Patti Dowdy, Employee Benefits Manager, gave a summation of the agenda item that is in front of the Committee for action. At the September Committee meeting, Ms. Emily Gardner, County Counsel, issued insight and concern regarding the level of authority the Committee posses as to make the final decision on seeking the IRS ruling letter under consideration. Ms. Gardner opined that although the Committee has the authority to seek the IRS ruling letter it does not fall under the Committee’s guidelines for funding the acquisition of the IRS determination letter. The reasoning behind this concern, Ms. Gardner states, is that the ultimate cost of seeking such determination is not within the confines of the Committee as the funds appropriated for obtaining said letter from the IRS are from County funds and will result in adjustment to the retirement rate which in turn impacts the County budget. Upon this advisement, the Committee directed staff to obtain additional information from VCERA that includes the total amount of the pension reserve transfer for all eligible Safe Harbor members and the impact on the retirement rate to the County with the assumption that the majority of eligible Safe Harbor members seek the purchase of the prior service credit based on two criteria:

1) A retirement age of 52 for Safety members, and
2) A retirement age of 59 for general members.

It was noted that although VCERA has offered to cover the cost of the actuarial study to determine the requested information they will, in fact, recoup their money through other means such as administrative costs indirectly paid by the County i.e., the employer rate.

The motion to direct staff to prepare a letter to the Board of Supervisors was made at the previous Committee meeting however, it was determined there are outstanding questions regarding the Committee's recommendation and appropriate party to carry the letter to the Board. This is the discussion and agenda item for the Committee's review and decision.

In reference to the Committee's recommendation to the Board as to whether or not to pursue action on the IRS Letter was first in today's discussion. Historically, when a letter was presented to the Board seeking review and/or approval, a recommendation was included in the letter as to the requesting party's intent. Ms. Gardner suggested that this not be the case in this instance and put forth a recommendation that the letter to the Board may be drafted in a manner which would include a two-step process of requesting the funds first and then subsequently have the Committee determine whether or not to seek the IRS letter. The alternative suggestion by Ms. Gardner is that the letter be framed in a way to present the option to the Board as to whether they authorize the funds and then provide courses of action to take. Essentially, the Committee can submit a letter which asks for the Board to "consider and provide direction" on how they would like to proceed. Mr. Atin voiced opposition to this as he expressed concern that the Committee should go to the Board with a recommendation as the Committee has the knowledge of pension benefits and the fiscal impact of purchasing prior service in the VCERA system.

Mr. Atin expressed the desire to better understand how the referenced actuarial study would be conducted and what the potential outcome would be. He stated that he wants to know if the study has the potential of revealing information that we don't already know. His concern is spending $20,000 on a study that doesn't provide new information. He suggested asking the SRP actuary, John Garrett of Cavanaugh MacDonald, to attend a special meeting next month to provide insight and discuss the value of conducting an actuarial study on the target population. Committee members expressed agreement with the suggestion. A motion was made to postpone decision on a recommendation to the Board of Supervisors until a special Committee meeting can be held with the SRP for a better understanding of what a study might produce and if a recommendation to the Board of Supervisors is warranted.

A. **Motion to Hold Special Committee Meeting with SRP Actuary and Postpone Decision on Recommendation to Board of Supervisors:**
   Motion to approve: 1. **Mr. Atin** 2. **Mr. Burgh** **Motion Carries**

**Ms. Mand adjourned the meeting at 2:51 p.m.**

Respectfully submitted,

Andrew Gratt
Deferred Compensation Personnel Assistant

# COUNTY OF VENTURA
## MEMORANDUM
### HUMAN RESOURCES DIVISION

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DATE: March 13, 2024

TO: Supplemental Retirement Plan Committee

FROM: Patty Zoll, Supplemental Retirement Program Manager

SUBJECT: Continuation of IRS Ruling Consideration and Request Board Letter Review

**Background**

In the Supplemental Retirement Plan (SRP) committee meeting on April 13, 2023, the Committee was presented with a letter of support from VCERA to the County of Ventura on the issue of pursuing an IRS Plan Qualification Letter for the Safe Harbor Plan.

Patti Dowdy, Employee Benefits Manager, presented the committee with a memo outlining the background of the issues and the pros and cons of pursuing the IRS Plan Qualification Letter.

As a reminder to the Committee, it was recently determined by VCERA legal counsel 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 that they have rolled over their Safe Harbor Plan service to the County's SRP 457 DC Plan. Current active employees who have had previous contributions to Safe Harbor are not eligible to rollover their benefit to the SRP 457 DC Plan until they separate from County service. This now means that active employees with Safe Harbor time can purchase that time with VCERA when they separate from service and elect to convert their Safe Harbor benefit to the SRP 457 DC plan.

A ruling from the IRS that the Safe Harbor Plan qualifies under section 401(a) would provide the final piece needed to meet section 31482.5 of the California Employees Retirement Law (CERL) that allows members to participate in both CERL and a public employer's supplemental retirement plan.

During the committee's discussion on April 13, 2023, it was requested that VCERA provide a fiscal impact study so the committee could review the following:

- The impact on a sampling of Safe Harbor participants – comparing their prior

service purchase cost now versus at the time of their retirement.
- The impact to the County of the estimated pension reserves transfer.

The Committee requested a continuance on the issue to request and review the fiscal impact provided by VCERA.

The Committee met again on August 8, 2023, to review the fiscal impact study provided by VCERA. Although VCERA presented scenarios on a sampling of employees based on data provided by staff, the Committee still felt that they do not have a clear picture of the estimated pension reserves transfer increase, should the majority of the 1,700 employees decide to purchase the prior time in Safe Harbor. The Committee expressed concern with the overall financial impact to the County.

The Committee requested more information from VCERA that includes:

- The total amount of the pension reserve transfer for all eligible Safe Harbor members
- The impact on the retirement rate to the County assuming the majority of eligible Safe Harbor members seek the purchase of the prior service credit based on two assumptions:
    - A retirement age of 52 for Safety members
    - A retirement age of 59 for general employees

The Committee moved to postpone a decision until additional information could be obtained from VCERA.

During the September 19, 2023, Committee meeting, an update from VCERA was shared that they are actively pursuing an actuarial evaluation impact study to determine an overall cost to the County and the estimated pension reserves transfer increase, should the majority of the 1,700 employees decide to purchase the prior time in Safe Harbor. At this time, Emily Gardner, County Counsel, expressed concern that the Committee is not the appropriate body to make this decision. She stated that although the Committee has the authority to seek the IRS determination letter based on its guidelines, the result of that action will impact more than just the SRP budget, but rather, it will result in adjustments in the retirement rate, thus impacting the County budget. There is a question as to whether the Committee has the power to determine whether a certain group of employees should be eligible for benefits through VCERA or whether that should be a Board of Supervisors decision.

She suggested that this issue be sent to the Board of Supervisors for their review. The Committee voted to forward VCERA's request for the IRS determination letter on the Safe Harbor Plan to the Board of Supervisors. When staff and Counsel have the actuarial study from VCERA, then a Board letter can be written laying out all the information and the fiscal impact.

During the September meeting, Ms. Emily Gardner, County Counsel, raised concerns regarding whether the Committee should have the authority to make the final decision on seeking the IRS ruling letter under consideration. Ms. Gardner pointed out that while the Committee has the power to request the determination letter according to its guidelines, the implications of this action would extend beyond the SRP budget. Rather, it would affect the retirement rate, subsequently impacting the County budget. She advised that the ultimate decision should rest with the Board of Supervisors. Following this advice, the Committee decided to defer the final decision on obtaining the IRS letter to the Board of Supervisors pending a review of the fiscal impact derived from an actuarial impact study provided by VCERA to make an informed recommendation to the Board.

At this time the Committee directed staff to request additional information from VCERA, including:

• The total amount of the pension reserve transfer for all eligible Safe Harbor members.

• The impact on the retirement rate for the County if the majority of eligible Safe Harbor members (approximately 1,700) opt for purchasing prior service credit, based on two assumptions:

- A retirement age of 52 for Safety members.
- A retirement age of 59 for general employees.

Following the September 2023 meeting, staff reached out to VCERA and received communication back that the cost of an actuarial study to answer the questions regarding the increase to the UAAL and impact on the employer contribution rates will total $20,000-$25,000. VCERA indicated that they would pay the cost of the actuarial study, meaning that the cost would not be direct-billed to the County but instead, would essentially be absorbed into other administrative costs that the County pays for indirectly via the employer rate/UAAL. Staff inquired if VCERA could invoice SRP for payment of the study, so funds would be pulled from the SRP budget and would not be absorbed into other administrative costs that the County pays or impact the UAAL.

It was also indicated that the total project timeline, including VCERA staff time to prepare the data that is needed by the actuary to run the study, will span two to three months. Staff informed VCERA that the decision to proceed with the actuarial study would need to be decided by the SRP Committee. Currently, the study is on hold until VCERA receives the Committee's decision.

At the February 15, 2024, SRP Committee meeting, the Committee was presented with a draft Board letter that included a recommendation to the Board to 'approve of and authorize the allocation of funds necessary for VCERA to conduct an actuarial valuation, to assess the financial impact and potential increases in pension reserve transfers, should the County choose to pursue an IRS ruling for the SRP, as requested by VCERA'. This draft letter was based on the Committee's direction to prepare a Board letter requesting the necessary funding to complete the needed fiscal study. However, while preparing the letter it was determined that the Committee had not made a formal recommendation for Board approval. The question of who the appropriate party was to carry the letter to the Board had also been raised since the September Committee meeting.

## Discussion

Board letters seeking action from the Board typically include a recommendation to either approve or deny the request, along with the basis for this recommendation from the submitting party. During the February meeting, County Counsel proposed an alternative approach, suggesting that the Board letter could instead request the Board consider and provide direction on how they would like to proceed with this issue, rather than providing a specific recommendation.

During the Committee's discussion, there was a recognized need to gain a better understanding of the factors involved and the method for determining the fiscal impact of purchasing the service credit in question. As a result of this discussion, the Committee requested an overview of this process be provided by the SRP actuary.

As a result of the Committee's request to have more information on the process of the actuarial study, Mr. John Garrett of Cavanaugh MacDonald Consulting, will be available to the Committee and will present a brief overview of the proposed actuarial study, as well as answer any questions the Committee may have. After hearing Mr. Garrett's presentation, the Committee will need to decide which strategy to take with the proposed Board letter.

## Recommended Action Item

Decide whether to recommend the Board of Supervisors approve the completion of the requested actuarial study and to allocate the funding necessary for completion **-or-** to defer to the Board of Supervisors to consider the issue and provide direction.

Attachment

- Draft Board Letter for Authorization and Allocation of Funds to Complete the Required Fiscal Study Needed to Assess IRS Ruling impact.

COUNTY of VENTURA

COUNTY EXECUTIVE OFFICE
**SEVET JOHNSON, PsyD**
County Executive Officer

**Mike Pettit**
Assistant County Executive Officer

**Kaye Mand**
County Chief Financial Officer

**Shawn Atin**
Assistant County Executive Officer/
Human Resources Director
Labor Relations



March 12, 2024

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, California 93009

**Subject: Approval of, and Authorization for the Allocation of Funds for the Ventura County Employees Retirement Association (VCERA) to Conduct an Actuarial Valuation to Assess the Financial Impact to the County if an IRS Ruling is Obtained for the Supplemental Retirement Plan as requested by VCERA.**

## Recommendations

It is recommended that your Board:

Approve of, and authorization for the allocation of funds necessary for VCERA to conduct an actuarial valuation, to assess the financial impact and potential increases in pension reserve transfers should the County choose to pursue an IRS ruling for the Supplemental Retirement Plan (SRP), as requested by VCERA.

## Strategic Priority

Conducting a fiscal impact study to assess the feasibility of obtaining an IRS ruling for the SRP aligns with our commitment to fiscal responsibility and supports our strategic priority of maintaining a diverse workforce capable of effectively serving our customers' needs.

## Fiscal/Mandates Impact

| **Summary of Revenues and Costs:** | **FY 2023-24*** | **FY2024-25** |
|---|---|---|
| Revenues: | $0 | $0 |
| Costs: | | |
| Direct | $25,000 | $0 |
| Indirect-Dept | $0 | $0 |
| Indirect-County CAP | $0 | $0 |
| Total Cost | $25,000 | 0$ |
| Net County Cost | $25,000 | $0 |
| Recovered Indirect Costs | $0 | $0 |

*The costs of this action will not be incurred by the County directly. VCERA will be paying for services it will be incorporated into their administrative costs that are allocated to the County via the rates established in the actuarial valuation.

**Discussion**

Within the Ventura County Employees Retirement Association (VCERA) membership, there are individuals who served in positions excluded from VCERA membership before becoming regular County employees. 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 was based on the fact that the Safe Harbor Plan was initially established as a defined benefit (DB) plan under IRC section 401(a), and those who participate in the plan become entitled to a pension or retirement allowance.

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, the first two conditions have been satisfied, but the third condition remains outstanding as the County has not pursued a determination letter from the IRS regarding the qualified status of the Safe Harbor Plan. It is important to note that seeking a determination letter is at the discretion of the plan sponsor, and County Counsel has examined the County's Supplemental Retirement Plan Document, including the DB Safe Harbor provision, and believe it to be in compliance with all IRS requirements.

To permit VCERA members to purchase service credit for prior County service under the Safe Harbor Plan, VCERA has requested the County pursue the required IRS ruling. This service credit purchase would allow active employees the opportunity to purchase prior Safe Harbor DB service through VCERA, providing the employee with service credit from both VCERA and Safe Harbor for the same period of employment as they will remain eligible to receive their earned Safe Harbor benefit upon separation from County service. Currently, there are approximately 1,700 active County employees who have previously participated in the Safe Harbor Plan.

It is noteworthy that the restriction on receiving credit for the same service in two different retirement systems funded by public funds does not extend to participation in a DC plan. Commencing in 2021, the SRP benefit type transitioned from the DB plan to a 457 deferred compensation (DC) plan for new employees. Consequently, VCERA members who previously participated in the Safe Harbor Plan can now purchase service credit in VCERA for the periods during which they held positions excluded from VCERA membership. This is contingent upon them having rolled over their Safe Harbor Plan service to the County's Supplemental 457 DC Plan. However, active employees with prior Safe Harbor DB plan are unable to rollover their benefits to the 457 DC Plan until they separate 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 there are several considerations that should be weighed. 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.

<ins>Pros</ins>

- 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.

<ins>Cons</ins>

- 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.

The initial review of VCERA’s request was conducted by the Supplemental Retirement Committee (“Committee”), which is comprised of the County Executive Officer, Treasurer-Tax Collector, Auditor-Controller, County Counsel, and Director – Human Resources (or their designees) as this determination would fall under their purview as administrators of the plan.

Although the Committee has the authority to seek the IRS determination letter based on its guidelines, upon a thorough examination of the request under County Counsel has expressed reservations about the suitability of the Committee to make this decision. While the Committee holds the authority to pursue the IRS determination letter within its guidelines, the repercussions of such an action extend beyond the confines of the SRP budget. Instead, it will lead to adjustments in the retirement rate, thereby affecting the broader County budget. Consequently, it has been concluded that the authority to decide the eligibility of a specific group of employees for benefits through VCERA should rest with the Board of Supervisors.

Based on this the determination was made that the power to determine whether a certain group of employees should be eligible for benefits through VCERA and whether funding should be provided to fund the fiscal study necessary to determine the financial impact on the County should be a Board of Supervisors decision.

Through the Committee’s review of VCERA’s request the determination was also made that an actuarial evaluation impact study to determine an overall cost to the County and the estimated pension reserves transfer increase, should the majority of the 1,700 employees decide to purchase the prior time in Safe Harbor was needed. VCERA has advised that the cost of an actuarial study to answer the questions regarding the increase to the UAAL and impact on the employer contribution rates will total $20,000-$25,000. VCERA has indicated that they would pay the cost of the actuarial study, meaning that the cost would not be direct billed to the County but instead, would essentially be absorbed into other administrative costs that the County pays for indirectly via the employer rate/UAAL. Since the funding for the needed actuarial study will lead to adjustments in the retirement rate, consequently affecting the County budget the funding for the fiscal study required to assess the financial impact on the County should rest with the Board of Supervisors.

Given that the funding for the necessary actuarial study will result in adjustments to the retirement rate, thus impacting the County budget, the funding approval for the fiscal study needed to evaluate the financial implications on the County rest with the Board of Supervisors.

**Summary**

The Committee recommends your Board approve the allocation of funds necessary for VCERA to conduct the actuarial valuation impact study. This study is essential for obtaining a thorough understanding of the total cost to the County and the potential increase in pension reserves transfer if the County decides to pursue the IRS ruling as requested by VCERA.

This letter has been reviewed by the County Executive Office, County Counsel, and the Auditor-Controller's Office. If you have any questions regarding this item, please contact me at (805) 654-2561 or Patti Dowdy, Employee Benefits Manager, at (805) 648-9218.

Respectfully,

Shawn Atin
Assistant County Executive Officer/Human Resources Director

Sevet Johnson, PsyD
County Executive Officer

c: Jeffery S. Burgh, Auditor-Controller
Tiffany N. North, County Counsel
Mike Pettit, Assistant County Executive Officer
Kaye Mand, Assistant County Executive Officer/Chief Financial Officer