BOARD OF SUPERVISORS
AGENDA LETTER

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Department Name:	SBCERS
Department No.:	810
For Agenda Of:	11/03/2015
Placement:	Administrative
Estimated Time:	N/A
Continued Item:	No
If Yes, date from:	
Vote Required:	Majority

TO:	Board of Supervisors	
FROM:	SBCERS CEO	Gregory Levin, CPA 805-568-2940
	Budget Director	Tom Alvarez, Budget Director 805-568-3432
	Contact Info:	Gregory Levin, CPA 805-568-2940

SUBJECT: **SBCERS Normal Retirement Age**

County Counsel Concurrence
As to form: Yes

Auditor-Controller Concurrence
As to form: Yes

Other Concurrence: Chief Executive Officer
As to form: Yes

Recommended Actions:

That the Board of Supervisors:

A) Adopt the Resolution in Attachment A that approves the Santa Barbara County Employees' Retirement System's Regulations for Internal Revenue Code Section 401(a) Normal Retirement Age and Bona Fide Separation; and

B) Determine that the above action is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378(b)(2) because it consists of general policy and procedure making that will not result in changes in the environment.

Summary Text:

This resolution will place into formal regulations SBCERS' policy for what constitutes "Normal Retirement Age" and a "Bona-fide Separation" for each benefit tier offered by Santa Barbara County Employees Retirement System. The purpose of these regulations is to ensure compliance with the Internal Revenue Service regulations for pension plans chartered under section 401(a). The adoption of a Normal Retirement Age does not affect the benefit calculation for an individual member or change the age at which a member becomes eligible to retire. It does however, put conditions in place regarding re-employment with the plan sponsor post–retirement for members who retire before reaching Normal Retirement Age. The Normal Retirement Age and Bona-fide Separation regulations affect the systems members and plan sponsors in the following way:

1. Members who are below Normal Retirement Age for their tier and, elect to receive a lump sum distribution will need to have separated employment for at least 90 days before receiving their distribution.

2. Members who are below Normal Retirement Age for their tier may not have an agreement to return to County employment prior to their retirement date.

3. Members who are below Normal Retirement Age for their tier must wait at least 90 days before returning to work in limited extra help status, even if an exception to the 180 day waiting period under Public Employees' Pension Reform Act of 2013 ("PEPRA) would otherwise apply.

4. Nothing in this regulation supersedes an employer's obligation under PEPRA to require retirees of all ages to wait 180 days to return to limited extra help employment unless a specific exception to the statute applies.

Background:

The Internal Revenue Code mandates that pension plans specify "normal retirement ages" for their members for reasons described below. Pursuant to recent amendments to the County Employees Retirement Law ("CERL"), contained in Government Code Section 31485.21, the Board of Retirement may establish such rules by regulation. Pursuant to Government Code Section 31525, Board of Retirement regulations become effective when approved by the Board of Supervisors. On October 28, 2015, the Board of Retirement reviewed and approved such regulations in order to formalize compliance with these legal requirements. Once approved by the Board of Supervisors, the regulations will be included in an application to the IRS for an updated determination letter with respect to the SBCERS plan, which application will be submitted to the IRS this fall.

The regulations are required because 26 U.S.C. Section 401(a) imposes special requirements for members who separate from service or retire before the date the member has attained normal retirement age. First, if a member leaves employment before reaching normal retirement age, without a bona fide separation from service, he or she may not permissibly receive a lump sum distribution of his or her retirement contributions from the system. Second, if a member retires prior to reaching normal retirement age, he or she may not return to employment for a system employer without a break in service satisfying bona fide separation from service requirements.

The 90 day “Bona fide Separation” requirement imposed by the regulations will apply to members retiring before normal retirement age, even if such members might otherwise be subject to exceptions to the 180 day separation requirement imposed on all retiring members by PEPRA. SBCERS' current administrative practice is to mandate a separation of at least 90 days to establish a bona fide separation from service and the regulations propose no change from this practice. In order to make SBCERS procedures more uniform, the regulations provide for a single normal retirement age for each of the general member plans and two normal retirement ages for safety plans.

The Board of Retirement adopted a normal retirement age of 59 for general members because this age represents the average retirement age for SBCERS' largest plan, Plan 5A and, because experience with other general member plans does not vary significantly. Two normal retirement ages are specified for the System's safety members, 50 for Plan 6 (deputy sheriffs) and 55 for other safety plans. Both of these ages are within IRS "safe harbor" designations for safety plans and continue current practice.

It is noted that for plans 7 and 8, there have been virtually no retirees and therefore no actual experience with which to measure normal retirement age. As members begin to retire from these plans, the demographics of retirement for these groups will be studied by the Board of Retirement to determine whether a different normal retirement age should be established for these plans. Based on the foregoing, the Board of Supervisors is requested to approve the regulations established by the Board of Retirement.

Performance Measure:

Not Applicable

Fiscal and Facilities Impacts:

Budgeted: N/A

Fiscal Analysis: None

Key Contract Risks:
Not applicable

Staffing Impacts:

Legal Positions: **FTEs:**

Special Instructions:

Attachments:

Attachment A: Resolution, with attached Regulations.

Authored by:

Gregory Levin, CPA

SBCERS CEO

cc:

Mona Miyasato, CEO
Jeri Muth, Human Resources