



# **Board of Retirement Regular Meeting**

## **Sacramento County Employees' Retirement System**

### **Agenda Item 11**

**MEETING DATE:** **October 21, 2020**

**SUBJECT:** **State Association of County Retirement Systems  
Legislative Update – October 2020**

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

### **RECOMMENDATION**

Staff recommends that the Board receive and file the State Association of County Retirement Systems (SACRS) Legislative Update for October 2020.

### **PURPOSE**

This item complies with the 2019-20 Strategic Management Plan goal of stakeholder communication and outreach by participating in the legislative process to monitor changes in state law affecting public pension plans.

### **DISCUSSION**

The attached report highlights recent legislative activity affecting California public pension plans and is produced by SACRS' legislative advocates at Edelstein Gilbert Robson & Smith, LLC.

SACRS is composed of the 20 systems operating under the County Employees' Retirement Law. The association's mission is to provide education and analysis to trustees and staff so that they can be more effective stewards of their systems' pension plans.

### **ATTACHMENTS**

- SACRS Legislative Update – October 2020

Prepared by:

/S/

Eric Stern  
Chief Executive Officer



October 2, 2020

TO: State Association of County Retirement Systems

FROM: Mike Robson, Trent Smith, and Bridget McGowan, Edelstein Gilbert Robson & Smith, LLC

RE: **Legislative Update – October 2020**

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The Governor just finished working his way through the few hundred bills that made their way to his desk at the end of session. Among those bills that were signed was AB 2101, the SACRS sponsored cleanup bill we have discussed in previous updates.

Meanwhile, legislators have returned to their districts and are preparing for the November 3 election, which is fast approaching and unlike past elections, due to COVID-19, all California voters will be mailed a ballot that can be returned to election officials by mail or dropped off at designated locations. California's voter registration statistics show that a record-high 83 percent of those eligible are registered to vote and that number will climb as California allows voters to register right up until the election. Record-high voter registration, combined with the high interest generated from a Presidential election year and ease of casting a ballot means we are expecting a high and early voter turnout in California.

Below is a rundown of what you will see on November 3, with the biggest fights and most relevant propositions listed first, followed by an overview of key races in the Senate and Assembly.

**Proposition 15: Split Roll Tax**

Proposition 13 (1978) limited property taxes for residential, commercial, and industrial properties by basing taxes on the purchase price of the property rather than current market value. Proposition 15 would "split" the property tax roll allowing commercial and industrial properties worth more than \$3 million to be assessed at current market value. This change would go into effect in 2022 but is delayed until 2025 for those properties where more than 50% of the tenants are small businesses.

Prop. 15 is expected to raise between \$6.5 billion and \$11.5 billion in new tax revenue with 60% allocated to local governments and 40% to K-12 schools and community colleges. Democrats and public employee unions have long bemoaned the provisions of Prop. 13 which had serious impacts on local government funding. Having raised some \$20 million in support of the measure, public employee unions hope that Prop. 15, which continues to protect residents but increases the tax burden of businesses, will be palatable to voters who have historically been very wary of any change to Prop. 13.

Last Friday, Governor Newsom endorsed Prop. 15 while rejecting other proposals to tax high income earners in California. This could be a much needed boost to the proponents of Prop. 15 which is currently polling at 51% support and 40% opposition among likely voters.

At the same time, opponents led by the Small Business Roundtable are hoping sympathy for small businesses forced to close due to the pandemic will tip the scales in their favor. With \$5 million in their campaign account and tens of millions more ready for independent expenditure, Prop. 15 will likely be one of the most hard fought measures on the November ballot.

### **Proposition 22: Classifying Gig Economy Workers**

In 2018, the California Supreme Court made its landmark “Dynamex” decision (Dynamex), changing the rules governing when a worker is an independent contractor, and when they are an employee. The upshot of the decision is that the standards established by Dynamex make it far harder to classify a worker as an independent contractor. The distinction is very important as employees are entitled to the minimum wage, overtime pay, unemployment insurance, and workers’ compensation.

In 2019 the Legislature passed AB 5, which effectively carved some industries and some business relationships out of Dynamex. While subsequent legislation has expanded the exemptions in AB 5, many industries continue to seek an exemption.

For app-based companies like Uber, Lyft, Postmates, and Doordash, this issue is life and death. These companies have historically classified their drivers/deliverers as independent contractors. Shortly after AB 5 passed, they qualified Prop. 22 for the ballot. Prop. 22 would treat drivers for these companies as independent contractors. While the measure would guarantee better compensation and healthcare, it falls short of what would be required if drivers were classified as employees.

Prop. 22 will be another big money fight on the ballot. The companies listed above have dumped a whopping \$180 million into the campaign. Meanwhile, the opponents, particularly the Teamsters Union, have raised just shy of \$5 million. While organized labor could invest more heavily in the fight via independent expenditure before the election, they will be forced to prioritize between Prop. 22 and Prop. 15.

### **Proposition 24: The California Privacy Rights Act (CPRA).**

This initiative comes just two years after the California Consumer Privacy Act of 2018 (CCPA), was pulled off the ballot in exchange for a legislative compromise. The CCPA, as negotiated and passed by the Legislature two years ago provides rights to consumers to know the types of data being collected about them, the right to request that this data be deleted and the right to request that this data not be sold.

Among its provisions, Prop. 24 builds upon the CCPA and establishes an enforcement agency known as the California Privacy Protection Agency to implement the law and

impose fines on businesses for violations. The initiative also contains a provision that prohibits the Legislature from adopting any future laws that reduce the privacy of Californians. This provision is concerning to the business community as it essentially blocks any future attempts to amend California privacy statute.

The coalition opposing Prop. 24 is particularly interesting because it contains both privacy/consumer advocacy groups and entities from the advertising and internet industry. Privacy and consumer protection groups oppose the initiative because they do not believe it goes far enough in protecting consumer privacy, while the advertising and internet industry have concerns that the initiative's broad changes come at a time when businesses are still learning to comply with the CCPA of 2018.

#### **Proposition 16: Affirmative action.**

Prop. 16 would reverse California's voter-approved 1996 ban on affirmative action (Prop. 209). Prop. 209 prohibits public universities, schools and government agencies from using race or sex in their admissions criteria, hiring and contract decisions. While introduced earlier in the year, Prop. 16 was placed on the November ballot by legislators in the months following the murder of George Floyd. While proponents of the measure are well funded, recent polls have indicated that only 31% of likely voters supported Prop. 16 compared to 47% who oppose.

#### **Proposition 20: Criminal Justice**

In 2009, federal judges ordered California to reduce overcrowding in its prison system. In 2011, newly re-elected Governor Jerry Brown, facing both the court order and a massive state budget deficit, championed AB 109 which transferred the "supervision" of some felons to Counties and made it easier for some to qualify for parole. In an effort to further reduce prison populations, Governor Brown backed Proposition 47 in 2014. Prop. 47 made certain theft-related misdemeanors instead of felonies. Most notably, theft involving property worth \$950 or less is considered a misdemeanor under Prop. 47.

The provisions of Prop. 47 were not well received by some retailers and by some in law enforcement. Assemblymember Jim Cooper, a career police officer and candidate for Sacramento County Sheriff, has championed Prop. 20 which would change the provisions of Prop. 47 to make it easier to once again prosecute certain acts of retail theft as a felony. The measure also makes changes to Prop. 56 (2016) which loosened certain parole restrictions for non-violent offenders.

#### **Prop. 14: Stem cell research.**

Prop. 14 would re-fund the California Institute for Regenerative Medicine, the state's stem cell agency, by allowing it to issue \$5.5 billion in bonds for research, training and facilities construction.

#### **Proposition 17: Parolee voting.**

Prop. 17 would restore the voting rights of all people on parole if they've completed their state or federal prison terms.

**Proposition 18: Voting age.**

Democrats in the Legislature have made a number of changes to election years including allowing online voter registration and increased reliance on mail-in balloting coupled with the ability to allow campaign workers to return your ballot. While there are legitimate arguments for these changes, they have thus far helped increase voter turnout among Democrats. Prop. 18 was also passed by Democrats in the Legislature and would allow 17-year-olds to vote in primary elections if they would turn 18 before the general election.

**Proposition 19: Property tax transfers.**

Prop. 19 would allow people age 55 and older, and victims of wildfires and other disasters, to keep lower property tax rates when they move to new homes.

**Proposition 21: Rent control**

Backed by the Aids Healthcare Foundation, Prop. 21 would allow local governments to impose rent control on certain properties. Prop. 21 is strikingly similar to a 2018 measure rejected soundly by voters. Governor Newsom, who negotiated a statewide rent control law with legislators, property owners, realtors, and tenant groups last year, is opposing Prop. 21.

**Proposition 23: Kidney Dialysis**

Among other things, Prop. 23 would require a physician to be on site at a dialysis clinic when patients are being treated. Prop. 23 is another round in a running labor dispute between the two companies operating most dialysis clinics in California, and the union who has been attempting to organize their workforce since 2016. That union, SEIU-UHW, has lobbed several bills and a failed 2018 ballot measure at the companies while their dispute is ongoing.

**Proposition 25: Money Bail**

In 2018, the Legislature passed and the Governor signed SB 10 (Hertzberg), which would end the use of money bail in California in favor of pre trial assessments of a defendants likelihood to be a flight risk. The bill was hard fought and controversial in the Legislature with the bail industry defending its right to exist vigorously. Prop. 25 extends that fight to the November 2020 ballot.

**Legislative Races**

At the time of this writing, California's voter registration numbers show that there are almost twice as many registered Democrats versus Republicans and No-Party Preference (NPP) voters with 46 percent registered as Democrats and 24 percent registered as Republicans and NPP. With such a huge statewide advantage in registration and with NPP voters tending to vote for Democrats, there is an obvious reason that 75 percent of the Legislature is comprised of Democrats.

Heading into the November 3 election, the question is whether Republican legislators can maintain the status quo, gain seats, or continue the decades-long reduction in representation and relevancy.

## **SENATE RACES**

### **Democrat vs. Republican**

The State Senate is currently comprised of 29 Democrats and 11 Republicans. Heading into the election there is little-to-no-chance for the Republicans to pick up seats in the State Senate. As discussed below, the Democrat versus Republican races involve four Republican seats, while the Democrat held seats involve Democrats facing off against Democrats.

### **Senate District 29 – Senator Ling Ling Chang (R) vs. Josh Newman (D) --**

This three-county (LA, Orange, San Bernardino) race is the third ballot fight involving Josh Newman and Ling Ling Chang. In 2016, Newman surprised many by defeating Chang in a close election and thereby exposed the Republicans' vulnerability in what was previously thought to be safe Republican territory. Senator Newman was then recalled by voters due to his vote to increase gas taxes in 2018 and replaced by Chang in a Special Election. Now, they are facing each other in a rematch from 2016. This time, however, the voter registration is strongly in favor of Newman who also enjoys a significant fundraising advantage having raised approximately \$3 million to date.

**Senate District 37 – Senator John Moorlach (R) vs. Dave Min (D) –** This race, which is fully in Orange County, pits Senator John Moorlach against a former congressional aide and UC Irvine Professor, Dave Min. Moorlach, an accountant by profession, is widely recognized as a serious and thoughtful legislator on matters pertaining to the state budget and long-term debt. His views on public pension obligations raise the ire of public employee unions who have contributed heavily to his challenger. The voter registration in this district is essentially even. It would be expected that Senator Moorlach would benefit from significant name identification having previously held countywide office as the Orange County Treasurer and as a County Supervisor. However, Min will likely have a significant fundraising advantage to get his name and message out.

**Senate District 23 – Rosilicie Ochoa Bogh (R) vs Abigail Medina (D) –** This Inland Empire seat is currently held by a Republican Senator who declined to run for re-election. Comprising both San Bernardino and Riverside Counties, this historically Republican seat has seen significant Democratic voter registration gains in recent years and now Democrats have a registration advantage in this district. Bogh is a realtor by profession and it would be expected that the CA Realtors Association would devote financial resources to an independent expenditure effort on her behalf. Medina is a school board member and community organizer and she has received and will continue to receive significant support from the Democratic Party establishment. This is expected to be a close race.

**Senate District 21 – Senator Scott Wilk (R) vs. Kipp Mueller (D)** – This Los Angeles County portion of this seat stretches from Santa Clarita up through Lancaster to the High Desert communities of Apple Valley and Victorville. Again, another historically Republican seat that has undergone a change in voter registration where the Democrats now have significant 7-point registration advantage. Senator Wilk is known for his hard work representing his district and has prevailed over previous well-funded efforts to unseat him. In recent weeks, however, significant financial resources have poured into the Mueller campaign making this a race to watch on election night.

### **Democrat vs. Democrat**

There are two races that will not impact the Democrat versus Republican split in the Senate. Though, they could impact the ideological split within the Senate Democratic Caucus between moderate Democrats and progressive Democrats.

**SD 15 Dave Cortese (D) vs. Ann Ravel (D)** – This race in San Jose/Silicon Valley is between two Democrats. Ann Ravel is an attorney and former election compliance official in the Obama Administration while Dave Cortese has been a locally elected county supervisor, city council member and rancher. Cortese has the support of traditional Democratic allies in organized labor and public employee unions who spent heavily in the March primary. Ravel is supported by broader base of business, community groups and enjoys editorial support for her election. While Cortese significantly outpolled Ravel in the primary, with only the two Democrats on the ballot it becomes a matter of whether Ravel can pick up the voters who voted for the Republican and NPP candidates in the primary.

**SD 9 Senator Scott Wiener (D) vs. Jackie Fielder (D)** – Only in San Francisco can one of the most progressive and liberal legislators in the Capitol be considered a moderate. That is the situation facing incumbent Senator Scott Wiener who is facing a challenge from the left by community activist Jackie Fielder. As a challenger to an incumbent, Fielder is getting a surprising amount of fundraising support from groups within labor and tribal gaming. We believe Senator Wiener will prevail on election day. But, the dynamics of the race and its implications on intra party politics make it a race worth watching.

### **ASSEMBLY RACES**

#### **Republican Gains: Assembly District 38 – Open Seat --- Suzette Valladares (R)**

This Assembly seat in Santa Clarita is currently held by Democrat Christy Smith who is running for Congress in the seat that was vacated by Katie Hill. The March primary featured a slew of candidates on the Democratic side who proceeded to split the primary vote among themselves. That left the top-two vote getters as Republicans and the Republicans have rallied around Suzette Valladares, a former congressional staffer and childcare and non-profit executive director. This is the only certain partisan change in the Assembly.

### **Contested Seats Held by Democrats**

Defending incumbents is typically a higher priority and takes the first call on available resources. The Democrats must defend three seats that were won from Republicans in 2018.

**Assembly District 74 – Assemblymember Cottie Petrie-Norris (D) vs. Diane Dixon (R).** This Orange County Coastal seat was one of the safest seats for the Republicans for years. Registration is now almost even. Most likely, it will be the hardest of all the seats the Democrats must defend. In 2018, as part of the anti-Trump wave, Assemblymember Petrie-Norris beat the Republican incumbent Matt Harper who, by all accounts, was an uninspired candidate and fundraiser who spent little time working in his district. Assemblymember Petrie-Norris has been the opposite. She has been district-focused, especially with issues involving the pandemic and the economy. She has raised a lot of money and has a great deal of financial support from the Democratic Party. Her opponent, Diane Dixon is a Newport Beach City Councilmember, who if not running against an incumbent, would probably be considered a front-runner and a natural fit for this seat. This race will be close.

**Assembly District 76 – Assemblymember Tasha Boerner-Horvath (D) vs. Melanie Burkholder (R).** Boerner-Horvath won this coastal North San Diego County seat in 2018 when the Republicans failed to place a candidate in the general election. The primary that year featured strong Republican candidates who split the vote and left the door open for the two Democrats to make the top two. It was thought that a strong Republican candidate would emerge in 2020 and easily defeat Boerner-Horvath. However, one front running candidate dropped out during the primary leaving Burkholder as the candidate to run against Boerner-Horvath. It remains to be seen whether Burkholder, who is a faith-based counselor with views against school-mandated vaccinations, is a fit for this coastal, socially moderate district.

**Assembly District 77 – Assemblymember Brian Maienschein (D) vs. June Yang-Cutter (R).** Maienschein is a four-term Assemblyman from suburban San Diego who was a moderate Republican until 2019. The voters in this seat resoundingly voted against Trump in 2016 and in 2018 Maienschein barely won by 600 votes. After the election, Maienschein, saying that the Trump Republican party does not reflect his values, became a Democrat. Some would say he saw the writing on the wall – either become a Democrat or get defeated by one in 2020. Now he is running against June Yang-Cutter, an employment lawyer who is campaigning on government accountability and as a government outsider. With an approximate 3-1 fundraising advantage and registration advantage, it is expected Maienschein will prevail.

### **Contested Republican Held Seats**

Continuing the trend started in 2018, the remaining Republican-held Assembly seats in Orange County, could turn to the Democrats in 2020. With unlimited financial resources and given the likelihood of a high Democratic turnout due to the presidential election, the Democrats could sweep up just as they did in 2018.



**Assembly District 68 – Assemblymember Steven Choi (R) vs. Melissa Fox (D).**

This eastern Orange County seat comprises the communities of Tustin, Lake Forest, Orange and parts of Irvine is currently represented by Steven Choi who has served as a traditional smaller government, lower taxes, fewer regulations Republican. He is running again Melissa Fox who is campaigning on similar themes as a Democrat. The voter registration in this district has recently shifted to become a slight advantage for the Democrats. Fox has raised more money than any challenger in the state. This race will turn on whether Republicans in this district turn out for Trump or stay home.

**Assembly District 72 – Janet Nguyen (R) vs. Deidre Nguyen (D).** This seat comprising the cities of Fountain Valley, Seal Beach, and Westminster still has a slight Republican voter registration advantage. The Republican, former State Senator Janet Nguyen, has successfully won elections in races where Democrats outnumber the Republicans. Her challenger is a research scientist and City Councilmember in Garden Grove. As in all other contested races, the Democrat challenger has a significant fundraising advantage.

**Assembly District 55 – Assemblymember Phil Chen (R) vs. Andrew Rodriguez (D)**

This three-county district bordering Orange, Los Angeles, and San Bernardino Counties has been held reliably by Republicans even as voter registration and Presidential voter sentiment has turned to Democrats. Chen, a moderate Republican who has worked at bipartisanship, is being challenged by 27-year old Andrew Rodriguez. Chen has a sizable campaign account but will still be outspent by his Democratic challenger. This could be a close race.

**Assembly District 35 – Assemblymember Jordan Cunningham (R) vs. Dawn Addis**

**(D).** Because the Democrats have so much money to spend, it allows the Assembly Democrats to target seats that would otherwise look untouchable. Republican Assemblyman Jordan Cunningham in the San Luis Obispo County Assembly seat is very popular, has bipartisan appeal, and has consistently run ahead of his party registration. Yet, the Democrats have enough financial resources to mount a serious campaign against him.

**Conclusion**

Ballots are being received now. We believe underlying concerns over the post office and ballot counting will lead to ballots being returned early. Therefore, the ability of campaigns to influence voters in the last month will be more limited than previous elections. Further, the campaigns and party efforts to get ballots from voters and have them returned for counting will be paramount. In past elections, the Democrats have shown superiority at this practice, deemed “ballot harvesting” and have turned election night defeats into victories once all ballots were counted.