Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 17

MEETING DATE: **September 16, 2026**

SUBJECT: **Elk Grove Cosumnes Cemetery District Enrollment Errors—Remediation Plan**

SUBMITTED FOR: **__X__ Action** **___ Information**

RECOMMENDATION

Approve the remediation plan to correct member enrollment errors identified at Elk Grove Cosumnes Cemetery District (EGCCD).

PURPOSE/STRATEGIC PRIORITY

This item complies with the SCERS' Membership Policy, Error Correction Policy, and IRS compliance regulations.

DISCUSSION

In December 2025, SCERS identified, through an internal review, that EGCCD failed to enroll certain eligible employees in SCERS as required by the SCERS Membership Policy and applicable state and federal law. Since identifying the issue, SCERS has worked with EGCCD to determine the scope of enrollment errors and develop an appropriate correction plan.

Failure to enroll an eligible employee in SCERS has significant consequences. The affected employee does not receive the service credit to which they are entitled, and SCERS does not receive the required employer and employee retirement contributions associated with that service. Because SCERS is a tax qualified retirement plan, the question of how to address such situations is largely controlled by federal tax law. The Internal Revenue service (IRS) views problems like this as operational failures that must be corrected in accordance with applicable IRS correction procedures to preserve the qualified status of the retirement plan. Accordingly, SCERS consulted with tax counsel to determine the corrective measures required and permitted under federal tax law. The proposed remediation plan reflects that guidance.

After this item was withdrawn from the August Board meeting agenda at the request of EGCCD Board members seeking more time to review the issue, the SCERS CEO addressed the EGCCD Board on August 27 to discuss the recommended correction plan and provide historical and legal context for the corrections.

<u>Proposed Remediation Plan</u>

As part of its internal review, SCERS identified enrollment errors affecting EGCCD employees hired between 1994 and 2026. Based on preliminary findings, out of 19 member account reviews, SCERS determined 6 current and former EGCCD employees should have been enrolled in SCERS based on their date of hire, including 5 active employees and 1 vested deferred member with contributions remaining on deposit with SCERS. The fiscal impact amounts range in cost as follows:

- Estimated total Employee contributions, including interest: **$14,236**
- Estimated total Employer contributions, including interest: **$43,548**
- Median employee contribution adjustment: **$2,381**
- Median employer contribution adjustment: **$7,378**

The interest on underpaid contributions must be recovered because contributions plus earnings are used to pay benefits. In accordance with SCERS' Membership Policy and Error Correction Policy, and federal law requiring operational errors to be fully corrected with respect to all members and beneficiaries and for all taxable years, SCERS recommends the Board direct Staff to take the following actions:

- Retroactively establish SCERS membership for affected eligible current and former employees effective as of their original eligibility date.
- Direct EGCCD to correct the membership records for all affected employees.
- Notify EGCCD in writing of the identified errors and the required corrective actions, including options for repayment of contributions. Repayment options may include incorporating underpaid contributions into the actuarial valuation process.
- Notify all affected current and former employees of the corrections, including options for repayment of contributions.
- Implement the required contribution corrections in accordance with the applicable law and guidance from tax counsel.

<u>Potential for Additional Corrections</u>

Staff have also identified an additional two EGCCD members – one current employee and one retired – potentially requiring corrections, but due to the passage of time, employer payroll and employment information is not readily available. SCERS is continuing to work with the district and the members on gathering and reviewing historical payroll records, or recreating a payroll record, to verify contribution amounts, service credit, and any necessary benefit adjustments.

District Request to Waive Interest

The district has submitted a letter to the Board requesting that SCERS waive interest under the Error Correction Policy. Of the $57,800 in underpaid contributions identified by SCERS, approximately $7,200 is interest. Though the Board has the discretion to not charge the EGCCD interest, the interest would otherwise need to be recovered through the unfunded actuarial liability and built into contribution rates for all employers.

Next Steps

SCERS will formally notify EGCCD and affected members of the findings and the corrective actions and continue working with EGCCD to implement the corrective actions. Additionally, SCERS will review and monitor other participating employer membership enrollment practices to ensure compliance with the SCERS Membership Policy.

ATTACHMENTS

- Board Order
- EGCCD Letter to Retirement Board

Prepared by:	Reviewed by:
/S/	/S/
Keith Riddle Chief Benefits Officer	Eric Stern Chief Executive Officer

Retirement Board Order

Sacramento County Employees' Retirement System

Before the Board of Retirement
September 16, 2026

AGENDA ITEM:

Elk Grove Cosumnes Cemetery District Enrollment Errors—
Remediation Plan

THE BOARD OF RETIREMENT hereby approves the Staff recommendation to approve the remediation plan to correct member enrollment errors identified at Elk Grove Cosumnes Cemetery District (EGCCD).

I HEREBY CERTIFY that the above order was passed and adopted on September 16, 2026 by the following vote of the Board of Retirement, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ALTERNATES (Present but not voting):

Chris Giboney Board President	Eric Stern Chief Executive Officer and Board Secretary

Brian Hughes
Of Counsel
(916) 551-2827
brian.hughes@bbklaw.com

File No. 83599.00001

September 8, 2026

VIA E-MAIL: STERNE@SACCOUNTY.GOV

Eric Stern
Chief Executive Officer
Sacramento County Employees' Retirement System
980 9th Street, Suite 1900
Sacramento, CA 95814

Re: Elk Grove - Cosumnes Cemetery District – SCERS Enrollment Error

Dear Board Members:

Formal Request: The District formally requests that SCERS enter into an Agreement of Compromise with the District that waives the interest being applied to the error correction.

My name is Brian Hughes, attorney with Best Best & Krieger, which represents the Elk Grove – Cosumnes Cemetery District (the "District") as its general counsel. Over the past few months, the District has been working with SCERS staff to determine the extent of the enrollment error of certain employees both past and present. Part of the calculation in the potential fix is the principal payment (from the employee and employer) and the interest on those payments over the time that has elapsed since the principal was due. The District does accept that it has mistakenly not paid on certain individuals. However, the District does request that the Board consider an Agreement of Compromise that is allowed via your policies and procedures on the total amount owed.

SCERS Error Corrections Policy 3.b.

> In his or her discretion, the CEO may negotiate a repayment schedule (not to exceed the expected lifetime of the member and recoverable from the beneficiary upon the member's death to the extent consistent with IRS guidance) and may accept less than the full amount at issue on SCERS' behalf ("agreement of compromise"). An agreement of compromise to accept less than the full amount shall follow the dollar limits under the SCERS' CEO Delegated Authority for Expenses Policy.

On August 27, 2026, Mr. Eric Stern met with the District's Board of Trustees to discuss the enrollment error and the error correction policies and procedures. One point of discussion concerned the Agreement of Compromise. Mr. Stern stated that it could only be used in instances where SCERS was the part at fault and determined that in this instance because SCERS was not at fault the Agreement of Compromise could not be used. The District understands this position but appeals to the Board for reconsideration of this position on the following points.

1. The stated policy does not limit SCERS' ability to take advantage of the Agreement of Compromise for just instances of SCERS error.

SCERS has a digital version of its Error Correction Policy on its website which provides all of the pertinent information related to this matter. It has 3.b. on the website. However, at no point in the policy that is printed online is there any reference to any limitation on the Agreement of Compromise. For Mr. Stern to indicate that your agency is unable to accommodate the District due to an unwritten rule is not an appropriate determination nor is it fair or equitable as there is no way for any public individual or public agency to determine how your agency is applying said unwritten rule. It could be that in certain instances SCERS is using a different methodology to determine if an Agreement of Compromise is adequate. Does this unwritten rule change from CEO to CEO? Is it a Board established policy? Does it change from agency to agency? Here the point is that SCERS does have the ability to enter into an Agreement of Compromise with the District pursuant to its own policies, in contradiction with the stated position of SCERS's CEO.

2. The District has been reporting all employee hirings to the county and cannot be made to be fully at fault for the lack of communication between the county and SCERS.

The District has been appropriately informing Sacramento County (the "County") of all hirings and firings. At a prior time, all benefits, including retirement, was handled by the County, limiting the amount of communication needed to multiple departments and agencies. However, at some point in time, the County department that services payroll severed all communications with both benefits and retirement, without informing the District or providing any further guidance on how to now report new employees. This has caused the District problems that go beyond SCERS. This is not an error, mistake, or the responsibility of the District. This is wholly the responsibility of the County as they had a duty of care to inform their participating agencies of the change. The District should not be held responsible for their mistakes. The District is not disputing the principal but the interest that is being applied.

3. SCERS has 12 participating employers, 11 are special districts. SCERS should and could regularly audit these special districts for compliance with SCERS policies.

Per the SCERS main website, SCERS has ~15K retired members, ~14K active members, and ~5K deferred members. However, SCERS' participating employers includes the County of Sacramento, which would be the vast bulk of these individuals. Ignoring the County, SCERS covers 11 discrete agencies, which one could reasonably believe to be far less than 1,000 individuals that are active, deferred, or retired. For the District, and many of the other special districts on the list, the total number would be between 10-100. Because SCERS pulls interest from the date of error to the date of payment, and considering that the majority of these agencies do not and cannot have an individual on staff that is capable of fully understanding all of SCERS' policies and procedures, SCERS owes a duty of care to its participating employers in at least some form of audit on how it reports eligibility and pays on said participating members. At the meeting with Mr. Stern, this issue of audits by SCERS was addressed but outright denied. Please note, SCERS cannot expect that small special districts, due to budgeting restraints, hiring issues, lack of ongoing institutional knowledge, and communication problems via County payroll, etc., will be able to comply 100%

with all policies and procedures, and that SCERS can fine the special districts with interest and claim no responsibility in their compliance. SCERS has the ability to show kindness, empathy, and compassion to these smaller agencies that do not have the resources of the County to continually track all compliance measures with SCERS.

4. The District cannot be held responsible for the county's failure in losing all of the payroll data when they moved from one payment platform to another.

Since SCERS and the District have been working on a resolution for the enrollment error, the District has been intensely researching its records for the information requested. However, at no fault to the District, the County payroll system at a certain time in the past was moved from one platform to another. The result of the County's action in the platform switch was that the prior payroll data was lost. Due to the added time and work required to deliver the required information to SCERS, more interest against the District is being applied. Thus, the District is being fined via the interest for the added work required because of the County's failure in maintaining its payroll platform. This is not fair nor equitable to the District. SCERS should be able to recognize that the fault of the lack of data and information rests with the County.

Conclusion:

For the reasons stated above, the District formally requests that SCERS enter into a Agreement of Compromise with the District that waives the interest being applied to the error correction. The District is willing to consider paying the principal. Entering into an Agreement of Compromise will avoid a costly and lengthy appeal of the determination. Thank you for your time and consideration of this important matter. The District reserves any and all rights and remedies at law and equity and does not waive anything. Please feel free to reach out to me at any time for questions related to this matter.

Best regards,

Brian Hughes

Brian Hughes
Of Counsel
for BEST BEST & KRIEGER LLP

BH