

**Application for Participation by Quasi-Governmental Agency:
Santa Barbara County Employees' Retirement System**

**LIAB Regular Meeting
January 26, 2016**

ISSUE

Is the Santa Barbara County Employees' Retirement System (SBCERS) a qualified "quasi-governmental agency" eligible to invest funds in the Local Agency Investment Fund (LAIF)?

RECOMMENDATION

Staff respectfully recommends that SBCERS be considered a quasi-governmental agency for purposes of investing in LAIF. On the basis of the information provided, SBCERS meets the seven factors used to determine whether an entity qualifies as a quasi-governmental agency. SBCERS is recognized by the IRS as a defined benefit trust, a federally tax exempt employee benefits trust under Internal Revenue Code section 401(a); and a governmental plan as defined in Internal Revenue Code section 414(d). Regulations, including bylaws, were approved by the Santa Barbara County Board of Supervisors in accordance with Government Code section 31525.

BACKGROUND

SBCERS was established pursuant to the County Employees Retirement Act of 1937. The governmental purpose of SBCERS is to provide secure retirement and death benefits to public employees.

Government Code section 16429.1(c) provides that "an officer of a qualified quasi-governmental agency, with the consent of the governing body of that agency, having money in its treasury not required for immediate needs, may remit the money to the Treasurer for deposit in the Local Agency Investment Fund for the purpose of investment."

Section 16429.1(g) states that the "Local Investment Advisory Board shall determine those quasi-governmental agencies which qualify to participate in the Local Agency Investment Fund."

ANALYSIS

- *Does the statute, ordinance or resolution pursuant to which SBCERS is formed recognize a governmental purpose?*

The governmental purpose of SBCERS is to provide retirement and death benefits to public employees under the County Employees Retirement Law of 1937, which is codified in Government Code section 31450 et seq. Government Code section 31451 states that the purpose of the County Employees Retirement Law of 1937 is to "recognize a public obligation to county

and district employees who become incapacitated by age or long service in public employment and its accompanying physical disabilities by making provision for retirement compensation and death benefit as additional elements of compensation for future services and to provide a means by which public employees who become incapacitated may be replaced by more capable employees to the betterment of the public service without prejudice and without inflicting a hardship upon the employees removed.”

- *Do the net earnings of SBCERS inure to any private person or are they irrevocably dedicated to a political subdivision?*

SBCERS net earnings are trust assets for system administration expenses, investments for the benefit of the system, and provision of benefits to plan participants under Government Code sections 31588, 31588.2, and 31595.

- *Did a political subdivision approve the formation, articles, bylaws, members, directors, and officers of SBCERS?*

SBCERS was established by the Santa Barbara County Board of Supervisors in 1944 pursuant to the County Employees Retirement Law of 1937. Government Code section 31500 provides that “[a] retirement system is established in any county for eligible officers and employees by the adoption of an ordinance, accepting this chapter, by ... [a] four-fifths vote of the board of supervisors.” The retirement system’s governing board, the Retirement Board, is comprised of appointed and elected officials as prescribed under Government Code section 31520.1. Regulations and bylaws are approved by the SBCERS Retirement Board and the Santa Barbara County Board of Supervisors in accordance with Government Code section 31525. An administrator and other staff are hired or appointed by the SBCERS Retirement Board, as permitted in Government Code sections 31522.1 and 31522.2.

- *Does a political subdivision approve the methods of financing or investment by SBCERS?*

The SBCERS Retirement Board is vested with the authority to make investment and financing decisions, and thus approves all methods of financing and investment pursuant to Government Code sections 31594 and 31595.

- *Are representatives of a political subdivision notified of meetings of directors or members and allowed to attend and make comments?*

SBCERS meetings are publicly noticed pursuant to the Ralph M. Brown Act. Members of the public are permitted to attend the meetings and make comments. SBCERS also specifically notifies County of Santa Barbara representatives of SBCERS meetings.

- *Does a political subdivision approve (or reserve right of disapproval) amendments to articles or bylaws and new officers and directors?*

Amendments to regulations and bylaws must be approved by the SBCERS Retirement Board and the Santa Barbara County Board of Supervisors in accordance with Government Code section 31525. An administrator and other staff are hired or appointed by the SBCERS Retirement Board, as permitted in Government Code sections 31522.1 and 31522.2.

- *Is SBCERS recognized by other government agencies (e.g., IRS, SEC) as a political instrumentality?*

SBCERS is recognized by the IRS as a governmental plan as defined in Internal Revenue Code section 414(d).

While not all of the above factors need be present to indicate that an entity is a political instrumentality, it is generally considered essential that a political subdivision have thorough provisions of law, charter documents or indentures, control over management, operations, and future amendments to charter documents or indentures. We conclude that SBCERS substantially meets the factors and that SBCERS may be determined to be a quasi-governmental agency that may remit money in its treasury not required for immediate need to the State Treasurer for deposit in LAIF for the purpose of investment.