SAVE THE DATE!

SACRS SYMPOSIUM
A Bankruptcy, Pension Obligations & Good Faith Discussion:
Functioning under the County Employees Retirement Law (CERL) - Withdrawals, Close of Plan, Consolidations, Bankruptcy and Refusal to Pay Contributions

DATE
Tuesday, April 23, 2013
9:30 AM – 3:30 PM

LOCATION
San Francisco Airport Marriott Waterfront Hotel
1800 Old Bayshore Highway
Burlingame, CA 94010
(650) 692-9100

ATTENDEES
SACRS would like to invite all SACRS System Administrators & Staff, Fiduciary Attorneys, and other interested Stakeholders.

DISCUSSION
Similar to Cal PERS, some CERL systems are dealing with special districts seeking to leave or otherwise curtail their obligations to the retirement systems under a variety of circumstances. This all-day session presents an in-depth discussion of the various exit issues between ’37 Act systems and a public entity’s pension obligations

DETAILS
Registration: Register online at SACRS - www.sacrs.org
Shuttle: The San Francisco Airport Marriott Waterfront Hotel offers free shuttle service to/from the San Francisco International Airport (SFO).
Hotel: SACRS has arranged for discounted hotel rate for guests arriving on April 22nd at the rate of $174 (not including taxes & fees). Hotel reservations can be made by either of the following:
  Call Reservations at 877-622-3056
  Go Online at SACRS Symposium 2013 Burlingame Marriott
Parking: $10 SACRS Discounted Daily Self-Parking Rate
Questions: Contact SACRS at SACRS@SACRS.ORG or 916.441.1850
SACRS SYMPOSIUM AGENDA
TUESDAY, APRIL 23, 2013
San Francisco Airport Marriott Waterfront Hotel
1800 Old Bayshore Highway, Burlingame
Meeting Room TBA

9:00 A.M.  Continental breakfast & coffee available for attendees

9:30 A.M. – 10:30 A.M.
Topic 1  Chapter 9 Bankruptcy
Speakers:  Ileana Hernandez, Attorney, Manatt, Phelps, Phillips
Ivan Kallick, Attorney, Manatt, Phelps, Phillips

I.  Overview of Chapter 9 Bankruptcy
   A.  Requirements for Entering Chapter 9
   B.  AB 506 Limitations to Filing
   C.  Consequences of Filing Petition
   D.  Monetary and Non-monetary Costs of Filing
   E.  Role of Bankruptcy Court
   F.  Municipality Powers
   G.  Role of Creditors
   H.  Role of Residents, Employees, Retirees
   I.  Plan of Adjustment
   J.  Requirements to Confirm a Plan of Adjustment

II.  History of Municipal Bankruptcies in the United States
   A.  Origins of Chapter 9 Bankruptcy
   B.  Chapter 9 Bankruptcy Cases Outside of California
      •  Jefferson County, Alabama 2011
      •  Central Falls, Rhode Island 2011
      •  Harrisburg, Pennsylvania 2011
   C.  Chapter 9 Bankruptcy Cases in California
      •  Orange County, California 1994
      •  West Contra Costa Healthcare District-2006
      •  City of Vallejo, California 2011
      •  City of Stockton, California 2012
      •  City of San Bernardino, California 2012
III. Public Pensions as Creditors and Parties in Interest
   A. Filing Proof of Claims
   B. Priority of Claims - Administrative Claim v. Unsecured Claims
   C. Payment of Claim
   D. Timing of Payment

IV. Does the State of California’s Have An Interest in and/or a Role in Preventing Bankruptcy and/or Participating in a Chapter 9 Bankruptcy?

10:30 A.M.  Morning Break

10:40 A.M. - Noon
TOPIC 2 The Impact on CERL Systems: Withdrawals, Close of Plan, Consolidation, Bankruptcy, or Refusal to Make Contributions
Speakers: Lance Kjeldgaard, Attorney, The Kjeldgaard Law Firm
         Paul Angelo, Senior Vice President & Actuary, The Segal Company

I. The CERL with regard to withdrawals, close of plan, consolidation, bankruptcy, or refusal to make contributions

   Relevant California Code Sections:
   - Withdrawals 31564 – 31564.2
   - Close of Plan 31483, 31564.2, 31564.5
   - Consolidation 31648.2
   - Refusal to make contributions 31584
   - What do these sections require?
   - Are they sufficient to handle the specific situations?
   - Are they sufficient to deal with a special district filing for bankruptcy?

II. Situations for Discussion:
   - If a district withdraws under 31564 and 31564.2, how is the withdrawal liability determined? How does the withdrawal liability relate to the district’s UAAL before the withdrawal?
   - What if the district wants to move all of its safety members to PERS and leave two general members in the CERL system, does this amount to an effective withdrawal under 31564 and 31564.2?
• What if the district lays off all but two employees, is this an effective withdrawal?
• In anticipation of bankruptcy, how do we establish the withdrawal liability as a secured debt?
• If the district is a JPA, should we include the underlying public agencies in our demand to secure the any withdrawal liability?
• What role should LAFCO play in securing the withdrawal liability of a district going out of business?
• If the County takes on the district employees because the County is picking up services, what is the effect of an intra-system transfer and who pays for any withdrawal liability or UAAL?
• What if the district lays off all of its employees, is this an effective withdrawal under 31564, even though the employees didn’t vote to withdraw?
• There is a possibility that in a multi-employer plan, the judge could direct a measure of withdrawal liability that helps the debtor agency but has adverse consequences on other employers. How can such a circumstance be avoided or mitigated?

Noon – 1:00 P.M. LUNCH BREAK
LUNCH WILL BE PROVIDED BY SACRS: This time will be used as a working lunch; general questions can be raised from the floor and discussed openly among the attendees

1:00 p.m. – 2:00 p.m.
TOPIC 3  Cal PERS and Dealing with the Insolvency Issues of Public Agencies
Speaker: Peter H. Mixon, General Counsel, California Public Employees Retirement System (Cal PERS)

• A Tale of Three Cities: Vallejo, Stockton, and San Bernardino Unresolved Issues and Lessons Learned
• What are the statues under which PERS operates?
• Calculation and notification of withdrawal liabilities of individual employers

2:00 p.m. Networking Break
2:10 P.M. – 3:00 P.M.
Topic 4  Municipal Insolvency: Fat Tail Events and How to Manage the Risks
Speaker: Harvey Leiderman, Attorney, Reed Smith LLP

I. Risk Management: Stress test your plan
   - Contributions – normal cost and UAAL
   - Cash flow
   - Investment portfolio
   - Impact on other employers
   - Benefit payments to members

II. Risk Mitigation: Take affirmative action
   - Use the powers the CERL and the Constitution give you
   - Audit your employers
   - Consider amortization alternatives
   - Consider financial accommodations
   - Act like a lender
   - Collateralize the debt
   - Negotiate negative covenants
   - Take an active role in Ch. 9, pre and post-filing
   - Test the Tenth Amendment

3:00 P.M.
Closing: Conclusions and Follow-up Assignments
Speakers: Tom Ford, SACRS Treasurer
          Robert Palmer, SACRS Executive Director

   - What would the attendees want as follow-up items to the session?
   - Timelines and communications