



# PCCD Retirement Board Workshop

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# Introductions

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# Definitions

- See document provided

# Other Post Employment Benefits

- Private organizations offer retirement benefits that are regulated through ERISA (Employee Retirement Income Security Act of 1974)
- Most large private entities are self insured
  - By-pass state laws and design custom benefit plans by setting up trusts all Third Party Administrators
    - Administer trust, arrange cost agreements with providers, pay claims
- Self insurance is transparent and breaks out all expenses
  - Requires third party administrator and broker for investments
- Private entities are shifting away from funding retiree supplemental health benefits
  - Started with FASB rules 1991
  - Offer annual stipend to buy a plan on a private exchange
  - Shift of cost directly or indirectly to retirees
  - Capping employer contribution

# Other Post Employment Benefits (continued)

- For CCDs Other Post Employment Benefits are benefits, other than pensions, that a state or local government employee receives
- OPEB obligation can start as a board policy, resolution, employee contract, MOU, collective bargaining
  - In most states, state law does not impose this obligation
  - True for municipalities and private corporations
- Funding of benefits can be pay- go or prefunding
  - Special reserve or dedicated fund within municipality
    - Pay-go based with contributions based on actuarial calculation
    - No offset in financials
  - Prefunding through a trust

# Funding

Sources of funding for both private and public agencies is similar:

- Employer contributions
- Employee contributions
- Investment returns

# Other Post Employment Benefit Trusts – Prefunding by government entities

Concept of setting aside money to fund OPEB benefits in future

## **Trust Revocable**

- Contributions not qualify toward ARC or plan assets

## **IRS Section 115 Irrevocable**

- Tax-exempt base for funding retiree health benefits
- Set aside funds for paying employee benefits. Accumulation of funds excluded from federal income taxes.
- Maintained by municipality

## **VEBA/501(c)9**

- Tax-exempt by employee organization

## **401(h)**

- Separate accounts within a defined benefit pension plan

## **Bonds**

- Sell taxable bonds to invest proceeds so investment rate of return outweighs interest rate on bonds

## **GASB 43/45**

- Accounting and disclosure standards

# Principles of Investing – Retirement Programs

- Management
- Benefits design
- Funding
- Risk Management
- Asset management
  - Asset allocation
  - Investment policy development
  - Discretionary asset management
  - Trust and governance development
- Answerable to retirees, taxpayers and/or shareholders

Trust administrator-record keeping, compliance, reporting  
Bank Trustee – discretionary trustee  
Investment manager



# Example of Public Sector Methodology

- CALPERS is established by state statute
  - Overseen by 13 member Board of Administration
  - Derives income from investments, member contributions and employer contributions
  - Defined benefit plan
- Investment Strategy
  - Total Fund Investment Policy adopted by Investment Committee
    - Framework for management of assets
  - Strategic Objective
  - Program Specific Investment Policies
  - Responsibilities
  - Performance Objectives

# Current PCCD Retirement Board Investment Methodology

- Retirement Board Investment Policy
- Discretionary Trustee, Administrator
- Investment Advisor
  - Investment Beliefs
  - Asset Allocation Strategy
  - Benchmarks
  - Investment Risk Management
  - Global Derivatives and Counterparty Risk
  - Investment Leverage
  - Divestment
  - Liquidity Program
  - Low Duration Fixed Income Program

# NB investment strategy

- 2005 initial trust set-up
- Post 2008
- Maximizing rate of return within parameters set by Retirement Board
- Effectively serve as investment advisor
- Substantial history of investment experience
- Utilize proprietary and non-proprietary instruments

# Current NB Fee Structure

## *Custodian Fee:*

10 basis points (0.10%)

## *Initial NB Funds:*

Core Fixed Income, LCDG, Systemic Large Cap Value, Real Estate Securities, Small Cap Growth, International mutual fund, SRI  
40 basis points (0.40%)

## *Other NB managed products:*

Equity fees at the product level range from 65 –100 basis points  
(0.65% to 1.00%)

Fixed Income fees range from 8-55 basis points (0.08% to 0.55%)

# Role of the District

# District's Responsibilities Regarding the Trust

- Preparation and maintenance of substantive plan under GASB Statement No. 43 and 45
- Preparation and maintenance of Comprehensive Compliance Plan under GASB Statement No. 43 and 45
- Adoption and maintenance of Debt Issuance Policy
- Determine when conditions are met for use of Trust assets to defease bonds
- Settlor functions, including potential changes to plan design and benefit levels, through the collective bargaining process
- Engage service providers to assist with settlor responsibilities

# District's Long Term Funding Plan – OPEB Bonds

- Develop a refined 10-year cash flow analysis, across all district funds, and a general 35-year cash flow, with respect to servicing OPEB bond debt and meeting obligations to District retirees.
- Create an Irrevocable Trust in order to serve the post-July 1, 2004 hires/retirees and to mitigate GASB 43/45 OPEB liability
- Commit 5% of general fund revenues— specifically of the State Apportionment Total Computational Revenue— to OPEB bond debt service and/or establishment and sustenance of an Irrevocable Trust
- Use surplus funds in the OPEB Trust (F94) to service bond debt as permitted by indenture
- Strategically re-fund OPEB bonds and/or SWAPS as required
- Reduce the District's overall OPEB liability

# District's Long Term Funding Plan – OPEB Bonds

- FUND 01 (General Fund)
  - Pay-as-you-Go Costs –  $\frac{1}{2}$  2011 Interest Costs – 2011 Principal – 2006 P&I + Retiree Pay-as-you-Go Reimbursement
- FUND 69 (OPEB Reserve)
  - + $\frac{1}{2}$  annual OPEB charge – SWAPS –  $\frac{1}{2}$  2011 Interest Charge – Transactional Costs
- FUND 94 (OPEB Trust)
  - + $\frac{1}{2}$  annual OPEB charge + ROI Assumptions – Retiree Pay-as-you-Go Reimbursement - B2/ Other Principal - Related Legal/ Admin Costs
- Fund xx (Irrevocable Trust)
  - +2 to 3% of annual State Apportionment (Total Computational Revenues)



# Role of the Retirement Board

# Retirement Board Has Administrative/Fiduciary

## Responsibilities

- Arrange for Payment of Benefits and Reasonable Trust Expenses
- Arrange for Appropriate Auditing of Benefits Due and Reasonableness of Trust Expenses
- Maintain Bylaws

# Retirement Board Has Administrative/Fiduciary

## Responsibilities

- Obtain Proper Documentation of Benefits Due From Trust Funds Through Written Plan Document Maintained By the District
- Hold Regular Meetings to Conduct Trust Business
- Maintain Records of Meetings
- Select and Monitor Service Providers

# Investment/Fiduciary Responsibilities

- Invest Trust Assets or Properly Delegate and Monitor Investment By Discretionary Fiduciary
- Establish and Maintain Investment Policy Statement

## Fiduciary Duties – Invest Trust Assets

- Investment Authority Delegated by Governing Body (the District) to Designated Officers (Retirement Board) (Cal. Gov. Code section 53621)
- Retirement Board May Invest Funds Designated for the Payment of Employee Retiree Health Benefits in Any Form or Type of Investment Deemed Prudent (Cal. Gov. Code section 53620)

## Fiduciary Duties – Invest Trust Assets

- Funds Intended for the Payment of Employee Retiree Health Benefits Shall Only Be Held for the Purpose of Providing Benefits to Participants in the Retiree Health Benefit Plan and Defraying Reasonable Expenses of Administering that Plan (Cal. Gov. Code section 53622(a))

# Fiduciary Duties - Invest Trust Assets

- The Retirement Board Must Invest Trust Assets:
- (1) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants in the retiree health benefit plan, minimizing employer contributions thereto, and defraying reasonable expenses of administering the plan.
- (2) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.
- (3) Shall diversify the investments of the funds so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so. (Cal. Gov. Code section 53622(b))

## Peralta OPEB “Trust 1”

- Unique Among Community College Districts Because the Trust Was Fully Funded with Bond Proceeds Subject to Bond Indenture As Opposed to “Pay As You Go” Or Periodic Funding
- Trust assets of approximately \$210 million
- Currently Invested by Neuberger Berman Pursuant to Discretionary Trustee Agreement Signed in 2012
- Indenture language permits ‘surplus’ funds to be used to defease bond principal



# Other State Laws That Apply to the Retirement Board

## Conflict of Interest Rules

- Prohibition on Self-Dealing in Contracts  
(Cal. Gov. Code sections 1090 et seq. and 87300 et seq.)
- Public Officials and Employees Cannot Be Financially Interested in Any Contract Made by Them in Their Official Capacity, or by Any Body or Board of Which They Are Members
- Also Prohibits Any Person from “Aiding” or “Abetting” a Public Official or Employee in Self-Dealing

# Conflict of Interest Rules

- Rules Apply to Agents and Consultants Hired By Public Entities to Whom Decision-Making Authority Is Delegated
- Delegating Authority to the Discretionary Trustee to Make Decisions to Invest in its Own Proprietary Funds
  - Discretionary Trustee Acts as “Agent” of Retirement Board
  - Conflict if Discretionary Trustee Benefits Financially From Decision to Invest in Proprietary Funds

# Conflicts of Interest

- Consequences of Violation Could Include:
  - Contract Deemed to Be Void
  - Investigation by Fair Political Practices Committee or Attorney General
  - Criminal Penalties
  - Fines Imposed by Fair Political Practices Committee
  - Prohibition on Holding Public Office In the Future

# Options for Investment of Trust Assets

# OPTION 1

- “40/60 Split” =
  - 40% of Trust Assets Invested in NB Proprietary Funds as Directed by Retirement Board
  - 60% of Trust Assets Invested in Non-Proprietary Funds Selected by NB
- Approved By Retirement Board in Prior Meeting

## OPTION 1 (continued)

- Conduct an RFP for Investment Advisor to Advise the Retirement Board with Respect to 40% of Trust Assets To Be Invested in NB Proprietary Funds By Board
  - Pro: Only Requires One RFP for an Investment Advisor
  - Pro: Minimal Disruption of Current Arrangement
  - Pro: Reduces Exposure for Directing into Proprietary Funds from 80% to 40%; NB Will Have Fiduciary Responsibility for 60% of Investments
  - Con: Retirement Board Will Have Fiduciary Exposure for 40% Investment in Proprietary Funds (less exposure if have qualified advisor)
  - Con: Trust Will Incur Fees for an Investment Advisor in Addition to Fees for Discretionary Trustee
  - Con: Investment Advisor May Not Be Willing to Recommend Investment of 40% in NB Proprietary Funds

## OPTION 2

- Conduct an RFP for New Discretionary Trustee that Is Prohibited from Investing in Proprietary Funds
  - Pro: Requires Only One RFP for Discretionary Trustee
  - Pro: Complies with Conflict of Interest Rules
  - Pro: Consistent With Original Retirement Board Bylaws
  - Con: Disrupts Current Arrangement
- Note: This Could Be NB If They Were Willing To Not Invest In NB Proprietary Funds



# OPTION 3

- Conduct Two RFPs
  - One for Custodian/Directed Trustee to Hold Trust Assets
  - One for an Investment Advisor That Won't Invest in Proprietary Funds But Will Advise Retirement Board with Respect to Investments of All Trust Assets
- Pro: Complies with Conflict of Interest Rules
- Pro: Consistent With Original Bylaws
- Con: Retirement Board Will Retain Fiduciary Liability for Investments (less exposure if have qualified advisor)
- Con: Requires Two RFPs, Two Contracts to Negotiate
- Con: Disrupts Current Arrangement

Thank you.

Questions ?