CalPERS

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August 30, 2010

The Honorable Senator Darrell Steinberg
Senate President *pro tempore*
State Capitol Building
10th & L Streets, Room 205
Sacramento, CA 95814

The Honorable Senator Dennis Hollingsworth
Senate Minority Leader
State Capitol
10th & L Streets, Room 305
Sacramento, CA 95814

The Honorable Assembly Member Martin Garrick
Assembly Minority Leader
State Capitol Building
10th & L Streets, Room 3104
Sacramento, CA 95814

The Honorable Assembly Member John Perez
Speaker of the Assembly
State Capitol Building
10th & L Streets, Room 219
Sacramento, CA 95814

Dear Legislative Leaders:

We have taken note of recent reports regarding the possibility of a budget solution that would be based in part on savings achieved by reducing or eliminating this year's State employer contribution to CalPERS. The proposal has been characterized in various reports as a "loan" or a "borrowing" in an amount of $2 billion. CalPERS has not received a formal proposal or sufficient detail to analyze the concept, and at this time we neither endorse nor oppose the concept. The purpose of this letter is to let you know that we have significant concerns regarding the concept as it has been reported. If this option is indeed being considered as part of the overall budget solution, we urge you to include CalPERS early in the discussions to ensure a transparent and accountable review of the idea.

The proposal would need to be carefully examined by our actuary and lawyers to make sure it meets CalPERS' fiduciary duty to ensure the actuarial soundness of the system. The State plans were, on average, 58.4% funded as of June 30, 2009. Given this, it is important to have a funding plan that reduces the unfunded liability over time. Lowering the contribution rate in these circumstances would raise significant issues of actuarial soundness.

In addition, we must ensure that the proposal does not in any way put at risk the tax-qualified status of the pension plan. Among other considerations, this includes confirming that the prohibited transaction rules of the Internal Revenue Code (which include a prohibition against extensions of credit from CalPERS to the State except under very strict requirements) are not violated. Indeed, protecting the tax-qualified status of the plan is so critical that we may very well conclude we need to obtain formal approval from the IRS before we can proceed.

We recognize the critical and sensitive nature of the ongoing budget discussions, and CalPERS has demonstrated its willingness to collaborate when doing so is consistent with its fiduciary obligations. For example, CalPERS took action to cushion the employer rate increases resulting from the dramatic decline in the investment markets in late 2008; this resulted in a current year State contribution requirement that is approximately $750 million lower than it would have otherwise been. In addition, CalPERS just adopted a change in actuarial policy that will lower the State's contribution in the current year as a result of negotiated increases in member contribution rates.

If the evolving budget discussion and proposed solutions include proposals related to CalPERS and its funding, I urge you to engage in a dialogue with us as soon as possible. We stand ready to discuss these important issues with you.

Sincerely,

Anne Stausboll.

ANNE STAUSBOLL
Chief Executive Officer
CalPERS

cc: Governor Arnold Schwarzenegger
State of California

Bill Leonard, Secretary
State and Consumer Services Agency

Ana J. Matosantos
Director of Finance

Mac Taylor, Legislative Analyst
Legislative Anslyst's Office

bcc: Executive Staff