



REPORTER

A publication of the California State University Emeritus and Retired Faculty Association

LAWSUIT FILED TO SAVE PERS FROM RAID

At the meeting of the ERFA Executive Committee in Los Angeles on July 13 the following resolution was passed unanimously:

"WHEREAS the California Constitution in Article XVI, section 17, provides for the protection of the public pension retirement system, and

"WHEREAS this section defines the system as a trust fund held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries, and

"WHEREAS this Article XVI mandates that the Public Employee Retirement System (PERS) shall exercise fiduciary responsibility for the maintenance and integrity of this public retirement system; that this responsibility shall be exercised solely in the interest of, and for the exclusive purpose of, providing benefits to participants and their beneficiaries;

"BE IT RESOLVED that the members of the California state organization known as California State University Emeritus and Retired Faculty Association (CSU-ERFA) do hereby oppose the provisions of AB 702 and will support a movement to contest its implementation.

"BE IT FURTHER RESOLVED that CSU-ERFA calls upon the California Faculty Association (CFA) and all other active faculty organizations to vigorously pursue an ongoing fiduciary analysis of the effects of AB 702.

"BE IT FURTHER RESOLVED that CSU-ERFA calls upon CFA and all active faculty to join this opposition to the implementation of AB 702."

"AB 702, which the Legislature passed and which Governor Wilson signed into law on June 30, authorizes the State," ERFA President Milton Dobkin observed, "to steal the IDDA and EPDA money from PERS by wiping out these two funds." The IDDA fund provided PERS retirees with a pension that gave them 75 per cent of the purchasing power they had at the time of retirement. The EPDA fund added 5 per cent to this amount or raised the retiree's purchasing power to 80 per cent. These funds were paid quarterly. PERS could legally pay these COLA funds to retirees only if the money was available—availability occurred only if PERS investments were so successful that the revenues would exceed what the PERS fund was legally obliged to earn.

"In view of the constitutional requirement that the State can not use any PERS money unless it offers something in return, the State," Dobkin commented, "offers only a vague promise that it will provide the IDDA funds in the future."

"Another disturbing provision of this bill," advised

Wilma Krebs, ERFA Legislative Chair, "is that it will force all new employees into a tier 2 retirement plan, one with about half the benefits of the present system. Moreover, tier 2 is non-contributory so that over time the flow of member contributions into the system will dry up, meaning fewer and fewer earnings and probably greatly reduced benefits."

AB 702 also provides for an actuary appointed by the Governor, subject to approval by the Legislature, to determine employer contribution rates. Apparently, this feature is designed to lower the amount employers will pay into the fund. (Many CSU-PERS retirees may not know that PERS includes many "employers" in its retirement programs, all of whom make contributions on behalf of their employees; these "employers" include most counties and cities in the State, as well as many school district employees who are not teacher certified personnel and who are not members of STRS.) The Governor had earlier proposed that PERS earnings be assumed at 9 1/2 per cent instead of 8 1/2 per cent, the estimate in effect during 1990-1991, thereby enabling employers to reduce their payments into the fund. The PERS experts had previously concluded that 9 1/2 per cent was not realistic in view of declining interest rates. To get around this opposition from the PERS Board, the Governor persuaded the Legislature to remove this power from the PERS Board and give it to an actuary he would appoint. Krebs advised the Executive Committee, "The fear is that in the future this approach may so deplete the PERS retirement benefits that they will be greatly reduced."

The results of the actions of the Legislature and the Governor have had these effects on the governance of the PERS system and the responsibilities of the PERS board: the PERS board no longer has 1) the power to hire actuaries and to approve the actuarial rate of interest, 2) the authority to set all interest rates, 3) the right to determine the employer contribution rate, 4) the power to transfer accumulated contributions, and 5) the power to publish financial statements.

At the ERFA Executive Committee meeting, this question was asked several times: did PERS retirees have any success in their efforts to influence the Legislature and the Governor? One of the Governor's proposals would have given him the authority to eliminate the present PERS Board and appoint five new trustees, apparently his attempt to gain complete control of PERS policies. According to reliable reports in Sacramento, the Governor and the legislators were bombarded with letters in opposition; also, they were so

(continued p. 2, lawsuit)

overwhelmed with telephone calls of protest that they had to cease answering the phones. Consequently, this bill, AB 1038, was dropped. Jack Byrom, ERFA Executive Director, commented, "Our telephone tree certainly helped kill this bill."

Because of the passage of the resolution directing ERFA to support legal action to force the State to observe the constitutional obligations designed to protect PERS and the retirement fund, the ERFA directors have helped form the Public Employees Coalition, a group of 15 public employee and retiree organizations; this coalition was formed for the purpose of filing legal action and raising funds for that action. ERFA members should have received early in August the *CSU-ERFA Update*, a blue one-page bulletin that explained the plans underway.

On August 1 this Coalition filed a petition for a writ of mandamus in the State Court of Appeal (3rd appellate district). Respondents are Governor Pete Wilson, Controller Gray Davis, Treasurer Kathleen Brown, the PERS Board, PERS Executive Officer Dale Hansen, and Director of Finance Thomas Hayes.

The petition asks the Court to enjoin the expropriation of the \$ 1.6 billion from the PERS IDDA and EPDA funds, to enjoin PERS from using pension fund assets to further reduce employer contributions, and to invalidate those provisions of AB 702 which transfer actuarial and fiduciary responsibilities to an actuary to be hired by the Governor.

The suit states that AB 702 is an unlawful violation of the constitutional, statutory, and common law rules pertaining to trust funds, impairs contracts, and modifies unreasonably the existing pension benefits of PERS annuitants and beneficiaries. Court action may occur fairly soon, but it could also take several months.

On July 17 the PERS Board, in a closed meeting, voted to ask the 3rd District Court of Appeal for a stay of legislation that would transfer the actuarial function from PERS to the actuary to be appointed by the Governor (as part of the State's efforts to balance the budget). By this action the PERS Board indirectly in advance gave its support to the Coalition's lawsuit, thereby becoming a friendly defendant, even though the lawsuit was not filed until August 1.

On the Federal level, Congressman Pete Stark plans to hold a Ways and Means Committee hearing in Northern California, probably in the San Jose area, on August 19, to consider issues relating to the management of public pension funds and the trust responsibilities of the fiduciary bodies. CSU-ERFA representatives plan to testify.

According to ERFA Legislative Chair Wilma Krebs, "If retirees do not defeat this attempt to raid PERS, in clear violation of the State Constitution, this robbery will be repeated again and again. The so-called 'substitute benefits' offered in AB 702 are illusory, since they will disappear with serious inflation and with the placing of all new employees in a non-contributory retirement system. We must resist with all our strength on behalf of all current and future retirees."

"Obviously," ERFA President Dobkin pointed out, "ERFA does not have the funds on hand to finance its appropriate share of the lawsuit. I ask all ERFA members to

ACADEMIC SENATE UPDATE

The CSU Academic Senate held its last meeting of the 1990-91 academic year on May 2 and 3; the Senate was not entirely in a winning mode. Chair Sandy Wilcox (DH) commented: "The CSU's insistence on treating the Senate as a subsidiary of the CFA represents a serious threat from the view of three equal parties and is a violation of the Senate's responsibility to be the spokesperson for professional standards, the academic program, and the needs of students." She also renewed her request for Senate participation in the workload study conducted by the CSU and the CFA. Chancellor McCune, Wilcox observed, claimed that the Senate had no legal right to participate in the negotiations; but, she also reported, the CFA does not object to Senate participation.

The Senate learned that the Chancellor has denied the request of the Senate to consider removal of ROTC units from campuses and that Vice Chancellor Kerschner has asked for a legal opinion on the status of anti-discrimination policies. As could be expected, some campus presidents have opposed the efforts to remove ROTC units.

Chair Wilcox expressed hope that the Senate can move from an adversarial to a cooperative relationship with the CFA and the CSU. Jack Samit, chief negotiator for the CSU, spoke in tones and words that suggested the potential exists for strengthening CSU cooperation with the Senate.

Chair Wilcox was reelected as Chair for the 91-92 academic year.

At this session the Senate indicated a qualified approval for the report of the Asian Pacific American study committee, asked the Chancellor to support rules requiring a grade of C (not C-) in all intersegmental GE transfer credit, approved a study of existing engineering programs, suggested changes in the English as a second language exams, indorsed efforts to improve the quality of instruction for teaching students with limited English skills, and approved policies and practices affecting older students.

Because Federal Law PL 99-952 will remove maximum age limits for professors and teachers on January 1, 1991, the Senate urged the CFA and campuses to revise policies to conform.

Finally, the Senate passed a resolution asking that intercollegiate athletics bear an appropriate share of budget cuts and that campus presidents provide local senates with detailed accounts of these athletic program cuts.—Don A. Moore#

contribute as much as they are able. ERFA Vice President Max Norton and I are each contributing \$100. I realize that some of you who have limited retirement income can not be as generous as you would like, but I ask that you do what you can. Whatever the amount, I thank you."

Contributions should be sent now, and later as your funds become available, to Edwin Bartenstein, Treasurer, CSU-ERFA, 9010 Reseda Blvd. #224, Northridge, CA 91324. You should make your checks payable to CSU-ERFA Public Policy Committee.#

DONATE MONEY TO SAVE PERS

UPDATE ON LONG TERM CARE

The ERFA Committee charged with monitoring progress on the PERS long-term care plans for state employees and retirees has succeeded only in being placed on the mailing list for information about this subject.

On July 8 PERS contracted with a private consulting firm, but ERFA has not managed to obtain a copy of the plans, but it has hopes.

Meanwhile, the Committee examined five long-term health care insurance policies and did not succeed in reaching any conclusions. This study was halted when it was discovered that the *Consumer Reports* in the June 1991 issue provided an in-depth examination of 94 such policies. Although interested parties may find this issue in nearly all libraries and order reprints from Consumers Union, ERFA is seeking permission to provide interested members with copies.

The report states that 130 insurance companies have sold 1.5 million policies. Only 40 of all 130 insurers responded to the Union's questionnaire, accounting for an examination of 94 policies. The Union, however, has found none of those policies studied to be very worthwhile and advises many are definitely not recommended.

The report provides tables outlining the provisions of the 94 policies examined. In general, none was rated higher than "good," though "very good" and "excellent" ratings were available. The Union found the policies obscurely written and that the agents who make the sales presentations uninformed, even deceptive.

The policies were found to contain complex eligibility requirements and "gatekeeper" provisions that make it unlikely insurees would be covered for reasonable contingencies. The Union found carriers rarely fully paid claims submitted. Inflation protection, considered essential in these policies, was provided by only 15 companies as long as the policy was in force.#

PRESIDENT'S MESSAGE

In moments of introspection, perhaps even skepticism, a president of an organization such as ours may begin to worry and wonder—does the membership really care about the issues which seem so important to the officers and State Council members? Or are we really engaged in the CSU-ERFA replica of the "inside-the-Beltway" syndrome allegedly prevalent in Washington, D. C.? What will happen if we ask the membership to help on a campaign like the legal challenge to AB 702? Will the answer be, "Let George do it"?

The answers we received are the ones we hoped for! Your response to the plea for funds to help the legal battle to save PERS was excellent. We shall be able to meet our pledge of financial support to the coalition of organizations which has filed suit to save PERS. Any funds contributed beyond those needed for legal expenses will be reserved for future use to protect PERS and the rights of CSU retirees.

At the July 13 meeting of the CSU-ERFA Executive Committee several significant actions occurred:

Following my announcement of the CSU Foundation's

AMENDMENT TO CONSTITUTION PASSES

Dr. Jack Byrom, ERFA Executive Director, reported that in the election to amend the ERFA constitution that 554 ballots were cast. The amendment passed, 300 ayes and 254 nays. This amendment permits staff retirees in those campus organizations which are composed of both staff and faculty to join ERFA if they so desire.

With this passage of the amendment, the campuses—San Francisco, San Diego, and Pomona—have now affiliated with CSU-ERFA.#

DOBKIN WILL TESTIFY FOR FERPERS

ERFA President Dobkin announces that he is available to testify on behalf of any pre-1987 FERPer who is facing lay-off. Dobkin advises that he was a member of the 1987 negotiating committee and that he can testify that in no way did the 1987 agreement eliminate the rights previously granted to those tenured professors who went into the FERP program before 1987. He says these FERPers still have the same lay-off rights as regular faculty.#

In general, the Union advised against the purchase of these policies at this time, even those offered by many retiree organizations.

What does PERS plan to do? The PERS study is due for final report in December, with a preliminary one due in November. Subsequently, PERS is directed by legislation to provide a group plan, premiums paid for entirely by the purchaser.

ERFA will monitor the developments and report to the membership information as it becomes available. The PERS policies are suppose to become available in 1992. Retirees may want to wait and see what PERS or ERFA has to offer.

Meanwhile, ERFA members are urged to study the *Consumer Reports* story and develop personal criteria for judging these policies.—Don A Moore#

approval of our request to establish a special account so that CSU-ERFA could receive tax deductible contributions and, perhaps, grants to assist CSU-ERFA with the establishment and operation of educational programs for and by emeritus/retired CSU faculty (see Art. II, Purpose, Sec. 2, 3, 4, 5, and 7 of the CSU-ERFA constitution), I appointed a committee to design and recommend a fund raising program to build this account. The members are Sidney Albert (LA), Nathan Kravetz (SB), Max Norton (Stan), and Allen Zeltzer (Ful).

Additionally, I appointed a committee comprised of Emmett Long (Ful), Bob Maurer (Chico), and Bill Schlosser (Nor) to study pre-retirement, emeritus, and transitional programs existing in various institutions of higher learning in several states to determine whether to recommend that CSU-ERFA embark on such ventures. The committee may also look at whether to encourage campuses to offer "emeritus college" programs.

I welcome the retiree organizations at San Francisco State, San Diego State, and Cal State Pomona as new affiliates of CSU-ERFA.—Milton Dobkin#

ERFA INDORSES ROBERT CARLSON

At the Executive Committee meeting on July 13, the Committee voted unanimously that ERFA should support the reelection of Robert Carlson to the PERS board in the forthcoming election. President Dobkin was directed to so advise Mr. Carlson. Dobkin also called upon all ERFA members to vote for Carlson, saying, "Carlson has been a most effective voice for retirees on the PERS board and deserves re-election."#

TELEPHONE TREE VOLUNTEERS NEEDED

Bill Smith, chair of the program to develop the ERFA telephone tree, reports that many additional callers (and writers) are still needed if ERFA is to obtain maximum effectiveness from the tree. Those who participate are asked to agree to call four to six other near-by ERFA members (and/or CSU retirees) when the need for rapid communication occurs, *e. g.*, when ERFA needed members to call their legislators about the recent attempts of the State to emasculate PERS. If you are interested in participating—and you really help yourself if you help—write Bill Smith, CSU-ERFA, 9010 Reseda Blvd. #224, Northridge, CA 91324.#

ERFA OPENS CSU FOUNDATION ACCOUNT

ERFA President Dobkin announces that he has obtained approval from CSU for ERFA to open a CSU Foundation account. The purpose of this account is to facilitate funding for the nonpolitical, noneconomic goals as specified in the ERFA constitution. Although the Foundation will charge a modest service fee, the account will yield the highest interest rate the CSU Foundation provides. Dobkin appointed Sidney Albert (LA), Nathan Kravetz [SB], Max Norton [Stan], and Allen Zeltzer [Ful] as members of a committee to design procedures for developing and using this fund. Dobkin advises that ERFA members may now contribute to this fund. #

ERFA WELCOMES NEW CHANCELLOR

At the Executive Committee meeting On July 13 ERFA President Dobkin was instructed to write a letter of welcome to the new chancellor, Barry Munitz, who took office August 1. Chancellor Munitz' last position was vice chair of Maxxam, Inc., Pacific Lumber Co.'s corporate parent. Previously, Munitz served as head of the University of Houston's 34,000-student main campus from 1977 to 1982. Before Houston he was vice president of the University of Illinois system. He earned his bachelor's degree in classics and comparative literature from Brooklyn College and a Ph.D. in comparative literature from Princeton.

Chancellor Munitz will live in a home in Long Beach the CSU Trustees recently purchased using funds obtained from the sale of the Bel Air house where former Chancellor Reynolds lived.

Dobkin was also instructed to write retiring Acting Chancellor Ellis McCune and invite him to join ERFA, now that he has joined the ranks of the CSU retirees.#

THANK YOU, DR. DORA POLK

The ERFA Executive Office has received the following letter from Dr. Dora Polk: "Due to your intervention on my behalf (re: failure of PERS to make the correct deductions for insurance) the matter has now been successfully resolved. I am very grateful for the part you played and am enclosing my check for \$750.00 as a contribution to ERFA, which shows its value to retirees not only in the general defense of our needs and rights, but also in special individual ways such as this. Again, many thanks, Sincerely, [s] Dora Polk." [LB]#

THE CSU ERFA REPORTER is a publication of California State University Emeritus and Retired Faculty Association. President: Milton Dobkin; Executive Director: Jack Byrom; Office Manager: Mary Torres; Editor, Fred McMahon. ERFA office: 9010 Reseda Blvd., Suite 224, Northridge, CA 91324; telephone: (818)886-1196. Office of Editor, 1400-309 South Catalina Redondo Beach, CA 90277; telephone: (213)540-1111. All rights reserved.#

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