



REPORTER

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

HEALTH CARE PROGRAM IN DANGER

At present PERS spreads the risk of insuring all active and retired employees in one large group. However, seven relatively small bargaining units have negotiated memoranda of understanding (MOU) which would allow them to withdraw from PERS, setting up their own health trusts for their actively employed members. This development will leave PERS with a bigger percentage of retirees and relatively higher medical insurance costs. These MOU were approved by the Department of Personnel Administration (DPA) on behalf of the governor. The presumed appeal to the actives is the hope of lower rates and lower premiums and then, perhaps, gains in other areas. One bargaining group, Professional Engineers in California Government, has moved to the point of presenting a depooling proposal for votes of its membership.

Gains for the actives could be temporary and illusory as their group ages or as their small group is hit by a catastrophic medical event. At this point the members of the small group could be cut off from rejoining a larger risk pool, including PERS. As they become eligible for retirement, the members could face an inferior or more costly benefit program. Small health trusts can not hope to have the long-range bargaining power in the market that large ones like PERS have.

Present retirees in PERS should be concerned about this development. Should a number of employee organizations withdraw from PERS, then PERS would be left with a higher share of retirees and higher costs. Staff states that if all active employees should withdraw, retirees could face health benefit premiums thirty to fifty per cent higher than the current rate. The strength and efficiency of PERS would be impaired. Last year PERS regained the significant rate reductions and laid the ground work for future cost containment. Depooling moves would weaken the bargaining strength of PERS and hamper such efforts in the future.

Why has the Department of Personnel Administration approved these MOU clauses permitting depooling? Are they so anxious for fleeting short-run cost reductions in employer health insurance premiums that they are willing to jeopardize the future of both current and future retirees? Would active employees in depooled health trusts really be better off? They will have fewer choices among plans and higher administrative costs. What if they change jobs into another bargaining unit? What happens when the contract expires? What will happen to them as their group ages and retires? At the very least there should be full disclosure and debate before employees vote. CSU-ERFA members can help

(continued p. 2, col. 1, health)

FERPERS' ARBITRATION HEARING

The grievance filed on behalf of those pre-1987 FERPers who were laid off under the *current* collective bargaining memorandum of understanding (MOU) has gone to arbitration. A decision is still pending.

On the theory that any MOU supersedes any prior agreement, contract, promise, etc., some campus administrators chose to ignore the order of layoff that was part of the retirement contract under which pre-July 1987 faculty applied for and agreed to take early retirement. Some had contracted for FERP status even before there was an MOU.

While CFA staff was originally reluctant to pursue the grievance, CSU-ERFA officers vigorously worked to persuade the CFA officers to carry the case forward to arbitration, and they agreed.

The case was assigned to Jim Semelroth, the CFA field representative who serves San Diego State. San Diego was selected partly because the first FERP layoffs occurred there.

Because CFA-ERFA President Milt Dobkin knew of Semelroth's crushing representation workload at San Diego, and because Dobkin was aware that retroactive changes in layoff order were never contemplated by the post-1987 MOU bargaining teams, Dobkin, to provide evidentiary materials, spent many days reading the entire record of the bargaining sessions and the related documents on agreements.

Additionally, John Van Aken, a retired labor law attorney, a brother of a FERPer/CSU-ERFA member located at CSU Hayward, generally offered pro bono assistance. His legal research helped develop an excellent record of case law to support the CFA CSU-ERFA position Semelroth eventually effectively presented.

The hearing occurred on October 19. The CSU attorney presented no witnesses and relied solely on the language of the July 1, 1987, MOU.

The CFA presented the bargaining history, along with substantial documentation—much of it provided by CSU-ERFA members who were laid off from their pre-1987 FERP positions. C. Dale Johnson (San Diego) and Dobkin were witnesses; the CSU attorney attempted to shake their testimony in cross examination, but without apparent success.

The central argument presented at the hearing was that the conditions under which pre-1987 FERPers applied for and were granted retirement, including the prescribed layoff order, were contractual and that no MOU bargaining parties could retroactively alter those vested rights without the retiree's agreement.

(continued p. 2, col. 2, arbitration)

REPORT ON PERS BOARD MEETING

At the PERS Board meeting in Sacramento December 18, the Board was informed that the Secretary of State on December 14 had certified the passage of Proposition 162. Consequently, the Board passed a resolution stating that the Board will immediately (1) take exclusive control over the administration of the system, (2) provide delegated authority and direction to the CEO about the system's budget, (3) notify all impacted governmental entities of the Board's exclusive responsibilities, and (4) provide that all budgets and reports pursuant to this resolution shall be considered in open sessions.

The key provisions of Proposition 162 [The California Pension Protection Act of 1962, Article XVI, Section 17, of the California Constitution] are these: (1) Grants the PERS Board sole and exclusive authority over investment decisions and administration of the system. (2) Requires the Board to assure prompt delivery of benefits to participants and beneficiaries. (3) Provides that the Board's duty to participants and beneficiaries take precedence over any other duty. (4) Grants the Board sole and exclusive power to provide for actuarial services. And (5) prohibits changes in the Board composition without approval of voters.

The PERS legal office analysis also states that the Proposition and general trust principles prohibit delegation of administrative decisions to agencies over which the trustees have no control or to agencies that have no duty or loyalty to the members/beneficiaries.

Because Proposition 162 provides the Board with exclusive power to appoint the actuary, thereby terminating the governor's appointed actuary, the Board instructed the President to appoint a subcommittee to review bids and make a decision on an interim appointment.

Because Proposition 162 requires prompt delivery of services to beneficiaries, PERS will require additional staff to cut the substantial backlog on member requests for retirement, disability retirement, etc. The majority of the Board, therefore, approved an interim step to allow present staff members to receive cash instead of scheduled personal leaves. The Department of Personnel Affairs objected to this step because in the budget crunch other departments took leaves in place of salary. Board member Valdez replied that other departments do not have a fiduciary duty to their members as does PERS.

Also, at this meeting the Board (1) voted to oppose the formation of any new health trusts outside the Public Employees' Medical and Hospital Care Act, and (2) adopted a short-term plan to deal with definition of "final compensation" and to resolve disputed pension cases, pending a more extensive long-run policy and action to curb possible pension abuse.—Krebs

(continued from p. 1, health)

by pointing out these pitfalls and future dangers to their friends among the active employees they know and by communicating their concerns more broadly in the labor and political communities, as well as to the PERS Board.

CSU ACADEMIC SENATE REPORT

The CSU Academic Senate met November 11 and 12. At the meeting Chair Sandra Wilcox gave the following information: By the year 2001 and beyond, even if economic recovery occurs, the gap between enrollment and student demand will be 140,000 FTEs. The state budget failed to provide for student aid to offset the fee increase; however, the CSU did provide over six million dollars in additional aid.

Since 1992/93 CSU enrollment has been reduced by 30,000 FTEs. 1,148 faculty retired in October, taking advantage of the golden handshake at a cost of \$57,000 each; the campuses will have to come up with the money during the next four years.

Chancellor Barry Munitz reported that students who took the forgivable loan program to obtain doctorates can not now get jobs in the CSU in order to have the loans forgiven. No general funds will be used to pay for the golden handshake this year. He was asked if there was any truth in the UC claim that CSU stole \$30 million from UC. He said: "If I could have done it, I would have stolen more than \$30 million. The \$30 million reduction by the Legislature was because of the UC compensation problem."

The Senate commended Chancellor Munitz for "his efforts during 1991-92 to preserve our qualified, diverse faculty by avoiding layoffs of tenured and tenure-track faculty."

"In place of a censure of President Tom Day at San Diego State University," "the Senate. . . Resolved: That the CSU Academic Senate". . . urge campus faculty to work vigorously to protect the curriculum. . . ." [and] That the CSU Academic Senate "deplore the process by which layoffs were initiated at San Diego State University, regret the harmful impact . . . throughout the CSU and exhort colleagues and . . . administration to work diligently to avoid any repetition."

—Based on information provided by Don Moore (CSULA)
((continued from p. 1, arbitration))

In mid-December the CSU attorney sought and obtained from a CFA official an agreement to file rebuttal briefs in January. This unwarranted action became the subject of much vigorous persuasive activity by Dobkin, CSU-ERFA Executive Director Jack Byrom, and CFA's Membership Chair G. Nanjundappa. When CFA President Patrick Nicholson learned of what had occurred, he overruled the CFA acquiescence and informed the arbitrator and the CSU attorney that CFA would not agree to changing the procedure from that established at the hearing. (Initially, the CSU attorney had not wanted to file briefs of any type.)

The CSU attorney still wants a rebuttal opportunity and may persuade the arbitrator to permit it. Meanwhile, pre-1987 FERPers should know they were well represented at the hearing.

The arbitrator's decision should be issued before the first of February.

CSU-ERFA has recently learned of the deaths of the following professors emeriti: Francesca Alexander (LA), John Greenlee (LA), Doris Salk (Fresno), Phyllis Watts (Fresno), Jerome Richfield (Northridge), and John Stafford (Northridge)

COMMITTEE ON RETIREMENT CONCERNS

With attacks on our pensions temporarily "on hold," the CSU-ERFA Committee on Retirement Concerns is focusing on the pre- and post-retirement programs offered on the CSU campuses. Hopefully, such an examination will reveal the most effective methods and techniques for insuring that upon retirement the faculty will enjoy the "quality of life" that their career is suppose to provide.

Chair William Schlosser is asking that members detail their particular retirement experiences and/or concerns. He asks that they respond to any or all of the following questions:

1. Who is the administrative person on your campus responsible for processing faculty retirements?
2. What pre- and post-retirement meetings, seminars, or conferences were offered on your campus concerning retirement procedures, financial planning, health care, use of leisure time, or other related retirement subjects? Who sponsored these events—administration or campus retirement association? Were these offered regularly or occasionally?
3. What benefits and privileges has your campus granted you on retirement?
4. How has your campus provided for your continued professional growth and has there been any attempt to allow you to be an active participant in campus life?

Please send your responses to: Dr. William Schlosser, Department of Theatre, California State University Northridge, Northridge, CA 91330.

Ironically, with the cuts in enrollment resulting from the budget crisis, many campuses have found free space. If campus retirement associations can obtain some of this free space, they can use it for an office or retirement center, thereby enabling them to contribute to the welfare of the University.—Schlosser

CSU-ERFA officers: President, Milton Dobkin; Vice President, James E. Ryan; Secretary, C. Dale Johnson; Treasurer Edwin Bartenstein; Past President and Executive Director, Jack Byrom. Legislative Committee Chair, Wilma Krebs. Retirement Committee Chair: W. Schlosser

WHAT IS THE GOVERNOR UP TO?

January 9 the *Sacramento Bee* reported that Governor Wilson proposed moving the administration of state employee health benefits from PERS to the Department of Personnel Administration. Says Wilma Krebs, CSU-ERFA Legislative representative, this is "claimed to be an attempt to save money through eliminating and consolidating agencies. However, it is bad policy and will not save money unless the Governor has in mind offering a vastly inferior, substandard health plan to employees and retirees and/or greatly increasing charges to those using the services."

She observes that this is very poor policy to fragment the administration of health care services because such fragmentation will reduce the state's bargaining power with health care providers. PERS, under PEMMCA (the basic public employee health care law), administers health benefits not just for state employees, but for school, city, and county workers. Thus, pulling state employees out would raise administrative costs and lower bargaining power. Krebs adds that PERS has worked very hard and with considerable success the last few years to lower costs and expects to continue pressuring health care providers.

She believes that the Governor's logic is at fault: just because the Department of Personnel Administration administers the dental care and vision care insurance programs does not indicate that it can effectively administer a far more complex basic health care system. Krebs fears that if the Governor succeeds both active government employees and PERS retirees will face large potential losses in quality of care and higher costs. She will urge CSU-ERFA to oppose this plan.

The *CSU -ERFA Reporter* is a publication of the California State University Emeritus and Retired Faculty Association. President: Milton Dobkin. Executive Director: Jack Byrom. Office Manager: Byrd Ehlman Office: 9010 Reseda Blvd. #224, (818)886-1196. Editor: Fred McMahan, 716 S. Catalina #1, Redondo Beach, CA 90277, (310)540-1111. All rights reserved.

<p>THE ERFA REPORTER A PUBLICATION OF THE CSU EMERITUS AND RETIRED FACULTY ASSOCIATION 9010 Reseda Blvd., Suite 224 Northridge, CA 91324</p>	<p>JANUARY 1993</p>	<table border="1" style="margin: auto;"> <tr> <td style="padding: 5px;"> NON-PROFIT ORG. U S POSTAGE PAID NORTHRIDGE, CA PERMIT NO. 180 </td> </tr> </table>	NON-PROFIT ORG. U S POSTAGE PAID NORTHRIDGE, CA PERMIT NO. 180
NON-PROFIT ORG. U S POSTAGE PAID NORTHRIDGE, CA PERMIT NO. 180			
<p>ADDRESS CORRECTION REQUESTED</p> <p>HAVE YOU MOVED? If so, please complete and return to ERFA:</p> <p>Name _____</p> <p>Address _____</p>			