Case No. S286264 No Fee (Gov. Code, § 6103)

IN THE SUPREME COURT OF CALIFORNIA

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION,

Plaintiff and Appellant,

v.

COUNTY OF LOS ANGELES and BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES,

Defendants and Respondents.

After a Decision by the Court of Appeal,
Second Appellate District, Division Seven
Case No. B326977

REPLY BRIEF ON THE MERITS

*RYAN P. McGINLEY-STEMPEL (SBN 296182)
rmcginleystempel@publiclawgroup.com
LINDA M. ROSS (SBN 133874)
lross@publiclawgroup.com
STEVE CIKES (SBN 235413)
scikes@publiclawgroup.com
RENNE PUBLIC LAW GROUP
350 Sansome Street, Suite 300
San Francisco, California 94104
Telephone:(415) 848-7200
Facsimile: (415) 848-7230

Attorneys for Defendants and Respondents
COUNTY OF LOS ANGELES
BOARD OF SUPERVISORS OF THE
COUNTY OF LOS ANGELES

TABLE OF CONTENTS

Page

TABLE OF CONTENTS: (continued) **Page**

TABLE OF AUTHORITIES

Page(s)

Cases

TABLE OF AUTHORITIES: (continued) **Page(s)**

TABLE OF AUTHORITIES: (continued) **Page(s)**

TABLE OF AUTHORITIES: (continued) **Page(s)**

TABLE OF AUTHORITIES: (continued) **Page(s)**

Statutes

TABLE OF AUTHORITIES: (continued) **Page(s)**

Other Authorities

INTRODUCTION

LACERA argues that by enacting Proposition 162, voters granted public retirement boards unfettered discretion to establish classifications and set salaries for the personnel they appoint.[1] LACERA claims this discretion extends to retirement system personnel who are statutorily-designated as state or county employees—displacing the Legislature's and county boards of supervisors' "plenary authority" over such matters.

Of course, the voters were never told this would happen or even that these were issues that needed to be addressed. (See 1AA143.) It is not surprising, therefore, that in the 32 years since voters passed Proposition 162, courts—including *Westly v. California Public Employees' Retirement System Bd. of Administration* (2003) 105 Cal.App.4th 1095—have consistently rejected efforts by retirement systems to overstep their authority and usurp other governmental agencies' constitutional and statutory duties. LACERA's invitation to depart from this line of authority and contort the County Employees Retirement Law of 1937 ("CERL") reveals that this case is no different.

As to the Constitution, LACERA believes the general language regarding retirement system authority over the "investment of moneys and administration of the system" (Cal. Const., art. XVI, § 17) prevails over the more specific language vesting county boards of supervisors with salary-setting

---

[1] Unless otherwise noted, "salary-setting" refers to establishing classifications and setting compensation.

authority (*id.*, art. XI, §§ 1(b), 4(f)). This misguided view not only conflicts with the long line of cases restraining retirement systems' efforts to overstep their authority, but it also departs from the "fundamental principle[] of constitutional adjudication" that limitations on the Legislature's plenary authority should be "construed strictly." (See *Pacific Legal Foundation v. Brown* (1981) 29 Cal.3d 168, 180, emphasis omitted.)

LACERA's CERL arguments fare no better. Relying on its overly-expansive reading of Proposition 162, LACERA interprets CERL to impose a ministerial duty on county boards of supervisors to "rubberstamp" the classifications and salary ranges adopted by retirement boards for the personnel they appoint (rather than one where the entities collaborate). This is directly at odds with CERL's text, structure, and history, which show that the Legislature intended that retirement system personnel be "county employees" subject to a board of supervisors' salary-setting authority. (Gov. Code, § 31522.1.)[2] Additionally, LACERA's proffered reading eschews harmonization in favor of a "meat ax approach" (*Brown*, *supra*, 29 Cal.3d at p. 199), creating an unnecessary conflict with constitutional civil service and "home rule" principles.

Lastly, contrary to LACERA's assertions, this case does not pit political against fiduciary interests. Rather, this case is about whether the County's civil service classification and

[2] Unless otherwise noted, statutory references are to the Government Code.

compensation professionals have a meaningful role to play in ensuring that county employees performing work for retirement systems are properly classified and compensated in accordance with civil service principles. If left to stand, the Court of Appeal's decision carries significant implications for state and local retirement plan sponsors and threatens to upend carefully calibrated civil service and merit selection systems. This Court should reverse.

LEGAL ARGUMENT

I. The County's Prior Interpretation of Proposition 162 and CERL Is Irrelevant.

LACERA repeatedly asserts that "[f]or decades," the County "agreed" that Proposition 162 and CERL gave LACERA's Boards "exclusive authority" to "establish employee classifications" and "set salaries." (ABOM 12, 19, 38-39, 48-50, 65.) Not only is this assertion belied by the trial court's findings (which LACERA never challenged in the Court of Appeal), it is entirely irrelevant to the issues before this Court.

The County created LACERA in 1947, after adopting CERL by County ordinance in 1937. (OBOM 25.) As the trial court found, in creating LACERA, the County "did not delegate classification and compensation authority" to LACERA's Boards. (9AA1642-1643.) Indeed, at all relevant times, LACERA has been defined in the County's civil service rules and situated in the County Code as a County "department." (See 4RA463-477, 489; 9RAA880.) And as LACERA has acknowledged, its

personnel are statutorily-designated as "[C]ounty employees," subject to County ordinances, including the County's civil service rules and employee relations ordinance. (6AA1107-1119, 1192-1195, 1273, 1287-1288; 7AA1313-1316.)

While it is true that, for a period before *Westly*, the County relied on a 1996 legal opinion from LACERA's outside counsel (Morrison and Foerster) in opting to remove LACERA bargaining units from County bargaining units (see 9AA1635), the County's reliance on that opinion was short lived and, as the trial court found, "the evidence shows a clear trail for the County's position." (9AA11635-1636.) After the Third District issued *Westly* in 2003, the County changed its understanding of Proposition 162, as was its prerogative to do. (See *1041 20th Steet, LLC v. Santa Monica Rent Control Bd*. (2019) 38 Cal.App.5th 27, 44 [an "'agency is not disqualified from changing its mind'" and "'may change its interpretation of a statute, rejecting an old construction and adopting a new'"].) In particular, following *Westly*, "the County refused to acquiesce to LACERA's authority to determine classification and compensation" and "reviewed [LACERA's] requests using the same policies and procedures it does for [other] County departments."[3] (9AA1635.)

[3] To be clear, in the years following *Westly*, the County and LACERA were able to amicably resolve any differences regarding classification and compensation for LACERA-appointed personnel. (9AA1624-1625, 1635-1636.) But that changed in 2017 under the leadership of a new LACERA CEO, when the County's discussions with LACERA staff became contentious. (*Ibid*.)

As the trial court's findings show, the County did not "agree[]" "for decades" that LACERA's Boards had "exclusive" salary-setting authority for retirement personnel. Significantly, in the Court of Appeal, LACERA never challenged these findings or otherwise suggest they were unsupported by "substantial evidence." (*Capo for Better Representation v. Kelley* (2008) 158 Cal.App.4th 1455, 1462.) Having failed to do so, LACERA cannot relitigate these findings now. (Cf. *Fisher v. City of Berkeley* (1984) 37 Cal.3d 644, 712, fn. 3 ["parties may advance new theories on appeal *when the issue posed is purely a question of law based on undisputed facts*, and involves important questions of public policy"], emphasis added.)

LACERA argues that the County's pre-*Westly* understanding of Proposition 162 and CERL, as well as other materials—including a 2002 memorandum from the Contra Costa County Counsel's office—demonstrate a "contemporaneous interpretation … long acquiesced in by all persons who could possibly have an interest in the matter," which should be afforded "great weight." (ABOM 35, 48-49, citing *People v. Southern Pacific Co.* (1930) 209 Cal. 578, 594; *Amalgamated Transit Union, Local 276 v. San Joaquin Regional Transit Dist.* (2019) 36 Cal.App.5th 1, 10.) For various reasons, LACERA is mistaken.

First, unlike in *Southern Pacific*, where the construction was given "by the department of our state government entrusted with the duty of levying and assessing taxes for state purposes" (the state board of equalization), the authors of LACERA's "contemporaneous" materials were not charged with enforcing

Proposition 162 or CERL. (See *Southern Pacific, Co.*, *supra*, 209 Cal. at p. 594.)

Second, as discussed in the County's opposition to LACERA's request for judicial notice, LACERA does not explain how the County's pre-*Westly* understanding or its other materials are relevant to the issues before this Court—namely, the voters' intent in enacting Proposition 162 (see *People v. Castro* (1985) 38 Cal.3d 301, 312) and the Legislature's intent in enacting and amending CERL (see *City of Brentwood v. Department of Finance* (2020) 54 Cal.App.5th 418, 428-429). Nor does LACERA explain how any of these items qualify as "contemporaneous" or reflect the understanding of all other counties, let alone that this understanding was "long" held. (See *Floresta, Inc. v. City Council of City of San Leandro* (1961) 190 Cal.App.2d 599, 611 ["A single opinion of a city attorney written to the city council does not demonstrate such 'direct affirmative action and long acquiescence"].)

Indeed, LACERA ignores the disagreement between the State Controller and Department of Personnel Administration ("DPA") and the CalPERS Board of Administration just 10 years after Proposition 162's enactment (see *Westly*, *supra*, 195 Cal.App.4th at pp. 1103-1104), which illustrates that Los Angeles and Contra Costa Counties' pre-*Westly* interpretations of Proposition 162 were not "long acquiesced in by all persons who could possibly have an interest in the matter." (See *Southern Pacific Co.*, *supra*, 209 Cal. at p. 594; cf. *Amalgamated Transit Union, Local 276*, *supra*, 36 Cal.App.5th at p. 4 [considering "the

long-standing practice of the parties—the *only parties affected by the two statutes*"], emphasis added; *Jacobs, Malcolm & Burtt v. Voss* (1995) 33 Cal.App.4th 1399, 1405, fn. 3 [deferring to administrative construction on these grounds where "there have been no legal challenges to the Director's authority to take this action until this case was filed"].)

The *Westly* court's resolution of that disagreement and construction of Proposition 162—which stood unrebutted for more than 20 years—was acquiesced in far longer than the County's interpretation. Likewise, the County's pre-*Westly* "understanding" of CERL is not relevant, let alone entitled to "great weight"—particularly given that it rested on a faulty view of Proposition 162.

II. Proposition 162 Did Not Silently Shift Salary-Setting Authority from the Legislature to Retirement Boards.

LACERA does not dispute that Proposition 162 "must be interpreted in light of 'the structure of the statutory scheme.'" (ABOM 29.) Yet it ignores the "fundamental principle[] of constitutional adjudication" that "restrictions and limitations imposed by the Constitution" on "the Legislature's plenary authority" "are to be construed strictly, and are not to be extended to include matters not covered by the language used." (*Brown*, *supra*, 29 Cal.3d at p. 180, emphasis and alterations omitted.) LACERA also fails to meaningfully address longstanding constitutional and statutory provisions vesting "the actual authority to set salaries" with "legislative bod[ies]" (*id.* at

p. 188) and downplays authorities revealing that "administration of the system" carries a narrower meaning. (OBOM 42-43, 50-59.) Against this backdrop, Proposition 162's text, structure, and history reveal that it did not silently shift so fundamental a power as salary-setting from the Legislature (and its local legislative counterparts) to retirement boards.

A. LACERA's expansive reading of Proposition 162 cannot be squared with its text and structure.

LACERA does not contend that retirement boards' plenary authority over the "investment of moneys" includes salary-setting. (Compare OBOM 36-37, with ABOM 28-34.) Instead, LACERA insists that a retirement board without salary-setting authority "lacks 'plenary authority' over the 'administration' of the retirement 'system.'" (ABOM 30.) This rests on an overbroad construction of "plenary," "administration," and "system." (OBOM 35-55.)

LACERA accuses the County of "disparag[ing]" the Court of Appeal's "rigorous textual analysis." (ABOM 51.) But this is puzzling on at least two fronts. First, it is hardly "disparag[ing]" to point to this Court's own words of caution with respect to an overly reflexive emphasis on dictionary definitions at the expense of examining and effectuating the voters' intent. (See *Horwich v. Superior Court* (1999) 21 Cal.4th 272, 277; *Hodges v. Superior Court* (1999) 21 Cal.4th 109, 114; OBOM 38.) Indeed, courts may "properly refus[e] to make 'a fortress out of the dictionary.'" (*MacKinnon v. Truck Ins. Exchange* (2003) 31 Cal.4th 635, 649.) Second, the County *does* point to definitions from Black's Law

Dictionary bearing on the meaning of "administration." (OBOM 38.)

Strangely enough, LACERA views one of these definitions as a "concession[]." (ABOM 51.) But the definition—which unlike LACERA's deals specifically with the context of "'public law'" (OBOM 38)—does not encompass salary-setting. Rather, it speaks to "'the practical management and direction of'" (1) "'the executive department'"; (2) "'the public machinery or functions'"; or (3) "'the operations of various organs or agencies.'" (*Ibid.*) Governmental officials charged with the "practical management and direction of" their departments do not necessarily have the power to set salaries since "the actual authority to set salaries has traditionally been viewed as a legislative function, with the ultimate authority residing in the legislative body." (See *Brown*, *supra*, 29 Cal.3d at p. 188; OBOM 56.)

In any event, the definition is merely an example of the various ways in which "administration" can be defined, illustrating precisely why other interpretive tools—such as the ballot materials, constitutional avoidance, and harmonizing principles—are critical to resolving this dispute.

Next, LACERA continues to argue that "administration of the system" cannot be defined by the subdivisions that follow it because "subject to" "means 'conditioned upon, limited by, or subordinate to.'" (ABOM 55.) But this argument fails to adequately account for subdivisions (e) and (f). (OBOM 41-42.) In LACERA's view, subdivision (e) "directly repudiates the Legislature's 1992 attempt to give the Governor the power to

appoint the actuary for the state retirement system." (ABOM 56.) Yet LACERA does not explain how this grant of power to retirement systems (and corresponding limit on the power of the Legislature) functions as a "limit" on retirement system authority rather than defining retirement system authority.

As for subdivision (f), LACERA overlooks the fact that it imposes limits on the Legislature regarding retirement board *composition*, not compensation. (See *Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1096 [this provision "limit[s] the extent to which the Legislature may alter their composition"].) If Proposition 162 was meant to shift salary-setting authority from the Legislature to retirement boards, this would have been an obvious place to do it, especially since PERL and CERL already address retirement board compensation. (See §§ 20091 [providing for compensation of any retired person serving on board of administration], 20093 [providing for reimbursement of other board members for actual and necessary expenses incurred through service on the board], 31521.1 [allowing board of supervisors to provide that certain board members "shall receive compensation" of up to $100 per meeting along with actual and necessary expenses], 31521.3(a) [allowing board of supervisors to provide that certain board members "shall receive compensation for the review and analysis of disability retirement cases"].)

For this reason, LACERA's reliance on *Lopez v. Sony Electronics* (2018) 5 Cal.5th 627 (see ABOM 31), is misplaced. That case dealt with a statute of limitations (Code Civ. Proc., § 340.8) that broadly applies to "'any civil action for injury or

illness based upon exposure to a hazardous material or toxic substance'" and only "makes two exceptions to its broad limitations rule." (*Lopez*, at p. 635.) Because the statute "specifically excludes asbestos and medical malpractice claims," this Court concluded that the Legislature did not intend to "create an exception" for prenatal injuries. (*Id.* at p. 636.) Here, by contrast, there is no similar specificity and, as subdivisions (e) and (f) illustrate, the subdivisions that follow Proposition 162's prefatory clause are not even exclusions.

LACERA remarkably contends that the County has failed to suggest an alternative interpretation of Proposition 162's grant of authority. (ABOM 52.) But the County has consistently relied on *Westly*, which is quite clear: "with regard to administration of the system, the Board's authority is limited to actuarial services and to the protection and delivery of the assets, benefits, and services for which the Board has a fiduciary responsibility" (*Westly*, *supra*, 105 Cal.App.4th at p. 1110.) It does not extend to "the remuneration of those who administer it." (*Ibid.*)

LACERA accuses the County of conflating the limits on how retirement boards must administer the system with what administration of the system encompasses and takes issue with the County's reliance on a 2006 Attorney General Opinion because it is "extraneous." (ABOM 52-53.) This fails to account for the fact that "administration" in the context of public pensions is a technical term that is most easily defined by reference to the types of tasks it entails and should not be ascribed such a broad

standardless meaning based on generic dictionary definitions. (OBOM 42-43.)

Indeed, this Court has recognized the distinction between legislative action "'granting … retirement benefits'"—which falls "'within the exclusive jurisdiction of the relevant legislative body'"—and "'administering the benefits set by the legislative body.'" (*Alameda County Deputy Sheriff's Assn. v. Alameda County Employees' Retirement Assn.* (2020) 9 Cal.5th 1032, 1067 ("*ACDSA*").) This "follows from principles governing the authority of administrative bodies generally." (*Ibid.*; see also *id.* at p. 1066 [explaining that "retirement boards' responsibilities generally involve management of the system's financial assets" and "the processing of payment of claims for benefits under the plan"].) Yet LACERA does not even address this case.

Additionally, LACERA contends that a retirement board's fiduciary duties could neither be sole and exclusive nor take precedence over any other duty if politicians beholden to non-fiduciary interests could interfere with the board's administration of the system. (See ABOM 32.) But this rests on a misguided notion of what "administration of the system" encompasses. A retirement board's fiduciary responsibility can only be understood in light of the grant of power to a retirement system. Put another way, a retirement system cannot be held responsible for the purported breach of a fiduciary duty that stems from a power that it lacks.

For example, in *Westly*, the retirement board argued that "limiting the expenditures at issue to the levels prescribed by

statute or regulation would have made it *impossible* for the [CalPERS] Board to comply with its fiduciary duties under Section 17." (*Westly*, *supra*, 105 Cal.App.4th at p. 1114.) Yet as the Third District recognized, the retirement board's argument "confuse[s] the measure of its power with the reasonableness of its exercise of the power":

> While Art. XVI, § 17 imposes fiduciary duties upon the Board to provide benefits to participants and their beneficiaries and to minimize the risk of loss and maximize the rate of return, it is obvious these duties must be performed by the Board and its employees within the applicable law.

(*Ibid.*)

LACERA makes a half-hearted effort to locate salary-setting authority in Proposition 162's language regarding "defraying reasonable expenses of administering the system" (ABOM 33-34.) But LACERA has no answer for the fact that this text was enacted years before Proposition 162 for reasons entirely unrelated to classification and compensation. (OBOM 40.) LACERA falls back on the assertion that "salaries are around three-quarters" of its expenses. (ABOM 33.) But that does not prevent LACERA from creating a budget based on the County salary ordinance. (OBOM 73.) Indeed, the County CEO—which does not have salary-setting authority—must propose budgets annually this way. (L.A. County Code, § 4.12.020.)

Finally, LACERA points to other jurisdictions where retirement boards have salary-setting authority to support its

position. (ABOM 42.) However, these states expressly vest salary-setting authority in the respective entities through statutes. (See, e.g. N.H. Rev. Stat. Ann., § 100-A:14(V) ["The board of trustees shall have the full power to employ and compensate such employees"]; Utah Code Ann., § 49-11-203(1)(m) ["The board shall:…establish the compensation of the executive director and adopt compensation plans and policies based on market surveys for positions in the office"]; N.M. Stat., § 22-11-10(A) ["The amount of salaries and fees to be paid by the board shall be fixed by the regulations of the board."].) Thus, the fact that these retirement systems set compensation for their employees does not bear on whether, as a matter of constitutional interpretation, the phrase "administration of the system" includes salary setting. In fact, these statutory schemes contradict LACERA's position because they vest administration of the system in their respective boards and then separately empower them to set compensation.

B. LACERA's reading of Proposition 162 cannot be squared with the ballot materials.

LACERA argues that the ballot statements show that Proposition 162 "was not solely an anti-raiding provision." (ABOM 58.) The County agrees. For instance, the ballot statements show that Proposition 162 was also focused on actuarial authority and other meddling. (1AA140-145.) But there is nothing in the objective analysis or the supporters' statements to suggest it was meant to repeal the Legislature's "'plenary authority'" to set salaries. (See *Brown*, *supra*, 29 Cal.3d

at pp. 180, 189; see also *People v. Valencia* (2017) 3 Cal.5th 347, 384 (conc. opn. of Kruger, J.) ["Our cases recognize that, as a practical matter, voters often rely upon the experts employed by the Attorney General and the Legislative Analyst to summarize proposed initiatives and to discuss their significant effects"].)

The two cases LACERA cites in support of this argument—*Mijares v. Orange County Employees' Retirement System* (2019) 32 Cal.App.5th 316 and *City of San Diego v. San Diego City Employees' Retirement System* (2010) 186 Cal.App.4th 69 ("*SDCERS*")—are not to the contrary and in fact support the County's construction of Proposition 162. *Mijares* rejected the argument that Proposition 162 was "limited to issues related to the goal of protecting funds from other branches of the government" in the context of a challenge to a retirement system's actuarial decisionmaking. (See *Mijares*, at p. 331.) It is best understood as an application of subdivision (e), which gives retirement boards "the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system." (1AA144.) And *SDCERS* recognized that "[t]he granting of retirement benefit is a legislative action" that "rest[s] exclusively with the City." (*SDCERS*, at pp. 79-80; cf. *ACDSA*, *supra*, 9 Cal.5th at pp. 1056-1057 [recognizing that "a county employee's final compensation is a critical factor in determining the amount of his or her pension benefit"].)

LACERA does not dispute that the lone reference to classification or compensation in Proposition 162's ballot

materials appears in the opponents' argument against the measure. (ABOM 58-59.) Instead, LACERA argues that the proponents' failure to contradict these arguments is "'significant.'" (ABOM 36, 58, quoting *Legislature v. Eu* (1991) 54 Cal.3d 492, 505.) In *Eu*, however, the "argument against Proposition 140 used the phrases 'lifetime ban,' 'banned for life,' or similar terminology *11 times*" and was "reinforce[d]" by the proponents' arguments about "eliminating 'career politicians.'" (*Eu*, at p. 505.) Here, by contrast, the proponents' arguments did not "reinforce" the opponents' solitary reference to salaries and made clear that the opponents were "trying to mislead the voters" about who had the authority to set benefit levels (which turns on final compensation). (OBOM 49-50.) And as this Court has reaffirmed, "'the views of a bill's opponents … shed little light on the *Legislature*'s intent.'" (*Stone v. Alameda Health System* (2024) 16 Cal.5th 1040, 1083, fn. 25.)

Without meaningful support in the ballot materials, LACERA relies heavily on documents—most of which it never presented to the trial court—that it contends confirm the "original public meaning" of Proposition 162. (ABOM 35, 37.) But "these matters were not directly presented to the voters and therefore not relevant to [this Court's] inquiry" (*Horwich*, *supra*, 21 Cal.4th at p. 277, fn. 4; *Valencia*, *supra*, 3 Cal.5th at p. 364 & fn. 5; see generally County's RJN Opp.)

C. LACERA's reading of Proposition 162 ignores the historical constitutional and statutory context regarding salary-setting and defies this Court's harmonization cases.

LACERA's reading of Proposition 162 also creates unnecessary conflicts with longstanding constitutional and statutory law regarding salary-setting. Rather than meaningfully grapple with this Court's repeated directives to "'harmonize constitutional language'" (OBOM 55, 57), LACERA focuses on Proposition 162's "notwithstanding" clause. (ABOM 31, citing *Arias v. Superior Court* (2009) 46 Cal.4th 969, 983.) But this argument—which embraces rather than "eschew[s] the 'meat ax' approach" (*Brown*, *supra*, 29 Cal.3d at p. 199)—puts more weight on that clause than it can bear.

Even *Arias* notes that "only those provisions of law that conflict with the act's provisions—not, as defendants contend, every provision of law—are inapplicable." (*Arias*, *supra*, 46 Cal.4th at p. 983.) And when read in the entire context of Proposition 162's text, structure, and history, the "notwithstanding" clause does not "'give[] *undebatable evidence* of an intent to supersede the earlier'" constitutional provisions governing salary-setting and civil service or statutory framework regarding classification and compensation. (See OBOM 55-59; *Valencia*, *supra*, 3 Cal.5th at p. 386 (concurring opn. of Kruger, J.) ["In interpreting a voter initiative, we are bound to respect both the choices the voters have made and the limits of those choices" because "'constru[ing] an initiative statute to have

substantial unintended consequences strengthens neither the initiative power nor the democratic process'"], quoting *Ross v. RagingWire Telecommunications, Inc.* (2008) 42 Cal.4th 920, 930.)

LACERA resists the plain import of the PERL statutes and "the actual legislative practice that has been followed in this state since the inception of the civil service system" (*Brown*, *supra*, 29 Cal.3d at p. 189), by drawing a distinction between the retirement "'fund'" and the "'system' writ large." (ABOM 54.) While LACERA concedes that the CalPERS Board has long had "*exclusive* control of the administration and investment" of the former, it contends that the CalPERS Board has only had "*non*-exclusive 'management and control'" of the latter. (ABOM 55, fn. 1.)

In this context, however, this is a distinction without a difference. Since 1959, the PERL has provided that the "[c]osts of administration of the system shall be paid from interest income from the Retirement *Fund*" (Stats. 1959, ch. 2066, p. 4785, emphasis added [former § 20202.5]; see also § 20173), which LACERA concedes was something over which the CalPERS Board had exclusive control. (ABOM 54-55 & fn. 1.) If "administration of the system" included "'[s]alaries of the officers and employees appointed' to carry out the work of the retirement system" (ABOM 33), then the statutory provisions vesting other state agencies (like the State Personnel Board or the DPA, see OBOM 54-55) with such authority would have intruded on the CalPERS Board's "'exclusive control of the administration and

investment of the Retirement Fund.'" (OBOM 54.) If Proposition 162 were meant to upend this scheme, it would have used more specific language than "administration of the system" and alerted the voters in its objective analysis and supporting ballot arguments. (See *Valencia*, *supra*, 3 Cal.5th at p. 372.)

D. LACERA's liberal interpretation and consequential arguments are overstated and downplay the negative impact its construction would have on the legal ecosystem involving retirement systems.

LACERA argues that Proposition 162 must be liberally interpreted to give retirement boards salary-setting authority. (ABOM 34.) But this presumes its view of "administration" is correct and fails to recognize that "the initiative power is strongest when courts give effect to the voters' formally expressed intent, without speculating about how they might have felt concerning subjects on which they were not asked to vote." (*Ross*, *supra*, 42 Cal.4th at p. 930.) It also ignores that "the rule of liberal construction 'should not be blindly followed so as to eradicate the clear language and purpose of the statute.'" (OBOM 62, fn. 4.)

Next, LACERA argues that the County's "stinginess on salaries" has impacted its ability to recruit, "improv[e] its organizational structure," and "implement 'various strategic projects.'" (ABOM 43.) LACERA's actions and prior admissions indicate otherwise. Rather than seek legal relief in 2018 (when its dispute with the County first arose), LACERA waited three years to bring this litigation. And during that time frame,

LACERA performed better than 93% of pension funds with over $1 billion in assets. (1AA74.) LACERA's CEO has even asserted that its Investments Office "functions at a high level" and is "well-managed," and its Chief Investment Officer (whose own position was created in collaboration with the County) has been able to fill numerous positions within the investment division (including a Deputy Chief Investment Officer) since his arrival at LACERA. (12RA1131; 5AA1002-1003, 1010.)

LACERA again distorts a colloquy from oral argument before the Court of Appeal involving the failed recruitment of a hypothetical $700,000 financial advisor from Goldman Sachs. (ABOM 44.) The County's attorney explained that while such a hypothetical would likely not expose LACERA to a suit for breach of fiduciary duty, it was unrealistic since "the County looks at external salary data" from other retirement systems, the County ultimately approved the Deputy Chief Investment Officer position in this case, and the County may not act arbitrarily or capriciously with respect to specific positions. (See Oral Argument, 30:46-35:28; *People ex rel. Harris v. Rizzo* (2013) 214 Cal.App.4th 921, 941.)[4] And, as this Court has previously explained, "if any improper salary measure should be … approved by the Legislature in the future, petitioners or other

[4] Indeed, the maximum annualized salary for LACERA's Chief Investment Officer is $672,914.16. (See L.A. County Code, § 6.26.040, Table LQ; *id.*, § 6.28.050, Item No. 0493 [monthly maximums].)

interested parties will be free to challenge such measures at that time." (*Brown*, *supra*, 29 Cal.3d at p. 193.)

LACERA also argues that its interpretation is necessary to ensure that retirement systems put the interests of members and beneficiaries above participating employers. (ABOM 41, 43.) But courts have had no trouble holding retirement boards to these standards—both before and after Proposition 162, including in the 21 years since *Westly*—consistently concluding that retirement boards' obligations to their beneficiaries take precedence over the interests of participating employers. (See, e.g., *City of Sacramento v. Public Employees Retirement System* (1991) 229 Cal.App.3d 1470, 1494 ["Any duty PERS has to minimize employer contributions may not take precedence over its duty to the beneficiaries of the system"]; *O'Neal v. Stanislaus County Employees' Retirement Assn.* (2017) 8 Cal.App.5th 1184, 1218-1219 [finding a "material issue of fact concerning whether StanCERA breached its duty of loyalty to members by placing employer interests above member interests"].)

Ultimately, LACERA's overbroad reading of Proposition 162—which would encroach on the "constitutionally enshrined merit principle" (*Brown*, *supra*, 29 Cal.3d at p. 174)—proves far too much. (OBOM 55-59.) LACERA downplays the impact its reading of Proposition 162 would have on civil service and other laws, saying that "[h]ow Prop. 162 intersects with these kinds of legislative requirements is not presented here" and that such conflicts could only arise "in an extreme case." (ABOM 61 & fn. 2.) But that nothing-to-see-here disclaimer cannot be squared

with LACERA's disparaging of the concept of maintaining "alignment"—which is meant to further the civil service principle of equal pay for equal work—as "political." (ABOM 21, 23, 43; see also *Brown*, *supra*, 29 Cal.3d at p. 193 ["As with other basic aspects of the 'merit principle' of civil service employment, however, the parties are not free to adopt salary measures that interfere with any fundamental 'merit principle' element that the classification system serves"].)

Indeed, civil service principles are the antithesis of "political" since they are meant "to limit corruption and to promote efficiency." (*Westly*, *supra*, 105 Cal.App.4th at p. 1118.) As *Westly* recognized, "[i]mplicit" in its construction of "administration of the system" was "the determination that Article XVI, section 17 does not overrule the state's civil service laws, including article VII, section 1." (*Id.* at p. 1113, fn. 14; see also *id.* at p. 1113 ["If we accept the Board's position that the civil service law does not apply to it, there is no logical reason why the Board would not have plenary authority over the classification and salary of all of its employees who are not otherwise exempt. It does not"].)

III. LACERA's Reading of CERL Is Incorrect.

LACERA does not dispute that the Court of Appeal based its construction of CERL on its overly expansive reading of Proposition 162. It nevertheless contends that CERL "independently" gives its Boards the exclusive salary-setting

authority for retirement system personnel. (ABOM 45.) LACERA's arguments do not withstand scrutiny.

A. LACERA misreads Section 31522.1's text and history.

While acknowledging that Section 31522.1 designates retirement system personnel as "county employees," LACERA contends the statute does so "for rather limited purposes, like affording them civil service protection and retirement benefits." (ABOM 64-65.) This reading cannot be squared with Section 31522.1's text and history.

1. Text.

As explained in the County's opening brief, Section 31522.1 makes clear that retirement system personnel appointed by retirement boards (1) "shall be county employees," (2) "shall be subject to the county civil service" rules, and (3) "shall be included in the salary ordinance or resolution adopted by the board of supervisors for the compensation of county officers and employees." (§ 31522.1.)

LACERA nevertheless contends that Section 31522.1's appointment language—"as are required to accomplish the necessary work of the boards"—"empowers" its boards "to determine what 'work' is 'necessary' to fulfill their fiduciary duties, decide what 'personnel' are 'required to accomplish' that work, and then 'appoint' personnel to perform it.'" (ABOM 45-46.) But this language only provides retirement boards the power to "appoint" personnel (see 5AA1043); it says nothing about the authority to "determine" salary-setting for statutorily-

designated "[C]ounty employees," which falls within the Board of Supervisors' constitutional, statutory, and charter authority.[5]

Indeed, this Court need look no further than *Westly*'s analysis of similar appointment statutes in PERL to recognize why LACERA's construction of Section 31522.1 is incorrect. In *Westly*, CalPERS argued that it was not subject to the DPA's authority because a PERL provision stating "that '[t]he board shall appoint and *fix* the compensation of … other necessary employees' gives the Board the ability to fix the compensation of the portfolio managers." (*Westly*, *supra*, 105 Cal.App.4th at p. 1117 [quoting and emphasizing former § 20098].) The *Westly* court rejected this argument, concluding that this language gave way to another statute vesting the DPA with authority to fix compensation. (See *ibid.* [discussing § 19825].) This is directly at odds with LACERA's proffered reading here—that CERL (which only mentions fixing compensation with reference to boards of supervisors in defining a "county employee" (§ 31469(a)) upended

[5] LACERA cites *Corcoran v. Contra Costa County Employees Retirement Board* (1997) 60 Cal.App.4th 89 for the proposition that a retirement board "must be 'the governing body for those officers and employees it appoints.'" (ABOM 42.) But as explained in the County's opening brief, *Corcoran* dealt with a different issue involving a different statute and recognized that retirement personnel are "'members of the county civil service and paid according to county salary schedules.'" (OBOM 65.)

the Board of Supervisors' longstanding constitutional and statutory salary-setting authority.[6]

Next, LACERA argues that Section 31522.1's phrase—"shall be included in the salary ordinance or resolution adopted by the [B]oard of [S]upervisors for the compensation of [C]ounty officers and employees"—"assigns counties only a ministerial role in system management" and "leaves no room for the County to veto LACERA's personnel actions." (ABOM 47-48.) Not so. This phrase simply recognizes that, given their statutorily-designated status as "[C]ounty employees," the salaries of LACERA personnel must be included in the County's salary ordinance adopted by the Board of Supervisors—reinforcing the conclusion that the Board of Supervisors plays more than just a "ministerial" role in salary-setting. (OBOM 63-64, citing *Bagley v. City of Manhattan Beach* (1976) 18 Cal.3d 22, 24 ["the 'ultimate act of applying the standards and of fixing compensation is legislative in character, invoking the discretion of'" a legislative body].) And, as this Court has recognized, enacting a salary ordinance is a legislative act that necessarily entails the exercise of a legislative body's discretion, which

[6] LACERA also claims that its reading of CERL is supported by the fact that retirement system personnel "do not satisfy CERL's definition of 'employee' in Section 31469." (ABOM 65.) LACERA is mistaken. The best way to harmonize Section 31469's definition of "employee" with Section 31522.1 and other CERL provisions is to conclude that these latter laws allowed retirement system personnel to be "county employees" "'whose compensation is fixed by the board of supervisors' even though they are paid from retirement system funds." (OBOM 66-67.)

cannot be compelled by mandamus. (See *Glendale City Employees' Assn. v. City of Glendale* (1975) 15 Cal.3d 328, 344.)

LACERA does not meaningfully address this authority, nor does it dispute that its personnel are subject to the County's civil service rules, which unquestionably fall within the Board of Supervisors' authority. (See OBOM 23-24, 64-65.) Additionally, LACERA has no real response for the fact that it would make little sense to confer boards of supervisors with the power to control certain aspects of retirement system personnel's employment as "county employees" via its ordinances and civil service rules, while leaving the most important components of civil service status (i.e., classification and compensation) off limits. (OBOM 65.)

LACERA contends, however, that "'[h]ad the Legislature intended to' give the County power over LACERA's personnel decisions, 'it could easily have expressly so provided.'" (ABOM 46, quoting *Peralta Community College Dist. v. Fair Employment & Housing Comm.* (1990) 52 Cal.3d 40, 51.) But this misses the point—there was no need for the Legislature to confer salary-setting authority on the County's Board of Supervisors when it already possessed that authority under the California Constitution, County Charter, and Government Code. In other words, by designating LACERA personnel as "[C]ounty employees," the Legislature necessarily provided that their "compensation is fixed by the board of supervisors." (§ 31469(a); see *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483, 504 ["[t]he Legislature is presumed to be

aware of other statutes on the same or analogous subject matter"].)

2. History.

LACERA does not dispute that when the Legislature amended Section 31522.1 in 1973 (via AB 470) to give retirement boards appointment authority, an enrolled bill report explained that "such appointing authority" would be "subject however, to county civil service and salary fixing authority." (5AA1043.)

LACERA downplays this history, pointing out that enrolled bill reports are not entitled to "great weight." (ABOM 66.) But as this Court has explained, enrolled bill reports are "'instructive' in filling out the picture of the Legislature's purpose." (*Conservatorship of Whitley* (2010) 50 Cal.4th 1206, 1218, fn. 3.) Moreover, LACERA fails to address that when the Legislature expanded its ability to appoint senior personnel who would not be subject to the County Charter and civil service rules (see § 31522.4), the Legislative Counsel's Digest—which is "'entitled to great weight'" (*People v. Reynoza* (2024) 15 Cal.5th 982, 998, fn. 12)—reiterated the conclusion from AB 470's enrolled bill report, recognizing that existing law (§ 31522.2) authorized the LACERA Boards to "appoint an administrator *who shall be a county employee subject to the county salary ordinance or resolution* but who shall not be subject to the county civil service or merit system rules." (5RA583, emphasis added.)

Instead, LACERA claims that the enrolled bill report "contradicts all other evidence of AB 470's original public

meaning," including the County's "own objections to the 1973 CERL amendments or similarly contemporaneous views expressed by other counties." (ABOM 66.) Not so. The cited "evidence" that LACERA points to are letters from Los Angeles and other counties, requesting that the Governor veto AB 470 because it would grant appointment and budgeting authority to retirement boards, not because of specific concerns over salary-setting. (See 1AA127, 7AA1436-1438.) More importantly, there is nothing to suggest that the Legislature was aware of these letters, much less that it acted upon them, in unanimously voting to approve AB 470—as such, these materials are not relevant to ascertaining the Legislature's intent. (See *City of Brentwood, supra,* 54 Cal.App.5th at pp. 428-429.)

Additionally, LACERA notes that when the Legislature amended Section 31522.1 in 1979 (via AB 132) to designate retirement system personnel as "county employees," it stated that this was a "nonsubstantive" change." (ABOM 49.) But this only confirms that the Legislature added this language to clarify what it had always meant—that CERL retirement system personnel are county employees subject to county civil service and salary-setting authority. (See 5RA572 ["The language regarding retirement board employees is *nonsubstantive and is only intended to clarify their status*"], emphasis added; see also 5RA573.) Indeed, this history undercuts LACERA's contention that the County's reading of CERL would render Section 31522.1's last phrase—requiring that retirement system appointees be included in a salary ordinance adopted by a board

of supervisors—"superfluous." (ABOM 48.) This phrase existed before the Legislature amended section 31522.1 to clarify that retirement personnel were in fact "county employees," thus confirming that they qualify as persons "whose compensation is fixed by the board of supervisors" even though they are paid from retirement system funds.

B. LACERA's reliance on CERL's appointment and budget provisions is misplaced.

Unable to point to anything in Section 31522.1's text or history suggesting that retirement boards possess salary-setting authority, LACERA claims that such authority may be implied from the statute's appointment provision. (ABOM 45-46, 62.) But as discussed *supra*, the conferral of appointment authority does not include salary-setting.

Indeed, there are plenty of county officials or employees who have the authority to appoint personnel, but are still subject to boards of supervisors' salary-setting authority. (OBOM 77-78.) For example, district attorneys have various powers, including the ability to appoint deputies, assign them duties, and direct the manner in which they perform those duties. (77 Ops.Cal.Atty.Gen. 82 (1994).) But despite this, "the county's board of supervisors, not the Legislature, 'prescibe[s] the compensation' of its district attorney." (*Pitts v. County of Kern* (1998) 17 Cal.4th 340, 361; see also 77 Ops. Cal.Atty.Gen. 82, *supra* [reaching the same conclusion for sheriffs].)

Next, LACERA contends that "inherent" in Section 31580.2's grant of "budgetary power" is "the authority to

establish employee classifications and make salary decisions." (ABOM 46-47.) But the purpose of Section 31580.2 was "to transfer the costs of operating the county retirement system from the general tax revenues of the county to the earnings of the retirement fund." (70 Ops.Cal.Atty.Gen. 277 (1987).) Retirement boards may still fulfill that purpose and set a budget that accounts for the costs that are not within their ultimate control. For example, CalPERS and CalSTRS are able to budget for all sorts of positions over which they do not have final compensation-setting authority. *Hicks v. Board of Supervisors* (1977) 69 Cal.App.3d 228—upon which LACERA relies—illustrates this point. In that case, the court explained that the board of supervisors "may not, by failing to appropriate funds, prevent the district attorney from incurring necessary expenses for crime detection as county charges." (*Id.* at p. 242.)

LACERA also accuses the County of "not seriously grappl[ing] with the senselessness of granting retirement boards sole budgetary power … if boards lack control over salaries, which comprise the lion's share of system budget." (ABOM 63.) But this argument fails to account for the fact that the County is ultimately financially responsible for the funding of LACERA, including personnel salaries. (OBOM 74.) It also ignores that CERL allows the County to audit "the accounts of" LACERA to provide the County some degree of oversight in terms of how the system's funds are spent. (§ 31593.) It makes perfect sense, therefore, that when the Legislature designated LACERA

personnel as "[C]ounty employees," it did so subject to the Board of Supervisors' salary-setting authority.

C. LACERA's proffered reading renders other CERL provisions surplusage.

When the Legislature intends to confer retirement boards with salary-setting authority, it does so expressly by making their personnel employees of the retirement system, rather than employees of the county—as it has done for several counties. (OBOM 68-71, see also §§ 31522.5, 31522.7, 31522.9, 31522.10, 31522.11.)

LACERA does not dispute that its proffered reading of CERL would render these "county-specific statutes" surplusage, in violation of settled rules of statutory construction. (OBOM 71.) It nevertheless argues that "the actions 'of a later Legislature' merit 'little weight' in 'determining the relevant intent of the Legislature that enacted'" sections 31522.1 and 31580. (ABOM 67, citing *Peralta Community College Dist., supra*, 52 Cal.3d 40.) But *Peralta* dealt with a "statement of intent that failed to become law" and lacked "objective support in either the language or history of the legislation." (52 Cal.3d at p. 52.) As this Court has clarified, the Legislature's expressed views in later-enacted statutes are entitled to "due consideration." (*Western Security Bank v. Superior Court* (1997) 15 Cal.4th 232, 244.)

In the County's view, CERL's text and history is clear that the County's Board of Supervisors possesses salary-setting authority over LACERA personnel. But lest there be any doubt, these county-specific statutes confirm that authority resides with

the Board of Supervisors. (See, e.g., *California Employment Stabilization Com. v. Payne* (1947) 31 Cal.2d 210, 213-214 [where a statute is ambiguous, "a subsequent expression of the Legislature …, although not binding on the court, may properly be used in determining the effect of a prior act"].)

LACERA notes that "[m]any" of these county-specific statute "went beyond just giving retirement boards the power to establish employee classifications and salaries; they exempted system personnel from civil service rules entirely…." (ABOM 67.) But this does not take away from the fact that the Legislature enacted these statutes, at least in part, to transfer salary-setting authority from counties to their respective retirement boards. (See, e.g., 7RA712-713, 7RA720-721, 7RA737-738.)

Additionally, LACERA contends that "the County's reliance on a 'failed bill' from 2016" (AB 1853)—which, if enacted, would have permitted all CERL systems to become "districts" and designate their staff as retirement system employee—is "dubious" since "[u]npassed bills as evidence of legislative intent …. have little value…." (ABOM 68.) But LACERA does not dispute that failed legislation may be "a reliable indicator of existing legislative intent." (*Joannou v. City of Rancho Palos Verdes* (2013) 29 Cal.App.4h 746, 761; OBOM 71.) This is especially so here given that AB 1853 would have provided LACERA's Boards with the same salary-setting authority that LACERA claims they already possess under Proposition 162 and CERL.

Lastly, LACERA contends that any ambiguity in CERL should be resolved in its favor "given the 'serious questions about CERL's constitutionality' that a contrary interpretation would raise under Proposition 162's broad grant of plenary administrative authority to retirement system fiduciaries." (ABOM 50, citing *In re Friend* (2021) 11 Cal.5th 720, 729.) LACERA has the shoe on the wrong foot—as discussed *infra*, the constitutional concerns here stem from LACERA's proffered reading of Proposition 162 and CERL, which would impermissibly intrude upon constitutional civil service and home rule principles.

IV. LACERA Fails to Harmonize Proposition 162 and CERL with Counties' Home Rule Authority.

As for home rule, LACERA contends that the County's salary-setting authority over statutorily-designated "[C]ounty employees" under Article XI of the California Constitution "cannot trump" Proposition 162. (ABOM 69-70.) This argument rests on a misreading of *State Department of Public Health v. Superior Court* (2015) 60 Cal.4th 940, where this Court recognized that where two grants of authority are in conflict, "the specific provisions taken precedence over more general ones." (*Id.* at p. 960.) Here, the more specific provision is Article XI, which "is quite clear and quite specific: the *county*, not the state, not someone else, shall provide for the compensation of its employees." (*County of Riverside v. Superior Court* (2003) 30 Cal.4th 278, 285; *Sonoma County Organization of Public Employees v. County of Sonoma* (1979) 23 Cal.3d 296, 316

[describing home rule authority over employee classification and compensation issues as "a specific directive"].) LACERA has no answer for these cases.

LACERA also fails to account for the fact that "implied repeals" are largely disfavored. (OBOM 55-59.) Notably, the court in *Singh v. Board of Retirement* (1996) 41 Cal.App.4th 1180, engaged in an implied repeal analysis of Proposition 162 despite its "notwithstanding" clause. (*Id.* at pp. 1189-1190; accord, *Westly*, *supra*, 105 Cal.App.4th at p. 1113 [Proposition 162's "notwithstanding' clause "applies only to laws that are 'to the contrary'"]; *Hustedt v. Workers' Comp. Appeals Bd.* (1981) 30 Cal.3d 329, 343-343 [similarly broad language in Article XIV, section 4 did not impliedly repeal the separation of powers doctrine embodied in Article III, section 3].)

Falling back on its incorrect reading of CERL, LACERA argues that "[a] CERL retirement system remains a wholly 'independent entity,' and system personnel perform entirely non-county functions." (ABOM 70-71.) That's hard to square with the title and purpose of the *County Employees* Law of 1937, which is meant to "recognize a public obligation to *county and district employees* who become incapacitated by age or long service in

public employment." (§ 31451, emphasis added.)[7] It also ignores the fact that, as discussed *supra*, other county officials and employees who operate independently are still subject to county boards of supervisors' home rule authority.

LACERA next contends the County's home rule argument "'create[s]' irreconcilable 'conflicts with various legislative grants of authority to retirement boards,'" stating that "[i]f the County's Article XI theory is correct, then Section 31522.1's appointment provision is unconstitutional." (ABOM 71.) Not so. This argument ignores that whereas "fixing compensation is legislative in character" and may not be delegated (*Bagley*, *supra*, 18 Cal.3d at p. 25), appointment is an "executive act" that may be delegated (*Scott v. Boyle* (1912) 164 Cal. 321, 326-327). (OBOM 64, 72.) That is precisely what the County has done here. (See L.A. County Code, §§ 6.127.020, 6.127.040(B)(1), (B)(4), (D), (M) [delegating appointment authority to LACERA].)

Additionally—and ignoring the trial court's findings regarding delegation (9AA1642-1643)—LACERA contends that the County could have delegated its salary-setting authority because Article XI, section 1 of the California Constitution uses

---

[7] Although this Court has held that retirement boards are "distinct from the county for res judicata purposes" (see *Board of Retirement v. Santa Barbara County Grand Jury* (1997) 58 Cal.App.4th 1185, 1190, citing *Traub v. Board of Retirement* (1983) 34 Cal.3d 793, 798-799), the fact remains that county retirement boards "perform[] functions for the county" "using substantial county funds" and their "staff are county employees." (*Id.* at p. 1191.)

the phrase "provide" rather than "prescribe." (ABOM 72.) This argument overlooks that the section of the Constitution governing county charters (Section 4) talks about how county charters must provide for county boards of supervisors to "fix[] and regulat[e]" the "number" and "prescrib[e] and regulat[e]" the "compensation" of county employees. (Cal. Const., art. XI, § 4(f), emphasis added; see also *Wilson v. Ostly* (1959) 173 Cal.App.2d 78, 87 & fn. 6 ["the power to prescribe compensation of county employees is vested exclusively in the board of supervisors" (citing substantially similar earlier constitutional provision governing charter counties)].)

As the foregoing shows, LACERA's reading of Proposition 162 and CERL is directly at odds with the home rule principles embodied in Article XI. It elevates general language regarding retirement system authority—which contains no mention of salary-setting—over specific constitutional language vesting counties and charter cities with the final say over employee compensation. Again, when properly harmonized with home rule principles, Proposition 162 and CERL establish a system of collaboration requiring that counties and retirement systems work together on civil service classification and compensation issues. (OBOM 75.)

CONCLUSION

This Court should reverse and reinstate the Superior Court's judgment denying LACERA's petition for a writ of mandate.

Respectfully submitted,

Dated: March 25, 2025 RENNE PUBLIC LAW GROUP

By: _____
RYAN P. McGINLEY-STEMPEL

Attorneys for Defendants/Respondents
and Respondents
COUNTY OF LOS ANGELES
BOARD OF SUPERVISORS OF THE
COUNTY OF LOS ANGELES

CERTIFICATION OF WORD COUNT

(California Rules of Court, Rule 8.520(c)(1))

The foregoing brief contains **8,327** words (including footnotes, but excluding the table of contents, table of authorities, certificate of service, and this certificate of word count), as counted by the Microsoft Word processing program used to generate the brief.

Dated: March 25, 2025 RENNE PUBLIC LAW GROUP

By: _____
Ryan P. McGinley Stempel

Attorneys for Defendants/Respondents and Respondents
COUNTY OF LOS ANGELES
BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES

PROOF OF SERVICE

Case Name: *Los Angeles County Employees Retirement Association v. County of Los Angeles et al.*
Case No.: S286264 (Court of Appeal Case No. B326977)

I am not a party to the within action, am over 18 years of age. My business address is 350 Sansome Street, Suite 300, San Francisco, California 94104.

On March 25, 2025, I served the following document: **REPLY BRIEF ON THE MERITS** on the party below ***via TrueFiling***:

Manuel A. Abascal
LATHAM & WATKINS LLP
355 South Grand Avenue
Suite 100
Los Angeles, CA 90071-1560
Telephone: (213) 485-1234
Facsimile: (213) 891-8763
manny.abascal@lw.com

Roman Martinez
Uriel Hinberg
LATHAM & WATKINS LLP
555 Eleventh Street, NW,
Suite 1000
Washington, DC 20004
Roman.martinez@lw.com
Uriel.hinberg@lw.com

Nicholas Rosellini
LATHAM & WATKINS LLP
505 Montgomery Street
Suite 2000
San Francisco, CA 94111-6538
Telephone: (415) 391-0600
Facsimile: (415) 395-8095
nick.rosellini@lw.com

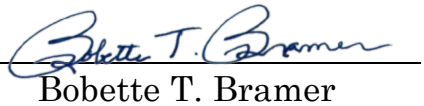
Attorneys for Plaintiff and Appellant
LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

On March 25, 2025, I also served the **REPLY BRIEF ON THE MERITS** on the parties below ***via U.S. Mail***:

Second District Court of Appeal Division 7 300 S. Spring Street 2nd Floor, North Tower Los Angeles, CA 90013	Hon. James C. Chalfant Los Angeles Superior Court Stanley Mosk Courthouse, Dept. 85 111 N. Hill Street Los Angeles, CA 90012
Court of Appeal	*Judge of the Superior Court of Los Angeles County*

Office of the Attorney General
300 South Spring Street
Los Angeles, CA 90013-1230
Phone: (213) 269-6000

I declare, under penalty of perjury that the foregoing is true and correct. Executed on March 25, 2025, at San Francisco, California.



Bobette T. Bramer

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION v. COUNTY OF LOS ANGELES**
Case Number: **S286264**
Lower Court Case Number: **B326977**

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. My email address used to e-serve: **rmcginleystempel@publiclawgroup.com**

3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
REPLY TO ANSWER TO PETITION FOR REVIEW	Reply Brief on the Merits

Service Recipients:

Person Served	Email Address	Type	Date / Time
Roman Martinez Latham & Watkins LLP Los Angeles 1001100	roman.martinez@lw.com	e-Serve	3/25/2025 3:38:36 PM
Nicholas Rosellini Latham & Watkins LLP 316080	nick.rosellini@lw.com	e-Serve	3/25/2025 3:38:36 PM
Jennifer Henning California State Association of Counties 193915	jhenning@counties.org	e-Serve	3/25/2025 3:38:36 PM
Uriel Hinberg Latham & Watkins LLP	uriel.hinberg@lw.com	e-Serve	3/25/2025 3:38:36 PM
Bobette Tolmer Renne Public Law Group	btolmer@publiclawgroup.com	e-Serve	3/25/2025 3:38:36 PM
Ryan McGinley-Stempel Renne Public Law Group 296182	rmcginleystempel@publiclawgroup.com	e-Serve	3/25/2025 3:38:36 PM
Linda Ross Renne Public Law 133874	lross@publiclawgroup.com	e-Serve	3/25/2025 3:38:36 PM
Manuel Abascal Latham & Watkins LLP 171301	manny.abascal@lw.com	e-Serve	3/25/2025 3:38:36 PM
Steve Cikes 235413	scikes@publiclawgroup.com	e-Serve	3/25/2025 3:38:36 PM
RPLG Docket	rplg-docket@publiclawgroup.com	e-Serve	3/25/2025 3:38:36 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

3/25/2025

Date

/s/Bobette Tolmer

Signature

McGinley-Stempel, Ryan (296182)

Last Name, First Name (PNum)

Renne Public Law Group

Law Firm