

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

**STATE RETIREMENT SYSTEMS ARE PAYING
EXCESSIVE DISABILITY BENEFITS**

REPORT BY THE
OFFICE OF THE AUDITOR GENERAL
TO THE
JOINT LEGISLATIVE AUDIT COMMITTEE

P-375

STATE RETIREMENT SYSTEMS
ARE PAYING EXCESSIVE
DISABILITY BENEFITS

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P-375

Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning disability programs of three of the State's retirement systems. The report indicates that the Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), and the University of California Retirement System (UCRS) could lower the costs of their disability programs by reducing or terminating benefits paid to unqualified members. Further, if the Legislature and the University of California changed existing legal requirements to limit the industrial and safety disability benefits of members who earn income, the PERS and the UCRS could substantially reduce the cost of their disability programs.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

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SUMMARY

The Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), and the University of California Retirement System (UCRS) could greatly reduce the costs of their disability programs. If authorized to obtain information from the Employment Development Department (department) to verify the earnings reports of their members, the three retirement systems could identify members whose earned income disqualifies the members from receiving all or part of their disability benefits. The retirement systems could then reduce or terminate the disability benefits of those members. In addition, the STRS could reduce the disability benefits of members who qualify for federal Social Security benefits. Further, by periodically reviewing the cases of its disabled members, the PERS could identify members who are no longer disabled and terminate the benefits of those members. Finally, if the Legislature and the Regents of the University of California changed existing legal requirements to limit the industrial and safety disability benefits of members who earn income, the PERS would save at least \$5.6 million and the UCRS would save \$104,000 by the time members whose cases we analyzed become eligible for retirement.

Overpayment of Disability Benefits

The three retirement systems are overpaying disability benefits to members who earn income. Eight of the STRS' approximately 2,000 disabled members and 2 of the UCRS' 660 disabled members earn income that disqualifies them from receiving disability benefits. By terminating the disability benefits of these 10 members, the two systems would save approximately \$491,000 by the time these members reach retirement age. In addition, between April 1982 and September 1983, the PERS and the STRS overpaid \$53,000 in disability benefits to a total of 38 members. The overpayments occurred because the members did not report all of their earnings to their respective retirement systems. Because the retirement systems do not have authority under the law to obtain earnings

information from the Employment Development Department, the retirement systems cannot independently verify the accuracy of the earnings reports that members submit to the systems. Further, the PERS overpaid an additional 24 members by \$35,800 because of clerical errors.

Further, the STRS may be overpaying disability benefits to members who qualify for disability benefits from the federal Social Security Administration. Currently, the STRS reduces the disability benefits of just 30 of its 2,000 disabled members by an amount equal to the Social Security benefits that the members report to the STRS. In our sample of 84 disabled STRS members, 3 members who are receiving STRS benefits may qualify for Social Security disability benefits. If the 3 members do qualify for these federal benefits, the members would save the STRS approximately \$80,000 by the time they reach age 60 and no longer qualify for disability benefits from the STRS. Further, we found that another member notified the STRS that she was receiving Social Security disability benefits; however, the STRS was not reducing this member's STRS disability benefits by an appropriate amount. If the STRS did reduce the disability benefits of this member, the STRS would save \$46,000 by the time the member reaches age 60.

The PERS may be overpaying disability benefits to its members because it does not have an effective program for reviewing disabled members' cases to ensure that members still qualify for disability benefits. Unlike insurance firms and other retirement systems, the PERS conducts few periodic reviews of its members' cases. Further, the PERS often fails to review the cases of disabled members that the PERS has initially determined need periodic reviews. As a result, the PERS has terminated the disability benefits of only 2 of its 5,800 disabled members since 1980. In contrast, during 1983, the STRS reviewed about 1,300 of its 2,000 disabled members' cases, and it terminated the benefits of 18 members. The STRS thus saved \$1.53 million. During the same year, the UCRS reviewed 340 of its 660 cases, and it terminated the benefits of 20 members. The UCRS thus saved \$1.22 million.

No Earnings Limits for Members Receiving Industrial or Safety Disability Benefit

The PERS and the UCRS cannot reduce or terminate the industrial or safety disability benefits of members who earn income. The PERS pays industrial disability benefits to disabled members who meet specific criteria; the UCRS pays safety disability benefits to disabled members who meet specific UCRS requirements. The two retirement systems pay ordinary disability benefits to all other disabled members. Using earnings information from the Employment Development Department for April 1982 through September 1983, we found that at least 190 PERS members had earnings and industrial disability benefits that together exceeded the current salaries for the positions that the members held when they became disabled. Similarly, three disabled UCRS members had earnings and safety disability benefits that together exceeded the current salaries for the positions that the members held when they became disabled.

State law and a University of California Board of Regents standing order do not permit the PERS and the UCRS to limit the industrial and safety disability benefits of members who earn income. However, the PERS, the STRS, and the UCRS may limit the ordinary disability benefits of members who earn income. If the Legislature amended the California Government Code to allow the PERS to limit the industrial disability benefits of disabled members, the PERS would save \$5.6 million for the 190 members whose cases we reviewed. Similarly, if the Regents of the University of California amended a standing order to allow the UCRS to limit the safety disability benefits of members who earn income, the UCRS would save approximately \$104,000 by the time its three disabled members with high earnings become eligible for retirement benefits at age 50.

INTRODUCTION

The Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), and the University of California Retirement System (UCRS) provide disability benefits to their members. To receive disability benefits, a member of one of the three systems must be unable to perform the duties of his or her current job. In addition, the member must have a physical or mental impairment that the member's retirement system expects to last for an extended period of time.

In fiscal year 1982-83, the three retirement systems paid approximately \$188.3 million in benefits to disabled members. The PERS paid \$160.2 million in disability benefits to approximately 31,000 former employees of the State, 35 counties, 377 cities, and 747 other local agencies. The STRS provided \$23.9 million in disability benefits to approximately 2,000 former school district employees with credentials, including teachers, counselors, and principals. Finally, the UCRS paid \$4.2 million in disability benefits to 660 former faculty and staff of the University of California.

Each of the three retirement systems has different classifications of disabilities. A disabled member of the PERS receives either industrial disability benefits or ordinary disability benefits. Industrial disability benefits are available only to members who work at occupations specifically listed in Title 2, Division 5, of the California Government Code. These occupations include state traffic officer,

correctional officer, and state police officer. In addition, the member must be disabled as a result of his or her employment if the member is to receive industrial disability benefits. For an industrial disability, the PERS usually pays a benefit of 50 percent of the member's final compensation. Final compensation is the member's highest average annual salary for any three consecutive years of employment by the State or by a local agency. PERS members who receive industrial disability benefits may earn income without having their disability benefits reduced or terminated.

The PERS pays ordinary disability benefits if the California Government Code does not list the disabled member's occupation as eligible for industrial disability benefits. The PERS will also pay ordinary disability benefits to members whose occupations are listed as eligible for industrial disability benefits but whose disability is not a result of the member's employment. For ordinary disability benefits, the PERS pays an amount based on the number of years that the member was employed by the State or by a local agency and on the member's final compensation. However, the PERS will reduce ordinary disability benefits if a disabled member under age 50 earns income above the limits prescribed by Section 21300 of the California Government Code. The PERS cannot reduce the ordinary disability benefits of members over age 50. For both ordinary and industrial disability benefits, the PERS provides cost-of-living increases annually.

The STRS has one category of disability, and the STRS usually pays monthly disability benefits equal to 50 percent of the member's final compensation. Final compensation is the member's highest average annual salary for any three consecutive years of school employment. Further, the STRS will pay the member an additional 10 percent of his or her final compensation for each of the member's eligible children under age 18, up to a maximum of four children. If the member's child is a full-time student, the STRS will pay the additional 10 percent until the child reaches age 22. The STRS will terminate or reduce disability benefits if the disabled member earns income above limits prescribed in the California Education Code. The STRS pays disability benefits to the member until he or she reaches age 60. For disabled members with children, the STRS pays disability benefits as long as the children qualify for benefits. When the STRS stops paying disability benefits to the member, the STRS pays the member retirement benefits instead. The STRS increases its disability benefits to members annually to adjust for inflation.

A disabled member of the UCRS receives either safety disability benefits or ordinary disability benefits. The UCRS pays safety disability benefits to members whom a UCRS regulation classifies as safety employees, that is, police officers and fire fighters. A safety member can receive safety disability benefits only if the member's employment causes the member's disability. For safety disabilities, the UCRS pays 50 percent of the member's average monthly salary for the 36 consecutive months of university employment in which the member earned

his or her highest income. The UCRS will pay these benefits until the member dies or is no longer disabled; the UCRS cannot limit the safety disability benefits of members who earn income.

The UCRS pays ordinary disability benefits to all disabled members whose occupations are not listed in the UCRS regulation as safety occupations or to safety members whose disabling conditions are not caused by the members' employment. For ordinary disability benefits, the UCRS uses the number of years that the university employed the member and the member's final compensation to determine the amount of the benefits. The member's final compensation for ordinary disability benefits is the member's monthly salary for full-time university employment before the member became disabled. The UCRS will pay ordinary disability benefits until the member reaches retirement age, is no longer disabled, or dies. However, the UCRS will terminate the ordinary disability benefits of a member if the member earns income above prescribed limits. The UCRS periodically increases the members' disability benefits to adjust for inflation.

SCOPE AND METHODOLOGY

The objective of our review was to identify methods to reduce the costs of the disability programs at the Public Employees' Retirement System, the State Teachers' Retirement System, and the University of California Retirement System. To meet this objective, we reviewed the

state laws, University of California standing orders, and UCRS regulations that specifically relate to the retirement systems' operations.

In addition, we interviewed officials at each of the three retirement systems, at the federal Social Security Administration, and at three insurance firms. We also interviewed state officials at the Employment Development Department (department), the Franchise Tax Board, the Department of Personnel Administration, and the California Highway Patrol.

We obtained information from the Employment Development Department on the wages and salaries earned by all disabled members of the PERS and the UCRS for April 1982 through September 1983. We obtained wage and salary information from the department on all disabled STRS members for October 1982 through September 1983. The department maintains quarterly wage and salary information for all California employees except employees of the federal government. The department obtains this information directly from employers in the State. We used the wage and salary information to determine if the earned income of members disqualifies the members from receiving part or all of their disability benefits. We limited our review of the earned income of disabled members to wage and salary information; we did not obtain information on members' other sources of earned income, such as profits from self-employment or commissions. We did not verify the accuracy of the department's earnings reports. However, in certain cases, we used

disabled members' state income tax returns for 1982 and 1983 to determine whether the wage and salary information data from the department was reasonable.

For each of the three retirement systems, we reviewed the system's procedures for identifying members who no longer qualify for ordinary disability benefits. We examined the effectiveness of the STRS and the UCRS in identifying disabled members who earned income above prescribed limits. We also reviewed each system's procedures for identifying members who are no longer disabled.

Further, we reviewed the PERS' and the STRS' procedures for identifying disabled members whom the systems have overpaid. We reviewed earnings information for PERS and STRS members to determine if members' earned income exceeded the legal limits listed in the California Government Code and in the California Education Code. For this review, we examined both the earnings reports at the department and the earnings reports that members submitted to their respective retirement systems. At the STRS, we also reviewed the procedures that the STRS uses to comply with the California Education Code. The California Education Code requires the STRS to reduce the disability benefits of members who qualify for federal Social Security disability benefits.

We also reviewed the cases of members who receive industrial and safety disability benefits from the PERS and the UCRS. We determined how many of these members are earning income while receiving industrial

or safety disability benefits. We also determined the savings to the PERS and the UCRS if the Legislature and the Regents of the University of California changed existing legal requirements to permit the two retirement systems to limit the industrial and safety disability benefits of members who earn income.

CHAPTER I

THE PERS, THE STRS, AND THE UCRS ARE OVERPAYING DISABILITY BENEFITS

The Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), and the University of California Retirement System (UCRS) could lower the costs of their disability programs by reducing or terminating the disability benefits of members whose earnings or medical conditions disqualify the members from receiving all or part of their disability benefits. If state law allowed the three retirement systems to obtain earnings information from the Employment Development Department (department), the PERS, the STRS, and the UCRS could identify members whose earned income exceeds prescribed limits. The three retirement systems could then reduce or terminate the disability benefits of such members. For example, we used earnings information from the department to identify 10 disabled members of the STRS and the UCRS whose earned income disqualifies them from receiving any disability benefits. If the STRS and the UCRS could identify and then terminate benefits to these 10 members, the STRS and the UCRS would save approximately \$491,000 over the members' working careers. In addition, the PERS and the STRS are overpaying members whose earned income exceeds legal limits, and the STRS may be overpaying benefits to disabled members who are eligible for federal Social Security disability benefits. Further, the PERS does not periodically review its members' cases to identify members who are no longer disabled. If the PERS identified and then terminated the disability benefits of members who are no longer disabled, the PERS would save an average of \$28,000 per member by the time each member reaches age 50.

THE PERS, THE STRS, AND THE UCRS ARE
OVERPAYING MEMBERS WHO EARN INCOME

The PERS, the STRS, and the UCRS are paying disability benefits to members whose earned income disqualifies the members from receiving all or part of their benefits. For example, the STRS and the UCRS are paying disability benefits to 10 members whose earned income disqualifies them from receiving any benefits; the two systems could terminate benefits to these members and save \$491,000 by the time the members reach retirement age. In addition, the PERS and the STRS overpaid \$53,000 in disability benefits to 38 members from April 1982 through September 1983. The three retirement systems did not reduce or terminate benefits to the 48 members because the members did not report all of their earned income to their respective retirement systems. Further, the PERS overpaid another 24 members by \$35,800 between April 1982 and September 1983. These overpayments occurred because the PERS' clerical staff did not adhere to established procedures for processing earnings reports.

Section 21300 of the California Government Code requires the PERS to reduce the ordinary disability benefits of a member who is under age 50 when the member's earned income and disability benefits together exceed the current salary for the position that the member held when the member became disabled. Earned income includes wages, salaries, commissions, and profits from self-employment.

Similarly, Section 23910.1 of the California Education Code requires that the STRS reduce a member's disability benefits so that the

member's earned income and disability benefits together do not exceed 100 percent of the member's indexed final compensation. The indexed final compensation is the member's average annual salary for the highest three years of earnings before the member became disabled, increased periodically to adjust for inflation. Furthermore, Section 23910 of the California Education Code requires the STRS to consider a member no longer disabled and to terminate a member's benefits if the member's average earned income for a six-month period exceed 66-2/3 percent of the member's final compensation.

UCRS Regulation 11.02 requires the UCRS to terminate the ordinary disability benefits of a member when the member has earnings or profits from self-employment that exceed 70 percent of the member's final salary increased by a cost-of-living factor. The final salary is the member's monthly salary for full-time university employment before the member became disabled. The UCRS periodically increases the member's disability benefits to adjust for inflation. Under this regulation, the UCRS considers a member who earns income above the prescribed limits to be capable of working and therefore no longer disabled.

Some Disabled Members Are Not
Reporting All Earned Income
to Their Retirement Systems

Each of the three retirement systems requires its disabled members to report their earned income periodically to their respective retirement systems. By matching the earnings reports for disabled

members of the three retirement systems with the earnings records maintained by the department, we found that 48 members did not report earned income that would disqualify the members from receiving all or part of their disability benefits. We used the earnings information that employers reported to the department for April 1982 through September 1983.

To enforce the earnings limitations specified in the California Government Code, the PERS requires its approximately 1,700 members under age 50 who receive ordinary disability benefits to report their earned income to the PERS annually. According to our match, 33 disabled members did not report all of their earned income to the PERS. Had these members reported all of their income, the PERS could have reduced the 33 members' ordinary disability benefits and thus saved approximately \$50,700 between April 1982 and September 1983. For example, one member's employer reported to the department that the member had earned about \$42,000 during this period; however, the member reported no earnings to the PERS. If the PERS had known of the member's earned income, the PERS could have reduced the member's benefits by about \$3,700 between April 1982 and September 1983. For another member who reported just \$15,200 to the PERS, the department's records showed that the member earned income of more than \$36,700. According to the earnings records at the department, the PERS could have reduced this member's benefits by more than \$2,100 during the same period.

Much like the PERS, the STRS requires its disabled members to report their earned income annually so that the STRS can enforce the earnings limitations specified in the California Education Code. By matching the records of the approximately 2,000 disabled STRS members against the earnings records of the department, we identified five members who did not accurately report their earned income for January 1983 through September 1983. Had these five members reported all of their earned income correctly, the STRS could have reduced the members' disability benefits by a total of \$2,300 during this nine-month period. For example, the STRS overpaid one of the five members by \$1,100 because the member earned income that exceeded the member's indexed final compensation; this member reported no earnings to the STRS.

Furthermore, we identified eight members of the STRS who did not report earned income that would disqualify them from receiving any disability benefits. If the STRS were to terminate benefits to these eight members, the STRS would save approximately \$297,000. This figure represents the present value of the eight members' future benefits from the time that the STRS could have terminated the members' disability benefits until the time that members become ineligible for disability benefits and begin receiving retirement benefits. For one member we identified, the STRS would save approximately \$99,000 by the time the member reaches retirement age. Unless the STRS identifies this member as unqualified to receive disability benefits, the STRS will continue to pay this member monthly benefits of about \$1,300, adjusted annually for inflation, until 1993.

About 620 out of the UCRS' 660 disabled members are subject to the earnings limitations set forth in UCRS Regulation 11.02. To enforce this regulation, the UCRS reviews its disabled members' cases every six months to two years, depending on the severity of the members' disabilities, to determine if the members still qualify for benefits. The UCRS requires its disabled members to submit earnings reports before UCRS staff review the members' cases. Further, the UCRS regulation requires that disabled members report to the UCRS if they begin employment.

Using the earnings information provided by the department, we found two disabled members of the UCRS who did not report their earned income or employment as required by UCRS regulations. For example, one member submitted a report that did not show any earned income or the anticipation of any earned income; the member also did not report employment. However, earnings information from the department showed that the member worked in 1982 and 1983; the member's earned income disqualifies the member for disability benefits from the UCRS. If the UCRS were to terminate the benefits of both members we identified, the UCRS would save approximately \$194,000. This figure represents the present value of the members' future disability benefits from the time that the UCRS could have terminated their benefits until the two members reach retirement age.

The PERS Has Processed
Earnings Reports Improperly

During our analysis of PERS records and the income information provided by the department, we found that the PERS' clerical staff did not properly process the earnings reports of 24 members. As a result, the PERS overpaid these members by \$35,800 in benefits. The PERS requires members receiving ordinary disability benefits to file reports of their earned income annually. However, 7 of the 24 members did not file the required earnings reports for 1982. Due to clerical errors, the PERS did not ensure that the 7 members filed the required reports. Based on earnings data provided by the department, we calculate that the PERS overpaid these 7 members by more than \$5,500 in ordinary disability benefits from April 1982 through September 1983.

Clerical staff for the PERS improperly processed the earnings reports for 17 of the 24 members. As a result, the PERS overpaid the 17 members by approximately \$30,300 in ordinary disability benefits. For example, the PERS overpaid one member by approximately \$500 because a clerk for the PERS did not know how to reduce the member's benefits. In another case, the clerical staff did not reduce a member's disability benefits by \$1,700 even though the member reported earned income of \$25,000, an amount that exceeded the member's earnings limit under the law.

The clerical errors occurred because PERS staff did not adhere to established procedures for processing members' earnings reports. The PERS lists its procedures on a two-page document that briefly describes how staff are to reduce the disability benefits of members. The PERS' Benefits Division has 10 clerks who are responsible for reducing disability benefits; 9 of the 10 clerks stated that the two pages of procedures are inadequate or that the clerks never refer to the procedures. Although 4 of the 10 clerks stated that they refer to the document listing the procedures to answer simple questions regarding the eligibility of members for disability benefits, all 10 clerks stated that they mostly rely on other clerks in the Benefits Division for assistance in processing earnings reports.

The PERS, the STRS, and the
UCRS Cannot Independently Verify
Earned Income of Disabled Members

As discussed in the previous sections of this report, we were able to match the retirement systems' records with earnings information collected by the Employment Development Department. Thus, we could identify disabled members whose income disqualifies them from receiving all or part of their ordinary disability benefits. However, existing laws prohibit the three retirement systems from using information collected by the department to verify independently the earned income of disabled members. According to the department's Chief of Audit Support and Information Security, Section 322 of the California Unemployment Insurance Code prohibits the department from disclosing earnings information directly to the retirement systems.

We requested that the Legislative Counsel determine whether the retirement systems can require disabled members to authorize the department to release earnings information to the retirement systems. We also asked the Legislative Counsel if state law allows the Auditor General to disclose to the retirement systems the earnings information that we obtained during our audit. According to the Legislative Counsel, the PERS, the STRS, and the UCRS may not obtain earnings information from the department even if the retirement systems require their disabled members to sign authorizations to release earnings information. Further, the Auditor General may not disclose to the retirement systems the members' names and wage information that we obtained from the department.

Therefore, unless the Legislature amends state law in a manner that conforms to federal law, the retirement systems cannot independently verify the earned income reported to the systems by their disabled members. Because the Auditor General and the department cannot provide earnings information to the retirement systems, the PERS, the STRS, and the UCRS will continue to pay disability benefits to members who do not qualify for all or part of their benefits.

THE STRS IS OVERPAYING MEMBERS
WHO ARE ELIGIBLE FOR
SOCIAL SECURITY DISABILITY BENEFITS

The STRS could reduce the ordinary disability benefits of members who qualify for disability benefits from the federal Social Security Administration. Presently, the STRS reduces the disability benefits of just 30 of its approximately 2,000 disabled members by the amounts that these members receive in Social Security disability benefits. The STRS does not review the cases of its remaining members to identify other members who may be eligible for Social Security disability benefits. From a sample of 84 disabled STRS members for whom the STRS does not reduce benefits, we found 3 members who qualify for Social Security disability benefits based on their Social Security-insured employment. We also found one member who reported receiving Social Security disability benefits to the STRS; however, the STRS had not reduced this member's disability benefits. If the STRS reduced disability benefits to these 4 members, the STRS would save approximately \$126,000 by the time the members reach retirement age. The STRS is not identifying more members as qualified for Social Security disability benefits because the STRS believes most of its members do not earn wages or salaries that are insured by the federal Social Security Administration.

Disabled Members of the STRS
Are Not Applying for Social
Security Disability Benefits

Section 24102 of the California Education Code states that the STRS must reduce the ordinary disability benefits of its members by an amount equal to the benefits paid or payable under other public systems, such as the federal Social Security Administration. Members of the STRS qualify for Social Security disability benefits if the members meet the federal Social Security Administration's requirements for the number of quarters of employment insured by the federal Social Security Administration and if the members meet medical requirements for disabling conditions. The federal Social Security Administration insures employment when both the employer and the employee contribute to Social Security each pay period, or when an individual who is self-employed contributes to Social Security. Federal Social Security regulations state that a person under age 65 qualifies for Social Security disability benefits if the person has at least 40 quarters (10 years) of insured employment, has 20 quarters (5 years) of insured employment during the 40 quarters (10 years) before the member became disabled, and is unable to work at any occupation because of a disabling condition. Once an individual qualifies for the disability benefits, the federal Social Security Administration pays monthly benefits to the individual based on the individual's salary or wages before he or she became disabled.

The STRS reduces the disability benefits of 30 disabled members who collect Social Security disability benefits. The STRS thus saves \$100,000 annually. However, the STRS is not reviewing the cases of its approximately 2,000 disabled members to identify any other members who may qualify for Social Security disability benefits.

To determine how many other STRS members might qualify for Social Security disability benefits, we obtained the names and Social Security numbers for 84 of the 224 STRS members who began receiving STRS disability benefits in 1983. The federal Social Security Administration reviewed the records of each of the 84 STRS members to determine if any members had the required number of quarters of employment. The federal Social Security Administration found that 3 of the 84 members qualify for Social Security disability benefits based on their employment and that another member is already receiving Social Security disability benefits. If the 3 members qualify for these benefits based on their medical condition as well, the STRS could reduce the members' ordinary disability benefits and save approximately \$80,000 by the time the members reach age 60. One of the 3 members has already applied for Social Security disability benefits. The other member who is currently receiving Social Security disability benefits of about \$3,500 annually did inform the STRS about these benefits; the STRS could reduce the disability benefits that it pays to this member by the amount of the Social Security benefits. The STRS would thus save \$46,000 by the time the member reaches age 60.

Currently, the STRS does not request the federal Social Security Administration to determine if disabled STRS members qualify for Social Security benefits. According to the STRS' management, most STRS members are not earning wages or salaries that are insured by the federal Social Security Administration; therefore, the STRS does not routinely require members to request that the federal Social Security Administration determine whether disabled members qualify for Social Security disability benefits.

However, we found that many STRS members do earn income that is insured by the federal Social Security Administration. Three of the State's largest school districts pay Social Security-insured wages to teachers for overtime and summer school employment. In addition, some STRS members may be eligible for Social Security disability benefits based on their prior employment. Finally, some STRS members may be eligible for Social Security benefits based on other employment, such as their employment after school hours, on weekends, or during the summer.

THE PERS RARELY TERMINATES DISABILITY BENEFITS TO MEMBERS

Unlike the STRS, the UCRS, and insurance firms, the PERS does not have an effective review program to identify members who no longer qualify for ordinary or industrial disability benefits, and it conducts few reviews of its members' cases. In addition, the PERS often fails to schedule reviews for members whom the PERS initially determines need periodic reviews. As a result, the PERS has terminated the disability

benefits of only 2 of 5,800 disabled members since 1980. The PERS may be paying disability benefits to members who do not qualify for the benefits. If the PERS were to terminate benefits to such members, we estimate that the PERS would save an average of \$28,000 per member by the time the member reaches age 50.

Periodic Reviews
Are Cost Effective

The STRS, the UCRS, and the three insurance firms we contacted have review programs to identify members who are no longer disabled. The review programs include analyses of each member's file, letters to the member and the member's physicians requesting pertinent information, and a medical examination of the member. The STRS, the UCRS, and the insurance firms decide which disabled persons to review and how extensive the reviews will be by using indicators to evaluate the member's chances for recovery. These indicators include the member's current age, type of disability, age at the time the member became disabled, and current employment status. After identifying members who are no longer disabled, the retirement systems and insurance firms can then terminate disability benefits of these members. The review programs result in savings because the cost of reviewing members' cases is lower than the cost of the future benefits that the retirement systems and insurance firms would pay to their members and policyholders.

After reviewing the medical conditions of about 1,300 of its 2,000 disabled members during 1983, the STRS terminated the disability benefits of 18 members. The STRS estimates that it will save approximately \$1.7 million in future disability benefits for the 18 members. In conducting its review for 1983, the STRS sent letters to members to obtain earnings information, and it sent letters to members' physicians requesting information on the members' current medical conditions. Based on its review, the STRS selected 209 members to have independent medical examinations by a physician chosen by the STRS. The STRS found that 18 of the 209 members no longer qualified for disability benefits. The STRS' cost to review members, including the cost of the independent medical examinations, was approximately \$170,000. By terminating disability benefits to the 18 members, the STRS' review program saved \$1.53 million, which is the difference between the amount of future benefits that the STRS would have paid the members and the cost of conducting the review program.

Like the STRS, the UCRS has a review program to determine which members no longer qualify for disability benefits. In 1983, the UCRS reviewed the medical conditions of 340 of its 660 disabled members; the review cost \$80,000. The UCRS required each of the 340 disabled members to provide earnings information, and it required each member's physician to submit information on the member's current medical condition. Based on its assessment of each member's likelihood of recovery, the UCRS selected 52 of 340 disabled members to have independent medical examinations. The UCRS reviewed the medical conditions of the 52

members; subsequently, the UCRS terminated the disability benefits of 20 members who no longer qualified for disability benefits. The UCRS estimates that terminating the benefits of the 20 members will save the UCRS approximately \$1.3 million in future benefits. Because the 1983 review program cost the UCRS just \$80,000, the UCRS' savings will be approximately \$1.22 million.

Further, the three insurance firms we contacted stated that they use the information obtained during their reviews to terminate the disability benefits of policyholders who are no longer disabled. The firms reported that they require every policyholder receiving disability benefits to have an annual review. In addition, each firm requires an independent medical examination for every disabled policyholder whom the firm identifies as likely to be no longer disabled based on the policyholder's age, type of disability, and current earned income. Officials for the three firms stated that the reviews are cost-effective, and they indicated that it is standard practice in the insurance industry to conduct frequent reviews of all disabled policyholders so that firms can terminate the disability benefits of unqualified policyholders.

The PERS Lacks an Effective Review Program

The PERS lacks an effective review program that would enable the PERS to terminate the disability benefits of members who are no longer disabled. Specifically, the PERS is not reviewing most cases because the PERS believes that most of its disabled members are

permanently disabled. In addition, the PERS often does not schedule reviews for members whom it identifies during an initial review as needing periodic reviews. Finally, when determining which members should be reviewed, the PERS does not use standard indicators of medical recovery, such as information on the current employment and earnings of its disabled members. As a result, the PERS has terminated the benefits of only 2 of its 5,800 disabled members under age 50 since 1980.

The PERS is responsible by law to ensure that only qualified members receive disability benefits. Section 21028 of the California Government Code permits the PERS to require a disabled member under age 50 to take a medical examination. Section 21029 allows the PERS to use medical information to determine that a member is no longer disabled and to terminate the disability benefits of that member.

To evaluate the effectiveness of the PERS' existing procedures for reviewing the cases of disabled members under age 50, we chose a random sample of 884 of the 5,800 disabled members of the PERS as of September 1983. From this sample, we eliminated 174 PERS members whose cases are reviewed by local agencies rather than by the PERS. We also eliminated 586 members who had earned income of less than \$1,000 per quarter. We eliminated these members because the STRS, the UCRS, and the three insurance firms we contacted regard earnings below \$1,000 per quarter as evidence of continuing disability. Thus, we reviewed the cases of 124 PERS members who are receiving disability benefits and who had earned more than \$1,000 per quarter between April 1982 and September 1983.

For the 124 members in our sample, the PERS had not reviewed the cases of 82 members after the PERS initially approved these members for disability benefits. The manager of the PERS' disability section stated that PERS did not review the cases because the 82 members are permanently disabled. The members' disabling conditions include lower back pain and psychological disorders. However, we found that 12 of the 82 members appear to be employed in positions that are the same or similar to those that the members held at the time they became disabled.

For 1985, the PERS has scheduled medical reviews for just 102 disabled members (1.8 percent) of its approximately 5,800 disabled members under age 50. By comparison, the STRS, the UCRS, and the three insurance firms each conduct reviews of at least 50 percent of their disabled members or policyholders each year.

Furthermore, the PERS often does not schedule reviews for the cases of members whom it identifies during an initial review as needing periodic reviews. For the 124 members in our sample, the PERS had identified 38 members whose cases needed periodic reviews because PERS staff believed that these members' disabling conditions were likely to change in the future. However, the PERS failed to review the cases of 18 of the 38 members. We found that 10 of the 18 members had earned income of at least \$1,000 per month between April 1982 and September 1983. Also, 3 of the 18 members appeared to be employed in positions that were the same or similar to those the members held at the time they became disabled.

When the PERS does review the cases of its disabled members, the PERS does not use information that the STRS, the UCRS, and insurance firms regard as standard indicators of a member's recovery. To determine if a member still qualifies for disability benefits, the STRS, the UCRS, and insurance firms examine the member's current employment and level of income. In our sample of 124 PERS members, 21 members appeared to be employed in positions that were the same as those the members held at the time they became disabled or that required similar skills. Although 9 of the 21 members reported their occupations and earned income for 1982 and 1983 to the PERS, the PERS did not refer to this information or schedule reviews of the members' conditions.

Because the PERS conducts few reviews of members' cases, members who want to return to work must request the PERS to discontinue their disability benefits. Five of the 124 members in our sample believed they were no longer disabled and wanted to return to work. The 5 members had to request the PERS to schedule medical examinations. The PERS did conduct the medical examinations; subsequently, the PERS discontinued the disability benefits of 3 of the 5 members. The 3 members returned to their former positions.

The Chief of the Benefits Division for the PERS stated that, since 1980, the PERS has terminated the disability benefits of only 2 of its 5,800 members who did not want to return to work. We found that the PERS scheduled a review for one of the 2 members because the member's former employer requested an investigation. The former employer reported

that the member was currently working at the same occupation as the member had worked before becoming disabled.

Because it conducts so few reviews, the PERS lacks the information that it needs to terminate the disability benefits of members whose medical condition disqualifies them from receiving such benefits. For every member in our sample of 124 cases who does not qualify for disability benefits, we estimate that the PERS would save an average of \$28,000 by the time the member reaches age 50. These savings represent the present value of the future benefits that the PERS would pay to each member.

According to the Chief of the Benefits Division, the PERS has several reasons for not aggressively reviewing the cases of members to identify those who are no longer disabled. The PERS places a higher priority on reviewing members' applications for disability retirement. Further, the PERS relies upon the opinions of physicians during initial reviews as to the permanence of members' disabilities. Also, the PERS does not believe that reviews are cost effective and that reviews rarely result in the PERS' terminating the benefits of members. Finally, the division chief states that a recent change in state law limits the PERS' ability to terminate disability benefits. A 1982 amendment to Section 21029 of the California Government Code requires that the PERS terminate the benefits of a member whom the PERS determines is no longer disabled only if the member's former employer will offer the member employment.

However, as we have discussed, other retirement systems and insurance firms give reviewing the cases of disabled members a high priority because the reviews result in substantial savings. The other retirement systems and insurance firms have found that frequent reviews are necessary because some members, including members whom physicians believed were permanently disabled, recover from their disabilities. The STRS, the UCRS, and insurance firms do not exempt the cases of any members from review and have terminated the disability benefits of members whom physicians originally diagnosed as permanently disabled. For example, in 1983, the STRS terminated the disability benefits of 13 members, and the UCRS terminated the disability benefits of 15 members. Physicians originally diagnosed all 28 members as permanently disabled.

Because the PERS is not adequately fulfilling its legal responsibilities for reviewing the continuing qualifications of its members to receive disability benefits, the PERS may be paying benefits to members who are no longer disabled. Until the PERS establishes a member's medical condition, the former employer lacks information for evaluating the member's request to return to work. The PERS cannot terminate the member's disability benefits if the member's former employer will not allow the member to return to work.

CONCLUSION

The Public Employees' Retirement System, the State Teachers' Retirement System, and the University of California Retirement System are paying excessive disability benefits to members whose earned income, Social Security disability benefits, and medical conditions disqualify them from receiving all or part of their benefits. For example, the STRS and the UCRS are paying disability benefits to a total of 10 members who earn income above prescribed limits. By terminating disability benefits to these members, the STRS and the UCRS could save approximately \$491,000 over the members' working careers. In addition, the PERS and the STRS overpaid \$53,000 in disability benefits to a total of 38 members who did not report all of their earned income for April 1982 through September 1983. These overpayments occurred because the retirement systems cannot independently verify the accuracy of the members' earnings reports; the PERS, the STRS, and the UCRS cannot obtain earnings information from the Employment Development Department. Further, the PERS overpaid an additional 24 members by \$35,800 because of clerical errors.

In addition, the STRS does not always reduce the disability benefits of members who qualify for Social Security disability benefits. In our sample of 84 STRS members, 3 members may qualify for Social Security disability benefits and could save

the STRS approximately \$80,000. Also, we found that one of the 84 STRS members had already reported to the STRS that the member was receiving Social Security benefits; however, the STRS did not reduce the member's disability benefits. If the STRS reduced this member's disability benefits by the appropriate amount, the STRS would save about \$46,000 by the time the member reaches retirement age.

Finally, the PERS lacks an effective review program to identify members who are no longer disabled. Unlike the STRS, the UCRS, and insurance firms, the PERS does not review most members' cases periodically. Further, the PERS often does not review the cases of members that it has identified as needing periodic reviews. The PERS also does not use standard indicators of recovery, such as earnings, in deciding which members' cases to review. In reviewing a sample of 124 PERS cases, we determined that, if the PERS were to review members' cases and to terminate the disability benefits of each member who no longer qualifies for benefits, the PERS would save an average of \$28,000 per member by the time the member becomes eligible for retirement.

RECOMMENDATIONS

To allow the three retirement systems to lower the costs of their disability programs, the Legislature should enact legislation to permit the Public Employees' Retirement System, the State Teachers' Retirement System, and the University of California Retirement System to obtain earnings information from the Employment Development Department so that the retirement systems can verify the accuracy of their members' earning reports. This legislation should conform to federal law.

To reduce ordinary disability benefits to members who no longer qualify for all or part of their benefits, the Public Employees' Retirement System should take the following actions:

- Strengthen procedures to ensure that disabled members submit earnings reports. The PERS should then reduce ordinary benefits to members whose earned income exceeds the PERS' prescribed limits.

- Improve its procedures for ensuring that clerical staff properly reduce members' ordinary disability benefits when members earn income above prescribed limits.

- If authorized by the Legislature to obtain earnings information from the department, establish procedures for using this information to reduce the ordinary disability benefits of members whose earned income exceeds the PERS' prescribed limits. Until it can obtain the department's earnings information, the PERS should use the earnings reports supplied by members to identify members who do not qualify for disability benefits.

- Frequently review disabled members' cases and schedule medical examinations for the members that the PERS determines are most likely to be no longer disabled. The PERS should use standard indicators of recovery, such as age, type of disability, and earned income, to identify those members who are likely to be no longer disabled. The PERS should then terminate disability benefits to members whom the PERS' reviews demonstrate are not disabled.

To reduce the costs of its disability program, the State Teachers' Retirement System should take the following steps:

- If authorized by the Legislature to obtain earnings information from the department, establish procedures for using this information to reduce or to terminate the disability benefits of members whose earned income exceeds the STRS' prescribed limits.

- Reduce the disability benefits of STRS members who qualify for Social Security disability benefits. The STRS should obtain written authorization from its members that will permit the federal Social Security Administration to determine whether the members are eligible for Social Security benefits. For each STRS member who is eligible, the STRS should require the member to apply for the Social Security disability benefits and to submit a letter to the STRS from the federal Social Security Administration stating that the member has been granted or denied these federal benefits.

If authorized by the Legislature to obtain earnings information from the department, the University of California Retirement System should establish procedures for using this information to reduce or to terminate the disability benefits of UCRS members whose earned income exceeds the limits prescribed by UCRS regulations.

CHAPTER II

THE PERS AND THE UCRS CANNOT REDUCE INDUSTRIAL OR SAFETY DISABILITY BENEFITS TO MEMBERS WHO EARN INCOME

State law and a University of California standing order do not limit the amount of income that members may earn while receiving industrial or safety disability benefits from the Public Employees' Retirement System or the University of California Retirement System. However, state law and UCRS regulations require the state retirement systems to reduce or to terminate disability benefits to all other disabled members whose earned income exceeds prescribed limits. According to earnings information from the Employment Development Department for April 1982 through September 1983, 1,872 of the PERS' 3,476 disabled members were earning income while receiving industrial disability benefits. We found that at least 190 of the 1,872 members had earnings and disability benefits that together exceeded the highest current salaries for the positions that the members held before becoming disabled. If the PERS and the UCRS were allowed to limit industrial and safety disability benefits to members with earned income, the PERS would save approximately \$5.6 million for the 190 members, and the UCRS would save approximately \$104,000 for 3 disabled members under age 50 who earn income.

The PERS and the UCRS Pay Industrial and Safety Disability Benefits

The PERS provides industrial disability benefits to disabled members who worked in specific occupations listed in Title 2, Division 5 of the California Government Code. This list includes such occupations as state traffic officer, state police officer, and correctional officer; the list also includes such local governmental occupations as police officer and fire fighter. In addition, the member's disabling condition must be the result of the member's employment if the member is to qualify for industrial disability benefits from the PERS.

Similarly, the UCRS provides safety disability benefits only to disabled members who worked in one of the safety occupations listed in UCRS Regulation 15.02; these occupations are police officer and fire fighter. Further, the member's employment must be the cause of the member's disabling condition.

As discussed in Chapter I of this report, the PERS, the STRS, and the UCRS must reduce or terminate ordinary disability benefits to members whose earnings exceed prescribed limits. However, both the PERS and the UCRS cannot reduce industrial or safety disability benefits even if a member receiving such benefits earns income. Section 21300 of the California Government Code does not provide for the PERS' reducing industrial disability benefits when a member earns income. Similarly, Article 15.08 of the Standing Orders of the Regents of the University of California does not provide for the UCRS' reducing the safety disability benefits of members.

In 1961, the Legislature amended Section 21300 of the California Government Code to exempt PERS members receiving industrial disability benefits from earnings limitations. At that time, the PERS estimated that not limiting the industrial disability benefits of members who earn income would cost the PERS approximately \$50,000 annually. The authors of the legislation stated that limiting the industrial disability benefits of state employees would be too difficult and too costly. The authors also stated that local safety employees should receive special treatment because these employees are subject to unusual hazards and risks beyond those taken by average governmental employees.

However, the annual cost of providing industrial disability benefits to PERS members is substantially greater than the 1961 estimate of \$50,000. As we will show later in this chapter, if the PERS could limit industrial disability benefits, the PERS would save at least \$1.4 million during the first year for just 190 members. Further, the PERS has shown that reducing disability benefits is neither difficult nor costly; for nearly 40 years, the PERS has been reducing the ordinary disability benefits of members.

Some PERS and UCRS Members Earn High Income While Receiving Industrial or Safety Disability Benefits

Many PERS and UCRS members who are receiving industrial or safety disability benefits are also earning income. Using earnings information from the Employment Development Department for April 1982

through September 1983, we found that 1,872 of the 3,476 PERS members under age 50 earned income while receiving industrial disability benefits. We also found that 4 of the 12 UCRS members under age 50 who were receiving safety disability benefits were employed during the same period.

The table below presents an analysis of the earnings information from the department for PERS members who received industrial disability benefits from April 1982 through September 1983. The members included in our analysis were under age 50, which is the earliest age that PERS members are eligible for retirement benefits.

TABLE 1
AVERAGE MONTHLY EARNED INCOME FOR PERS MEMBERS
RECEIVING INDUSTRIAL DISABILITY BENEFITS
APRIL 1982 THROUGH SEPTEMBER 1983

<u>Average Monthly Earned Income</u>	<u>Number of Members</u>
\$5,000 and above	8
\$4,500 - \$4,999	2
\$4,000 - \$4,499	9
\$3,500 - \$3,999	17
\$3,000 - \$3,499	30
\$2,500 - \$2,999	90
\$2,000 - \$2,499	175
\$1,500 - \$1,999	267
\$1,000 - \$1,499	287
\$ 1 - \$ 999	<u>987</u>
Members with Earned Income	<u><u>1,872</u></u>

As Table 1 shows, many disabled PERS members earned high income while receiving industrial disability benefits. The department's earnings information does not even include data on members' earnings from self-employment, from employment by the federal government, or from employment outside of California.

The earned income of some disabled PERS members is greater than the current salaries for the positions that the members held when they became disabled. For example, some former state traffic officers who are receiving disability benefits from the PERS are earning salaries that are higher than the salaries they could currently earn in their former positions. From April 1982 through September 1983, these disabled officers earned \$46,800 or more than \$2,600 per month. In another instance, several PERS members who became disabled while holding local police officer positions earned more income than they could currently earn in their former positions. During the period of our review, the highest current salary for the officers' former positions was \$2,300 per month. Despite their high earnings, these former officers continue to receive disability benefits from the PERS.

At the UCRS, 4 of the 12 members under age 50 who receive safety disability benefits earned income from April 1982 through September 1983. Although the UCRS classifies these members as disabled, the department's earnings information showed that the 4 members earned monthly incomes that ranged up to \$2,350 per month during this 18-month period.

Reducing Industrial and Safety
Disability Benefits Would Lower
Costs at the PERS and the UCRS

The PERS and the UCRS would save millions of dollars if the two retirement systems could reduce the industrial and safety disability benefits of members whose earned income and disability benefits together exceed the salaries for the positions that the members held when they became disabled. For a sample of 190 PERS members who are earning income while receiving industrial disability benefits, we estimate that the PERS would save at least \$5.6 million by reducing benefits to these members. The PERS would save \$1.4 million in the first year and an additional \$4.2 million by the time the 190 members reach age 50, which is the age at which members receiving ordinary disability benefits are no longer subject to earnings limitations. By reducing the safety disability benefits of 3 members who are earning income, the UCRS would save approximately \$104,000 by the time the members reach age 50.

To calculate these potential savings to the PERS and the UCRS, we used the PERS' procedures for reducing the ordinary disability benefits of its members. Using earnings reports from the department, we added a member's earned income from April 1982 through September 1983 to the member's industrial disability benefits for the same period. From this number we subtracted the highest salary that the member could currently earn in the same position that the member held before he or she became disabled; the difference equaled the savings to the PERS or the UCRS for each disabled member who earns income. However, the savings

could not exceed the amount of the disability benefits. We then determined the savings, increased annually for a 2 percent cost-of-living adjustment, to the PERS or the UCRS by the time that the member reaches age 50. We limited our analysis to disabled PERS and UCRS members under age 50 because PERS members receiving ordinary disability benefits are not subject to earnings limitations after age 50. To calculate how much the systems would save by the time each member reaches age 50, we determined the present value of future savings to the PERS and the UCRS.

To calculate potential savings for the PERS, we evaluated the cases of 190 PERS members who earned the highest income of all members receiving industrial disability benefits from April 1982 through September 1983. We excluded from our analysis those PERS members who first became disabled during this period. All 190 PERS members that we reviewed had earnings and industrial disability benefits that together exceeded the highest current salaries for the positions that the members held before becoming disabled. From April 1982 through September 1983, each member earned more than \$41,900 and received disability benefits ranging from \$5,800 to \$24,200. The totals for earned income and disability payments together ranged from \$51,000 to over \$300,000. For example, one disabled member earned \$82,500, or \$4,583 per month, from April 1982 through September 1983. During the same period, the PERS paid this member approximately \$13,000 in disability benefits. If authorized by the Legislature to reduce industrial disability benefits, the PERS would save approximately \$8,200 for this member in the first year. In another case, a member earned \$53,600 and received \$15,800 in disability

benefits during the 18-month period. If the PERS were authorized to reduce industrial disability benefits, the PERS would save approximately \$56,100 by the time this member reaches age 50. For all 190 members, the PERS would save at least \$1.4 million in the first year and an additional \$4.2 million by the time the members reach age 50. Thus, the PERS would save a total of \$5.6 million for just 190 members.

To determine how much the UCRS would save by reducing safety disability benefits to members who earn income, we again used the PERS' procedures for reducing ordinary disability benefits. Three of the four disabled UCRS members who earn income have earnings and safety disability benefits that together exceed the current salaries for the members' former positions. By reducing the safety disability benefits of these members, the UCRS would save \$19,000 in the first year and an additional \$85,000 by the time the members reach age 50. Thus, the UCRS would save a total of \$104,000.

CONCLUSION

Many members of the Public Employees' Retirement System and the University of California Retirement System who receive industrial or safety disability benefits are capable of working and earning high income. Further, many members have earnings and disability benefits that together exceed the highest salaries the members could currently earn in their former positions. However, state law and a University of California

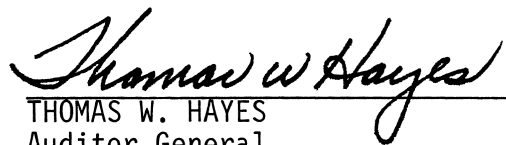
standing order do not provide for the two retirement systems' reducing industrial and safety disability benefits. For the 190 PERS members that we reviewed, the PERS would save \$5.6 million by the time the members reach age 50 if the PERS could reduce the disability benefits of these members. The UCRS would save about \$104,000 by the time 3 of its disabled members who earn income reach age 50.

RECOMMENDATIONS

To reduce the costs of state disability programs, the Legislature should amend Section 21300 of the California Government Code to authorize the Public Employees' Retirement System to reduce the industrial disability benefits of members whose earned income and disability benefits together exceed the highest current salaries for the positions that the members held when they became disabled. Further, the Regents of the University of California should amend Article 15.08 of the Standing Orders to authorize the University of California Retirement System to make similar reductions in the safety disability benefits of its members. The amendments discussed above should apply only to disabled members of the PERS and the UCRS who incur their disabilities after these amendments become effective.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

Date: July 16, 1984

Staff: Thomas A. Britting, Audit Manager
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July 12, 1984

Thomas W. Hayes
Auditor General
660 J Street, Suite 300
Sacramento, California 95814

Dear Mr. Hayes:

Response to Auditor General Report - #P-375

We have reviewed the Auditor General's report regarding excessive disability retirement payments. The Auditor General's concerns are essentially related to two areas: (1) the enhanced ability and efforts of the retirement systems to reduce disability retirement payments on the basis of earned income; and (2) increased monitoring activities by the retirement systems to ascertain continuing eligibility for all types of disability retirement. We limit our comments to those impacting Public Employees' Retirement System and State Teachers' Retirement System.

We concur with the recommendations of the Auditor General to make legislative changes permitting access to earnings information from the Employment Development Department and expanding the PERS reduction of disability retirement payments to include industrial disability retirement. We also concur with the recommendations that PERS/STRS staff exercise greater vigilance in its existing authority to reduce disability retirement payments based on reported earnings and to evaluate the continuing eligibility of members for disability retirement, and will assist them where authority currently exists. All of these concerns are consistent with the thrust of the December 1983 recommendations of the Senate Concurrent Resolution 59 Study Team, specifically recommendations #1 and #24.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. A. Pierce".

A. A. PIERCE
Undersecretary

AAP:jk

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Senior Vice President—
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July 10, 1984

Ms. Mary P. Noble
Assistant Auditor General
660 J Street, Suite 300
Sacramento, CA 95614

Dear Ms. Noble

Re: Letter from Thomas W. Hayes, Auditor General to
President Gardner, dated July 5, 1984, P-375

We support the report on disability retirement benefits as it applies to the University of California Retirement System.

The report suggests that the Regents change UCRS plan rules to reduce safety disability income such that earned income plus disability income does not exceed the rate for the position held when the member became disabled. Currently, disabled members receiving safety benefits can work and earn outside income without a reduction in their UCRS benefit.

UCRS safety benefits parallel the PERS safety package; therefore, the rationale for what UCRS is doing follows from what PERS does. The authors of the PERS rule indicate that special treatment is given safety members because of the unusual hazards and risk associated with their jobs. (page 35 of report).*

Whether or not this is appropriate policy is a matter of judgment to be exercised by the employer in structuring the disability program. On the other hand, the present policy is open to question. A safety member who is disabled and who cannot work is protected and benefits paid. A safety member who is able to work at another occupation, especially one with high income, does not need a benefit. The "needs" aspect of the benefit is certainly not present where the individual has earnings above the level received while employed. Allowing someone to receive income plus benefits which exceed that level is, in effect, a reward for taking a hazardous job and becoming less than totally disabled. Perhaps future benefits could give a greater benefit to those "totally" disabled and a progressively smaller benefit to those only partially disabled and in a position to go on working.

*This information now appears on page 37 of the report.

Ms. Mary P. Noble
July 10, 1984
Page 2

We understand there are proposals to increase disability benefits for safety members now under legislative consideration. Perhaps any improvement in regular safety benefits should be accompanied by an appropriate revision of disability benefits.

The report further suggests a change in the law to permit State retirement systems to receive earnings information from the Employment Development Department. This would be helpful in administering the program. We strongly support such a change.

Thank you for affording us the opportunity to review the report. It was a pleasure to work with your professional staff.

Sincerely,



Morley Walker
Director, University Benefit Programs

cc: President Gardner
Senior Vice President Brady
Fred Naseef

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps