INDUSTRIAL DISABILITY RETIREMENTS:

POTENTIAL FUTURES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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This Command College Independent Study Project is a FUTURES study of a particular emerging issue in law enforcement. Its purpose is NOT to predict the future, but rather to project a number of possible scenarios for strategic planning consideration.

Defining the future differs from analyzing the past because the future has not yet happened. In this project, useful alternatives have been formulated systematically so that the planner can respond to a range of possible future environments.

Managing the future means influencing the future--creating it, constraining it, adapting to it. A futures study points the way.

The views and conclusions expressed in the Command College project are those of the author and are not necessarily those of the Commission on Peace Officer Standards and Training (POST).

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EXECUTIVE SUMMARY

The State Public Employees' Retirement System (PERS) is the largest of its kind within California. About eleven percent of its membership are "public Safety" employees, such as police officers and firefighters. This group has a unique "industrial disability retirement" benefit.

The industrial disability retirement benefit enables a member to retire at 50% of existing salary, tax-free, if the member suffers a qualifying on-the-job injury or illness. Qualifying injuries and illnesses have increased from the obvious to those which are subjectively evaluated, including "stress-related" claims. The use of this benefit has increased dramatically the last decade. Numerous reports in the media have been increasingly critical of apparent abuses of this benefit.

This type of retirement usually results in a life-long award. There are few restrictions and many incentives to using the benefit. While the costs attributed to this benefit are not threatening to the financial strength of the fund, they do indicate problems with the industrial disability retirement program.

Future projections and a critical analysis of PERS helped identify four issues which highlight the need for system reform. The issues are:

1. Incentives to use the benefit.
2. Ambiguous definition of qualifying injury/illness.
3. Lack of knowledge of how the system works.
4. Stakeholder conflicts.

A progressive action plan was developed which will reduce the impact of these current weaknesses. It is a three phase plan.

Phase I Agencies will report their individual use of the benefit for the last five years. Appropriate stakeholders will convene and create a single guide for members which will detail the appropriate use of this benefit.

Phase II Mandatory training is instituted for supervisors to enhance their ability to recognize early behavior which may lead to claims for this benefit. Wellness programs will be encouraged for all membership agencies.

Phase III The redefinition of industrial disability by a committee of stakeholders will be completed. Current incentives to use this benefit will be reduced or eliminated by the same or a similar committee of stakeholders.

The State Public Employees' Retirement System is an attractive, well conceived benefit program. It can help reduce current criticism and concern about this issue by leading the reform effort.

The future will provide more variety in employee benefit programs; including retirement programs. There will be more competition for the retirement dollars. PERS can protect its market share by promoting the necessary reform. This opportunity to improve PERS should not be wasted nor left up to those who are less informed.

NEEDS STATEMENT

The Issue

The issue of industrial (job-related) disability retirements in the public sector is an emerging problem. Horror stories about the public safety employees who have retired on industrial disability via questionable claims have been reported in the media.[1] The transition from obvious injuries to "bad backs" and "cummulative stress" has caused increasing concern by members of PERS and, most recently, the public. It now appears to be developing attention in the political arena as well. It has received a great deal of noteriety in the media, most of which has been critical of apparent abuses by some members of the system.

My research paper will discuss the issue as it relates to the State Public Employees' Retirement System (PERS). I chose this system because it is the largest of the public employee retirement systems in California. Greater interest by constituents should result from my findings. Also, by focusing on one system rather than many, the research was easier to manage.

Although I chose only one system, I refer to other systems in the text. Undoubtedly, other systems within the state experience similar problems of varying magnitude. Comments on the potential futures of PERS may be relevent to these other systems. I hope that this research paper will promote thoughts which will benefit PERS and these other systems.

Industrial Disability Retirements

Essentially, industrial disability retirements are unique to public safety employees. The intent of this type of retirement within PERS was to provide protection for those employed in hazardous occupations. Those occupations placed employees in greater jeapordy, and this special benefit evolved into a multitude of injuries or illnesses qualifying an employee for disability retirement benefits. The types of injuries and illnesses claimed as job-related have become increasingly difficult to evaluate. Some injuries are apparent, while many others are increasingly difficult to assess. Over the years, disability retirements have moved from those that are obvious to those which now must be more subjectively evaluated.

Conflict

Perspectives of the validity of many current industrial disability claims for retirement benefits vary greatly. As an

example, some city officials believe that stress-related disability claims for PERS retirement are 90% questionable, one police administrator feels that 75% are fraudulant, and one psychologist, who counsels troubled members, believes that over 90% are legitimate.[2] At the same time, labor organizations fight to protect member benefits. Because of the often ambiguous medical criteria applied to these claims and then interpreted by the courts, a group of specialists which evaluates the validity of the claims has evolved. Each faction has its own stable of such specialists; the adversary system incorporates a growing number of these medical and legal advisors.

Reform

Legislators have been unsuccessful in reforming the system. There are now indicators that the voter initiative process will be the next step in an attempt to reform the system. While the internal conflicts continue, the general public grows increasingly concerned about the inappropriate use of the system by its members.

Perception

Public perception might as well be fact. To ignore the growing perception is to await the inevitable reform from the outside. It would be unwise to ignore some of the warning

signs. The Public will not distinguish differences in retirement systems nor undeserved and exorbitant benefits enjoyed by a few at the expense of many. However, their perception will play an increasingly important role in restricting future benefits for members of PERS.[3]

I believe that all members of PERS can play a role in responsibly administering industrial disability retirement benefits. Perhaps some of the issues raised in this text will provide the impetus necessary to better ensure the health of the system and its members. It is with this intent that this research project is presented.

I refer to "public safety" employees throughout the text because the data provided by PERS falls within that classification. However, a reader will soon discover that the text is skewed toward the police culture, rather than the other members of the "public safety" classification who are members of PERS. With the exception of the data from PERS, most supporting documentation will apply to the police culture. Therefore, with the exception noted with PERS data, this is primarily a report on the police officer members of the system. It is intended to be just that.

RESEARCH OBJECTIVES AND METHODOLOGY

Objectives of the Report

Define the need for this report

Present the current system

Project potential futures, including a desired future

Critically evaluate strengths and weakness of the system

Propose a plan which will help bridge the gap between the present and the desired future.

Research Methodology

The Current System

Literature Search
Interviews

Development of Futures

Literature Search
Nominal Group Projection -- A diverse group of people define trends which should be monitored, and the trends potential impacts on the future.
Cross-Impact Analysis -- An identification of future events which may impact the trends and their relative impact on each other.
Scenarios - Three future potential scenarios, including best, worst, and most probable.

Critical Evaluation of the System

Literature Search
Interviews
SWOT Analysis -- Comparison of current strengths and weaknesses against future opportunities and threats.

Development of a Strategic Plan

Literature Search
Discussion of strategic options
Choice of Strategy
Long and Short-term Objectives
Long and Short-term Strategies
Implementation
Control and Review

PERS ---- THE SYSTEM

The State Public Employees' Retirement System (PERS) was established in 1932. As of June 1984, its combined assets were approximately $24 billion, making it the nation's fifth largest investment fund and second largest pension fund. It manages funds for about 1,000 agencies, representing cities, counties, and state government.[4]

PERS Membership

One-third of all local government and state employees are members.[5] Its membership totals over one-half million (541,477). 40% are state and university members, 28% are public agency members, and 32% are school members. The "public safety" designation is comprised of the following categories[6]:

California Highway Patrol	= 5,516
State Safety	= 3,051
State Peace Officer and Firefighter	=17,843
Public Agency Safety	=32,172

Government Code Sections 20017-20019.4 provide definitions of these three categories. In addition to the California Highway Patrol, the other two membership categories are specifically comprised of the following (the lists are not all inclusive):

State Safety, State Police, and Firefighter members:

Department of Fish and Game
Division of Forestry
Department of Justice Peace Officers
San Francisco Port Authority Peace Officers
Depatment of Corrections
Board of Prison Terms
Department of Youth Authority
Youthful Offender Board
State College Police Department Officers
State Lifeguards
State Firefighters

Public Agency Safety Members:

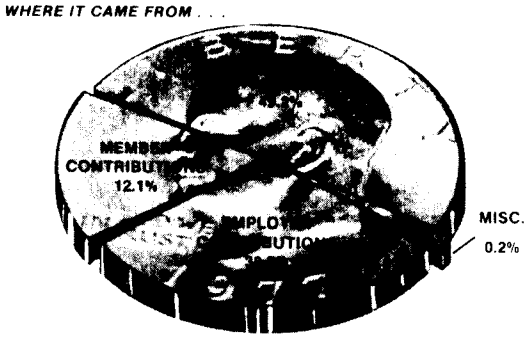
Police Officers
Firefighters
County Peace Officers
Deputies, Constables, Marshals, Bailiffs, Probation Officers

As of June 1985, those listed above totaled 58,582, or about 11% of the total membership, according to the 1986 Report to the Governor and Legislature.

Contributions to the Fund

Contributions to the PERS fund come from a number of sources. PERS investments yield the largest share of contributions to the overall fund; about 50% of which come from these investments. The second major contributor to the fund is employing agencies; their contributions total 40% of the fund. With a small exception, the remaining contributions are made by employees, who contribute slightly more than 10% of the fund.[7] Contribution rates are fixed by law for employees but fluctuate for employers. Employer rates are based on their em-

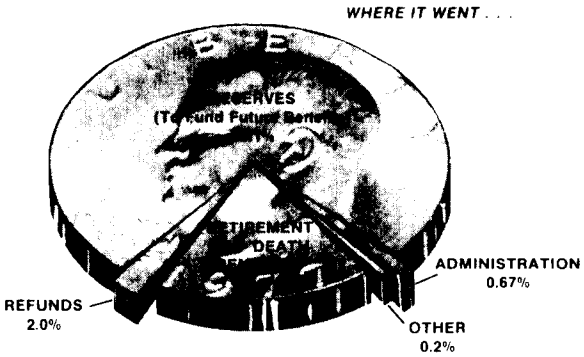
ployees' use of the benefits and also depend on the specific retirement plan in which they are enrolled.



Source: 1985 PERS Report

Distribution of Contributions

About 70% of the contributions are placed into reserve funds. Membership retirement and death benefits use about 26% of all contributions. The remaining amount is divided between refunds and administration; PERS administration costs are less than 1% of the total contributions.[8]



Source: 1985 PERS Report

TYPES OF PERS RETIREMENTS

Service Retirement

Service retirement is normal retirement, awarded after reaching a minimum age and having been in the PERS system for a minimum period of years. Age for such retirement varies according to individual employer contracts with PERS. It also varies depending on the classification of the employee. Normal service retirement age is 60, except for safety employees (listed earlier) who may retire at age 50 or 55, depending on the retirement plan offered by their employer. Retirement pay is calculated on the highest year or three year average salary (this depends on the employer's plan). The factor increases from 2% per year of service as an employee works additional years beyond the minimum retirement age, to a maximum of 75% of salary.

Disability Retirement (Non-industrial)

Disability retirements are provided to those who become ill or are injured and no longer able to perform their jobs. Illness or injuries must be diagnosed as permanent or indefinitely disabling to receive benefits. The individual benefits for such retirements depend on many factors including years of service and employer contract. The benefits for this type of retirement are less than those awarded to

service retirements. Such an injury or illness need not be related to the job. This type of retirement has an earnings-offset clause, which requires that once retired and until the person reaches the normal minimum retirement age, any outside income must be reported to PERS (Government Code 21300). If the new employment income added to the PERS retirement income is more than the current salary for the position from which the employee retired, the PERS disability retirement income will be reduced to the current position salary level. Once the disabled person reaches the minimum service retirement age, this offset is eliminated. Generally, a member must have five years of membership in the system to qualify for this type of retirement, a fact not true of industrial disability retirements, which are discussed next.

Industrial Disability Retirement

With rare exception, industrial disability retirements (IDR) are open only to public safety employees; this is, those classifications of PERS members listed as "public safety" in the prior section of this introduction. Generally speaking, to qualify for this type of retirement, a member must be substantially disabled for the job and the disability must be job related. Existing law assumes that, for public safety employees, the following are job related: hernia, heart trouble, tuberculosis, and pneumonia.

Industrial disability retirement payments are not taxable nor is there an earnings off-set, as there is in the non-job related disability retirement discussed earlier. A social security off-set for some members ended February 1, 1986. As a general rule, the minimum retirement awarded is 50% of the member's current salary at the time of retirement. If the member has reached or exceeded the minimum retirement age for normal service retirement, industrial disability retirement benefits will equal the amount the member qualifies for under normal service retirement, up to 75% of the member's current salary.

PERS determines the level of disability for state agency members through the use of a four member screening committee. Disability determination for local agency members is deligated by PERS to the local agency. Routinely, medical opinions are evaluated before retirement benefits are awarded. Disabled retirees are required to take periodic medical examinations as directed by their employers and may be reinstated if found to be fit to work.

A disabled employee may also petition for job reinstatement, at which time the employee's health will again be evaluated. If found fit, the retiree may be reinstated.

To qualify for these benefits, a member need not be in the retirement system for any minimum period of time; this benefit begins when the employee is hired.

PERS Beneficiaries

According to PERS, as of June 1985, there were 226,107 beneficiaries on the PERS rolls. They were being paid approximately $1.5 billion in retirement benefits. Of that figure, 203,743 were retired members, while the others received benefits as heirs of deceased members. 32% were retired school system members, 40% state and university members, and 28% local public agency members.

Retired public safety members numbered 21,522 or about 10% of the total retired members. The breakdown for public safety were as follows:[9]

California Highway Patrol	=	2,714
State Safety	=	5,249
State Police and Firefighters	=	98
Local Agency Safety	=	13,461

This 10% figure closely corresponds to public safety membership in PERS, which is 11% of total membership. This percentage will become more relevant in later discussions in this report.

THE CHANGING USE OF INDUSTRIAL DISABLILITY RETIREMENT BENEFITS

Industrial disability retirements are not new; however, they have received more attention because of what appears to be a relatively high use when compared to the other types of retirements (service retirement and non-job related disability retirement). While there currently appears to be somewhat of a leveling trend, the increase over the past decade was dramatic.[10]

Using the state safety and California Highway Patrol Classifications, in 1974, industrial disability retirement dollar costs were 26.3% of the total retirement costs for those classifications. In 1984, they were 48.2%, or nearly one-half the retirement dollars paid to those two classifications.[11] By combining all public safety categories in 1984, 34% of public safety officers retired via industrial disability. In other words, for every two officers who retired on normal service retirements, one retired on industrial disability retirement. In 1984, about three of every four California Highway Patrol Officers retired on industrial disability.[12]

While few are reluctant to provide such benefits to those who are truly deserving, many employers and employees criticize what appears to be questionable use of the system, a system

Which was designed to protect all of its members.

> "The concern of public employers involves police officers and fire fighters who appear to have decided, plainly and simply, that they just no longer desire to do this type of work. Rather than merely resign, however, many of them try to take a disability retirement pension with them to ease their transition into a new career. Many of these individuals claim to suffer from 'job related cumulative stress'"..."Often there is absolutely nothing wrong with these individuals other than a loss of motivation and interest in their jobs."[13]

Much of the criticism comes from those who are not beneficiaries of the system; the public perception of this issue is very important. Ignoring criticism may lead to reduced confidence in the system and its members and critics may impose unwelcome changes which may lower or eliminate current benefits.

> "Whether your public safety members are in PERS, a '37 Act' county system, or an independent retirement system, the current emphasis in the media and by elected officials on public safety disability benefits has a potentially disastrous effect on all safety members."[14]

This particular issue will be explored later in the report. More close examination of the use of the industrial disability retirement system should answer some questions regarding abuse or weaknesses of the system.

The following table indicates the nature of retirements for public safety members of the system for the last three fiscal years:

	RETIREES		
	FY 84-85	FY 83-84	FY 82-83
Service Retirement:			
State Safety	449	205	330
State CHP	42	53	62
Public Agency Safety	418	447	404
Ordinary Disability:			
State Safety	11	19	16
State CHP	1	2	3
Public Agency Safety	17	23	20
Industrial Disability:			
State Safety	141	135	160
State CHP	101	116	153
Public Agency Safety	259	312	327
Totals	1439	1312	1475

PERCENTAGE OF IDR TO TOTAL RETIREMENTS			
State Safety	23%	37%	31%
State CHP	76%	67%	70%
Public Agency Safety	37%	39%	43%

(Compiled from PERS data)

PERS indicates in the 1986 Annual Report that IDR are 5.6% of the total retirements in 1985. This is not a significant amount when compared to the total retiree rolls. However, about 11% of the membership qualifies for this benefit; 89% do not. The 5.6% becomes a significant figure when presented in that context. This 5.6% is not threatening to the system, but it does not reflect positively on the public safety membership.

The growing concern seems to be focusing on psychological stress retirements, including such things as "accumulated stress." PERS has just recently begun to monitor the types of industrial disability retirements. Within a few years, PERS will have the data necessary to accurately reflect this type of use. At the present time, PERS is unable to provide this information.

There are common elements of danger in a public safety career. These dangers are influenced by the local environment. The incidents of industrial disability retirements can vary significantly between jurisdictions.

It appears that PERS may be susceptible to certain types of industrial disability claims. Not all systems are as vulnerable. In 1984, New York City awarded two "stress" pen-

sions. As of 1984, Houston had only two "stress" pensions in 15 years. Philadelphia awarded five stress pensions in eight years.[15]

Are the retirement systems in these cities not recognizing psychological problems in the employees? Is there a reluctance to apply for such retirements? Is the leadership in the agencies able to recongize psychological stress? Are the work tasks in these cities so different from public safety careers in California? Or, is PERS the victim of its own rules, definitions and practices? Whatever the reasons, these subjectively evaluated injuries and illnesses are important to the future use of the system.

THE ROLE OF WORKER'S COMPENSATION

Workers' Compensation and the Public Employee's Retirement System (PERS) are two separate and distinctive employee benefit systems. Workers' Compensation influences PERS in the area of on-the-job injuries because those injuries may lead to industrial disability retirement for PERS members. The Workers' Compensation Insurance Program became a mandatory benefit on January 1, 1914. The program was created to provide the following benefits:

> Financial support for an employee unable to work because of a job-related injury.
>
> No cost medical treatment,
>
> Compensation for a permanent disability.
>
> Rehabilitation for an injuried employee.
>
> Dependent's compensation in the event of a member's death.
>
> Protection against discrimination.

Workers' Compensation Insurance Program is administered under the State Department of Industrial Relations (Labor Code 50.5). The Division of Industrial Accidents has within it a Workers' Compensation Appeals Board (L.C. 60) comprised of seven members (L.C. 111). They hear appeals not settled in the more than 20 field offices throughout the state. Each

field office has a Worker's Compensation Judge, who evaluates cases on the more local level. This appeals board is supported by a Legal, Medical, Disability Evaluation and Rehabilitation Bureau, and an Information and Assistance Officer. The Information and Assistance Officer has powers that help resolve conflict, thereby reducing the need for litigation.

Unlike PERS, the Workers' Compensation Insurance Program has defined different types of disabilities and their relative worth. Workers' Compensation uses a "Permanent Disability Rating Schedule" as a guide in awarding disability benefits. The schedule measures such factors as[16]:

> Nature of the injury.
>
> Age and occupation of the injured person.
>
> The injured's ability to compete in the job market for new employment.

The closest association between Workers' Compensation and PERS occurs when a disability claim made by a PERS member is disputed by the employing agency or by PERS. Such claims are then referred to the Workers' Compensation Appeals Board (WCAB) for final determination. Under Government Code 21026, WCAB has the authority to decide whether or not the disability is industrial or on-the-job. The Appeals Board has no authority to make any award to the employee.

As a general rule, PERS will not dispute claims which have

been forwarded by the Workers' Compensation system. Also, most claims that may result in industrial disability retirements from the PERS system are filed simultaneously with both PERS and the Workers'Compensation system.

While they are sometimes difficult to distinguish, differences between the two systems do exist. PERS industrial disability retirements are benefits, not awards designated to compensate injured employees.

> "Disability retirement is a benefit program. It is not a program to compensate for injuries; that is the province of the Workers' Compensation program under the Labor Code. Because of this distinction, it is not sufficient for an employee to simply suffer from an injury to qualify for retirement benefits." [17]

The PERS benefit usually results in retirement at 50% of the current wage, while a Worker's Compensation award varies with the specific injury and may not result in retirement.

THE POTENTIAL FUTURE(S)*

We do not know the future impact of industrial disability retirements on the state Public Employees' Retirement System (PERS). Predicting such futures is a risky undertaking, but projecting potential futures is not. One process for projecting potential futures involves the use of a small group of people who make "best guesses" at future developments. This process in commonly referred to as a Nominal Group Technique (NGT). Such a group was created to examine the future of this issue.

The group was comprised of seven people of differing backgrounds and interests. They were instructed in the NGT process, provided with basic information on which to base their projections, and asked the following question:

> What are the trends which should be closely monitored to provide valuable information for the management of industrial disability retirements in the Public Employees' Retirement System?

Twenty-four trends were identified as important to the issue. Five were selected as having the most impact on the issue. Fifteen year trends were projected for these five important trends. The five trends were:

Causing Events---What types of events are causing employees to use the IDR benefit?

*Refer to p. 59 for detailed report on NGT.

Increased Stress Related Problems---What are the stress inducing problems?

Rehabilitation Efforts---Will rehabilitation have any impact on the frequency of these retirements?

Percentage of Retirement Dollars Used for IDR---What are the changes in these relative dollar costs?

Public Awareness---How is public awareness of the use of IDR benefits changing?

The group was then asked to identify events which may have significant impact on the development of the trends. They identified sixteen, and selected five of these as the most important events. The five events were:

Ballot Initiative---A method of forcing reform from the outside.

Clarifying Court Decision---The courts provide a clearer definition of industrial disability.

Mandatory Wellness Program---The health of the members is improved.

Retirement Presumptions are Challenged/Eliminated---Benefits become more common, like those for other PERS members.

Redefinition of Industrial Disability---The system promotes a clear definition, reducing criticism from outside.

The group appeared to be relatively conservative in its projections. The probability of the events occurring by the year 2000 varied from a low of 69% for redefinition of industrial disability to a high of 85% for the development of mandatory wellness programs for public safety employees.

The ballot initiative was rated as the highest single event to impact the issue. It was likely to take place in spite of internal efforts to reform the system. Redefinition of industrial disability through negotiated compromise by stakeholders was of slightly less importance. This event was not expected to occur in the near future, supporting the concern that the initiative process would impose such reform. Wellness programs could effect pressures to eliminate the presumptive illness/injury portion of industrial disability retirement. Stakeholder conflict continues to play an important role in this issue. Court decisions clarifying definitions were unneccesary providing the definition of industrial disability was changed. Such court decisions would exemplify the failure to reform the system from within. Wellness programs would have little effect on the public's perception of reform. Benefits of such programs are not quickly recognized; critics prefer quick, dramatic reforms.

These projections led the group to develop three scenarios. They included a best, worst and most probable future scenario. The best scenario was developed in order to provide a better direction for reform. Its achievement would become an ideal on which future reform would be developed. The best scenario is described below.

> Responsibe actions on the part of PERS, its members, and labor organizations over the past 15 years have overcome public criticism, which peaked in 1985. PERS has been structured to administer an economically feasible program that adequately covers all members who are required to retire as the result of job-incurred injuries or illnesses.
>
> Regional screening boards, which evaluate all claims for disability retirements, have been established. These boards work with clear definitions of qualifying injuries or illnesses. They also attempt to redirect into new careers members who can no longer effectively perform public safety functions.
>
> PERS has refined its already responsive method of monitoring expenditures and continues to adjust its rates so that the system remains solvent and able to address its members' needs.
>
> Training for department supervisors and administrators in management techniques that focus on job burnout has been very effective. As a result, employees, who in the past would look for industrial disability retirement, are being prepared for and directed into other career paths or careers.
>
> The Peace Officer Standards and Training Commission's mandatory wellness programs have greatly benefitted public safety. The old academy standards have been refined, adjusted for age, and applied to career level, rather than just to entry level officers.

To achieve the desired future, as presented above, planners

need to critically assess strengths and weaknesses of the current system against future opportunities and threats. Movement toward the desired future can be promoted by this type of analysis.

PERS ENVIRONMENTAL PROFILE**

The existing PERS system has strengths and weaknesses as it relates to the management of industrial disability retirement (IDR) benefits. I used the S.W.O.T. method to profile these strengths and weaknesses against future opportunities and threats in preparation for the development of strategic options leading to an action plan.

Listed below are present strengths and weaknesses important to the industrial disability retirement issue.

Strengths

- Size and Composition of the Membership
- Solvency of the Retirement Fund
- System of Rate Adjustment

Weaknesses

- Incentives to use IDR Benefits
- Ambiguous Definition of Industrial Disability
- Lack of Knowledge of Existing System and Rules
- Unresponsiveness to Recommended Changes and Reform

**Refer to p. 92 for detailed S.W.O.T. Analysis

Stakeholder Conflicts

Insensitivity to Public Opinion

Lack of Uniformity in Processing Claims

As there are existing strengths and weaknesses, there are also future opportunities and threats to the system. Twelve of these opportunities and threats are listed below.

Opportunities

Reduce Cost of IDR

Better Definition of Industrial Disability

Maximize Rehabilitation

Re-evaluation of Presumptive Illness/Injury

Membership Wellness

Overcome Negative Public Opinion

Exlore Alternatives to Retirement

Threats

Resistance to Change by Labor

Passive Attitude by Membership

Issue Becoming Political

Lack of Understanding for Reform Needs

Complexity of Change

By comparing individual system attributes and liabilities, critical issues were then defined. As an example, if not properly managed, a current system strength may be

compromised by a future threat. Similar comparisons between strengths and opportunties and weaknesses and threats can also be made.

This S.W.O.T. analysis resulted in the identification of four issues that appear to be critical to system reform. This analysis does not discount the effect that other individual factors have on each other; it merely makes them secondary to the critical issues. A discussion of the critical issues follows.

CRITICAL ISSUES

Each of the strengths and weaknesses, opportunities and threats is important to the issue of industrial disability retirements. However, some are more important than others and need to be targeted as critical issues. Those listed below were selected as most critical to system reform.

Incentives to use Industrial Disability Retirement Benefits

As long as incentives to use IDRs outweigh disincentives, the system will be a target for abuse. Even limited predicted abuse could mean reduced benefits for members.

Ambiguous Definition

Responsible reform will be limited, slowed or stopped if the industrial disability definition is not clarified.

While court interpretations may help, it seems that a more definitive statement is necessary to prevent abuse, for it seems unlikely that the court, acting alone, can provide the needed clarification.

Lack Of Knowledge

Ignorance of the system may be more perceived than real: however, documented cases in which the system is not being used properly do exist. The most common deficiency is that of rehabilitation. A second area of concern involves monitoring and reviewing the status of retirees, which may lead to more frequent reinstatement/return to work. Stakeholders should be encouraged to work together to develop an educational package that would increase membership understanding of benefits.

Stakeholder Conflicts

If stakeholders choose not to work for responsible reform or choose to fight efforts to reform the system, legislative reform seems inevitable. If lobbying interests successfully combat legislative reform, then change by initiative seems likely. Such reform may not be as productive for the system as that which can be decided by stakeholders.

CONCLUSIONS

The use of the two techniques (NGT and SWOT), each with its own design, has led to some interesting conclusions. The Nominal Group was concerned with the types of events that caused industrial disability retirements, as well as the dollar costs of such retirements. They also expressed concern about the public's perception of the issue and the influence that rehabilitation might have on the cost of these retirements. Important events for future consideration were wellness programs, redefinition of industrial disabilities, and system reform through initiative. Part of the desired future included regional screening boards for IDR claims and increased sensitivity by supervisors toward early behavior which could lead to IDR claims.

Critical issues identified by the S.W.O.T. analysis were incentives to use the IDR system, the ambiguous definition of industrial disability, lack of knowledge about the system, and stakeholder conflict.

Based upon the past, identified concerns about the present, and critical issues relative to the present and the future, some reform to the system is desired. The question is what degree of reform?

The next step in the analysis is to begin a comprehensive plan of action based on evaluations of alternatives which will result in movement toward the desired future. This analysis starts with the presentation of strategic options in the form of broad strategies.

STRATEGIC OPTIONS

What are the strategic options for reform? Based on the information developed, there seem to be three broad strategies which can be presented as options. They are:

1. Do Nothing
2. Progressive Reform
3. Total System Reform

Do Nothing

Some advocate this option. The current leveling trend in use of IDR has relaxed some concerns within the system. Some believe that the system is self-correcting and requires no further attention: Perhaps the "problem" will take care of itself. This approach requires no additional committment or funds or resources.

Do nothing is not a viable option. Allowing the system to continue as it is only invites outside reform. The public is aware of many different "retirement" system problems, such as Social Security, the underfunded system which most of them pay into.

The public will only become more skeptical of PERS, which allows retirements at ages 50 and 55, when most of them will not receive retirement benefits until a later age. Newspaper articles about abuses are increasing public awareness of apparent weaknesses in PERS. It is not necessary that the criticized system be PERS, for the public does not discriminate when it comes time to criticize public employee retirement systems. In addition, the high incidence of applications for IDR may be a symptom of problems within the system or the culture it serves. Ignoring these symptoms is not the act of responsible leadership; some degree of reform is necessary.

Progressive Reform

Progressive reform is valuable when the degree of reform is unknown. It takes into consideration inter-related issues and how the solution for one may lead to a reduced need for change to another. Progressive reform may include such things as educating users of the system to changes in regulations. While it may lead to total system reform, it is not the objective of this type of reform. The primary objective is to make necessary reform. Such reform may fall short of total system reform.

As a strategy, it is less threatening than total reform. There are less risk involved in implementing this type of reform. Chances of acceptance are increased. It may start with simple objectives and move to the more complex, but only as necessary. There is no need to map out a complete plan of reform. However, this strategy relies heavily on accurate monitoring and reporting. It requires that short and long-term objectives be clearly defined and that they also be reasonably measureable.

Total System Reform

Total system reform would include such things as a new definition of industrial disability, reduction or removal of presumptive injury/illness, elimination of incentives to use IDR, and strict application of rehabilitation, light or alternative duty, and periodic evaluation of IDR retirees. One of the problems with any reform is the determination of the extent of the needed reform. How much reform will satisfy the public and at the same time be acceptable to the members of the system? Which degree of reform will receive the greatest support? The chosen formula must inclue a means of exploiting the strengths and opportunities of the system. This must be done at the same time the threats and weaknesses are managed so that they do not compromise the strengths and opportunities.

Total system reform will result only from a well engineered action plan. However, the need for total reform may be unneccesary: this question is certainly subject to challenge. Since many of the issues I have discussed are related to one another, resolution of one may eliminate the need for reform of another. In addition, such an approach diminishes the specter of compromise of stakeholders. Total reform will invite conflict. Because the degree of needed reform is not easily defined or agreed upon and such broad strategies can threaten members of the system, this approach is less than desireable.

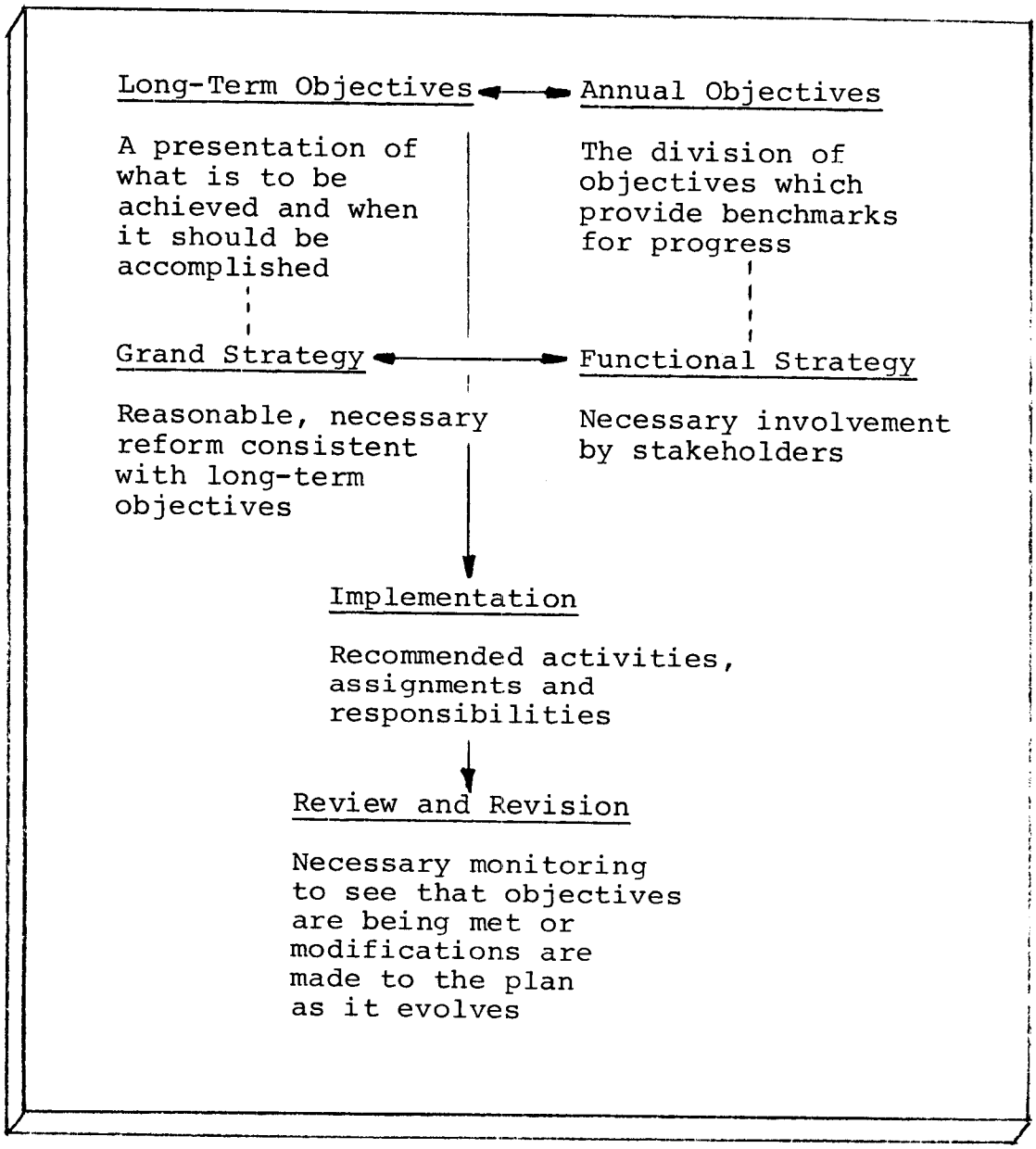
STRATEGIC CHOICE

It seems that the strategy which offers the best potential results is the Progressive Strategy. The "Do Nothing" strategy is not responsive to the need for reform. The "Total System Reform" strategy will create a threatening environment for stakeholders and requires a great deal of complex planning. It is also more likely to be challenged, especially by those who do not agree with the need for reform.

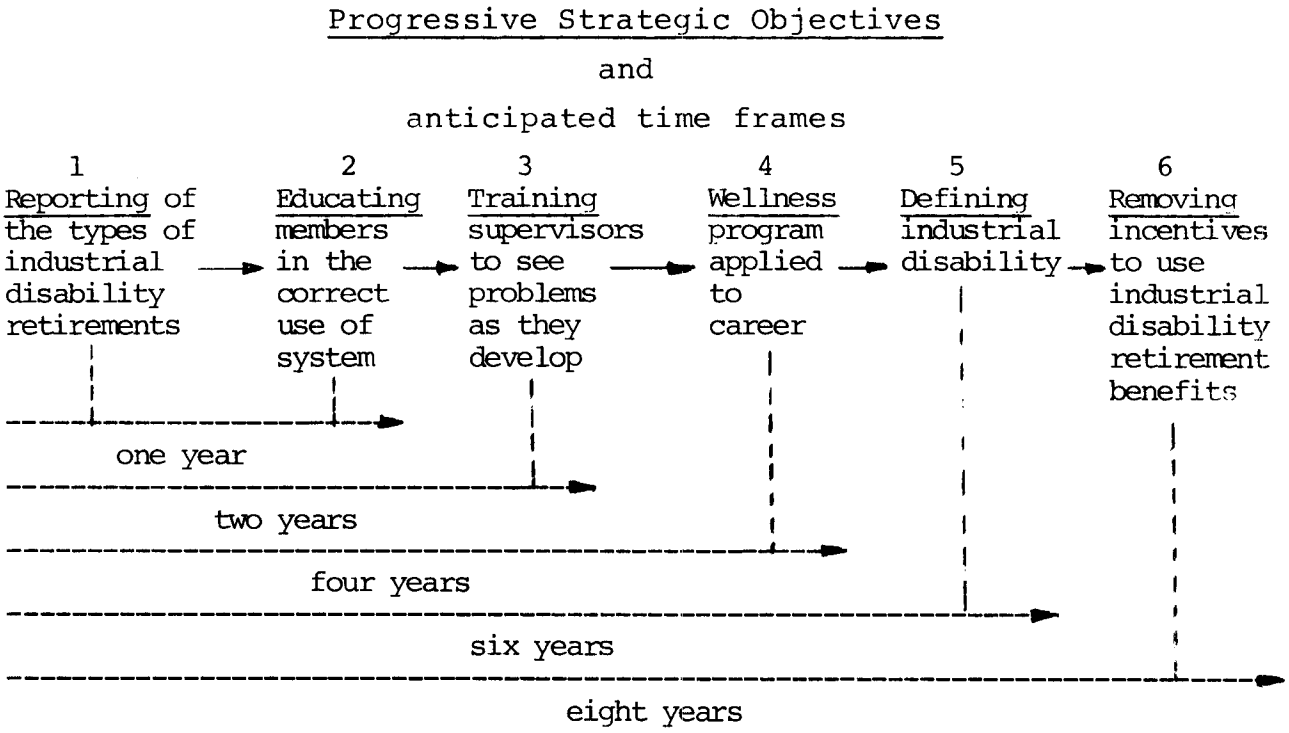
Progressive strategy can start with "soft" reform. Educating members in the appropriate use of the system is one method of this type of reform. This type of start is not threatening to stakeholders and promotes an opportunity for stake-

holders to work with the system in a non-threatening environment. This broad strategy will be applied to the development of an action plan.

AN ACTION PLAN



AN ACTION PLAN



Grand Strategy

The overall strategy is to promote necessary reform to overcome existing problems with the system. The long-term objectives listed above (#5 and #6) may not be necessary to the grand strategy. Their need will be determined by the impact of the short-term objectives on the system.

Functional Strategy

The functional strategy is to involve stakeholders in the reform. This strategy is accomodated by the short-term objectives, which are least threatening and least likely to create resistance. Experience has shown that the lack of cooperation between stakeholders can drastically reduce the potential for reform.

1. REPORTING FREQUENCY AND NATURE OF THE USE OF INDUSTRIAL DISABILITY RETIREMENT BENEFITS

Primary Objective: To create accurate records of the use of industrial disability retirement benefits by member agencies for the period 1981-1985.

Membership agencies will be asked by PERS to report the frequency and nature of industrial disability retirement (IDR) benefits for the last five years. This will allow PERS to create some new data. PERS currently has the frequency data, but lacks the information on the types of injury/illness which qualified members for IDR benefits. PERS started compiling the requested data in late 1985. It will be a few years before enough data is available to determine trends in the use of IDR. This delay may be costly in terms of needed reform. The delay can be eliminated by having membership agencies report their performance in these areas for the last five years.

There are other benefits to reporting this data. Reporting will heighten the membership's awareness of the use of this benefit. The five year history will provide the data base necessary for comparison, starting in 1986. It will identify agencies with high and low incidences of "stress"

related awards. Additional questions regarding the existence of individual agency programs and policies addressing worker's compensation matters and IDR management should also be included in this survey. This type of information could lead to the development of model programs which could be recommended to those who do not have such programs.

PERS should develop a comprehensive questionnaire for member agencies which should include questions relating to:

1. types and frequency of IDR
2. formal rehabilitation programs
3. agency policy on the management of IDR claims.

PERS will manage the collection and analysis of the data. A report on this data, including analysis, should be completed within one year, with results distributed to the membership.

Membership must support this objective by responding to the questionnaire in a timely and accurate manner. Distribution of results may be an incentive for reporting.

Costs of this research should be minimal. The development of the questionnaire should be done by PERS. The cost of reporting will be assumed by the reporting agencies. PERS must evaluate the cost of analysis, to see if it can be assumed by existing staff. If cost of analysis is a problem, consider-

ation should be given to establishing an intern program with the state college system. It is possible that a graduate student could complete the work under the direction of PERS staff.

2. EDUCATIONAL GUIDE ON THE IDR SYSTEM

Primary Objective: To educate the membership in the appropriate use of the industrial disability retirement (IDR) benefit.

The existing system can be confusing. The relationship between PERS and Worker's Compensation is not always understood. The concern about individual benefits often leads to the involvement of attorneys and other specialists. Certain elements of the system, such as rehabilitation, are under-utilized. A better understanding of the system may lead to lower costs.

The product of this objective will be an information guide for membership use. This guide will address membership benefits, agency responsibilities, and provide clear direction for an injured or ill member who is examining the IDR benefit.

PERS will manage this effort. A task force, comprised of representatives from PERS, Worker's Compensation, and labor

should be created. This task force need not be restricted to these three stakeholder groups, but it should include representatives from those interests. The representatives should share existing literature or guides which outline their respective procedures relating to the processing of IDR claims. Their task is to develop a single document which is simple, understandable, and represents the sytem's interests. Conflicts must be resolved through negotiation. This objective should be completed in one year.

One of the greatest benefits of this task force is bringing stakeholders together under circumstances where threats to individual stakeholders are minimized. The guide will be more than a product; it will represent a cooperative effort by the members. This success can lead to a new spirit of interest in the PERS system. PERS can also maximize the opportunity to inform this group by sharing the information from the first objective (surveying use of the system) as the information becomes available. This forum should lead to the discussion of alternatives to IDR, rehabilitation programs, alternative duty, and other programs which have been successful in individual agencies. The discussion of these programs and concepts may reduce some barriers to reform.

The major cost of this objective is the dedication of staff to the periodic meetings. Perhaps some agreement can be made to share the cost of printing the guide. In any event, PERS should coordinate the distribution of the guide to its membership.

It is very important to this objective that others be made aware of the cooperative efforts of this task force. There is a need to inform the public, legislators, and taxpayer organizations of these efforts. The reporting and educating objectives need time to be measured. Their impact is very important to additional measures. If these efforts are successful, the threat of outside reform, in the form of an initiative, may be diminished. However, these efforts by PERS need to be publicized in order to guarantee that the information reaches the right people and organizations.

3. INCREASED TRAINING FOR SUPERVISORS

Primary Objective: To increase the ability of supervisors recognize the danger signs in employee behavior which may eventually lead to industrial disability retirement claims.

Early recognition of problem behavior allows a supervisor to intervene in a more positive environment, rather than late crisis intervention.[18] Early intervention is likely to

reduce the need for IDR claims, thereby reducing the cost of this benefit. Training to heighten the awareness of supervisors also strengthens the commitment of wellness for employees; it fosters a positive environment.

Police training is coordinated statewide by the Commission on Peace Officer Standards and Training. Supervisory training is one of the responsibilities of this agency. This agency currently offers training in stress problem solving, stress reduction, post-trauma stress, and intervention counseling to supervisors. The commitment to this type of training can be reinforced by making this type of training mandatory for supervisors. Included in this mandatory program could be periodic updates, administered in the same way as the mandatory updated training required for officers. This agency is very responsive to the training needs of officers, constantly reviewing these needs.

PERS can assist the Commission of Peace Officer Standards and Training (POST) by providing the information PERS develops through the reporting objective. POST could then incorporate new information into its supervisory training agenda. Courses could be tailored to meet the needs of intervention counseling, strengthening this program.

POST would be responsible for this objective. It is anticipated that POST would support this objective. PERS' responsibility would be the timely flow of information from that agency to POST. The necessary modifications to the POST program should be made within two years.

The cost of this update should be absorbed by POST as part of its on-going course review and update. Constant review and updating of courses is standard practice for this agency.

4. WELLNESS PROGRAM

Primary Objective: To increase the wellness of PERS members.

Organizational health is effected by individual member health. PERS is effected by the health of its membership. The promotion of wellness programs should reduce the use of the IDR benefit. The adoption of a wellness program has many benefits. It recognizes that wellness (physical and psychological health) is a career objective, not some entry level testing program that is used and discarded. It recognizes that people change during their careers, and that some of these changes can be negative, if not treated. A wellness program can reduce the need for presumptive

illness/injury category retirements by reducing the incidences of heart attacks and physical injuries because members are in poor physical condition. An effective program can also reduce employee costs to individual agencies by reducing absenteeism caused by sickness or general poor health. Increased service to the community can be expected. A wellness program should reduce the incidences of stress-related problems; stress does have an adverse affect on performance.[19] Periodic health screening can discover problems early, increasing the chance of effective treatment. Administrative support of a wellness program highlights agency care for its employees.

Implementing a wellness program can be a costly item. For that reason, the type of program and the date of implementation is best left to each individual agency. A mandatory wellness program would likely fail due to practical considerations; primarily the cost of implementation. Such a program cannot be unilaterally imposed upon membership without conflict. However, PERS can promote the examination of wellness programs as a means of reducing IDR costs.

There is a great deal of information available for those who are contemplating a wellness program for their

agency. POST is conducting a national survey on wellness programs.[20] The California Peace Officer's Association has also surveyed employee assistance programs.[21] Sharing of this information will allow agencies to select a "menu" that best meets their individual needs. The information developed by PERS in the reporting objective should also help agencies identify wellness factors, further defining their needs.

Some time in the future wellness programs will be mandatory. At this time, an expansion of voluntary programs seems to be a practical goal. PERS and POST will have worked together on the third objective (increased training for supervisors) and can do the same on this objective. Information about successful programs, their variety, levels of intensity, and other factors should be made available to membership agencies. This type of information can lessen the concerns by agency administration regarding cost and liability issues. POST appears to be the logical choice for the distribution of this information since they are currently doing a survey.

Agency heads need to support wellness programs for efforts to be successful. Phased in implementation is a practical approach for those who are reluctant or unable to commit to a comprehensive program. Equipment, training, staffing and

other budget considerations can be planned over an extended period of time. All member agencies could implement a wellness program within the next four years. That would provide ample time to evaluate the types of programs, their costs, necessary budgeting and implementation.

PERS and POST need to influence this process. To expect more from either agency at this time is unrealistic. The objective is very important to the issue of IDR. While it is impractical to expect a state-wide mandatory wellness program at this time, the influence these agencies can have on PERS membership can foster an expansion of wellness programs. This opportunity should not be squandered.

5. REDEFINITION OF INDUSTRIAL DISABILITY

Primary Objective: To better define qualifying industrial disability injuries and their compensation value.

A clearer definition of industrial disability should allow better management of the issue. Questionable claims for retirement benefits should be reduced. Redefinition should promote consistency of application between PERS and Worker's Compensation, bringing the two systems closer together. It should also lessen the involvement of the courts in defining qualifying injury/illness. The process

of redefining industrial disabilities should also lead to a critical review of the relative worth of qualifying injuries/ illnesses.

A committee of stakeholders, headed by a leading legislator, should be created to manage this objective. The selection of the legislator to chair the committee should be made by the stakeholders. The selection process would be the first phase of negotiation for the stakeholders. Each has some liaison with the legislature, so the selection will be based on an informed group of stakeholders; but not without some conflict.

Examination of critical differences between stakeholders should be done. Differences need to be clearly identified. Common interests also need to be clarified and promoted. Suggestions for the appropriate reform in definition need to be examined within this framework.

If prior objectives are not effective in reducing IDR costs, information gained from these objectives can help in the development of a new definition In order for stakeholders to be willing to meet and confer on this complex issue the prior objective measures need to be implemented, at least to some degree. The question of exhausting less drastic alternatives must have been answered. Have stakeholders exhausted these other alternatives? Are there other system redesigns

which should be examined? If these questions are not answered, reform through redefinition is unlikely.

Based on the time requirements in implementing prior objectives, this objective should be targeted as a possibility within six years. It may occur sooner, but probably from outside reform efforts from citizen groups.

Redefinition is a very complex issue. Support by stakeholders is questionable, especially if the need for this reform is unclear, particularly to labor. Labor has been very successful in blocking proposals which would significantly change the system. Most proposals die in committee or are compromised to the degree they do not reform the system. Labor must play an influential role if redefinition is to be successful.

Support may be gained by reviewing the 50% benefit for IDR. What is equitable about an IDR benefit of half pay? Worker's Compensation takes into account the nature and degree of injury when determining compensation. Perhaps similar application is appropriate in the PERS benefit program. Examination of this benefit may open negotiations in other important areas. While stakeholder conflict is an apparent hurdle to this reform, it is surmountable.

Costs of this objective are included within the individual organization framework. No extra staffing is anticipated.

6. REMOVING INCENTIVES FOR INDUSTRIAL DISABILITY RETIREMENTS

Primary Objective: To reduce the attractiveness of industrial disability retirements and promote alternatives.

There are two major incentives to IDR benefits. The first is a tax incentive. The benefits are awarded tax free. Even the temporary benefits awarded while the IDR claim is being processed are an incentive. The second incentive appears to be a shortened career. Rather then simply resign, a disgruntled employee may be tempted to claim an industrial disability, hoping to leave emplyment with a life-time benefit, at the expense of the system.

Reform in this area could have a significant impact on IDR claims. Reform may create a benefit package more like the non-industrial disability benefits. This type of reform would also reduce some of the existing public criticism of the existing system.

A committe approach, like the one in the prior objective (redefinition), seems appropriate. It could be headed by a legislator, selected by stakeholders. An additional stakeholder, representing federal tax interests, might be added to this committee. This objective is the most complex due to the tax change considerations.

If all other prior objectives do not adequately impact the use of IDR benefits, this objective needs to be considered. The eight year time frame is arbitrary, but the time needed to assess the impact of the prior objectives, plus the complexity of this one, dictates a relatively long period of time.

This is a most complex issue. The support necessary for this event to occur is extensive. Reduction or elimination of tax incentives will elicit reaction. Litigation can be expected. The likelihood of cooperation between stakeholders is very slim. This event can happen, but stakeholder conflict will delay if not defeat it. Pressure from the public will force stakeholders together, but will not guarantee cooperation between them. This type of reform is likely to come from outside, especially if other attempts at reform are unsuccessful.

Costs for this reform are absorbed in the normal individual organization activities. Time dedicated to this effort would be absorbed by the stakeholders. No additional staffing is expected.

ACTION PLAN PHASES

If the reporting, educating, training and wellness objectives are met, it is unlikely that redefinition and the removal of incentives will be necessary. It is expected that reporting and educating will impact the use of IDR benefits. Impact may occur as soon as PERS sends out the survey. These first two objectives can be viewed as first phase in the action plan.

Second phase objectives include supervisory training and wellness programs. Indicators suggest that these objectives will also impact the use of IDR benefits.

If phase one and two objectives do not result in necessary reform (the grand strategy), the last phase (redefinition and removal of incentives) seems unlikely. Public awareness is likely to force outside reform. The public seems to be increasingly critical of governmental pensions. Last year's initiative was withdrawn, but not forgotten. It was to address such things as:

1. Formula for years of service in determining retirement benefits.
2. Modified cost of living adjustments
3. Equal contribution rates for employers and employees
4. Elimination of some "stress" related claims.[22]

PERS is also vulnerable to public opinion of other state systems, some of which PERS administers but does not fund. New legislation and a constitutional amendment are expected to control some of these other system benefits.[23] All of this points to the need for timely action. The short-term, less complex objectives in phases one and two provide that opportunity.

COMMENTS AND CONCLUSIONS

There are some other issues warranting comment. The future of industrial disabilities on PERS may depend on reform in these areas as well as the critical areas which influenced the action plan.

There is a problem with improper application of IDR benefits. Standardization in processing claims will assist in the management of IDRs. Educating members (objective 2) will promote standardization, but will not eliminate the problem of employers using the system improperly.

> "Although Secion 21029 (Govt. Code) provides for the reinstatement of an individual determined to be no longer disabled, staff is presently aware of seven persons, five state and two local agency members who have been found to be no longer disabled, but whose former employers have refused to employ them."[24]

A single scrrening board or regionals boards may alleviate this problem. Boards comprised of both labor and management in equal respresentation, as in use in another state, may be worth exploring.[25]

There are other methods used to attempt to reduce retirement program costs. Some governments are encouraging employees to work longer; to retire later.[26] One southern California city has hired an investigator to follow up on IDR retirees.[27] PERS offers tiered benefits to some members.

The lower cost plan is supported by the employer; there are no employee contributions. The long-range impact of this tiered program may be overall benefit reduction.[28]

Worker's compensation program costs have been identified as a future national issue.[29] Increased attention to this issue could only be damaging to PERS if the IDR system is not reformed. If the cost of these types of benefits are not managed, local government will be forced to look at other means of reducing costs. Reduction in staffing is an alternative means of reducing costs, increasingly attractive in this time of diminishing funds.[30]

PERS needs to promote confidence in its system. There are existing alternative retirement systems which could offer future competition to PERS. Three northern California cities have deferred compensation plans in lieu of the normal retirement plans (Hercules, Moraga, Paradise). The city of Alhambra has a supplemental plan to complement its PERS plan.[31] A contract system, similar to military "hitches" has been used.[32] The attractiveness of alternative plans, especially to employers, will increase if the IDR costs continue to escalate. Even though there has been a recent leveling trend of IDRs, the PERS 1986 report to the Governor indicated that they had increased 7.5% in 1985.

Not too long ago the concept of a "menu" of benefits was unknown. However, it exists today, allowing employees to select benefits which best meet their individual needs. Health plans are a good example of this approach. More agencies are offering the new "health maintenance programs" in addition to the standard health plans. Employees select the plan best suited for their individual needs. This concept can extend to retirement plans in a greater degree than it exists today. If that happens, retirement systems would become competitive. PERS can strengthen its current market position and become more attractive by undergoing the suggested reform.

> "The challenge to us as individuals and institutions is today one of change, complexity and choice.
>
> That change is now constant and fundamental cannot be doubted: markets, workers, technologies, suppliers and customers, and competitive, financial, legal and regulatory conditions are all subject to upheaval. The interaction of these various economic, social and political forces insures that complexity is now a permanent condition as well.
>
> But the future does not just happen to us. Through our own choices of what we want to do, where we want to go, what we want to become and what markets we want to serve, we are helping to shape and create our own futures.
>
> We must be aware of how our external environments are changing around us, and develop the ability to perceive the opportunities in change (as well as threats). Besides the willingness to change what needs to be adapted, we also need the insight to strenghten what deserves to be retained. We cannot predict precisely what will happen in the future, but we <u>can</u> endeavor to become <u>responsive</u> to change, no merely reactive.[33]

FOOTNOTES

1. Claire Spiegel and Robert Welkos, "Stress Pensions: LAPD Cases Grow," Los Angeles Times, Feb. 3, 1985.

2. "Stress-Related Police Claims Cost Millions," The Register, (Santa Ana), Oct. 14, 1985, p. 3.

3. PERS Issue Paper, "Disability Retirement Provisions," (paper presented to members of the Ad Hoc Committee on Disability Retirement and Rehabilitation, April 12, 1984), p. 10.

4. "Disability Claims a Drain on Pension Funds," The Register, (Santa Ana), Oct. 14, 1984.

5. California, State Public Employee's Retirement System, 1985 Report to the Governor and Legislature, Jan. 1985, p. 10.

6. California, State Public Employee's Retirement System, 1986 Report to the Governor and Legislature, Jan. 1986, pp. 12-15.

7. California, State Public Employee's Retirement System, 1985 Report to the Governor and Legislature, Jan. 1985, p. 21.

8. Ibid., p. 15.

9. California, State Public Employee's Retirement System, 1986 Report to the Governor and Legislature, Jan. 1986, pp. 12-15.

10. Charles F. Conrad, Testimony before the Senate Public Employment and Retirement Committee, (Chula Vista, Nov. 4, 1985).

11. "State Safety Disability Retirements Soar Unexpectedly," Cal-Tax News, (Sacramento, Ca.), Nov. 15, 1984, p. 4.

12. Ibid.

13. Jeffrey C. Freedman, "Cumulative Stress Claims Put Strain on City Coffers," Western City, (Jan. 1984), p. 3.

14. Diane Vasquez, "Emphasis on Disability Benefits Spells Trouble," PORAC News, (Sacramento, Ca.), April 1985, p. 6.

15. "Disability Pension Excesses: Time to Reform," Cal Tax Research Bulletin, Aug. 1985, p. 8.

16. David W. O'Brien, California Employer-Employee Benefits Handbook, (Sixth Edition) 1981, p. 8.

17. Thomas Allen Aceituno, "Disability Retirement and the 'Substantial Inability' Test," CPER,(June 1983), p. 22.

18. Joseph White, Orlo Olson, Lyle Knowles, "Police Stress and Years of Service," Journal of California Law Enforcement, (Summer 1981), p. 107.

19. John A. Leonard, G. Patrick Tully, "Occupational Stress and Compensation in Law Enforcement," FBI Law Enforcement Bulletin, (July 1980), p. 24.

20. Letter from Norman C. Boehm, Executive Director of POST to member agencies, July 12, 1985, Sacramento, Ca.

21. "CPOA Has State PS Resources," Network, (Sacramento, Ca.), February 1986, p. 1.

22. "Gann Takes Aim at Police/Fire Pensions," California Organization of Police and Sheriffs, Vol. 85, #3, p. 4.

23. "Act to Restrain Soaring Pensions," Contra Costa Times, (Walnut Creek, Ca.), Jan. 22, 1986, p. 18A.

24. PERS Issue Paper, "Reinstatement to Employment of Members Determined No Longer Disabled," (presented to members of the Retirement Benefits Committee, Feb. 14, 1985) p. 2.

25. Harold Fishbone, M.D., "The Disability Retirement System of the New York City Police Department," The Police Chief, (Jan. 1982), p. 51.

26. Bernard I. Forman, "Reconsidering Retirement, Understanding Emerging Trends," The Futurist, (June 1984), p. 45.

27. "Orange County to Hire Disability Sleuth," Contra Costa Times, (Walnut Creek, Ca.) Dec. 15, 1985.

28. "Avoiding Fiscal Crisis in Public Pension Systems," Western City, (April 1985), p. 24.

29. Austin Kiplinger, "In State Legislatures, Business Matters on the 1986 Calender," The Kiplinger Washington Letter, Dec. 13, 1985, p. 2.

30. California, Commission for Economic Development, Assessment of Reduced Revenue on California Local Law Enforcement, (State Printing Office, 1986), p. 22.

31. Institute for Local Self-Government, A Public Safety Employees Contractual System, (Berkeley, Ca.) unk. date.

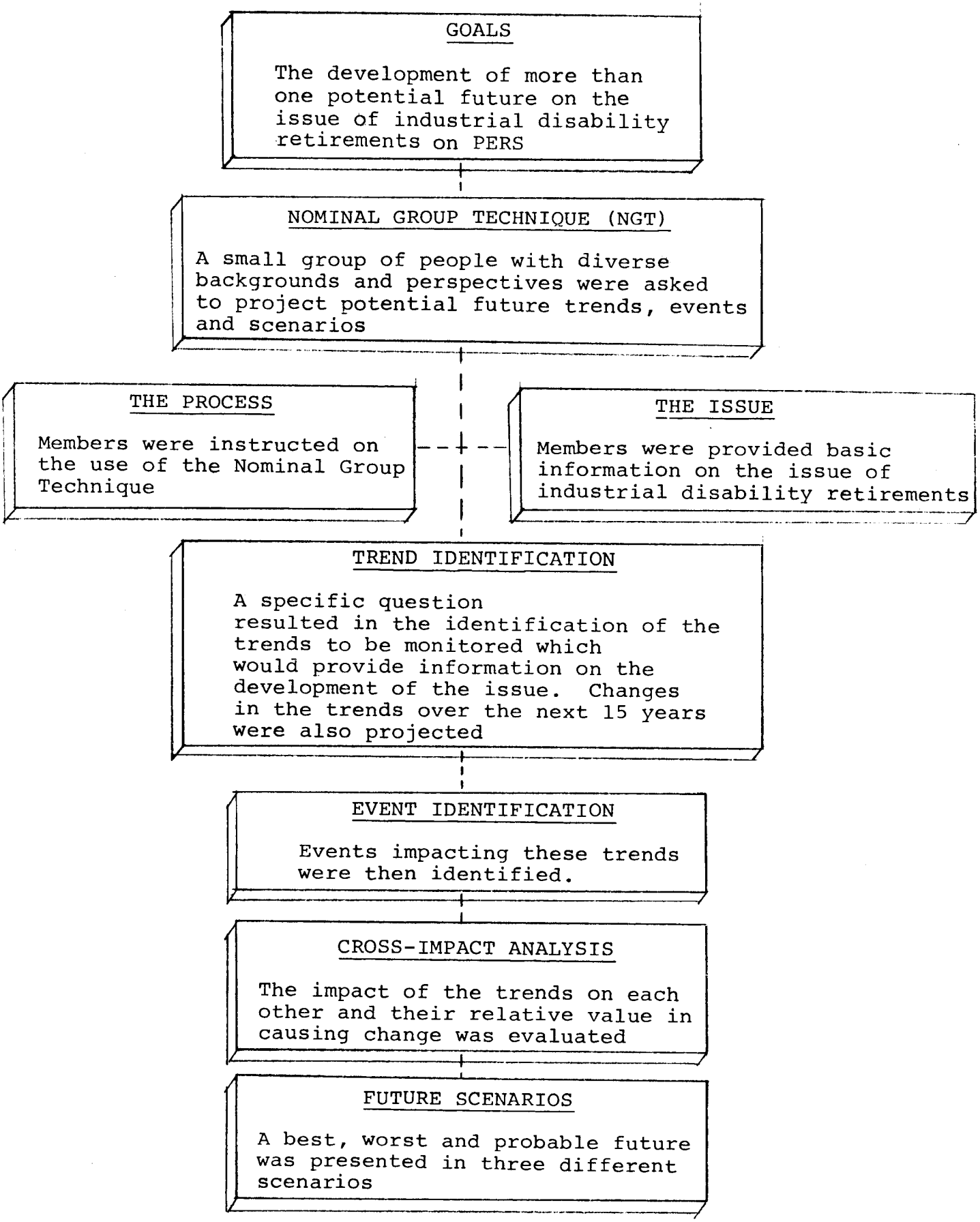
32. "Conclusion," Future Scan, (Mar. 17, 1986), p. 5.

THE NOMINAL GROUP EXERCISE

January 27, 1986

Walnut Creek Police Department

PROJECTING FUTURES



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INSTRUCTIONS FOR THE NOMINAL GROUP EXERCISE

ISSUE: Industrial disability (on the job) retirements: futures on the Public Employees' Retirement System (PERS)

1. TRENDS - We will identify trends which should be monitored to best understand the issue as it evolves over the next fifteen years.

2. EVENTS - We will then identify events (which may be international, national, state, local) which could affect the evolution of the trends.

3. PROBABILITY - We will then estimate the probability of such events occurring.

4. CROSS-IMPACT ANALYSIS - We will determine how the events affect each other and their respective importance to the issue.

5. SCENARIOS - Once the above are accomplished, the group will write alternative future scenarios. They will include worst, best, and most probable scenarios.

6. POLICY QUESTIONS - Once the scenarios are written, we will use them to assist in developing questions for stakeholders: what actions should take place to promote or inhibit the development of the particular scenarios and what strategic policy questions arise as a result of this forecasting effort?

WHAT IS THE NOMINAL GROUP TEHCNIQUE (NGT)?

1. It is a METHOD of projecting potential futures.

2. It is not a scientific method.

3. No experts are needed to do a NGT.

4. There are four types of futures

a) Predictable
*b) Selectable
*c) Designable
d) Surprising

*We will focus on these two

What kind of world would we like it to be?

Is there a path or way to get to this desired future?

We are not going to predict futures.

Rather, we are going to project potential futures.

<u>OUR TASK:</u> Our task is not to provide answers, but rather, to ask relevant questions.

ISSUE STATEMENT FOR THE NOMINAL GROUP

The cost of public safety industrial disability retirements is an emerging issue with the public safety community as well as with concerned citizens. There is a great deal of speculation as to the cost of such retirements. Disagreements between public safety members, agency administration, labor organizations and legislators has drawn attention to this issue. This attention has resulted in many newspaper articles on the subject, most of which are not complimentary.

It seems timely that these factions (stakeholders) be drawn together to evaluate and project potential futures on the issue. Involvement of these stakeholders may promote a better understanding of the issues and a clarification of common interests.

Development of plans promoting health futures will be of additional benefit to these stakeholders. The development of short and long-term goals of common interest and shared responsibility will better insure the health of the Public Employees' Retirement System (PERS) and its members. Application of sound policies may also benefit other retirement systems which may face similar dilemmas.

QUESTION

What are the trends which should be closely monitored to provide valuable information for the management of industrial disability retirements in the Public Employees' Retirement System?

PUBLIC EMPLOYEES'RETIREMENT SYSTEM (PERS)

(All figures are approximations as of June 1984)

ASSETS: $24 billion

MEMBERSHIP: 530,000

Public safety membership: 57,000

RETIREMENT ROLES: 200,000

Public Safety retire: 20,000

FUNDING:

Contributions come from:

1. Investments --- 50%
2. Members ------- 12%
3. Employers ----- 39%

Where the money goes:

1. Investments ------- 70%
2. Retirement, death benefits ---- 26%
3. Other ---------- 4%

WHAT IS AN INDUSTRIAL DISABILITY RETIREMENT?

1. You must be substantially disabled for your job.

2. The disability must be job related.

Existing law assumes that hernia, heart trouble, tuberculosis and pneumonia (plus cancer for firefighters) is job related.

(Essentially, this type of retirement is unique to public safety officers.)

WHAT IS THE BENEFIT FOR IDR?

1. Generally, 50% of current salary
2. Tax free

3. No earnings limit

WHO PROCESSES IDR CLAIMS?

1. The local employing agency for local safety members

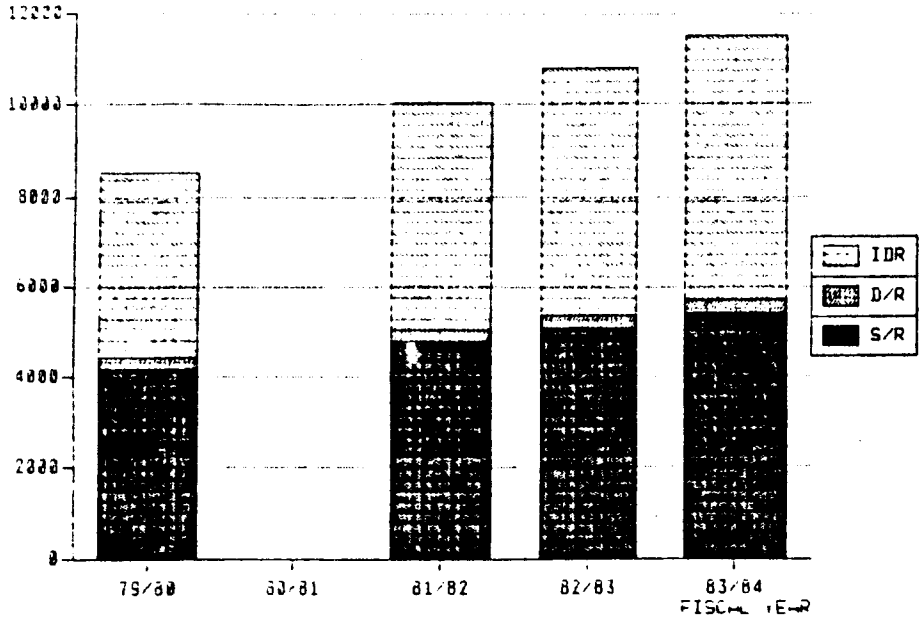
2. PERS for all others (ie., CHP)

WHAT ABOUT REHABILITATION?

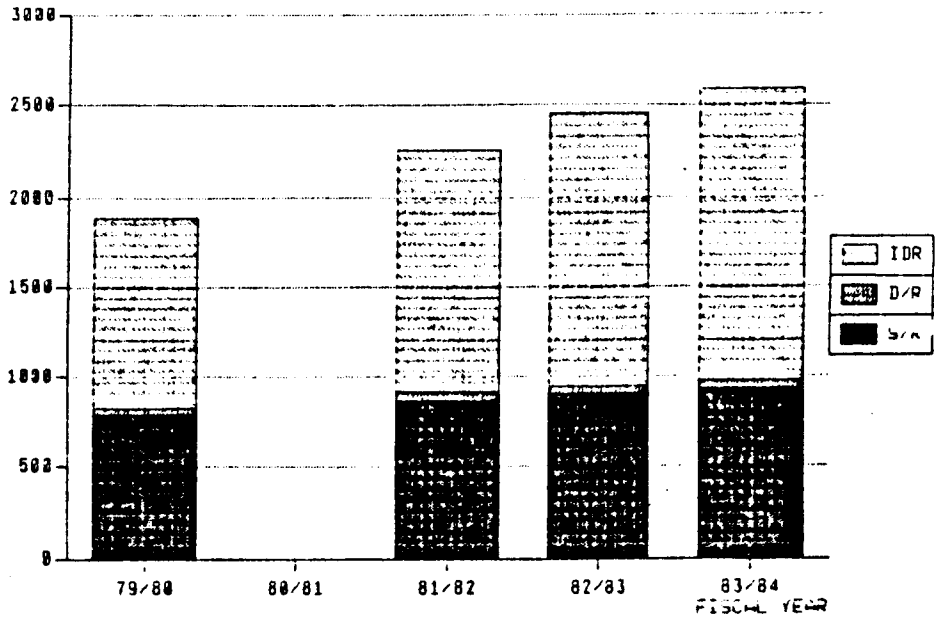
1. Required but seldom used once retired

2. Retiree must take medical exam as directed by employer

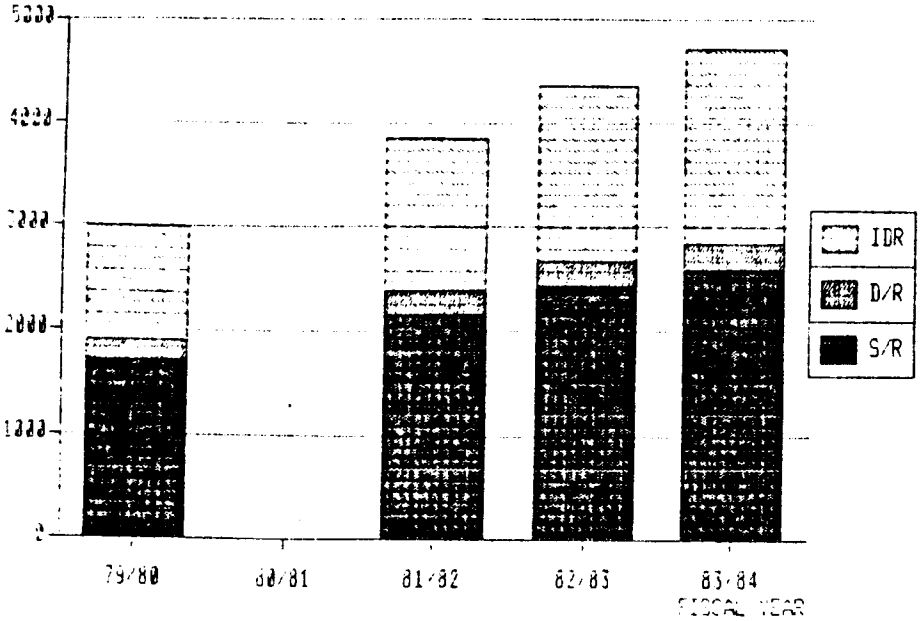
Public Agency Safety Retirees



California Highway Patrol



State Safety Retirees



Within the Safety Classification, these graphs represent the distribution of the types of retirement.

Source: PERS

TRENDS

The following trends were identified by the group as important to the issue and worth monitoring:

1. Public Awareness
2. Rehabilitation efforts
3. Causing events for IDRs
4. Legislation impacting the issue
5. Employer recognition programs, increased training
6. Changes in entry level selection criteria
7. Declining revenue to member agencies
8. Deep pocket liability
9. Expansion of disability definitions
10. Organizational hygiene
11. General economy/interest rates
12. Changes in adversary system
13. Changing percentage of IDR costs to overall retirement program costs
14. Reduction in promotional opportunities
15. Increases in "stress" related problems
16. Size of tax-free benefit
17. Identification of the users
18. Number of retirees returned to work
19. Monitoring of employee "wellness"
20. Monitoring of types of IDR
21. Increasing contribution costs
22. Post employment successes/failures
23. Screening methods for IDR
24. Total number of agency members of PERS

After some discussion and consolidation, the group decided that the most important trends are those listed below:

3. Causing events

15. Increased stress related problems

2. Rehabilitation efforts

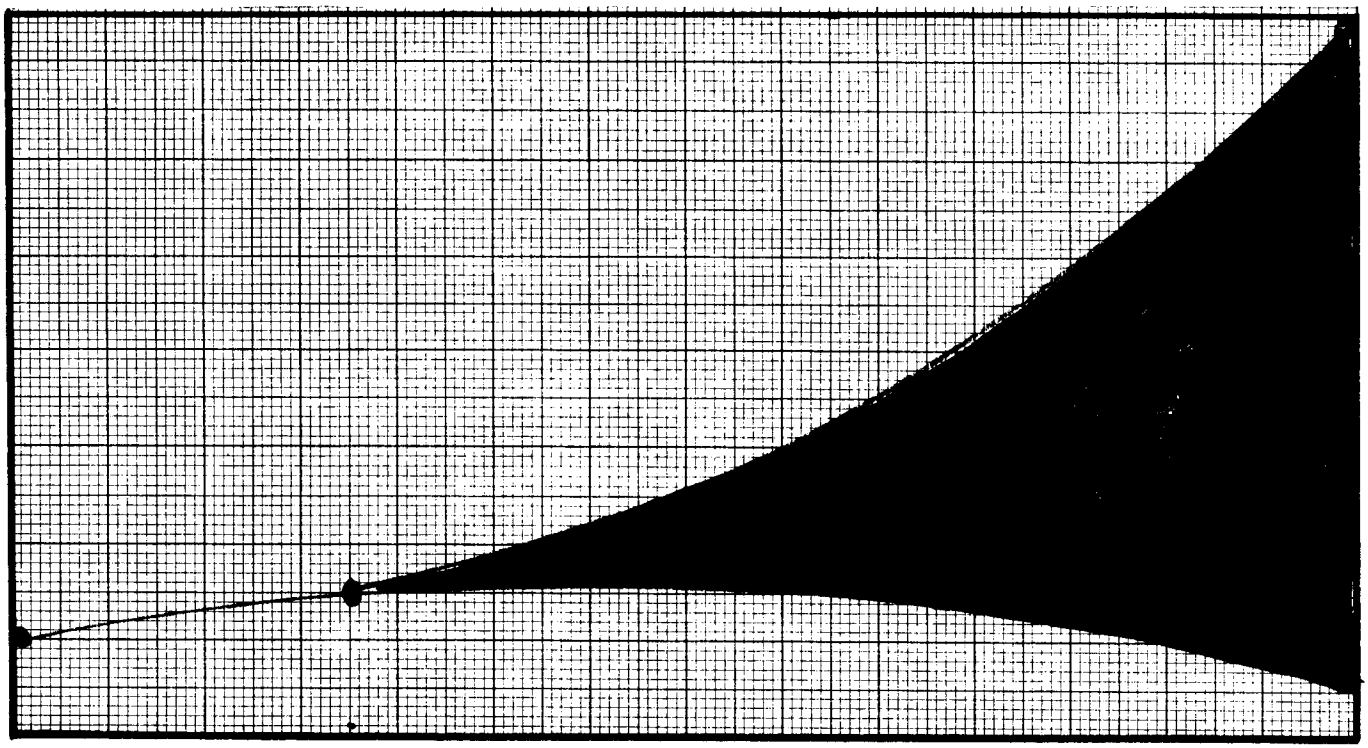
13. Percentage of retirement dollars used for IDR retirements

1. Public awareness

Causing Events

Causing events resulting in the use of the industrial disability retirement program should be monitored. Movement from the better understood on-the-job injuries to more uncommon causes warrants attention. "Stress-type" retirements should be monitored closely. The potential for common use of new events such as communicable disease and exposure to toxic environments exists. Causing events can give the stakeholders important information on which to develop plans to overcome jeapordy for both the members and the system.

Types of causing events will continue to increase. While there is a wide discrepancy between members as to projections in this area, the general consensus is that causing events will increase, but will be dependent upon other factors, such as rehabilitation efforts and wellness programs.



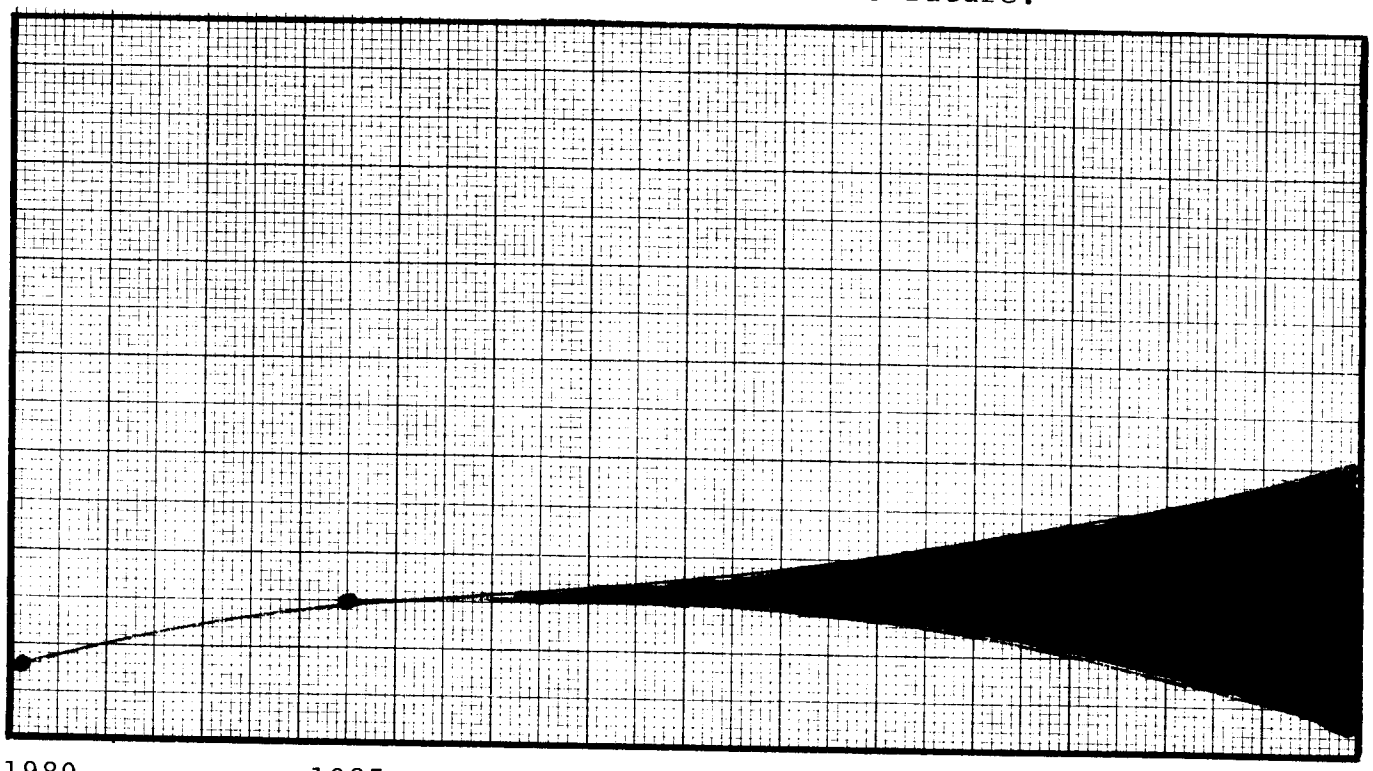
1980 1985 2000

CAUSING EVENTS

Increased "Stress" Related Problems

It appears that the current popular use of the benefits of the system revolves around industrial disability problems which are not easily measured. The area currently attracting the most attention is stress related retirements. Apparent abuses of the system appear to commonly evolve from this type of claim. Is there an effective means of anticipating these types of problems? The conflict over measuring such disabilities will continue to be a controversial issue.

General consensus is that there will be a slight increase in stress related problems by members. The projected increase by the year 2000 is not significant. Better methods of monitoring and greater awareness of this issue may be the reason for this slight increase, which appears to reflect an optimistic view of the future.



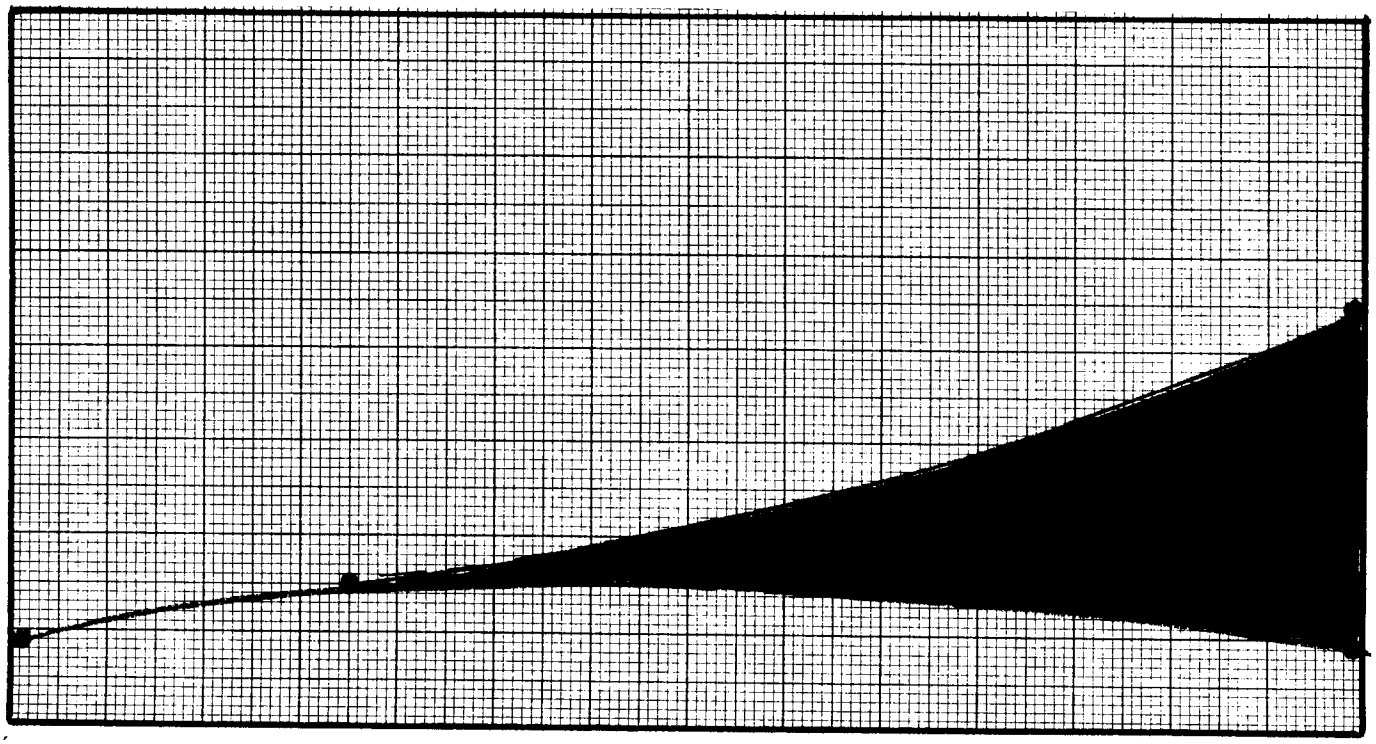
STRESS RELATED PROBLEMS

Rehabilitation

There seems to be a growing interest in the rehabilitation of members who are retired via industrial disability retirement. Rehabilitation can be a method of benefiting the member and reducing the long-range costs

of such retirements. While it appears that at the current time these efforts are minimal, the pressure to invest in rehabilitation programs warrants monitoring this issue.

Rehabilitation programs will increase in numbers and efficiency over the next fifteen years. The range of potential futures in this trend is relatively wide, when compared to projections of stress related problems. Rehabilitation appears to be an issue which can have significant impact on the PERS system and its membership.



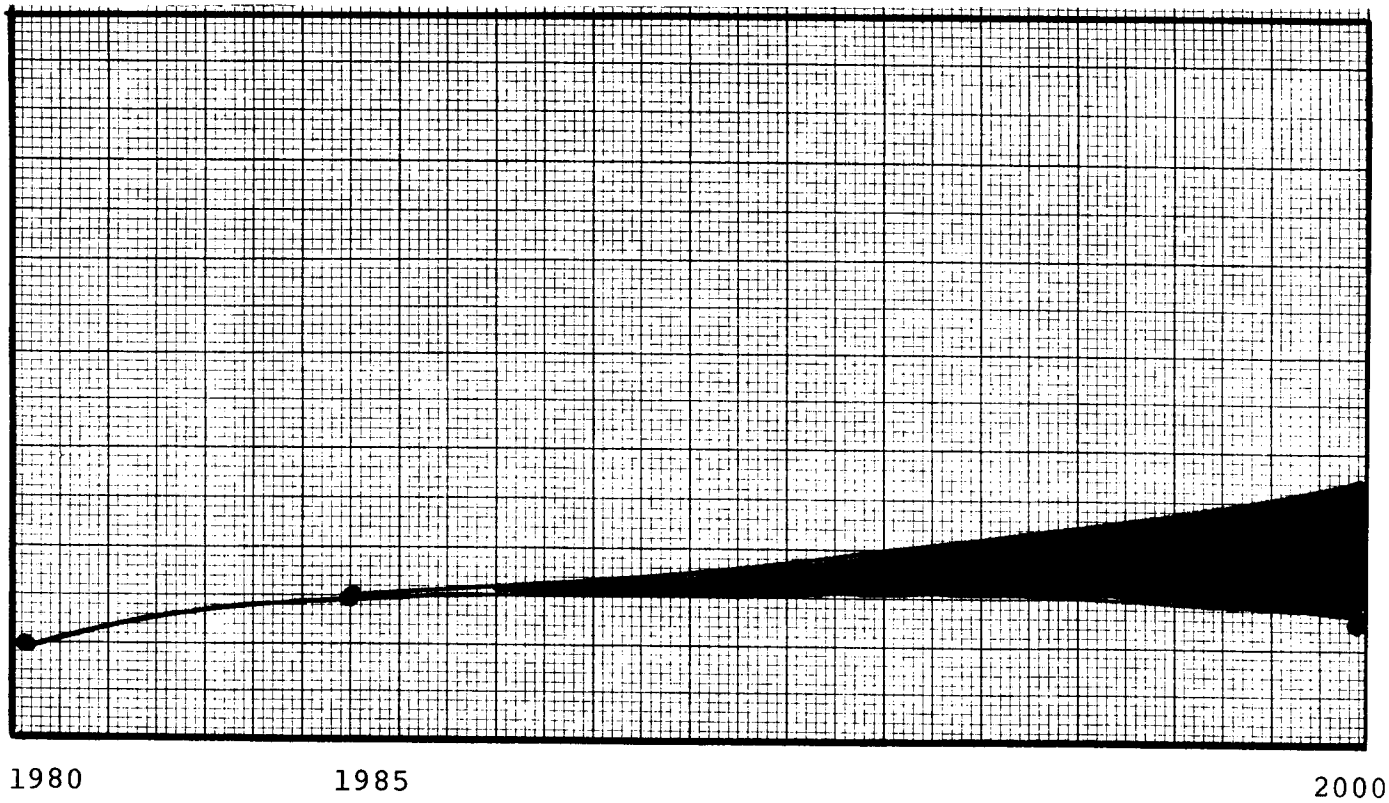
1980 1985 2000

REHABILITATION

Relative Costs of IDR to the Retirement System

Trends relating to the relative costs of IDR to the overall retirement program costs need to be monitored. There has been a substantial increase in the costs of such retirements over the last ten years. Measurement of these costs can give early clues to reform needs. In addition, these types of costs are routinely mentioned in articles critical of the system. This type of measurement is not difficult.

The percentage of costs of industrial disability retirements to the total retirement system is projected to remain the same for the next fifteen years. There was more consensus in the group on this trend than there was in any other selected trend. Is future reform going to reduce these costs, or simply keep them from increasing? Will that be the measurement of effectiveness?

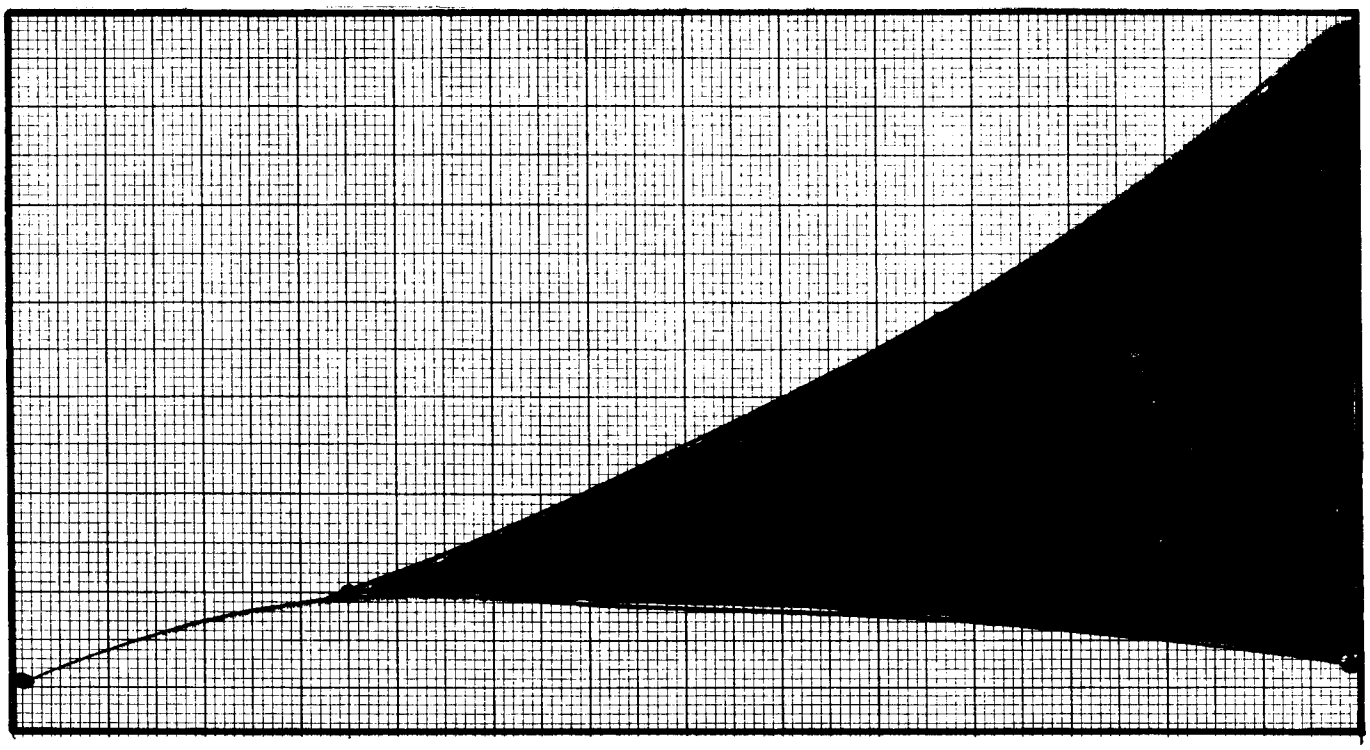


RELATIVE COSTS

Public Awareness

Public awareness is very important to this issue. No longer is it possible to disregard and discount the public's opinion of public sector issues. The initiative process has been successful in the past in forcing reforms, and such an approach in the future is guaranteed. Disinterest in public awareness can only lead to forced reform. Public awareness therefore, cannot be overemphasized when discussion IDR.

Awareness will continue to increase dramatically over the next 15 years. The public will have more information on which to make judgments. Harsh judgments can be expected if internal reform efforts are unsuccessful or if internal reform is not attempted.



1980 1985 2000

PUBLIC AWARENESS

EVENTS

Events which would have significant impacts on the trends were then identified. They are listed below:

1. An initiative reforming the system
2. A clarifying court decision
3. Mandatory wellness programs
4. Mandatory reduction in front-line hazardous assignments
5. Civilianization of positions
6. Enlightened management
7. Environmental changes/toxics
8. Increased age of retirement
9. Gun control legislation
10. Retirement presumptions challenged/ended
11. Redefinition of IDR
12. Clearer definitions of "stress" by professional screeners/evaluators
13. Standardization of claims process
14. Bankrupt system
15. Mandatory, effective rehabilitation programs
16. Complete redesign of the IDR system

After analysis of the above (which include some trends, rather than events), the events listed below were deemed the most important. They were given as the most important in their potential impact on the trends and the overall issue of industrial disability retirements. They are:

1. Ballot initiative
2. Clarifying court decision
3. Mandatory wellness programs
10. Retirement presumptions challenged and eliminated
11. Redefinition of what constitutes an industrial disability

Ballot Initiative (probability by 2000 is 79%):

Reason:

Growing attention to "problems" within the retirement systems has been impacted by numerous articles in newspapers critical of the apparent abuses of the system. One initiative process has been started and abandoned regarding this issue. There is a tendency to be critical of all systems when one is highlighted; therefore, the initiative process is likely to be an event impacting the issue. This is especially true if the public perception is that the people benefitting from the program choose to abuse it or not adequately control its use.

Impact:

An initiative attacking the current system of industrial disability retirements would impose reform on the system. Some of this reform, if not all, would not be welcome by most of the members. The other events would have little affect on the initiative process. Perhaps it is too late to show adequate reform within the system to overcome the possibility of outside reform. Regardless, this event was rated the highest as a cause for change to the industrial disability retirement system.

Court Decision Clarifying Use (probability by 2000 is 74%):

Reason:

Courts play a very important role in defining the use of the system by its members because definitions of industrial disability are general and interpretations are required. Disputed cases frequently end up being heard by courts. Clear interpretations of uses of the system by the courts would assist in developing programs to counter-act abuses and to better define acceptable uses by members.

Impact:

The need for court interpretations would be minimized if redefinition of industrial disability were to occur. While there will always be some litigation, it can be minimized. Clarifying court decisions will be an example of the failure of the system to reform from within.

Mandatory Wellness Programs (probability by 2000 is 85%):

Reason:

Wellness is becoming a national topic of interest. There is reason to believe that wellness programs would impact injury and sickness in public safety which lead to the use of IDR. This is especially true when presumptions

regarding illnesses qualifying members for IDR are defined by law. It is not unreasonable to expect members to maintain wellness rather than abuse themselves and then be protected by such presumptions? This is an area where in-house wellness programs can become very important to the disability issues. Broader applications of mandatory wellness programs are a realistic part of the future.

Impact:

This event would have the least impact. While important to total reform, it is too narrow in scope to be ranked higher. It may be too late for the users of the system to convince the critics that this is more than a gesture. It does not have a quick, dramatic impact. While not diminishing its worth in system reform, it is relegated to a supporting role, something that will be phased in over an extended period of time.

Redefinition of Industrial Disability Retirements (probabilty by 2000 is 69%):

Reason:

Reform requires cooperation of all involved parties (stakeholders). Reform may come in the form of court decisions, voter initiatives, or other "outside" influences. Stakeholders can manage such changes providing that an adequate

level of cooperation exits. If such reform does not come from inside the system, inevitably it will come from without. Different interests appear to make such an occurrance the least likely of the three.

Impact:

Redefinition is a primary target of policy action. There is a chance that this can be accomplished within the system, providing the stakeholders can negotiate their differences to an acceptable compromise. Such reform seems difficult, if not impossible, due to the current differences between these stakeholders. This event was second only to the initiative process as a factor for change to the system.

Retirement Presumptions Challenged (probability by 2000 is 81%):

Reason:

Concern about public safety members having adequate protection against on-the-job injuries without presumptive injuries and illnesses is developing. No other group of workers is extended such benefits; yet jeopardy exists in other jobs as well. Therefore, there is a good chance that presumptions will be challenged and reduced or eliminated.

Impact:

This event was evaluated as being in the middle in relative importance. It was the event most affected by the other events, providing they occurred. It was dependent upon other events, such as the relationship between wellness programs and general health of members. Clearer definitions of industrial disability could include some of the presumptive illnesses, therefore reducing the need to have such things. Presumptions, like the clearer definition of industrial disability are opportunities for reform within the system. Can stakeholders agree to such reform, or need it be imposed from the outside through the initiative process?

SCENARIO #1

Responsible actions on the part of PERS, its members, and labor organizations over the last 15 years have overcome public criticism, which peaked in 1985. PERS has been structured to administer an ecomically feasible program that adequately covers all members who are required to retire as the result of job incurred injuries or illnesses.

Regional screening boards, which evaluate all claims for disability retirements, have been established. These boards work with clear definitions of qualifying injuries or illnesses. They also attempt to redirect into new careers members who can no longer effectively perform public safety functions.

PERS has refined its already responsive method of monitoring expenditures and continues to adjust its rates so that the system remains solvent and able to address its member's needs.

Training for department supervisors and administrators in management techniques which focus on job burnout has been very effective. As a result, employees, who in the past

would look for IDR, are being prepared for and directed into other careers and career paths.

The Peace Officer Standards and Training Commission's mandatory wellness programs have greatly benefited the law enforcement area. (Career application of wellness standards have been a major factor in reducing IDRs.)

SCENARIO #2

The lack of cooperation between members, management and labor, and the legislature in the late 1980's is still being felt. As a result of this divisiveness, the reform initiative, which was a successful ballot measure during that period, continues to be a hurdle for internal changes to the system.

Attempts to challenge the loss of presumptive illnesses and injuries, and the imposition of off-set earnings, benefit caps, and mandatory yearly screening of retired members have met with limited success.

Membership in PERS has not been growing. The two-tiered retirement benefit package, popular in the early 1990's for member agencies, seems to have further lost appeal to employee organizations. Older employee members are

retiring from the system, and the lower benefit package have become more prevalent.

As a result, other types of investments are becoming attractive to employee organizations. The loss of the industrial benefit package enjoyed by older employees has made private plans an alternative to the PERS package for newer employees. A very active group of businesses are marketing these alternative plans. PORAC is attempting to develop alternatives for its members in order to minimize its loss of members to these outside groups.

SCENARIO #3

The 1986 Gann Initiative sparked the deterioration of the PERS system. More litigation and political maneuvering affected the system, and animosity between management and line staff increased. Mandatory rehabilitation and wellness program costs became exorbitant, resulting in severe financial problems for local agencies and subsequent reductions in public service. PERS member agencies with few industrial claims began withdrawing from PERS; this process snowballed and ultimately resulted in financial instability of PERS.

As PERS became increasingly unstable, all benefits declined. A movement for member takeover of PERS gained momentum.

Veteran employees are leaving, and the quality of public service is declining. Marginal employees do not leave, but apply their lower standards to service to the communities. Disciplinary actions increase, and resources are focusing on these matters at the expense of overall operations. The costs of handling these disciplinary matters have reduced funds available for member rehabilitation. Political in-fighting between management and line staff continues to increase and results in more contention in settling claims.

RELEVENT QUESTIONS FOR STAKEHOLDERS

LEGISLATIVE AND LEGAL QUESTIONS

Can a reasonable, clear definition of what constitutes an industrial disability retirement be established?

How does the legislature monitor the Public Employees' Retirement System?

Is there a need for legislative action at this time to control industrial disability retirements?

When is the right time for reform?

Are system problems identified?

How responsive is the system to reform?

Member Questions

What are the incentives to make people stay rather than retire?

Do members understand the system?

What are the advantages of "wellness" programs?

What are minimum physical fitness standards for entry into a job?

What are minimum physical fitness standards for continued employment?

Is there adequate psychological screening at the entry level?

What can be done about job "burnout"?

What type of employee is retiring via industrial disability injury?

How can the best, most attractive candidates be recruited?

How do agencies rehabilitate disabled members?

How can management stop abuse of the system by both the agency and its members?

Can stakeholders work together on the problem?

Is there an effective method of directing careers as alternatives to promotion?

SYSTEM QUESTIONS

Can uniform screening standards be established for industrial disability retirements?

Are there adequate protections for the systems to remain solvent?

What is the projected financial picture for PERS in 15 years?

What are administration standards and are they enforced?

What is PERS doing to make rules finite?

Is there a better follow-up system for detecting abuse?

Does PERS plan to implement programs for agencies with a high incidence of industrial disability retirements?

Does the system desire standard definitions of industrial disability?

How well is PERS reporting developments to keep stakeholders informed?

What does PERS's investment portfolio look like?

Will PERS act on its own, or will it wait for legislation to change administrative processes?

TREND EVALUATION FORM

TREND STATEMENT	LEVEL OF THE TREND (Ratio: Today= 100) 5 Years Ago	Today	"Will be" in 15 years	"Could be" in 15 Years
3. Causing Events	65	100	188	*30-500 165
15. Increased Stress Related Problems	53	100	175	20-200 110
2. Rehabilitation Efforts	61	100	106	60-300 171
13. Percentage of Retirement Dollars Used for Industrial Disability Retirements	60	100	143	75-175 104
1. Public Awareness	37	100	143	50-500 200

*Range

CROSS-IMPACT EVALUATION FORM

Suppose that this event actually occurred. ..... with this probability

....How would the probability of the events shown below be affected?

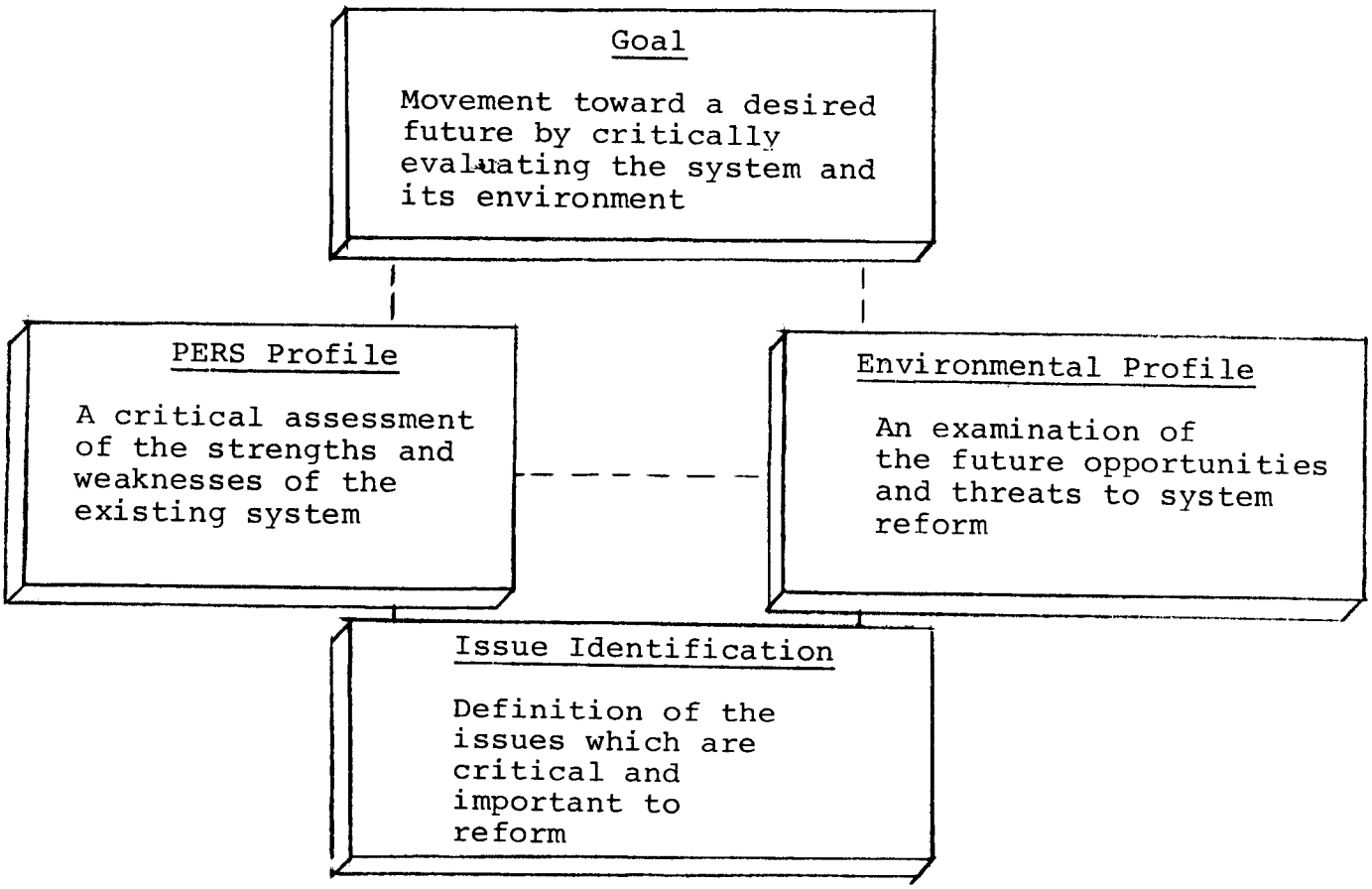
ACTING SCORES
Higher scores=importance of event as a cause for change (primary targets of policy action)

			1	2	3	11	10	
Initiative	1	79		59	56	73	80	347
Court Decision	2	74	41		54	64	64	223
Mandatory Wellness Program	3	85	17	21		29	49	116
Redefinition of "Industrial Disability"	11	69	46	73	71		82	272
Presumptions Challenged/Eliminated	10	81	44	61	56	67		228
REACTION SCORES = Affected by the actors			148	214	237	233	275	

EVENT EVALUATION FORM

EVENT STATEMENT	PROBABILITY BY 1990 (0-100)	PROBABILITY By 2000 (0-100)
1. Initiative	74	79
2. Court decision	61	74
3. Mandatory "wellness" Programs	68	85
11. Redifinition of "Industrial Disability"	52	69
10. Presumptions challenged/eliminated	69	81

S.W.O.T. ANALYSIS



A S.W.O.T. ANALYSIS

To better identify management issues in PERS retirements, I critically assessed the system by using a matrix, comparing its strengths and weaknesses. A discussion of my findings follows.

STRENGTHS

Size and Composition of the membership

The system's membership is very large---one of the largest in the nation. About 89% of its membership is non-safety (non-police/fire) members. The remaining 11% have the industrial disability retirement benefit. Therefore, potential abuse of this benefit is limited.

Solvency of the Retirement Fund

The retirement fund appears to be funancially solvent. It is supported by over one-half million members. One-half of its revenue results from sound investment programs. The fund is managed carefully; administrative costs seem to be minimal.

System of Rate Adjustment

The fund is self-supported through an adjusted rate system in which individual contributions to the fund depend upon use by employees. Actuarials monitor benefit payments to

members and adjust contribution rates accordingly. Employers with few employees on disability retirements are rewarded with lower contribution rates; conversely, those with higher rates pay more for this use. These rate adjustments balance revenue collection among the membership agencies.

WEAKNESSES

Incentives to use the Industrial Disability Retirement Benefit

The major incentive to use the industrial disability retirement benefit may be an economic one. IDR benefits are tax-free to the recipient, and, at the same time worker's compensation awards may be tax-free. Members suffer little or no risk by applying for IDRs. Since normal (service) retirements are taxed, the economic benefits of IDRs are obvious. It is an option available to someone who has made a bad career decision and wants out at the expense of the system.[1] Also, a person who has qualified for normal service retirement may be attracted to the disability retirement option, whereby the retirement income becomes tax-free.

Ambiguous Definition of Industrial Disability

Section 21020 of the Government Code defines disability for retirement for PERS. The definition is very ambiguous.

It reads, in part, "disability of permanent or extended and uncertain duration,"; it is no more specific. This forces constant interpretation by the courts, administrators, and members.

Lack of Knowledge of the Existing System and Rules

Members and employers exhibit a general lack of knowledge of the system. Administrative rules, practices, and laws are often not properly applied. The industrial disability retirement system has become increasingly complex, and experts often must be hired to handle matters which are more appropriately the responsibility of the agency. Because administration of these benefits is often contracted to specialists, employer and employee ignorance of the system results. Employee rehabilitation may be one of the system's benefits that has been under-utilized.[2] Periodic review of the disabilities of retirees is another area often overlooked. Better understanding of alternatives by the membership would overcome some of these weaknesses and, thereby, reduce the costs of this benefit.

Unresponsiveness to Recommended Changes/Reforms

For the fourth consecutive year, PERS has recommended that disability and rehabilitation programs be reformed. The PERS recommendations have been forwarded in the annual

report to the Governor and the legislature. Unfortunately, no meaningful changes have resulted from these repeated recommendations.[3] Another example is the study required by the Senate Concurrent Resolution 59 in 1982. Its recommendations,which were primarily in the area of rehabilitation, have not resulted in any needed reform. PERS has continually expressed concern over inadequate "disability" retirement benefits available to the general membership. PERS also recognizes that rehabilitation is often overlooked or ignored, thereby unnecessarily increasing retirement rolls.[4]

Stakeholder Conflicts

Poor cooperation in efforts to reform the system is probably the greatest barrier to reforming the system. Lines between stakeholders continue to be drawn and need to be erased. Competing interests, each with separate agendas, disadvantage the system.[5]

Insensitivity to Public Opinion

Some stakeholders appear to be insensitive to public opinion. Public safety members have responded to some of the negative public opinion but have been late in recognizing the importance the public's perception of abuse of the retirement system.[6] Late recognition has politicized

the issue and threatened to remove reform from the membership and place it with the voters. This is another indication that it may be too late for reform from within.

Lack of Uniformity in Processing Claims

Industrial disability claims are processed in many different ways. PERS manages state employees, and most local employees are processed by their employers. Employers have different criteria, experts, and expertise in handling these claims. As a result, these differences further weaken a complex system.[7]

As it has existing strengths and weaknesses, the system also has future potential and threats. Seven distinct future opportunities to improve and five possible threats to system reform are listed below.

OPPORTUNITIES

Reduce the Cost of Industrial Disability Retirements

If reform reduces the number of industrial disability retirements, the costs for this benefit will also decrease. Reduced cost will result in lower system costs for all members, including lower contribution rates for individual member agencies.

Better Define Industrial Disability

The current definition of industrial disability needs to

be made less ambiguous. While redefinition will not be easy, such reform would bring PERS closer to other working systems' definitions of disability.

Maximize the Role of Rehabilitation

Rehabilitation efforts would undoubtedly return employees to work.[8] They may also reduce the ease at which an employer can dismiss a bothersome employee, who is also not interested in returning to work, at the expense of the system. A return-to-work doctrine may have a significant positive effect on the system.

Re-evaluation of Presumptive Illnesses/Injuries

Presumptions have evolved over an extended period of time. They do not necessarily reflect the needs of the present or the future. More threatening illnesses and injuries may arise requiring another look; for instance, communicable diseases and exposure to toxics may become a greater health threat and disability issue. Finally, the need for these presumptive illness/injuries needs to be critically reviewed, especially if such jeopardy can be adequately addressed within the industrial disability definition. "Recognition of the unique working conditions applicable to law enforcement occupations appears misplaced in disability programs."[9]

Wellness

The future provides an opportunity to look at the complete

wellness of the PERS membership. An emphasis on wellness, including enlightened leadership, counseling, and physical fitness, could have long-range impact on the rates of IDRs.[10] This could also mitigate the need for the presumptive illness/injury category retirements.

Overcome Negative Public Opinion

Reforming the IDR program through cooperation between management, labor, and PERS administrators should greatly increase the public's confidence in the system.

Explore Alternatives to Retirement

We need to explore alternatives to retirement for sick and injured employees. Rehabilitation has already been discussed; modified duty, transfer, retraining for new employment, and placement in other jobs are other alternatives with promise.[11] Disability retirements are not always the best option, even though they may seem to offer the greatest benefits.

THREATS

Resistance to Change by Labor

Public safety has fought long and hard to develop benefits which offer membership the king of protection it has long desired. Reform may very well be seen by members as an attempt to reduce or eliminate hard-earned benefits.[12]

The labor movement in the public safety area has increased the voice members have in developing policies that impact them. If labor does not have an equal voice, attempts to reform the system will have very limited success or, perhaps fail altogether.

Passive Attitude by Members

Passive attitudes about benefit issues is a problem. Some believe that as long as rate adjustments adequately cover the costs of the benefits, no reform is necessary. Rate adjustements, coupled with the fact that 89% of the membership do not qualify for the industrial disability retirement benefits, tend to create indifference among members. Only 5.6% of PERS retirees are on industrial disability, so the system does not appear to be threatened by their numbers.

Issue Becoming Political

So far, internal reform efforts have been minimal. At the same time, outside reform efforts have been contested by labor groups. It appears that the longer the delay, the greater the likelihood that reform will come from the outside.[13] The strengths of the PERS system are seldom newsworthy, while the individual cases of apparent abuse result in headlines. Political pressure builds as the public's confidence drops. As a result, there is no

reason to believe that legislative reform efforts will decrease in the years ahead.

Lack of Understanding for Reform Needs

The retirement fund is financially sound, and the majority of the membership is unaffected by the IDR issue. Also, a recent leveling trend in the rate of IDRs has reduced financial worries of many members.[14] Therefore, the need for system reform is not so apparent.

Complexity of Change

Changes must involve the stakeholders.[15] The system has evolved over a very long time; needed reform is difficult to identify and cannot be compressed into a short period. Change will affect policy, practice, and changes in the law.[16] Complex issues in this misunderstood and misused system do not lend themselves to simple changes. Plans with critical, frequent review, instituted incrementally, may be the only effective avenue for accomplishing meaningful reform.

IDENTIFICATION OF CRITICAL ISSUES

A SWOT matrix was used to assist in the analysis of the impacts each of these strengths, weaknesses, opportunities and threats had on each other. (Refer to the matrix on p. 104. Those with the greatest potential impact are critical to reform.

Each of the topics is important to the issues of industrial disability retirements. However, some are more important than others and have been targeted as critical. Those listed below were selected as most critical to system reform.

CRITICAL ISSUES

Incentives to use Industrial Disability Retirement Benefits

As long as incentives to use IDRs outweigh disincentives, the system will be a target for abuse. Even limited, predicted abuse could mean reduced benefits for members.

Ambiguous Definition

Responsible reform will be limited, slowed, or stopped if the industrial disability definition is not clarified. While court interpretations may help, it seems that a more definitive statement is necessary to prevent abuse, for it seems unlikely that the court, acting alone, can provide the needed clarification.

Lack of Knowledge

Ignorance of the system may be more perceived than real; however, documented cases in which the system is not being used properly do exist. The most common deficiency is that of rehabilitation. A second area of concern involves monitoring and reviewing the status of retirees, which may

lead to more frequent reinstatement/return to work. Stakeholders should be encouraged to work together to develop an educational package that would increase membership understanding of the benefits of the system.

Stakeholder Conflicts

If stakeholders choose not to work for responsible reform or choose to fight efforts to reform the system, legislative reform seems inevitable. If lobbying interests successfully combat legislative reform, then change by referendum seems likely. Such reform may not be as productive for the system as that which can be decided by stakeholders.

FUTURE →

PRESENT ↓

Present Strengths	Future Opportunities: Reduce Costs of IDR	Better Define IDR	Maximize Rehabilitation Efforts	Re-evaluate Presumptive Illness/Injury	Improve Wellness of Members	Overcome Negative Public Opinion	Explore Alternatives to Retirement	Future Threats: Resistance to Change by Labor	Passive Attitude by Membership	Issue Becoming Political	Lack of Understanding for Reform Need	Complexity of Change
Membership				Less use of fund					89% not impacted			
Solvency of Fund	Fund will Strengthen					Contributing members					Solvent, Why reform?	
Rate Adjustment System									Automatic--reduces perceived need to reform			
Present Weaknesses												
Incentives to Use	***CRITICAL--Incentives to use and resistance to change may result in reduced benefits for all											
Ambiguous Definition	***CRITICAL--Responsible reform will be limited, slowed or stopped if definitions are not clarified											
Lack of Knowledge	***CRITICAL--Knowledge of the system and its proper use is necessary before any other changes can be effectively managed											
Unresponsiveness to recommended Changes	Disadvantage--The major administrators of the fund are unsuccessful influencing reform											
Stakeholder Conflicts	***CRITICAL--If the stakeholders cannot work for a reasonable, common interest, the system is doomed to reform from the outside and lack of confidence by the public and members alike.											
Insensitivity to Public Opinion									***CRITICAL---Welcomes outside reform			
No Uniformity in Processing Claims	Disadvantage--Too many variables when local agencies apply their differing standards											

FOOTNOTES

1. Richard P. Simpson, California Public Employee Retirement: More Than A Gold Watch, p. 49.

2. PERS, "Alternative Disability Retirement Programs," (Paper presented to members of the Ad Hoc Committee on Disability Retirement, Oct. 25, 1984), p. 2.

3. California, State Public Employee's Retirement System, 1986 Report to the Governor and Legislature, Jan. 1986, p. 9.

4. PERS, "Alternative Disability Retirement Programs," (Paper presented to members of the Ad Hoc Committee on Disability Retirement, Oct. 25, 1984), p. 2.

5. "Stress-related Police Claims Cost Millions, The Register, (Santa Ana, Ca.), Oct. 14, 1985, p. 3.

6. "Avoiding Fiscal Crises in Public Pension Systems," Western City, (April 1985), p. 14.

7. PERS Issue Paper, "Reinstatement to Employment of Members Determined No Longer Disabled," (Presented to members of the Retirement Benefits Committee), Feb. 14, 1985, p. 3.

8. Letter and Report from Robert F. Carlson, PERS Board of Administration, to Senate and House Retirement Committee Chairman, June 5, 1984, p. 2.

9. California, State Senate Concurrent Resulution 59 Study Team, Findings and Conclusions, 1983, p. 18.

10. PERS Issue Paper, "Comments - SCR 59 Report, (Presented to Assemby and Senate Public Employees and Retirement Committees), June 5, 1984, p. 3.

11. "Disability Pension Excesses: Time to Reform," Cal Tax Research Bulletin, Aug. 1985, p. 7.

12. "Stress-related Police Claims Cost Millions," The Register, (Santa Ana), Oct. 14, 1985, p. 3.

13. "Act to Restrain Soaring Pensions," Contra Costa Times (Walnut Creek, Ca.), Jan. 22, 1986, p. 18a.

14. Charles. F. Conrad, Testimony before the Senate Public Employment and Retirement Committee, (Chula Vista, Nov. 4, 1985)

15. PERS, "Alternative Disability Retirement Programs," (Paper presented to members of the Ad Hoc Committee on Disability Retirement, Oct. 25, 1984, p. 2.)

16. Letter from Kenneth Thomason to members of the Ad Hoc Committee on Disability Retirement and Rehabilitation, Sept. 12, 1984, PERS, Sacramento, Ca.

INTERVIEWS

Steve Young, Public Employees' Retirement System Actuarial, October, 1985.

Robert H. Sharpe, Attorney at Law, Sacramento, Ca. October, 1985.

Barbara Hegdal, Public Employees' Retirement System, Benefits, Nov. 1985.

Rebecca Taylor, California Taxpayer's Association, Sacramento, Nov. 1985.

Barry Hacker, Public Employees' Retirement System, Liaison, Jan. 1986.

John Cassiday, California State University, San Jose, Feb. 1986.

Roland Dart, Vallejo Police Department, Mar. 1986.

SELECTED BIBLIOGRAPHY

Aceituno, Thomas Allen, Disability Retirement and the 'Substantial Inability' Test," CPER, June 1983, p. 22.

"Act to Restrain Soaring Pensions," Contra Costa Times (Walnut Creek, Ca), Jan. 22, 1986, p. 18A.

"Alternative Disability Retirement Programs," (PERS paper presented to members of the Ad Hoc Committee on Disability Retirement), Oct. 25, 1984.

"Avoiding Fiscal Crisis in Public Pension Systems," Western City, April 1985, p. 24.

California, Commission for Economic Development, Assessment of Reduced Revenue of California Local Law Enforcement, State Printing Office, 1986, p.22.

California, State Public Employees' Retirement System, 1985 Report to the Governor and Legislature, Jan. 1985.

California, State Public Employees' Retirement System, 1986 Report to the Governor and Legislature, Jan. 1986.

California, State Senate Concurrent Resolution 59 Study Team, Findings and Conclusions, 1983.

"Comments - SCR 59 Report," (PERS issue paper presented to to Assembly and Senate Public Employees' and Retirement Committee), June 5, 1984.

"Conclusion," Future Scan, March 17, 1986, p. 5.

"Disability Claims a Drain on Pension Funds," The Register (Santa Ana, Ca.) Oct. 14, 1984.

"Disability Pension Excesses: Time to Reform," Cal Tax Research Bulletin, August, 1985.

"Disability Retirement Provisions," (PERS issue paper presented to members of the Ad Hoc Committee on Disability Retirement and Rehabilitation) April 12, 1984.

Fishbone, Harold, M.D., "The Disability Retirement System of the New York City Police Department," The Police Chief, Jan. 1982, p. 51.

Forman, Bernard I., "Reconsidering Retirement, Understanding Emerging Trends," The Futurist, June 1984.

Freedman, Jeffrey C., "Cumulative Stress Claims Put Strain on City Coffers," Western City, Jan. 1984.

"CPOA Has State PS Resources," Network, (Sacramento, Ca.) Feb. 1986, p. 1.

"Gann Takes Aim at Police/Fire Pensions," California Organization of Police and Sheriffs, Vol. 85, #3.

Institute for Local Self-Government, A Public Safety Employees Contractual System,Berkeley, Ca.

Kiplinger, Austin, "In State Legislatures, Business Matters on the 1986 Calender, " The Kiplinger Washington Letter, Dec. 13, 1985.

Leonard, John A., Tully, G. Patrick, "Occupational Stress and Years of Service," FBI Law Enforcement Bulletin, July, 1980.

O'Brien, David W., California Employer-Employee Benefits Handbook, Sixth Edition, 1981.

"Orange County to Hire Disability Sleuth, Contra Costa Times (Walnut Creek, Ca) Dec. 15, 1985

"Reinstatement to Employment of Members Determined No Longer Disabled," (PERS issue paper presented to members of the Retirement Benefits Committee, Feb. 14, 1985.

Simpson, Richard P., California Public Employee Retirement: More Than A Gold Watch.

Spiegel, Claire, Welkos, Rober, "Stress Pensions: LAPD Cases Grow," Los Angeles Times, Feb. 3, 1985.

"State Safety Disability Retirements Soar Unexpectedly," Cal-Tax News (Sacramento, Ca) Nov. 15, 1984, p. 4.

"Stress-Related Police Claims Cost Millions," The Register (Santa Ana, Ca), Oct. 14, 1985, p. 3.

Vasquez, Diane, "Emphasis on Disability Benefits Spells Trouble," PORAC News, (Sacramento, Ca), April 1985, p. 6.

White, Joseph, Olson, Orlo, Knowles, Lyle, "Police Stress and Years of Service," Journal of California Law Enforcement, Summer 1981.