Key Legal Aspects

- Edison Pension Plan is governed by its Board of Trustees.
- The Trust Agreement is the document signed by NECA and Local 48 that provides the Trustees with their general powers and specific authority.
- One-half of Trustees are appointed by the NECA chapter.
- One-half of Trustees are appointed by Local 48.
- "The Trustees shall have full, absolute, and unlimited power and authority to determine the requirements with which an individual must comply in order to be eligible for benefits and to determine questions as to the nature, amount and duration of <u>benefits</u> to be provided, <u>based on what it is estimated the Fund can provide upon a sound actuarial basis</u>."
- "The Trustees shall also have <u>full authority, in their discretion, to change</u> such requirements and benefits, from time to time . . ."
- "The eligibility requirements and benefits of this Plan will be fully set forth in the separate written Pension Plan adopted, and amended from time to time, by the Trustees."
- Bargaining parties decide on contributions. Trustees determine benefits.

Prudent Person Investment Requirement

- Trustees have a fiduciary duty to invest funds prudently for the benefit of all participants.
- Trustees must act solely in the interest of participants and beneficiaries for the exclusive purpose of providing benefits and defraying expenses.
- Trustees must invest assets as a "prudent" person acting in a like capacity and familiar with such matters.
- Trustees must diversify "the investments of the plan so as to minimize the risk of large losses."
- Edison: 2,071 retirees, 3,978 working employees, 1,082 terminated and vested participants. Trustees owe their fiduciary duty to all of them.

Prudent Reserves Prevented by Congress

- Prior to the Pension Protection Act of 2006, Congress actually prevented plans like the Edison Pension Plan from creating substantial reserves to help get through low investment years
- Focus in the 1990s was on deficit reduction and a balanced budget. Limiting current tax deductions for money going into pension plans took priority over good long-term retirement policy.
- Plans could not accept employer contributions if the plan assets were more than about 100% of the assets needed to pay promised benefits. This meant no reserve was possible.
- Then came the Dot Com bust, followed by the Great Recession. There were few reserves to soften the blow to invested assets these events caused.
- Congress changed the law in 2006 and now pension plans can have substantial reserves, but most plans are still trying to eliminate deficits.

Red Zone = Rehabilitation Plan = Benefit Cuts

- The Pension Protection Act of 2006 requires pension plans to create a Rehabilitation Plan if they are under-funded, i.e., less than 80% funded.
- Rehabilitation Plan cannot reduce already earned Normal Retirement benefits payable at age 65.
- Typical Rehabilitation Plan has future benefit reductions and contribution increases. Employer contribution increases put pressure to limit other benefit contributions or wage increases.
- Typical Rehabilitation Plan cuts back Early Retirement and Disability benefits. Those reductions produce big savings to allow a Rehabilitation Plan to improve plan funding.
- Goal is to avoid Rehabilitation Plan to allow Trustees flexibility to maintain best possible benefit structure going forward.