California Special
Districts Association
CSDA *Districts Stronger Together*

CSDA SUMMARY OF PEPRA (ASSEMBLY BILL 340)

The California Public Employees' Pension Reform Act of 2012 (PEPRA) enacts the following public employee pension reforms (page numbers in parentheses denote pages in the text of Assembly Bill 340):

1. (pg. 20)Government code section 7522.02:
    a. Establishes PEPRA which will apply to all public employers and public pension plans on and after January 1, 2013.
    b. Excludes the University of California and charter cities and counties that do not participate in the California Public Employees' Retirement System (CalPERS) from the PEPRA requirements.
    c. Allows employers who offer alternate plans established prior to January 1, 2013 that have lower benefit formulas and that result in a lower normal cost to continue offering those plans to new employees.
    d. Allows employers who offer a retirement benefit plan established prior to January 1, 2013 that consists solely of a DC plan to continue offering that plan to new employees.
    e. Excludes members of the Judges Retirement Systems I and II (JRS I and JRS II) from the PEPRA retirement formula and the compensation cap.
    f. Allows employers who offer a retirement benefit plan that was approved by the voters prior to January 1, 2013 that have lower benefit formulas and that result in a lower normal cost to continue offering those plans to new employees.
    g. Allows employers to provide contributions to a DC plan for compensation in excess of the cap provided that the plan and the contribution comply with federal law. Employees who receive an employer contribution to a DC plan will not have a vested right to the employer contribution.
2. (pg. 24)Government code section 7522.10:
    a. Establishes a cap on the amount of compensation that can be used to calculate a retirement benefit on for all new members, as specified, of a public retirement system equal to the Social Security wage index limit ($110,100) for employees who participate in Social Security, or 120% of that limit ($132,120) if they do not participate in Social Security.
    b. Requires the retirement systems to adjust the compensation cap annually, as specified, based on changes in the Consumer Price Index (CPI) for all Urban Consumers.
    c. Specifies that the Legislature reserves the right to modify the annual CPI adjustments to the compensation cap prospectively.
    d. Prohibits an employer from offering a defined benefit (DB) plan, or combination of DB plans, on compensation in excess of the compensation cap.
3. (pg. 22-23)Government code section 7522.04:
    a. Defines "new member" with regard to eligibility for the hybrid plan as:
        i. An individual who has never been a member of any public retirement system prior to January 1, 2013.
        ii. An individual who moved between retirement systems with more than a 6 month break in service, as specified.
        iii. An individual who moved between public employers within a retirement system after more than a 6 month break in service, as specified.
4. (pg. 25-26)Government code section 7522.20:
    a. Specifies that the retirement formula for the DB plan will be 2% at age 62 for all new nonsafety employees, excluding teachers. The formula is adjusted to encourage members to retire at later ages. The earliest an employee would be eligible to retire is age 52, with at least 5 years of service, with a 1% factor and the maximum retirement factor of 2.5% is provided at age 67.

        i. The formula uses age at retirement taken back to the preceding quarter year multiplied by the number of years of service.

5. (pg. 9-10)Education code section 24202.6:
    a. Specifies that the retirement formula for new members of the California State Teachers' Retirement System (CalSTRS) will be 2% at age 62. The earliest an employee would be eligible to retire is age 55 and with a maximum formula of 2.4% at age 65.
        i. The formula uses age at retirement taken back to the preceding quarter year multiplied by the years of credited service.
        ii. If a member retires at the minimum, early retirement age, the member's allowance will be reduced by .5 of 1% for each full month or fraction of a month that they are below the normal retirement age.
6. (pg. 27-28)Government code section 7522.25:
    a. Specifies three retirement formulas for the DB plan that will apply to new safety employees, as specified. The three formulas are: 2% at age 57; 2.5% at age 57; and, 2.7% at age 57.
        i. Minimum retirement age for safety members is 50 with at least 5 years of service.
7. (pg. 31)Government code section 7522.30:
    a. Requires contributions from employees to the DB plan equal to one-half of normal cost of the DB.
        i. Employee contributions may be more than ½ of the normal cost if the rate increase has been agreed upon through the collective bargaining process.
8. (pg. 32-33)Government code section 7522.32:
    a. Requires that final compensation be defined for all new employees as the highest average annual compensation over a consecutive three-year period.
9. (pg. 33-34)Government code section 7522.34:
    a. Prohibits the following types of compensation from being used to calculate a retirement benefit on: compensation paid to enhance a retirement benefit; compensation previously provided "in-kind" and converted to cash in the final comp period; one-time or ad hoc payments; terminal pay; pay for unused leave or time off; pay for work outside of normal hours; uniform, housing or vehicle allowances; pay for overtime, except planned overtime, extended duty workweek, or pay defined in the federal labor codes; employer contributions to DC plans; and, bonuses.
        i. Or any other form of compensation that a public retirement board determines as not pensionable compensation.
10. (pg. 34)Government code section 7522.40:
    a. Prohibits a public employer from providing a better health benefit vesting schedule for excluded and exempt employees than for represented employees in the same retirement classes.
11. (pg. 34)Government code section 7522.42:
    a. Limits the maximum salary taken into account for any retirement plan to the federal limit established under 401(a)(17) of the Internal Revenue Code (IRC) and prohibit an employer from seeking a federal exemption from the limit.
    b. Prohibits an employer from making contributions to any public retirement plan on any amounts of compensation that exceed the 401(a)(17) limit.
12. (pg. 34-35)Government code section 7522.43:
    a. Prohibits a public employer from offering a benefit replacement plan for any member or survivor who is subject to the federal limit on benefits established by section 415(b) of the IRC for an employee first hired on and after January 1, 2013, or to any group of employees that was not offered a benefits replacement plan prior to that date.
    b. Authorizes a public retirement system to continue administering a 415(b) benefit replacement plan for employees first hired prior to January 1, 2013.
        i. No benefit replacement can be offered to a group that was not previously offered the option, even if they were hired prior to January 1, 2013.
13. (pg. 35)Government code section 7522.44:

   a. Prohibits a retroactive enhancement to a benefit formula, either due to a change to an existing formula, or due to a change to the retirement classification for a specific job.
      i. An increase in a retiree's annual cost-of-living adjustment is not considered to be an enhancement of a retirement benefit as long as it is within existing statutory limits.

14. (pg. 36)Government code section 7522.46:
    a. Prohibits the purchase of non-qualified time ("airtime") on and after January 1, 2013. Any application to purchase airtime received by a retirement system prior to January 1, 2013 is grandfathered.
15. (pg. 36)Government code section 7522.48:
    a. Specifies that local elected members first elected on or after January 1, 2013 may not receive a retirement benefit for the elected service based on compensation earned in any other public employment. The retirement benefit for the elected service shall only be based on compensation earned for that service.
       i. The calculation can take an individual's entire period of elected service into account, instead of final compensation, if the individual's period of elective service is less than 3 years.
16. (pg. 36)Government code section 7522.52:
    a. Prohibits all employers from suspending employer and/or employee contributions necessary to fund annual pension normal costs.
       i. Unless the following criteria are met:
          1. The retirement plan is funded by more than 120% based on the calculation by the retirement system actuary in accordance with the Governmental Accounting Standards Board requirements.
          2. The retirement system actuary determines that continued collection of excess earnings could result in the disqualification of the plan's tax-exempt status under the federal Internal Revenue Code.
          3. The board determines the receipt of any additional contributions would conflict with its fiduciary responsibility laid out in the California Constitution.
17. (pg. 37-38)Government code section 7522.56:
    a. Prohibits post-retirement employment from exceeding 960 hours in a consecutive 12 month period. If a retiree receives unemployment benefits, he or she is prohibited from working for 12 months as a retiree for a public employer.
    b. Prohibits a person who retires on or after January 1, 2013, from returning to work as a retired annuitant for a period of 180 days after retirement unless the action is approved in an open meeting, as specified by the governing body of the employer, or by California Department of Human Resources (CalHR) authority if state retiree, as specified. However, in no case could a person who receives a retirement incentive return to work as a retired annuitant for a period of 180 days after retirement.
    c. Establishes the following exceptions to 180 day rule:
       - The retiree is participating in the Faculty Early Retirement Program pursuant to a collective bargaining agreement with the California State University.
       - The retiree is a public safety officer or firefighter.
       - The retiree is a trustee, administrator, or fiscal advisor appointed to address academic or financial weaknesses in a school or community college district, pursuant to specified requirements.
       - The retiree is a subordinate judicial officer whose position, upon retirement, is converted to a judgeship and he or she returns to work in the converted position.
       - The retiree is a person taking office as a judge, as specified.
    d. Specifies that retirees of the California State Teachers' Retirement System (CalSTRS) are subject to the post-retirement employment limitations specified in that system.

18. (pg. 39)Government code section 7522.57:
    a. Prohibits a public retiree who is first appointed on or after January 1, 2013 from serving full-time on a salaried state board or commission without suspending their retirement allowance or choosing to serve as a non-salaried member of the board or commission, as specified. Retiree health care benefits for these individuals would be protected so that the person is eligible to receive any prior employer provided retiree healthcare coverage upon re-retirement after leaving the board or commission. Appointees to the Parole Board are exempt from this prohibition.
19. (pg. 40-41)Government code section 7522.72:
    a. Requires public officials and employees to forfeit pension and related benefits if they are convicted of a felony in carrying our official duties, in seeking an elected office or appointment, or in connection with obtaining salary or pension benefits.
        i. Also requires forfeiture of pension and related benefits if a public employee who is contact with children as a condition of the individuals official duties is convicted of a felony that involves children.
20. (pg. 40)Government code section 7522.66:
    a. Allows public safety members who qualify for Industrial Disability Retirement (IDR) and are under age 50 to receive an actuarially reduced retirement benefit. This pilot project will sunset in 2018 unless extended by subsequent legislation.
21. (pg. 45)Government code section 9355.4:
    a. Prohibits newly elected statewide officers and legislative officers from participating in the Legislators' Retirement System. They would continue to be optional members in CalPERS.
22. (pg. 46-47)Government code section 20281.5:
    a. Specify that the Alternate Retirement Plan will not apply to new state employees subject to PEPRA.
23. (pg. 47-49)Government code section 20516:
    a. Allows more flexibility for bargaining increased cost sharing between employers and existing employees in CalPERS and retirement systems established pursuant to the County Employees' Retirement Law of 1937 ('37 Act). Using impasse procedures to impose cost sharing arrangements achieved through this new flexibility would be prohibited if the proposed contribution exceeds statutorily required contributions for current employees or half of the normal cost of benefits for employees first hired on or after January 1, 2013.
    b. Also provides additional flexibility to CalPERS contracting agencies to achieve cost sharing goals with current employees, as specified.
24. (pg. 49)Government code section 20516.5:
    a. Requires CalPERS contracting agencies and school employers to achieve specific cost sharing goals by January 1, 2018.
25. (pg. 50)Government code section 20677.96:
    a. Requires additional contributions for various state bargaining units, and excluded and exempt employees of the state, executive, legislative and judicial branches that have not yet achieved equal cost sharing of normal cost.
26. (pg. 51-52)Government code section 20791:
    a. Requires CalPERS to develop a system for monitoring excessive increases to salaries that create significant liabilities for former employers due to reciprocity, and for requiring the employers that caused the significant liability to be responsible for it.
27. (pg. 54)Government code section 21076.5:
    a. Increases the retirement formula for new state miscellaneous or state industrial members who opt to participate in the Second Tier from 1.25% at age 65 to 1.25% at age 67.
28. (pg. 56-57)Government code section 31461:
    a. Prohibits certain cash payments from being counted as compensation earnable for retirement purposes in '37 Act counties.

29. (pg. 57-58)Government code section 31542:
    a. Provides '37 Act retirement boards with more independence to perform audits and assess penalties relating to pension spiking.
30. (pg. 59)Government code section 31631.5:
    a. Requires '37 Act county employers and districts to achieve specific cost sharing goals by January 1, 2018.
31. (pg. 60)Section 34 of PEPRA:
    a. Specifies that if any provision of the bill is held invalid, the rest may still be given effect.
32. (pg. 8-16)Education code sections 24214, 24214.5, 22119.3, 22164.5, 24202.6, 24202.7, and 24202.8:
    a. Make conforming changes to provisions of the Education Code administered by CalSTRS.