BILL NUMBER: AB 1381 (PER&SS) as amended August 12, 2013

SUMMARY

AB 1381 makes various technical corrections and conforming changes that align the Teachers' Retirement Law with the provisions of the Public Employees' Pension Reform Act of 2013 (PEPRA), as enacted in AB 340 (Furutani).

BOARD POSITION

Sponsor. This bill will make various technical, conforming, and clarifying amendments necessary to effectively implement PEPRA.

REASON FOR THE BILL

AB 1381 will ensure continued implementation of PEPRA as intended by placing the act's requirements in the Teachers' Retirement Law. This bill clarifies which provisions of the Teachers' Retirement Law apply to members subject to PEPRA, also known as CalSTRS 2% at 62 members. Members who were hired to perform CalSTRS creditable activities on or before December 31, 2012, are not subject to PEPRA and are known as CalSTRS 2% at 60 members.

SUMMARY OF AMENDMENTS

The August 12, 2013, amendments:

- Specify, in the findings and declarations, that the sections of the bill that make changes to the creditable compensation and salary definitions for 2% at 60 members and participants and those that deal with postretirement earnings do not become operative January 1, 2013, instead becoming operative on January 1, 2014.
- Add the PEPRA compensation limit for public employees who do pay into Social Security to the creditable compensation and salary definitions for 2% at 62 members and participants in case there is any future change to the law.
- Detail how the compensation limit adjusts each year.
- Ensure various publicly available written contractual agreements can be used to determine creditable compensation.
- Ensure that various types of deferred compensation plans, annuities, tax-deferred retirement plans, insurance programs and plans under the Internal Revenue Code are considered in the determination of creditable compensation.
- Require the Teachers' Retirement Board to adopt the normal cost rate that is used to determine the 2% at 62 member contribution rate.
- Exclude the 2% at 62 member contribution rate from the collective bargaining process since CalSTRS member contribution rates are set in statute and have never been subject to collective bargaining.

- Replace the term “board” with “system” when the functions are administrative in nature.
- Delete an obsolete reference.
- Correct drafting, grammatical and wording errors.

PROGRAM BACKGROUND & ANALYSIS:

Findings and Declarations

Background

PEPRA went into effect on January 1, 2013. However, most related sections of the Teachers’ Retirement Law were not amended by that act, and AB 1381 would not be effective until January 1, 2014.

Proposed

This measure includes findings and declarations that it clarifies PEPRA, is declaratory of existing law and is intended to apply concurrently with the initial operation of that act. Therefore, the findings and declarations deem the amendments the measure makes to be operative January 1, 2013, unless otherwise stated. In addition, the findings and declarations exclude the sections of the bill that make changes to the definitions of creditable compensation and salary for 2% at 60 members and participants and those that deal with postretirement earnings from becoming operative January 1, 2013. They would instead become operative on January 1, 2014.

Section affected: Uncodified

Definition of “Public Employees’ Pension Reform Act of 2013”

Background

PEPRA is not defined in the Teachers’ Retirement Law.

Proposed

This measure defines PEPRA in the Teachers’ Retirement Law using the legal citations.

Section affected: 22109.8

Definition of “Public Employer”

Background

Public employer is not defined in the Teachers’ Retirement Law.

Proposed

This measure defines public employer in the Teachers’ Retirement Law for both the Defined Benefit (DB) Program and the Cash Balance (CB) Benefit Program by referencing the definition of public employer in PEPRA.

Sections affected: 22160.5, 26135.5

Definition of "Member Subject to the California Public Employees' Pension Reform Act of 2013"

Background

A member subject to PEPRA is not defined in the Teachers' Retirement Law for the DB Program.

Proposed

This measure defines member subject to PEPRA as a person who first becomes employed to perform creditable service subject to coverage under the DB Program on or after January 1, 2013. This definition does not include a person who was a member of a concurrent retirement system on or before December 31, 2012, if the person performed service in the other retirement system within the six months prior to commencing creditable service under the DB Program. In addition, this section is deemed to have become operative on January 1, 2013.

Section affected: 22146.2

Definition of "Participant Subject to the California Public Employees' Pension Reform Act of 2013"

Background

A participant subject to PEPRA is not defined in the Teachers' Retirement Law for the CB Benefit Program.

Proposed

This measure defines participant subject to PEPRA as a person who first becomes employed to perform creditable service subject to coverage under the CB Benefit Program on or after January 1, 2013. This definition does not include a person who was a member of a concurrent retirement system on or before December 31, 2012, if the person performed service in the other retirement system within the six months prior to commencing creditable service under the CB Benefit Program. In addition, this section is deemed to have become operative on January 1, 2013.

Section affected: 26132.5

Age Factors and Normal Retirement Age

Background

For CalSTRS 2% at 62 members, PEPRA reduced the age factor for any specific age and increased both the minimum retirement age and the normal retirement age.

Proposed

This measure includes age 62 in the definition of normal retirement and normal retirement age to accommodate 2% at 62 members and participants. It excludes nonmember spouses of 2% at 62 members from the previous age factors and applies the age factors prescribed by PEPRA to those nonmember spouses who are awarded a separate account. It also removes various references to age 60 and replaces them with "normal retirement age" to accommodate both CalSTRS 2% at 60 and 2% at 62 members and participants. This measure excludes 2% at 62 members from the previous age factors and lower minimum retirement age and makes technical corrections to the age factors and minimum and normal retirement ages prescribed by PEPRA. It excludes 2% at 62 members from the Reduced Benefit Election, which allows vested members who are between age 55 and 60 to receive one-half of the monthly benefit calculated as if they were age 60 and to continue that benefit for the same number of months after age 60 after which the benefit will be the total amount that would have been received at age 60. It also includes the 2% at 62 age factors in the service retirement benefit calculation after reinstatement or the termination of a disability retirement.

Sections affected: 22148, 22664, 23855, 24202, 24202.5, 24202.6, 24202.7, 24203, 24205, 24206, 24209, 24210, 24600, 26800, 26810

Final Compensation

Background

Current statute provides for one-year final compensation based on having 25 or more years of service credit or a collective bargaining agreement. For CalSTRS 2% at 62 members, PEPRA required final compensation to be calculated based on the highest average annual salary rate over three consecutive school years, regardless of years of service.

Proposed

This measure excludes 2% at 62 members from one-year final compensation based on having 25 or more years of service credit. It also excludes 2% at 62 members from one-year final compensation based on a collective bargaining agreement and ends this benefit for 2% at 60 members for contracts entered into, extended, renewed or amended on or after January 1, 2014.

Sections affected: 22134.5, 22135

Limits on Amount and Types of Compensation

Background

For CalSTRS 2% at 62 members, PEPRA reduced the limit on compensation and limited the types of compensation that count toward the retirement benefit paid by CalSTRS.

Proposed

This measure excludes 2% at 62 members from certain provisions of the definition of compensation earnable, which is used to determine final compensation, that apply to community college members employed prior to July 1, 1996. It makes technical and clarifying changes to the definition of creditable compensation for 2% at 60 members and excludes 2% at 62 members from that definition. It also adds detail regarding the reduced compensation limit and various types of compensation to the definition of creditable compensation for 2% at 62 members, reflecting provisions of PEPRA and the prior definition. This measure prohibits 2% at 62 members from having compensation paid for a limited number of times or to enhance a benefit credited to the Defined Benefit Supplement (DBS) Program. It makes technical and clarifying changes to the definition of salary for 2% at 60 participants. It also adds a definition of salary that reflects PEPRA and the prior definition for 2% at 62 participants, including a reduced compensation limit, and extends that definition of salary to other compensation paid for trustee service if performed by a 2% at 62 participant. In addition, this bill adds the PEPRA compensation limit for public employees who do pay into Social Security to the creditable compensation and salary definitions for 2% at 62 members and participants in case there is any future change to the law.

Sections affected: 22115, 22119.2, 22119.3, 22905, 26139, 26139.5, 26503.5

Benefits in Excess of the Federal Limit

Background

For CalSTRS 2% at 62 members, PEPRA prohibited the payment of benefits in excess of the limitation imposed by the federal Internal Revenue Code.

Proposed

This measure prohibits 2% at 62 members from receiving any benefits from CalSTRS in excess of the federal limit by excluding them from the Replacement Benefits Program.

Section affected: 24252

Member Contributions

Background

For CalSTRS 2% at 62 members, PEPRA required the member contribution rate to be 50 percent of the normal cost of their benefit structure rounded to the nearest one-quarter percent. This contribution rate will be adjusted if the actuarial valuation for the DB Program indicates that the normal cost of the 2% at 62 benefit structure has changed by more than one percent since the last adjustment. Current law allows for employers to pay for member contributions. Under PEPRA, the employer is not permitted to pay the 2% at 62 member or participant contribution, and certain public employers are moved toward equal sharing of normal costs between employers and employees. A member or participant that currently bargains for the member contribution rate may bargain for a contribution rate that is higher than one-half of the normal cost of the benefit structure.

Proposed

This measure inserts these requirements and authorizations into the member and participant contribution sections of the Teachers’ Retirement Law, including ending employer-paid member contributions for 2% at 60 members and restricting the 2% at 60 participant contribution rate from being less than the employer contribution rate for contracts entered into, extended, renewed or amended on or after January 1, 2014. This bill also requires the board to adopt the normal cost rate that is used to determine the 2% at 62 member contribution rate and excludes that contribution rate from the collective bargaining process since CalSTRS member contribution rates are set in statute and have never been subject to collective bargaining.

Sections affected: 22901, 22901.3, 22909, 26504

Nonqualified Service

Background

For all members, PEPRA prohibited the purchase of nonqualified service, or airtime, after December 31, 2012.

Proposed
This measure restricts the purchase of nonqualified service in the Teachers' Retirement Law.

Section affected: 22826

Postretirement Employment
Background
Currently, the law authorizes CalSTRS to receive earnings information from the Employment Development Department (EDD) for individuals receiving a disability benefit under the DB Program. Under current law, there are various restrictions that apply to retired member activities. For all members, PEPRA extended a very limited exemption from the annual postretirement earnings limit through 2013-14 and prohibited the granting of the exemption if the member received an incentive to retire in the previous six months. In addition, PEPRA required that a DB member's retirement benefit be reduced dollar for dollar, regardless of age, for the first 180 calendar days after retirement if the member performs activities in the public schools that are creditable to CalSTRS. A very narrow exemption may apply if a member has reached normal retirement age, the appointment is necessary to fill a critically needed position, the governing body of the employer approves the appointment by resolution at a public meeting, the member did not receive any financial inducement to retire and the member's termination of service was not the cause of the need to acquire the services of the member.

Proposed
This measure additionally allows CalSTRS to receive earnings information from EDD for a member of the DB Program performing retired member activities. In the first occurrence of Education Code section 24214, this measure clarifies that it is the *annualized* rate of pay for retired member activities that cannot be less than the minimum, nor exceed the maximum, paid to other employees performing comparable duties. It also clarifies which compensation is not subject to the postretirement limitations. In addition, it corrects a reference and closes a loophole used to compensate retired members in excess of the annual postretirement earnings limit and zero-dollar earnings limit by making payments to a deferred compensation plan, an annuity, a tax-deferred retirement plan, an insurance program or a plan that meets specified requirements in the federal Internal Revenue Code. This measure amends the second occurrence of Education Code section 24214 to match the first occurrence without providing the narrow annual earnings limit exemption. It also adds a definition of financial inducement to retire to the narrow exemption from the 180-day zero-dollar earnings limit under the DB Program and corrects drafting errors. This measure defines retired participant activities in the Teachers' Retirement Law for the CB Benefit Program, mirroring the definition of retired member activities for the DB Program. It expands the 180-day zero-dollar earnings limit to all CB annuitants who retire on or after January 1, 2014, regardless of age, and adds a narrow exemption parallel to the exemption under the DB Program. The measure prohibits the accruing of DB service credit when performing retired participant activities. It also inserts the term retired participant activities where appropriate.

Sections affected: 22327, 24214, 24214.5, 26135.7, 26812, 26813

Administrative Duties of the System

Background

The California State Teachers' Retirement System performs the administrative duties applicable to the benefits and services provided under the Teachers' Retirement Law, and the Teachers' Retirement Board sets policies, consistent with that law, applicable to CalSTRS. Several places in the Teachers' Retirement Law, however, use the terms "board" and "system" interchangeably.

Proposed

This measure cleans up some of those references by replacing the term "board" with "system" when the functions are administrative in nature.

Sections affected: 22119.2, 22119.3, 22327, 22901.3, 24214, 26139, 26139.5

LEGISLATIVE HISTORY

AB 340 (Furutani, Chapter 296, Statutes of 2012) made various changes to California public employee pension systems through the enactment of the California Public Employees' Pension Reform Act of 2013.

AB 178 (Gorell, Chapter 135, Statutes of 2012) changed the postretirement earnings limit to one-half of the median final compensation of all recently retired members; excluded specified employees of a third party from the postretirement employment limitations; extended a very narrowly applied exemption for limited-term appointments for one year, and added another very narrow exemption related to failing community college districts, with additional requirements for substantiating eligibility; and allowed service retired members to re-retire within a year of reinstating and required those members to keep the same option and beneficiary or beneficiaries that were in effect before reinstatement, or to retain their unmodified benefit, for one year after reinstatement.

AB 2700 (Lempert, Chapter 1021, Statutes of 2000) made all compensation for creditable service creditable to CalSTRS and credited member and employer contributions for service in excess of 1.000 year of service per school year to the DBS Program.

FISCAL IMPACT

Program Cost – None.

Administrative Costs/Savings – Minor and absorbable.

SUPPORT

CalSTRS (Sponsor)

OPPOSITION

None known.

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