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**SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT**  
**Senator Dave Cortese, Chair**  
**2023 - 2024 Regular**

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**Bill No:** SB 300 **Hearing Date:** April 26, 2023  
**Author:** Seyarto  
**Version:** February 2, 2023  
**Urgency:** No **Fiscal:** No  
**Consultant:** Glenn Miles

**SUBJECT:** Public employees' retirement: fiscal impact: information

**KEY ISSUE**

Should the state require legislative bills relating to PERS and referred to the Senate Labor, Public Employment and Retirement Committee (SLPER) to include a fiscal analysis by the Legislative Analyst's Office (LAO)?

**ANALYSIS**

**Existing law:**

- 1) Establishes the California Public Employees' Retirement System (CalPERS), which provides a defined benefit pension to state employees, classified school employees, and employees of contracting public agencies. (Government Code (GC) § 20000 et seq.)
- 2) Establishes the Joint Legislative Budget Committee to ascertain facts and make recommendations to the Legislature and to the houses thereof concerning the State Budget, the revenues and expenditures of the State, the organization and functions of the State, its departments, subdivisions and agencies, and such other matters as may be provided for in the Joint Rules of the Senate and Assembly. (GC § 9140)
- 3) Authorizes the appointment of a legislative analyst and such other clerical and technical employees, as specified, and deems the statutory term "Legislative Auditor" to mean the Legislative Analyst (LAO). (GC § 9143)
- 4) Requires the LAO to prepare a judicial impact analysis, with the assistance of the Department of Finance and the Judicial Council when and as requested by the LAO, on selected measures referred to the Senate Judiciary Committee, Senate Criminal Procedure Committee, Assembly Judiciary Committee, and Assembly Committee on Public Safety. (GC § 9144)
- 5) Requires the LAO to select for analysis, as resources permit with no additional staff, those measures with the greatest apparent potential impact on court manpower and costs. Allows the LAO to analyze other measures as staff resources permit and requires the LAO to give its analysis of a measure to the respective committee members prior to the date on which the committee schedules to hear the measure. Requires the LAO to perform the specified analyses on a nine-month trial basis. Thereafter, the three respective committees shall evaluate the cost and effectiveness of this type of analysis for the specified policy committees. (GC § 9144)

- 6) Establishes within the State Controller's Office, the California Actuarial Advisory Panel (CAAP) to provide impartial and independent information on pensions, other postemployment benefits, and best practices to public agencies and report thereon to the Legislature annually. (GC § 7507.2 et seq.)
- 7) Requests the University of California (UC) to establish the California Health Benefits Review Program (CHBRP) to assess, as specified and not later than 60 days from receiving a request by the Legislature, legislation proposing to mandate or repeal a health plan or health insurance benefit or service for public health, medical, and financial impacts. (Health and Safety Code (HSC) §127660)
- 8) Requires any bill that would authorize a new tax expenditure or that would authorize an exemption from the taxes, as specified, to contain: (1) Specific goals, purposes, and objectives that the tax expenditure will achieve; (2) Detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets the goals, purposes, and objectives stated in the bill; and (3) data collection requirements to enable the Legislature to determine whether the tax expenditure is meeting, failing to meet, or exceeding those specific goals, purposes, and objectives. The requirements shall include the specific data and baseline measurements to be collected and remitted in each year the tax expenditure is in effect, in order for the Legislature to measure the change in performance indicators, and the specific taxpayers, state agencies, or other entities required to collect and remit data. (Revenue and Tax Code (RTC) § 41)

**This bill:**

- 1) Requires any bill, introduced on or after January 1, 2024, that the Senate Rules Committee refers to the Senate Labor, Public Employment and Retirement Committee that relates to PERS to include a fiscal impact analysis from the Legislative Analyst's Office.
- 2) Requires LAO's analysis to describe the bill's fiscal impact on PERS and the bill's outcome if implemented.

**COMMENTS****1. Background**

In the simplest of terms, the state sponsors a defined benefit retirement plan for its employees, classified school employees, and for the employees of local agencies that contract to participate in the plan. The plan, administered by the Board of Administration of the California Public Employees' Retirement Systems (CalPERS, also sometimes known as PERS), requires public employers and their employees (also known as members) to make pension contributions to the Public Employees' Retirement Fund (PERF), which CalPERS then invests. CalPERS uses the proceeds from the investments to fund members' pension benefits upon retirement. CalPERS performs actuarial valuations to determine the PERF's asset value and the plan's cumulative liabilities (i.e., the present value of future benefits payable to members) in order to establish an annual pension contribution rate that employers and employees must pay annually to the PERF. Constitutional, statutory, and case law establish and protect CalPERS' authority to establish and impose the contribution rates.

Members, upon retirement, receive a defined benefit pension allowance determined by specified factors related to their years of service, final compensation, and a percentage factor applied to their final compensation. They do not receive the simple balance of their contributions grown (or reduced) by their individual account's investment performance (i.e., this is not like a 401K plan). Any risk that the PERF's investment performance is insufficient to fund retirees' pension benefits falls directly on CalPERS covered employers and their active employees.

Substantial cyclical macroeconomic transitions in the economy can render previous actuarial assumptions irrelevant if they materially affect the PERF's asset and liability valuations and/or CalPERS' investment return assumptions and can result in significant increased pressures on the General Fund.

Bills that affect CalPERS' financial condition, either by increasing pension benefits for current retirees or members near retirement or by restricting CalPERS' investment authority create particular challenges when unforeseen economic conditions destabilize the PERF's actuarial underpinnings.

#### *Committee Comments*

By using the term "PERS", the bill does not clearly define what entity or subject matter it covers. That term can mean CalPERS but it can also mean the subject of "Public Employment and Retirement Systems", particularly in the context of the legislative committees' jurisdiction. The latter terminology is far broader and includes, among other matters, the entire collective bargaining structure in public sector labor relations.

Additionally, PERS can refer generally to all "Public Employment Retirement Systems". There are, for example, separate public retirement systems for teachers (the California State Teachers' Retirement System (CalSTRS)); for employees of counties that do not contract with CalPERS but instead have their own public retirement system pursuant to the County Employees' Retirement Law of 1937 (CERL); employees of the University of California (UCRS); and employees of charter cities that have established their own independent retirement system through their city charter (e.g., the San Francisco Employees' Retirement System (SFERS) or the Los Angeles City Employees' Retirement System (LACERS).

As currently drafted, the committee understands that the bill would apply only to bills affecting the California Public Employees' Retirement System and not systems that provide retirement benefits for public teachers or public employees covered under other public retirement systems.

## **2. Need for this bill?**

According to the author:

"Currently, in both the California Senate and Assembly, committees have implemented rules for legislation submitted to the committee in order for it to be taken up for consideration – from impact of timetable and analysis in the Senate Health Committee to data analysis of past and purported tax revenue in the Assembly Revenue and Tax Committee, however, there are no such provisions in the Senate Labor, Public Employment and Retirement Committee. This bill seeks to remedy the lack of provisions for bills, as it relates specifically to CalPERS,

to be heard in the Senate Labor, Public Employment and Retirement Committee by providing clear, objective, non-partisan analysis for committee members.”

### 3. Proponent Arguments

According to the California Chamber of Commerce, although the legislature generally considers fiscal impacts of legislation in its fiscal committees, “...PERS presents a unique circumstance where the fiscal and the policy [impacts] are closely intertwined. As a result, we believe policymakers should have as much information about the impacts of their policy decisions in PERS committees as possible.”

“SB 300 would help address that problem by providing policymakers with additional information from the Legislative Analyst’s Office on the economic consequences of their decisions regarding employee pensions. This information is particularly critical as we face economic uncertainty and the potential for a recession in the coming years – which will challenge pension funds’ ability to meet their expected rates of return.”

### 4. Opponent Arguments:

According to the California Federation of Teachers:

“CFT believes that redundancy of resources by the Legislature should be avoided. The fiscal committees in both Houses already provide a thorough analysis of the fiscal impact a bill will have; an additional analysis by the Legislative Analysis (sic) Office is unnecessary.”

### 5. Dual Referral:

Although the Legislative Counsel has not designated the bill to have either an appropriation or a fiscal impact, the Senate Rules Committee has referred this bill to SLPER and to the Senate Appropriations Committee.

### 6. Prior Legislation:

SB 783 (Pan, 2018) would have requested the University of California (UC) establish the Pension Divestment Review Program (PDRP) to assess proposals that require a public employee pension fund to divest assets, or restrict the fund from investing, based on specific criteria or by reference to an external benchmark. The Assembly Appropriations Committee held the bill on its suspense file.

SB 32 (Moorlach, 2017) would have among other things creates the Citizens’ Pension Oversight Committee (OC) consisting of 5 to 9 members jointly appointed by CalPERS and CalSTRS from persons with experience in fiduciary matters who do not receive benefits from the two systems to serve in an advisory role to CalPERS and CalSTRS.

## SUPPORT

California Chamber of Commerce

## OPPOSITION

California Federation of Teachers  
California Teachers Association

**-- END --**