ASSEMBLY THIRD READING
AB 1383 (McKinnor)
As Amended January 22, 2026
Majority vote

SUMMARY

Makes changes to the Public Employees' Pension Reform Act (PEPRA) of 2013.

Major Provisions

1) Require, on and after January 1, 2027, retirement systems subject to the PEPRA to adjust the pensionable compensation limit to be consistent with federal law, as prescribed, but maintain the existing limit for new members of the State Teachers' Retirement System (CalSTRS), as provided in the Teachers' Retirement Law (TRL).

2) Authorize a public employer and a recognized employee organization to negotiate a prospective increase to the Defined Benefit (DB) retirement formulas for existing and new safety plan members by:

   i) Lowering the benefit factor from age 57 to 55 for three existing safety DB retirement formulas, and

   ii) Creating a fourth PEPRA safety DB retirement formula of three percent (3%) at age 55.

3) Authorize an employer and recognized employee organization to agree via a memorandum of understanding to be placed in a lower or higher safety DB retirement formula, as prescribed.

4) Include uncodified legislative findings and declarations for these purposes.

COMMENTS

What is the PEPRA and Why Does it Exist?

The enactment of the PEPRA resulted from several substantial negative legislative and public experiences that required a statutory response through prudent reforms to public employee retirement.

Generally, Senate Bill 400, (Ortiz) Chapter 555, Statutes of 1999 increased pension benefit formulas and granted pension contribution holidays, i.e.., reduced or eliminated employer and employee contributions, under a belief that the super-funded, i.e., more than 100 percent funded, status of particular retirement systems would remain super-funded for some time following a period of substantial economic growth and pension system positive investment returns. Relatively shortly thereafter, this was met by economic and financial crises due to the dot-com downturn in the early- to mid-2000s followed by the 2008 economic crisis that caused financial market instability. The combination of both events negatively affected California's public employee pension systems' investment returns that took nearly a decade for them to recover. With the enactment of SB 400, *ibid.* followed by economic crises affecting pension fund investment returns, together, this resulted in increased unfunded or underfunded actuarial liabilities (UAL) or obligations (UAO).

The public outcry against that public policy coupled with those economic crises was then followed by regular and increased attention by the media and the public which highlighted the UAL/UAO; pension abuse schemes and manipulation by public employers and employees such as pension spiking and double-dipping, among other questionable and concerning pension activities, which amplified the public outcry. This included regular attention by various media outlets as to public employees whose pensions annually exceeded $100,000, i.e., "The $100,000 Club," among others.

Following those events, the ever-present threat of statewide ballot measures by attentive and well-resourced public employee pension critic interests proposed drastic austerity measures, up to and including, the elimination of public employee pension plans in favor of defined contribution (DC) plans (e.g., 401(k)-style plans) or draconian reductions to pension benefit formulas.

In response, as a long-term solution to address these concerns and others, the Legislature enacted the PEPRA as a means to address questionable pension-related activities, restore public confidence in public employee retirement, and to address long-terms costs relating to UAL/UAO. After enactment of the PEPRA, another crisis in the form of the global COVID-19 health pandemic and its ensuing uncertainty negatively affected all facets of society, including the financial/investment markets that, again, resulted in well over $100 billion in losses to California's pensions systems, followed by ongoing federal inflationary measures that affected the economy and financial/investment markets, investments returns, and their short- and long-term assumptions where these systems continued to rigorously assess risks and seek opportunities in an effort to recover and maintain their ability to meet their statutory and constitutionally-mandated fiduciary obligations.

Currently, unilateral federal executive actions regarding federal funding, including targeting specific states to withhold such funding, as well as policies and actions through various tariff schemes have resulted in substantial global financial/investment market and economic instability, increasing unemployment and increasing inflation, continue to raise questions as to whether capital losses can be recovered near-term, amidst concerns regarding "stagflation" and another potential or likely forthcoming recession that may be more significant in comparison to the most recent recession, among a host of other budgetary, economic, and financial concerns. During this current period of uncertainty and what some may view as unnecessary, self-inflicted economic and budgetary policy tumult by the federal government, these systems, again, continue to rigorously assess risks and seek opportunities to continue financial recovery to maintain their ability to meet their statutory and constitutionally mandated fiduciary obligations.

Since its enactment over thirteen years ago, two decisions by the California Supreme Court regarding the PEPRA have affirmed the Legislature's intent and enactment of this policy and today, the PEPRA continues to exist – largely unmodified, despite litigation,[1] and numerous prior legislative proposals to do otherwise, as a prudent measure and means to maintain public

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[1] *Alameda County Deputy Sheriff's Assn. v. Alameda County Employees' Retirement Assn.* (2020) 9 Cal.5th 1032, and *CAL FIRE Local 2881 v. CalPERS* (2019) 6 Cal. 5th 965. It is noted that while the specific subject matter of the litigation in each of these cases involve specific changes resulting from the PEPRA's enactment and did not specifically involve CalSTRS or its administration of the TRL, the commentary regarding these two judicial decisions is only offered for historical context.

confidence in public employee retirement, achieve its multiple objectives, and not repeat the policy mistakes of the past.

California Public Employee DB Retirement Plans: A Financial Safety Net That Helps to Protect Against Potential Reliance on Taxpayer-Funded Public Financial Assistance Programs

Historically, in California, the subject of public employees and their retirement periodically tends to become what some describe as "low-hanging fruit for easy picking" as justification for reductions or austerity measures to address a budgetary or fiscal crisis, which may distract from the actual or substantive cause(s) of such challenges.

Though largely, but not necessarily entirely, supported by taxpayer funds, public employees work, earn wages for that work, contribute their fair share from their earnings towards their retirement, pay taxes, and spend those earnings on goods and services that support business, employment, and local and state economies.[2] The latter also holds true for retired public employees, and each of these are substantially similar to what private sector employees do as well (work, earn wages, contribute to their retirement (should they have one), pay taxes, and spend their earnings).

In contributing towards retirement, a combination of a public employee's and their employer's contributions are then invested and managed by investment professionals who are experts and legally bound to exclusively place the employee's retirement interests above all other interests toward ensuring that the pension promised at the time they became employed and eligible to participate in a public employee retirement system, exists at the time they retire. Unlike a DC retirement plan, a DB retirement plan provides certainty and a level of financial security in retirement; thereby, serving as a financial surety of sorts against the potential or likely reliance on taxpayer-funded public financial assistance programs in retirement. DB retirement plans help to create taxpayer savings that can be invested in other important and necessary public services and programs (e.g., education, affordable housing, health/healthcare, public safety, transportation, etc.).

In comparison, employees who have a DC retirement plan bare all decision risks regarding how much to contribute, when to contribute, and in what to invest to achieve their retirement "nest egg" objective. Typically, while they may receive an employer match of their contributions up to a certain maximum, should they not sufficiently or timely contribute, or make an incorrect investment decision, such decisions can have negative long-term or disastrous financial effects as to their ability, including timely ability, to achieve their retirement objective. In turn, such consequences may increase the potential or likelihood that they may be dependent on taxpayer-funded public financial assistance programs during their later years. While they may also receive an amount from social security, this source of income may be insufficient to maintain a reasonably desirable standard of living in retirement. Historically well-studied, well-documented, and reasonably of common knowledge, poverty or poverty adjacence is more pronounced for women in comparison to men during their later years.

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[2] Some public employees work for a public entity that may be self-funded, independently funded, or supported by a combination of taxpayer and non-taxpayer sources. For example, the California Department of Insurance is, but one, among other such public entities.

In California, public employees who are police, firefighters, or teachers do not participate in social security for those years of nonsocial security-covered employment. While the DB retirement formulas, particularly for police and firefighting personnel, are more generous in comparison to non-safety members (with the exception of judges and justices of the state's courts), this exists in part, to provide a modicum offset to the potential reduction or absence of social security. If the entirety of their professional career is in one of these public service professions, when they retire, their DB pension may be their sole source of retirement income.

Cost-Savings Resulting from the PEPRA

At the time the PEPRA was contemplated by the Legislature, a preliminary analysis originally projected to save the state between $42 and $55 billion (with an estimated present value of the dollar of savings between $12 and $15 billion) over 30 years for all state, schools and local plans. Factors considered in that preliminary analysis include attrition, including pre-PEPRA members, i.e., "classic" members, who retire and would be replaced by employees subject to the PEPRA retirement formulas, among others. As a caveat to those savings, a number of assumptions were considered that could result in those savings either being greater- or less-than originally projected. These assumptions included, but were not limited to, employee sharing of normal contribution costs; contributions up to the compensation capitation on all of their compensation and, changes to DB disability retirement.

As of June 30, 2024, the PEPRA has achieved approximately $5.8 billion in savings to the state since 2013 and was projected to accelerate and increase those savings during the remainder of the 30-year projection as more new public employees hired would be subject to the PEPRA formulas under current law. Also as of the aforementioned date, the percentage of active members who are subject to the PEPRA, at least in the California Public Employees' Retirement System (CalPERS), is approximately 64%.[3]

Please see the policy committee analysis for a full discussion of this bill.

According to the Author

"[Nearly] fifteen years ago and in order to stabilize the state's retirement system, the Legislature made significant modifications to public employee retirement benefits including the retirement formulas, the age of retirement and requiring public employees to contribute more to their own retirement benefits. While many of the changes to PEPRA are still necessary for the long-term health of the retirement fund, retirement formula reductions are a contributing factor to vacancies throughout the public sector in this state, especially with our first responders. [This bill] does not grant retroactive retirement benefit increases, or pension holidays and it does not change other necessary and appropriate PEPRA guardrails," and "… only applies prospectively, recognizing the ongoing challenges and dedication of our firefighters, police and the unique challenges and risks associated with a career as a first responder. [This bill] represents our need to recruit and retain the next generation of first responders needed to protect the lives and property of residents across California."

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[3] Also see additional detail regarding the current composition of CalPERS' pre-PEPRA and PEPRA members. Visit: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.calpers.ca.gov/documents/202601-stakeholder-forum-1-state-of-the-system/download?inline

Arguments in Support
Generally, among other things, the California Professional Firefighters expresses that pensions provide a secure retirement and has been a guiding light for a career in public service. Similarly noting current realized savings from the PEPRA and projected savings in the future, because it has been 12 years since its effectuation, they believe that it is time to revisit specific provisions of the act to ensure that it aligns with the demands of occupations across the public sector, including firefighters. Because firefighting is one of the most dangerous and demanding jobs, pensions are a good investment for the health and security of retirees, as well as for the state's economy.

The Peace Officers' Research Association of California express that, as the backbone of public safety and facing relentless physical and mental health challenges, such work takes a toll on police personnel, and the promise of a pension after decades of public service and sacrifice has been eroded by outdated constraints, such as the PEPRA. Among other things, the PORAC states that, "[this bill] rights that ship, delivering targeted, common-sense reform that honor our public servants without breaking the bank."

Numerous others offer similar statements in support of this bill.

Arguments in Opposition
In part, a coalition of various local government representatives, i.e., cities, counties (rural and urban), and special districts express that the PEPRA is designed to address a wide range of issues involving public employee pensions and helps local agencies to better manage future pension costs to prevent public employee retirement systems from sliding into insolvency. "This bill would upend many of [those] reforms…." Also, while noting the PEPRA's current and project future savings, they state that, "[the data] does not include the public agencies that maintain their own pension system," and "[the PEPRA] helps support budgetary stability which supports operational and workforce stability."

Further, they express that this bill increases "mandate costs without a way for public agencies to absorb them," especially, "at a time of fiscal uncertainty." Moreover, "[similar] to the state, local agencies also are facing budget challenges, as revenues are not keeping pace with the costs of delivering services, new mandates, and heightened uncertainty over critical resources," and "[this bill is proposed] in a year when CalPERS is undergoing its asset liability management process which could lead to additional costs for local governments." They further express that while CalPERS relatively recently lost $15 billion as a result of market volatility, if it misses its investment return assumption, local agencies will have to pay CalPERS the difference. "[This bill] would compound costs for local governments and do nothing to offset the costs."

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, an actuarial cost analysis prepared by CalPERS finds that this bill is expected to increase the annual normal cost contributions of employers and current PEPRA members, as well as increase the present value of future benefits (PVB) for all state, schools, and local agency plans, as follows:

a) Scenario 1 – Increasing the pensionable compensation limit for all PEPRA members by adopting a more recent federal limit will result in an increase to annual normal cost contributions of an unknown amount, but likely in the low hundreds of millions in the first year, and increase the PVB by an unknown amount, but likely in the low billions of dollars.

b) Scenario 2 – Lowering the benefit age factor for PEPRA safety members will result in an increase to annual normal cost contributions of approximately $40 million in the first year, and increase the PVB by approximately $492 million. The sponsor of this bill notes that some of these costs would be offset by cost savings from safety members avoiding injury by retiring at an earlier age.

c) Scenario 3 – Utilizing a safety formula of 3% at age 55 for PEPRA and new safety members will result in an increase to annual normal cost contributions of approximately $338 million in the first year, and increase the PVB by $3.6 billion. However, these costs would only be realized should an employer and employees agree to utilize this formula through an MOU.

The normal cost contribution is generally split equally between the employer and employee. Thus, for example, under Scenario 2, which would be in effect without collective bargaining upon passage of this bill, the employer's annual share of the forecast increase in normal cost contributions is approximately $20 million for state, school, and local employers (General Fund (GF) or special fund, Proposition 98 GF, and local non-reimbursable, respectively). Employer costs will continue to rise over time as more employees are hired under this bill's new rules.

In addition, this bill would result in costs of an unknown amount, potentially in the high hundreds of thousands of dollars, to CalPERS to make system enhancements, update external communication channels, and implement new pension rules (Public Employees' Retirement Fund).

VOTES

ASM PUBLIC EMPLOYMENT AND RETIREMENT: 7-0-0
YES: McKinnor, Lackey, Alanis, Boerner, Elhawary, Garcia, Nguyen

ASM APPROPRIATIONS: 12-0-3
YES: Wicks, Hoover, Stefani, Calderon, Caloza, Fong, Mark González, Krell, Bauer-Kahan, Pacheco, Pellerin, Solache
ABS, ABST OR NV: Dixon, Ta, Tangipa

UPDATED

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