
THIRD READING

Bill No: SB 1038
Author: Laird (D)
Amended: 4/29/26
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 3/25/26
AYES: Smallwood-Cuevas, Strickland, Durazo, Laird
NO VOTE RECORDED: Cortese

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: The Public Employees' Retirement System

SOURCE: California School Employees Association

DIGEST: This bill requires the California Public Employees' Retirement System (CalPERS) to provide notice to the subject of an audit and require audited employers to provide notice to affected members' unions, as specified.

Senate Floor Amendments of 4/29/26 clarify that information provided by CalPERS for purposes of providing notice to employees and members, as specified, shall remain confidential pursuant to existing state and federal law.

ANALYSIS:

Existing law:

- 1) Requires each state agency, school employer, and contracting agency to provide the following to the CalPERS board:
 - a) Immediate notice of the change in status of any member resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal, or death.
 - b) Any additional information that CalPERS may require concerning any member of the retirement system.

- c) The services of its officer and departments that CalPERS may request in connection with claims by members against CalPERS. (Government Code § 20221)
- 2) Requires every state agency, school employer, or contracting agency, upon CalPERS' request, to provide information on its employees who are not enrolled as members of the system to assist CalPERS to carry out the system's administration.
 - a) The public employer shall submit the required information in the manner and under the conditions prescribed by CalPERS.
 - b) These requirements do not supersede or diminish an employer's responsibility to determine eligibility or to enroll its qualifying employees in membership.
 - c) CalPERS shall treat any information obtained as confidential. (Government Code § 20221.5)
- 3) Requires the California State University to furnish monthly reports to CalPERS showing changes in the status of all members employed by the university during the preceding month and any additional information concerning any members that the CalPERS may require in the administration of the retirement system. (Government Code § 20222)
- 4) Authorizes CalPERS, during the course of an audit, to require each state employer, school employer, and contracting agency to provide information or make available for examination or copying at a specified time and place, or both, books, papers, any data, or any records, including, but not limited to, personnel and payroll records, as CalPERS deems necessary to determine eligibility for, and the correctness of, retirement benefits, reportable compensation, enrollment in, and reinstatement to this system. (Government Code § 20222.5 (a))
- 5) Requires CalPERS, before initiating an audit, to notify the subject of the audit of the estimated time required to complete the audit. (Government Code § 20222.5 (b))
- 6) Requires that CalPERS base the time estimate upon various factors, including, but not limited to, the number of employees; employment classifications; benefits; contract provisions; geographical location; time required for audits of comparable entities; and additional time factors raised by the subject of the audit. (Government Code § 20222.5 (b))

- 7) Authorizes CalPERS to assess a reasonable charge upon the employer, if an audit requires an excess of the time estimated, to recover additional costs incurred for the excess time to complete the audit. However, CalPERS may not assess a contracting agency for delays during the course of an audit that are reasonably outside of the agency's control. (Government Code § 20222.5 (c))
- 8) Requires that information obtained from an employer remain confidential, as specified. (Government Code § 20222.5 (d))
- 9) Requires the California State Teachers' Retirement System (CalSTRS) to provide written notice of an intended audit, including its purpose and scope, to the affected public agency and affected members' union. (Education Code § 22206.1)

This bill:

- 1) Requires CalPERS, before initiating an audit, to provide written notice to the subject of the audit that includes the audit's purpose and scope, as well as the estimated time required to complete the audit (already required under existing law).
- 2) Requires CalPERS, after providing the required notice, to list on its website the state employer, school employer, including each school district represented by a school employer, or contracting agency subject to the audit and the purpose and scope of the intended audit.
- 3) Requires the audited employer, as soon as practicable but no later than 10 working days after receiving notice from CalPERS, to forward the audit notice to its employees' union, if any, of members that may be affected by the audit.
- 4) Requires the audited employer to communicate to CalPERS that the employer has provided the audit notice to its employees' union.
- 5) Requires the audited employer, within 60 days of receiving CalPERS' final audit report, to provide its employees' union and CalPERS with a list of the names of any members affected by the final audit report and requires the union to maintain any information obtained from the employer or CalPERS that would otherwise be confidential under state and federal law to treat that information as confidential, as specified.
- 6) Requires CalPERS to provide the audited employer with a copy of the final audit report upon issuance of CalPERS' final audit report.

- 7) Requires the audited employer, as soon as practicable but no later than 10 working days after receiving CalPERS' final audit report, to forward the report to its employees' union, if any, of the affected members that may be affected by the audit.
- 8) Requires the audited employer to communicate to CalPERS that the employer has provided the final audit report to its employees' union.
- 9) Declares that this bill's provisions do not confer any additional rights upon the union, including, but not limited to, due process rights.

Comments

Need for this bill? According to the author, "This audit notification provides employees' exclusive representatives with advance warning of an audit so they can properly inform and advocate for their members or proactively seek additional information regarding the audit and its effects. Public employees and their unions are important stakeholders in the audit process, and a quick resolution benefits everyone—especially in cases where an ongoing payroll reporting error compounds over many months or years."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 4/27/26)

California School Employees Association (source)
American Federation of State, County and Municipal Employees
California Federation of Labor Unions
California Professional Firefighters
California Teachers Association
Service Employees International Union, California

OPPOSITION: (Verified 4/27/26)

None received

ARGUMENTS IN SUPPORT: According to the California School Employees Association:

“CalPERS regularly audits employers to ensure that employee compensation is correctly reported. Accurate reporting of employee compensation is essential in calculating public employees’ monthly pension benefits. The CalPERS Office of Audit Services typically conducts 100 employer audits each year to check for compliance on issues ranging from pay schedules and payrates to part-time employee membership in PERS and employment after retirement.”

“The outcomes of these employer compliance audits can have important consequences for current public employees and retirees. For example, if an audit reveals that an employer inadvertently made an error in pay rate reporting, an employee or retiree may be required to reimburse CalPERS for the resulting overpayment and suffer a reduction in their monthly pension benefit. These mandatory repayments can amount to thousands of dollars depending on the length of time that the reporting error occurred...”

“When school employees receive notice of pension benefit reductions and required lump-sum repayments, they turn to their union for assistance and answers. It is critical that public employee unions be made aware of audits that could adversely impact the promised pension benefits of active members and retirees at the start of the audit process. Timely audit notification allows public employee unions to properly advocate for our members and to proactively seek additional information regarding an audit and its effects. Public employees and their unions are important stakeholders in the audit process, and quick resolution benefits everyone — especially in cases where an ongoing payroll reporting error compounds over many months or years.”

According to the Service Employees International Union, California:

“Existing law already requires that unions representing certificated teachers participating in the California State Teachers’ Retirement System (CalSTRS) receive timely notice of employer audits by CalSTRS. SB 1038 would bring parity to public employees participating in CalPERS by ensuring their union representatives also receive proactive audit notification.”

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
5/1/26 13:20:32

**** END ****