

Date of Hearing: June 10, 2026

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT

Tina S. McKinnor, Chair

SB 1038 (Laird) – As Amended April 29, 2026

SENATE VOTE: 36-0

SUBJECT: The Public Employees' Retirement System

SUMMARY: Requires the California Public Employees' Retirement System (CalPERS) to provide written notice to the subject of an audit and prescribes the distribution of the notice and final audit report, among other provisions. Specifically, **this bill:**

- 1) Amends existing law by adding a requirement that before initiating an audit, CalPERS to notify the subject of the audit in writing of the audit's scope and purpose.
- 2) Requires CalPERS, after providing written notice of the audit, to list on its internet website the state employer, school employer (including each school district represented by a school employer), and contracting agency that is subject to an audit.
- 3) Requires, as soon as practicable, but no later than 10 working days after receiving notice of the intended audit, as specified, the affected employer contracting agency to forward written notice of the intended audit, including its purpose and scope, to the exclusive representative(s), if any, of members affected by the audit, and to communicate to CalPERS that they have provided the notice.
- 4) Requires the audited employer or contracting agency to provide CalPERS and the exclusive representative a list of names of any members affected by the final audit report in which the names must only be those in positions or classifications represented by the exclusive representative in which confidential information obtained by the exclusive representative must be treated as such by the exclusive representative, as specified.
- 5) Requires: (i) CalPERS, upon issuance of the final audit report, to provide the audited employer or agency with a copy of the final audit report; (ii) the employer or agency to forward a copy of that report to the exclusive representative(s), if any, of members that may be affected by the audit as soon as practicable, but no later than 10 working days after receipt of the final audit report, and (iii) the affected employer or contracting agency to communicate to CalPERS that the report has been provided to the exclusive representative(s), if any.
- 6) Expressly establishes that these provisions, except as provided, do not confer additional rights upon the exclusive representative, including, but not limited to, due process rights.

EXISTING LAW:

- 1) Establishes the Public Employees' Retirement Law, administered by CalPERS, to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship or prejudice, be replaced by more capable employees, and to that end provide a retirement system consisting

of retirement compensation and death benefits. (Sections 20000 et seq., Gov. Code.)

- 2) Establishes that public pension or retirement boards have sole and exclusive fiduciary responsibility over the assets of the system; sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to participants and their beneficiaries, and among other things, must discharge their duties with the respect to the system with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and like aims. (Section 17, art. XVI, Cal. Const.)
- 3) Grants discretionary authority to CalPERS to, during the course of an audit, require each employer and contracting agency to provide specified information or make information, records, or documents available, as deemed necessary, to determine eligibility for, and the correctness of, retirement benefits, reportable compensation, enrollment in, and reinstatement to the system, but requires CalPERS, before initiating an audit, to notify the subject of an audit of the estimated time required for its completion based on various factors. Further, if the audit requires an excess of the estimated time, CalPERS is authorized to assess a reasonable charge upon the employer to recover additional costs incurred for the excess time to complete the audit, but it may not assess a contracting agency for delays during the course of an audit that are reasonably outside the agency's control. (Section 20222.5, Gov. Code.)
- 4) Prohibits the divulging of confidential data filed with CalPERS by or on behalf of any member, retired member, beneficiary, or annuitant by any official or employee who has access to it to any person, except to those specifically prescribed. (Section 20230, Gov. Code.)
- 5) Requires the State Teachers' Retirement System (CalSTRS) to provide written notice of an intended audit, including its purpose and scope, to the affected public agency and the affected members' union. (Section 22206.1, Educ. Code.)

FISCAL EFFECT: This bill was passed by the Senate Committee on Appropriations pursuant to Senate Rule 28.8.

COMMENTS:

Information provided by the author states, “[c]urrently, there is no mechanism for exclusive representatives to be notified when their members’ employers are being audited by CalPERS, which causes challenges for unions and their members. If a CalPERS audit reveals payroll reporting errors by an employer, it can result in members being required to repay large lump sums to CalPERS and suffer benefit reductions, which is especially frustrating when the union was not aware that the audit was in process. These audits can take years, and during those years, further errors can occur, i.e., more members’ benefits might be incorrectly calculated, leading to more members needing to repay CalPERS for excess benefits received, even in cases where the employer was at fault for the error. This was somewhat mitigated [by Chapter 331, Statutes of 2021 (Senate Bill 278, Leyva), which compensates members when disallowed compensation had been collectively bargained, but it does not cover reporting errors.

“Without awareness that an audit is happening, bargaining units cannot advocate for resolution of an audit, or assist and prepare employees for what those consequences may be. An audit can reveal a host of issues — it may reveal an issue that must be collectively bargained with a union, or it may reveal an administrative issue that can be fixed with better procedures and management oversight. By formalizing this notification process, we can ensure timely awareness of these audits and allow the exclusive representatives the opportunity to assist and advocate for their members.”

Author’s Statement

“[This bill] extends the notification process for audits conducted by [CalPERS] on various public employers to their associated bargaining units [and] facilitates transparency by requiring employers to forward notification of these audits to involved unions at various points in the audit process, empowering unions to better inform and advocate for their members who may be unaware of the potential impacts of an audit. CalPERS audits can lead to adjustments in monthly allowances for retirees and require repayment or benefits reduction if an audit reveals that an employer inadvertently made an error in pay rate reporting. This is detrimental for retirees who are planning their lives around this monthly allowance, and audit notification is imperative for protecting workers in these scenarios. [This bill] ensures we continue supporting workers even after they’ve left the workforce.”

Comments by Supporters

Among other things, the California School Employees Association, AFL-CIO, “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. 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.”

Others employee organizations offers similar statements in support of this bill.

Comments by Opponents

None on file.

Prior or Related Legislation

Chapter 754, Statutes of 2022 (Assembly Bill 1667, Cooper) requires CalSTRS to provide written notice, including the purpose and scope, of an intended audit to the affected public agency and its employees' union, as specified, among other provisions.

Chapter 331, Statutes of 2021 (Senate Bill 278, Leyva) provides that when a retiree's CalPERS pension is reduced post-retirement due to the inclusion of compensation agreed to under a collective bargaining agreement that is later determined to be nonpensionable, the public employer must cover the difference between the pension as originally calculated and as reduced by CalPERS.

REGISTERED SUPPORT / OPPOSITION:**Support**

California School Employees Association, AFL-CIO (*Sponsor*)
California Professional Firefighters
California State Council of Service Employees International Union

Opposition

None on file.

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