

SENATE THIRD READING  
SB 1038 (Laird)  
As Amended April 29, 2026  
Majority vote

## 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.

### Major Provisions

- 1) Amend 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) Require 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) Require, 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) Require 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.
- 5) Require: (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 establish that these provisions, except as provided, do not confer additional rights upon the exclusive representative, including, but not limited to, due process rights.

## COMMENTS

Currently, 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 [SB 278 (Leyva) Chapter 331, Statutes of 2021], 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.

This bill is similarly modeled after existing law applicable to the State Teachers' Retirement System.

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

#### **According to the Author**

"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."

#### **Arguments in Support**

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 and CalPERS offer similar statements in support of this bill.

**Arguments in Opposition**

None on file.

**FISCAL COMMENTS**

According to the Assembly Committee on Appropriations, this bill would result in minor and absorbable costs to CalPERS.

**VOTES****SENATE FLOOR: 36-0-4**

**YES:** Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Grayson, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

**ABS, ABST OR NV:** Alvarado-Gil, Gonzalez, Grove, Niello

**ASM PUBLIC EMPLOYMENT AND RETIREMENT: 6-0-1**

**YES:** McKinnor, Lackey, Alanis, Boerner, Nguyen, Michelle Rodriguez

**ABS, ABST OR NV:** Garcia

**ASM APPROPRIATIONS: 15-0-0**

**YES:** Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

**UPDATED**

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