SENATE THIRD READING
SB 443 (Rubio)
As Amended August 28, 2025
Majority vote

SUMMARY

Amends the Public Employee Pension Reform Act (PEPRA) of 2013 relating to a Joint Powers Authority (JPA) contracting with a public employee retirement system.

Major Provisions

1) Authorizes a non-founding member agency of a JPA that becomes a member, to offer employees the pre-PEPRA, i.e., "classic," defined benefit (DB) retirement formula within 180 days of becoming a member agency, provided that the employee is already a "classic" public employee retirement system member with their respective employer.

2) Similarly authorizes, on or after January 1, 2026, the Pajaro Regional Flood Management Agency – a JPA – to provide a JPA member agency employee who is not a new public employee retirement system member and subsequently is employed by the JPA within 180 days of the effective date of the retirement plan contract amendment, the "classic" DB retirement formula offered by one of its member agencies on December 31, 2012. However, new public employee retirement system members may only participate as a PEPRA employee, as provided.

3) Requires a JPA to obtain approval from a public employee retirement system pursuant to procedures prescribed by the system prior to adding a new employer to the JPA and enrolling any of its employees into membership.

4) Mirror certain provisions in Senate Bill 853 (Senate Committee on Labor, Public Employment and Retirement, 2025) to resolve a chaptering conflict.

COMMENTS

JPAs and their Finances or Revenues, In General

As a bona fide governmental entity established pursuant to the Joint Exercise of Powers Act, a JPA may contract with CalPERS to administer the retirement benefits offered by the JPA to its employees provided that the benefits are authorized pursuant to the Public Employees' Retirement Law, and the PEPRA.

In general, JPAs are created by other public entities (e.g., cities) that are deemed to be a member agency of the JPA. JPA member agencies create a JPA for a variety of reasons, and the JPA provides a service or various services based on the purpose for which it was established by its member agencies. In most instances, a JPA provides a service to a certain geographical area to meet a particular or common public need. To ensure that the JPA can provide services, JPA member agencies such as cities, can move their employees to the JPA, which also reduces their own pension obligation costs for those employees (which could be presented as generating budgetary savings for the city).

The finances or revenues of a JPA may come from various sources such as grants, contracts, bonds, or fees for service. However, these sources of revenue – particularly, grants and contracts, for example – are limited in terms of dollar amount and duration. A grant or a contract may be renewed depending on a number of factors such as cost, continued need for the JPA's services, or a change in the granting or contracting authority's needs or requirements, etc. Thus, these forms of revenue are not guaranteed beyond the grant or contractual period.

When compared to cities, counties, and special districts which have certain statutory authority to raise revenue such as issuing revenue bonds, increasing taxes, or reducing public services for various purposes, generally, a JPA does not have similar authority or has limited authority. Therefore and again, a JPA's source or sources of finance or revenue are limited and not guaranteed. Unfortunately, should the sources of a JPA's financing or revenues be reduced or lost and not replaced by other financially comparable funding sources, the JPA, its services provided to the community, and its employees and retirees can be negatively impacted.

One specific and relatively recent example of this negative experience is discussed in detail below.

JPAs Contracting with CalPERS: Unstable or Deficient Finances or Revenues and Negative Experience Affecting JPA Employees' and Retirees' Retirement

As originally introduced, this bill was specific to the formation of a JPA involving the cities of La Verne and Covina to offer certain employees the "classic" i.e., pre-PEPRA retirement formula of a JPA that may be formed by them. Subsequently, it was amended in the Senate to, instead, provide a general and single statute that authorizes non-founding JPA member agencies to retain the "classic" retirement formula for certain employees, as provided, rather than advancing separate statutory enactment on a case-by-case basis for newly-formed and individual JPAs.

It is important to note that this bill follows negative experience regarding JPAs contracting with CalPERS relating to their employees' retirement. In a particular instance, the East San Gabriel Valley Human Services Consortium (ESGV) was a JPA formed by the cities of Azusa, Covina, Glendora, and West Covina in September 1979 to provide employment and training services to local residents, and to inmates incarcerated by the Los Angeles County Sheriff's Department (LACSD). Shortly thereafter, the ESGV became a contracting agency of CalPERS for purposes of retirement benefits for its local miscellaneous employees.

Following termination of all of its employees in September 2014 due, in part, to the loss of its sole source of funding via contract with the LACSD, the ESGV became delinquent on paying its share of retirement contributions for its employees to CalPERS. By written demand, CalPERS then sought payment from the JPA's member agencies – the cities of Azusa, Covina, Glendora, and West Covina – where the cities refused citing state and case law, as well as provisions within the JPA's agreement with its member agencies that the debts, liabilities, and obligations of the JPA did not constitute the debts, liabilities or obligations of any party to the agreement. Although these cities were member agencies of the JPA, they were able to disclaim, disregard, and not pay the JPA's outstanding pension liability owed to CalPERS.

Without a source of paying the amount owed to CalPERS, and since payment of ESGV's retirement obligations could not be obtained from the JPA or its member agencies, by law, CalPERS was required to pro rata reduce the retirement benefits of nearly 200 of the JPA's employees and retirees. The reductions ranged from approximately 24 percent to as high as 63 percent depending on whether the employees were under the "classic" miscellaneous plan or the PEPRA miscellaneous plan, and only applied to the employee's or retiree's benefits derived from their service to ESGV. To date, those individuals, including those who had retired and were receiving their pension prior to this negative experience, continue to deal with the effects of the reduction and resulting financial harm through no fault of their own.

Following that negative experience, and although not benefitting the former employees and retirees of the ESGV JPA, Chapter 909, Statutes of 2018 (Assembly Bill 1912, Rodriguez) was enacted to prohibit JPA member agencies from disclaiming the public employee retirement obligations of the JPA, among other provisions.

It is further important to note that, while this particular discussion highlights a specific and concerning negative experience, the State Auditor also previously identified the South Orange County Wastewater Authority – another JPA – regarding its ability to pay its UAL. (*"South Orange County Wastewater Authority: It Should Continue to Improve Its Accounting of Member Agencies' Funds and Determine Whether Members Are Responsible for Its Unfunded Liabilities."* California State Auditor, March 22, 2018 (Report Number 2017-113.) Moreover, at the time the Legislature was contemplating and deliberating Assembly Bill 1912, previously discussed, CalPERS identified that among 167 other JPAs that contract with the system for retirement administration, 22 of them had a funded status of less than 70 percent to meet their respective pension obligations owed to CalPERS on behalf of their employees and retirees. This is equivalent to having less than $.70 per dollar to pay each dollar of their retirement obligation.

This Bill

What is proposed by this bill is not entirely uncommon relating to public employers being able to offer certain employees retention of their "classic" DB retirement benefit formula when they migrate to another public employer within the respective retirement system public employer pool (e.g., state employer pool, or, local employer pool).

Within the past several years, enacted statutes have enabled skilled and experienced employees the ability to migrate among public employers within the same pool while retaining that DB retirement formula. For example, Chapter 64, Statutes of 2024 (Assembly Bill 2301 (Nguyen), relating to "SacSewer" and the County Employees' Retirement Law); Chapter 888, Statutes of 2024 (Senate Bill 1240 (Alvarado-Gil), relating to the successor agency of the El Dorado County Fire Protection District and the Diamond Springs-El Dorado Fire Protection District); Chapter 65, Statutes of 2020 (Assembly Bill 1140 (Stone), relating to the successor agency for the Central Fire Protection District and the Aptos/La Selva Fire Protection District); and, Chapter 72, Statutes of 2018 (Assembly Bill 2004 (Obernolte), relating to the Big Bear Lake Fire Protection District and the Big Bear Fire Protection Authority). Other examples include those that are specific to JPAs such as Chapter 531, Statutes of 2016 (Senate Bill 24, Hill) relating to a JPA formed by the Belmont Fire Protection District, Estero Municipal Improvement District, and the City of San Mateo; and, Statutes of 2014 (Senate Bill 1251, Huff), which created a PEPRA exemption to allow employees transferred to a new JPA formed by the cities of Brea and Fullerton after January 1, 2013, to retrain their "classic" DB formula.

In sum and generally, this bill would afford a JPA to offer employees whom are "classic" retirement system members the ability to retain that DB formula, as prescribed. In addition, building on the prior public employee retirement protective measures effectuated pursuant to Assembly Bill 1912, previously discussed, this bill also includes a proactive due diligence provision as another protective means that will inure to the benefit of JPAs, their member agencies, JPA employees and retirees, and ultimately, taxpayers.

According to the Author
"Under existing law, when public agencies form a JPA, employees who transfer to the new entity within the first 180 days can retain their existing CalPERS retirement plans. However, when other public agencies join the JPA in the future, it's unclear whether their employees are entitled to the same benefit transfer. This ambiguity creates unnecessary uncertainty and could discourage [experienced] employees from transferring to JPAs. [This bill] will clarify that the same 180 day rule applies to employees from agencies that join a JPA after its initial formation."

Arguments in Support
In part, the American Federation of State, County, and Municipal Employees, AFL-CIO states that, "[c]urrent law permits JPAs to offer defined benefit plans that are not PEPRA-compliant to employees who were eligible for such benefits prior to the JPA's formation, provided the employees are not considered "new members" under the Public Employees' Pension Reform Act (PEPRA) and are hired within 180 days. However, these provisions do not currently extend to employees of non-founding member agencies—even when those employees meet the same criteria. [This bill] closes this gap by allowing non-founding member agencies of a JPA to offer these same retirement plans to eligible employees, provided they are not PEPRA new members and are hired within 180 days of the agency joining the JPA. This update promotes fairness and ensures continuity of benefits for employees whose roles may shift due to structural reorganization or inter-agency cooperation…" [and] "…supports good governance and employee retention while maintaining the integrity of PEPRA reforms."

Among other things, the California Professional Firefighters state that the current law governing agency consolidations and other changes of organization of local governments, known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, make clear that when agencies consolidate or merge that any obligations of the original agencies become the obligation of the newly formed agency that emerges from that proceeding.

Under existing law, legislation is necessary for each consolidation to make clear that the newly-formed JPA is able to offer employees the same benefits that they had received before the annexation. [This bill] would make this ability explicit in statute, removing the need for individual bills in each instance. In some cases this legislation is the last step necessary before the merger can be completed, holding up the process for several months. This bill will streamline these mergers and ensure that employees are not negatively impacted.

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

Arguments in Opposition
None.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, this bill has no fiscal effect.

VOTES

SENATE FLOOR: 39-0-1
YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
ABS, ABST OR NV: Reyes

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

ASM APPROPRIATIONS: 14-0-1
YES: Wicks, Sanchez, Arambula, Calderon, Nguyen, Dixon, Elhawary, Aguiar-Curry, Hart, Pacheco, Pellerin, Solache, Ta, Tangipa
ABS, ABST OR NV: Mark González

UPDATED

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