

Legislative Report

June 2017

Amended bills or bills on which there has been activity, or about which there is new information are highlighted in bold text. The bills that have died will be removed from future reports.

AB 20 (Kalra) would have prohibited PERS and STRS from making additional investments or renewing investments in a company constructing, or funding the construction of, the Dakota Access Pipeline on and after January 1, 2018. It would also have required those systems to liquidate their investments in a company constructing, or funding the construction of, the Dakota Access Pipeline on or before July 1, 2018. In addition, the bill provides that it does not require a system's board to take any action unless the board determines in good faith that the action is consistent with its fiduciary responsibilities established in the constitution. The bill was amended on April 17 to, instead, require each System to make a report to the Legislature and the Governor, on or before April 1, 2018, regarding investments in the Dakota Access Pipeline. The bill would also require the System's boards, in preparing the report, to consider factors related to tribal sovereignty and indigenous tribal rights when selecting or rejecting investments. **It passed out of the Assembly Appr Committee on May 26 (12-5) and out of the Assembly (50-24) on May 31. It was sent to the Senate PE & R Committee on June 14.**

AB 283 (Cooper) would require that any member of a 1937 Act system who is classified as a peace officer be retired for service-connected disability due to a job-related injury upon meeting the criteria for disability in the Act, regardless of the member's rank, position, or duty at the time of injury or at the time of application for permanent incapacity. This bill is intended to overturn an Appellate Decision that held a member must be incapacitated from doing the duties of the job the member is currently filling. It appears to be a sweetheart deal for high-ranking peace officers who aren't expected or anticipated to perform the duties of an officer in the field. The bill was amended on March 23 to provide that the disability retirement must be approved if the applicant is unable to perform all the usual and customary duties of a peace officer, regardless of whether the applicant's position requires the performance of those duties. **A hearing was scheduled for June 12 at the Senate PE & R Committee, but the author requested that the hearing be cancelled. No new hearing has been scheduled yet.**

AB 512 (Rodriguez) would amend the PERL to eliminate the sunset date of January 1, 2018, of the provisions that a state safety member who retires for industrial disability is entitled to a retirement benefit equal to the greatest amount resulting from 3 possible calculations. In this regard, the benefit amount is based on an actuarially reduced service retirement, a service retirement allowance, if the member is qualified, or 50% of his or her final compensation, plus an annuity purchased with his or her accumulated contributions, if any. **It passed out of the Assembly Appr Committee on May 26 (17-0) and out of the Assembly (76-0) on May 30. It is at the Senate PE & R Committee, and a hearing is set for on June 26.**

AB 526 (Cooper) was a spot bill. It was amended on April 4 to classify the Sacramento County Employees' Retirement System (SCERS) as a district, which would make it independent of the County. The language is the same as AB 1853 of last year, except that it applies only to SCERS, not all 1937 Act systems. Last year the Governor vetoed AB 1853 and suggested that similar bill should be the result of collaboration between the retirement system and the County. SCERS does not yet know whether the County will support the bill. **CRCEA has gone on record in support. It is at the Senate PE & R Committee, and a hearing is set for on June 26.**

AB 530 (Cooper) was a spot bill. It was amended on April 4 to expand the jurisdiction of the Public Employees Relations Board (PERB) to include resolving disputes and statutory duties and rights of persons who are peace officers. Current law doesn't include peace officers under PERB jurisdiction.

It passed out of the Assembly Appr Committee on May 26 (12-3) and out of the Assembly (56-15) on May 31. It was assigned to the Senate PE & R Committee on June 14.

AB 561 (Voepel), as drafted, would exclude from the terms “gross receipts” and “sales price,” amounts of the gross receipts or sales price above \$300,000 for any public safety first responder vehicle and any equipment required on a public safety first responder vehicle purchased by a local public agency and transfer the amount of the sales or use tax on the excluded amount to the local public agency’s retirement system as an employer contribution. It would apply equally to all cities and counties in this state, including charter cities and charter counties. The bill is at the Assembly Revenue & Taxation Committee. It was amended on March 20 and again on April 17. It now applies only to sales prices in excess of \$800,000, and protects locally adopted sales taxes from application of the bill. **The bill was placed on Suspense on May 3 in the Assembly Appr. Committee, where it died.**

AB 590 (Medina). A member of CalPERS who is employed by a school employer, the Board of Governors of the California Community Colleges, or the State Department of Education may elect to have specified service excluded from coverage by the STRS and instead subject to coverage by PERS. This bill would limit this option to a member of PERS who was employed by a school employer, the Board of Governors of the California Community Colleges, or the State Department of Education within 120 days before the member’s date of hire to perform service that requires membership in STRS. **The bill was passed out of the Senate PE & R Committee on June 12 (5-0) and referred to the Senate Appr Committee, where a hearing is set for June 26.**

AB 679 (Cooley) would require a borrower with respect to any security loan agreement to provide the board of PERS with collateral in the form of cash, United States government debt securities, or other specified forms of collateral, and would require that the amount of the collateral be at least 102% of the market value of the loaned securities. This is SOP for 37 Act systems that engage in securities lending. It was amended in a minor way on April 17. **The bill is at the Senate PE & R Committee, where it was amended on June 8 to add restrictions on collateral and the amount of a portfolio that may be loaned. A hearing is set for June 26.**

AB 995 (Limon) was amended on March 21 to pertain solely to VCERA and would require any leave balance accrued by a county employee prior to his or her appointment as a VCERA employee to be transferred from the county to the retirement system and would require the county to pay to the retirement system an amount equal to the value of the accrued leave. When VCERA hired certain employees pursuant to CERL, the County refused to transfer the leave balances of those who were previously county employees. This bill is intended to correct that situation for future VCERA employees hired from the county. The bill was amended again in a minor way on April 17. **The bill passed out of the Senate PE & R Committee on June 13 (5-0) and sent to the consent calendar.**

AB 1243 (Arambula). Under current law, the state, school employers and agencies contracting with PERS may contract with PERS for administration of a replacement benefit plan. This bill would authorize the county superintendent of schools to pay, annually, from the school service fund, the funds of school districts or other local educational agencies to pay the required contributions for the benefits. **The bill passed out of the Senate PE & R Committee on June 12 (5-0) and referred to the Senate Appr Committee, where a hearing is set for June 26.**

AB 1276 (Limon) would designate Park Rangers working for the United Water Conservation District as Peace Officers and authorized to carry weapons. **It was at the Assembly Pub. S Committee, where it died.**

AB 1309 (Cooley). Existing law allow an employer to hire a retired member without reinstatement under certain conditions. This bill would require an employer to enroll a retired member employed without reinstatement solely for administrative recordkeeping purposes within 30 days of hire, and to report the pay rate and number of hours worked within 30 days of the last day of the pay period

worked. Failure to report will result in PERS levying a fee which the employer will be prohibited from passing on to the employee. **The bill passed out of the Senate PE & R Committee on June 12 (5-0) and referred to the Senate Appr Committee, where a hearing is set for June 26.**

AB 1487 (Rodriguez) was amended on March 28 to prohibit an out-of-class appointment by a CalPERS contracting agency or school employer from exceeding 960 hours each fiscal year. It would define "out-of-class appointment" as an appointment to an upgraded position or higher classification by the governing body to a vacant position for a limited duration. The bill specifies that compensation for a limited duration position under these circumstances shall be pursuant to a collective bargaining agreement. The bill would require an employer who violates this provision to make payments to the system for treble the amount of money that otherwise would have been paid in the form of employee and employer contributions plus reimbursement for administrative expenses. **The bill was amended at the Senate PE & R Committee on June 5 by adding a requirement for reporting out-of-class appointments to PERS. The bill passed out of the Senate PE & R Committee on June 12 (3-2) and referred to the Senate Appr Committee, where a hearing is set for June 26.**

AB 1597 (Nazarian) would prohibit PERS and STRS from making additional or new investments in Turkey if the investment is issued, or owned, controlled, or managed by the Turkish Government. It would also require divestment of these types of investments within 6 months if a federal law is passed imposing sanctions on Turkey. None of this is required unless the PERS Board determines in good faith that such actions are consistent with their constitutional fiduciary responsibility. This is at least the third year that Assemblyman Nazarian has authored a similar bill. **The bill was referred to the Senate PE & R Committee on June 14.**

ACA 15 (Brough) is a proposed constitutional amendment similar to **SCA 10** (see below). **The primary difference is that instead of a 2/3 vote requirement for approval of a retirement benefit increase, this proposal would only require a majority vote. It has not yet been assigned to a committee.**

SB 32 (Moorlach) is entitled the California Pension Reform Act of 2018. It makes many changes to existing law. Among other things, it would create the Citizens' Pension Oversight Committee to serve in an advisory role to the boards of STRS and PERS and would require the committee, on or before January 1, 2019, and annually thereafter, to review the actual pension costs and obligations of PERS and STRS and report on these costs and obligations to the public and would require reports of audits of STRS and PERS conducted by public accountants not in public employment to be filed with the committee.

This bill would also require the PERS board to determine what the level of the unfunded liability of PERS was in 1980 and require the board to reduce the unfunded liability of PERS to that level, to be achieved by 2030, with the goal of fully funding PERS. The bill, in any year in which the unfunded actuarial liability of PERS is greater than zero, would require the board to increase the employer contribution rate otherwise provided by law for the state, contracting agencies, and school employers by 10 percent.

Additionally, this bill would require the board of PERS, on or before January 1, 2019, to develop and submit to the Legislature for approval a hybrid plan consisting of defined benefit and defined contribution components, as specified, and would require the plan to be applied to members who elect to be subject to the plan or who are first employed by the state, a contracting agency, or a school employer and become members of the system on or after the approval of the plan by the Legislature.

The bill would further require the PERS board, on or before January 1, 2019, to review the duties of officers and employees in positions included in the safety member classification pursuant to PERL and reclassify the positions according to specified criteria. The bill would apply this reclassification to persons who are first employed by the state and become state members of PERS on or after January 1, 2018.

This bill would also prohibit a public retirement board from deeming certain forms of pay to be pensionable compensation.

The bill, for an individual who becomes a member of any public retirement system for the first time on or after January 1, 2018, and who was not a member of any other public retirement system prior to that date, would require the final compensation used to determine the member's retirement benefits to be the highest annual pensionable compensation earned by the member during a period of at least 60 consecutive months (as compared to 3 years currently under PEPRA), or at least 5 consecutive school years if applicable.

The bill would also provide that if the member leaves the employment of a public employer participating in a public retirement system for other employment and is subsequently reemployed by the public employer at least one year later, the member will be subject to the same benefits, contributions, and other terms and conditions applicable to an individual who becomes a member of the public retirement system for the first time on the date of the member's return, for service rendered on or after that date.

In addition, the bill would prohibit a public retirement system from making a cost of living adjustment to any allowance payable to, or on behalf of, a person retired under the system, or to any survivor or beneficiary of a member or person retired under the system, for any year beginning on or after January 1, 2018, in which PERS or STRS is not fully funded. **Although reconsideration was granted after the bill failed to get out of the Senate PE & R Committee on April 24, the bill didn't get of the Senate by the deadline to pass out of the house of origin, so it is dead.**

SB 371 (Moorlach) would prohibit a public employee who will be covered by an MOU from representing the public agency in negotiations with the employee organization. It was amended on April 17 by replacing "covered" with "affected, directly or indirectly", and defining those terms.

Although reconsideration was granted after the bill failed to get out of the Senate PE & R Committee on May 8, the bill didn't get of the Senate by the deadline to pass out of the house of origin, so it is dead.

SB 454 (Moorlach) would require the state, on and after January 1, 2018, to assume all responsibility for prefunding retiree health care and to require the state to prefund retiree health care for state employees, annuitants, and their beneficiaries with the goal of paying 100% of the actuarially determined normal costs by July 1, 2019. It would also require the state to pay unfunded liabilities that have accrued for retiree health care for state employees, annuitants, and their beneficiaries with the goal of paying 50% of the actuarially determined cost of these liabilities by January 1, 2022, and 100% of the actuarially determined cost of these liabilities by January 1, 2026. The bill was amended on April 6 by adding tables outlining the percentage of employer contribution payable for postemployment health benefits based on levels of service ranging from 50% for 15 years to 100% for 25 or more, for employees who begin work after January 1, 2018. **Although reconsideration was granted after the bill failed to get out of the Senate PE & R Committee on April 24, the bill didn't get of the Senate by the deadline to pass out of the house of origin, so it is dead.**

SB 525 (Pan) This bill applies to PERS and Judges' Retirement. It would provide that the duration of disability or incapacity must be expected to last at least 12 consecutive months or result in death and would also revise the nonindustrial disability retirement formula. Additionally, the bill would revise and recast the definition of final compensation for local members and require the employer, when reporting this information to the PERS Board, to identify each item of special compensation and the category under which that item is listed, as described in regulations promulgated by the Board, and to report each item of special compensation separately from payrate.

This bill would also specify that a spouse's signature is not required on a designation of the member's current spouse as the member's sole primary beneficiary on any lump-sum beneficiary designation, or, under other specified criteria, on the member's election of an optional settlement

designating the member's spouse as the sole primary beneficiary. It would also extend certain optional settlements for members due to dissolution of marriage or legal separation in which the judgment dividing the community property awards total interest in PERS to the member, or in an annulment of the marriage in which a court confirms the annulment, or to a waiver of entitlement to the allowance by the non-spouse. This bill would authorize a court, upon receipt of documentation by the PERS board, to order the member to select an option to provide the nonmember spouse with a lifetime monthly allowance equal to the nonmember spouse's interest in PERS, as defined by court order and in compliance with specified family law provisions. The bill also would make related clarifying changes to other provisions related to optional settlements for a PERS member's beneficiary. Existing law for the Judges' Retirement System and the Judges' Retirement System II. permits a member of these retirement systems to select from various optional settlements for the purpose of structuring his or her retirement benefits and provides for adjustments due to dissolution of marriage, legal separation, or annulment.

This bill would revise those provisions to clarify that the legal separation must be filed and the annulment must be confirmed by the court. **The bill is at the Assembly PE, R &SS Committee, where a hearing is set for July 6.**

SB 599 (Portantino) was a PERS spot bill. It was amended on March 23 and would authorize the Peace Officers Research Association of California Insurance and Benefits Trust to offer different health benefit plan designs with varying premiums in different areas of the state. **The bill is at the Assembly PE, R &SS Committee, where a hearing is set for July 6.**

SB 671 (Moorlach). Under current law, a county and only districts in San Bernardino County may make an advance payment of or all or part annual contributions to the retirement fund. This bill would extend that authority to all counties and districts. The bill would also authorize advance payment of all or part of a future year's contributions. The bill was amended on March 28 to provide that the authority to make advance payments does not prevent the board of supervisors or governing body of a district from making advance payments for the estimated annual county contributions for an additional year or years, for a county or a district, and extend the authority for advance payments to districts that are members of county retirement systems generally. Also, language was added to clarify that this authority also applied to advance payments pertaining to PEPRA employees, which had been overlooked in the original bill. The bill is supported by SACRS. **It was amended on April 24 and May 4 for clarification. The bill is at the Assembly PE, R &SS Committee, where a hearing is set for July 6.**

SB 681 (Moorlach) was a spot bill but was amended on April 17 to require the Board of Administration of PERS to allow a contracting agency to terminate its contract with the system in a manner that does not result in excessive costs or penalties to the contracting agency, allows the contracting agency to withdraw its net assets paid into the system less payments made to its members and their beneficiaries, and ensures that the contracting agency remains responsible for its unfunded liabilities so that those liabilities are not shifted onto other PERS members or employers. Before a contracting agency would be eligible to terminate its contract, the bill would require a contract to have been in effect for at least 5 years and meet other notice and approval requirements. The bill also would require the agreement between the contracting agency and the board to contain provisions to protect the interests of the system, and would require a contracting agency, before terminating its contract, to determine how termination would affect the health care benefits of its members and, also, to determine the federal tax ramifications associated with its decision. **The bill didn't get of the Senate by the deadline to pass out of the house of origin, so it is dead.**

SB 728 (Newman) would grant a state officer or employee who serves as a member of the National Guard or federal military reserve force who is called up to active military service and as a result sustains a military service-connected disability rated at 30% or more by the United States Department of Veterans Affairs an additional credit for sick leave with pay of up to 96 hours for the

purpose of undergoing medical treatment for his or her military service-connected disability. The bill would require that the sick leave be credited to a qualifying officer or employee on the first day of his or her return to state employment and remain available for use for the following 12 months of employment. **The bill passed It passed out of the Senate Appr Committee on May 25 (7-0) and out of the Assembly (40-0) on May 31. It was sent to the Assembly PE, R & SS Committee on June 15.**

SCA 8 (Moorlach) is a proposed constitutional amendment that would permit a government employer to reduce retirement benefits that are based on work not yet performed by an employee regardless of the date that the employee was first hired, notwithstanding other provisions of the California Constitution or any other law, and would prohibit it from being interpreted to permit the reduction of retirement benefits that a public employee has earned based on work that has been performed. **It would set aside the "California Rule". The bill is set for hearing on June 26 at the Senate PE & R Committee.**

SCA 10 (Moorlach) is a proposed constitutional amendment that would prohibit a government employer from providing public employees any retirement benefit increase until that increase is approved by a $\frac{2}{3}$ vote of the electorate of the applicable jurisdiction and that vote is certified. The measure would define retirement benefit to mean any postemployment benefit and would define benefit increase as any change that increases the value of an employee's retirement benefit. Government employer would include, among others, the state and any of its subdivisions, cities, counties, school districts, special districts, the Regents of the University of California, and the California State University. **The bill is set for hearing on June 26 at the Senate PE & R Committee.**