

Legislative Report

July 2015

The Legislature began its summer recess on July 17, and the Governor left for the Vatican close to the same time, so not much happened after that date.

Bills that have been amended, acted upon, or referred to committee

AB 10 (Gatto) would increase the thresholds at which a public official has a disqualifying financial interest in sources of income from \$500 to \$1,000, in investments in business entities from \$2,000 to \$5,000, and in interests in real property from \$2,000 to \$10,000, and would make conforming adjustments to the thresholds at which income, investments, and interests in real property must be disclosed on a public official's statement of economic interests. It would also require certain public officials to disclose information on their statement of economic interests relating to governmental decisions for which they had a disqualifying financial interest. It also requires that a single payment of \$5000 or more, or aggregate payments of \$5000 or more from the same source within a calendar year, for legislative, governmental, or charitable purposes made at the behest of a candidate for office, or a public official, be reported within 30 days of receipt. **It was amended on July 14 to only require the reporting if the behested payment or payments would financially benefit the former office holder or his or her immediate family, the former officeholder's employer or the employer of a member of his or her immediate family, or an entity with whom the former officeholder or a member of his or her immediate family is negotiating employment. The bill passed out of the Senate Elections and Constitutional Amendments Committee on the same date (4-0) and referred to the Appr. Committee.**

AB 259 (Dababneh) would additionally require an agency that was the source a breach of records security, and the breach compromised a person's social security number, driver's license number, or California identification card number, to offer to provide the person with identity theft prevention and mitigation services at no cost for not less than 12 months. **It passed out of the Senate Judiciary Committee on July 15 (6-0) and referred to the Appr. Committee.**

AB 284 (Brough) would approve a specified defined benefit formula applicable to employees of the City of San Juan Capistrano. This is allowed under PEPRA if the formula is determined and certified by the chief actuary and the PERS board to not have a greater risk or greater cost to the sponsoring employer than the defined benefit formula required by PEPRA and the plan is approved by the Legislature. **The bill was signed by the Governor on July 13 (Chap. 66).**

AB 663 (Irwin) would enable the Ventura County Board of Supervisors to appoint an alternate public member of VCERA Board of Retirement. The only county that has similar authority is Contra Costa. **It was signed by the Governor on July 2 (Chap 38).**

AB 868 (Oberholte) would add San Bernardino County to the list of counties (Kern, Los Angeles, and Orange) in which PERS could enter into an agreement to terminate a

public agency's contract with PERS for designated safety employees and transfer those employees into the county retirement system with full credit for each transferred employee's service under PERS. This applies where a county, authority, or district takes over firefighting or law enforcement functions from several local agencies. It passed out of the PE & R Committee on June 9 (4-0), was re-referred to the Appr Committee (5-0) where it passed and was ordered to Consent. It passed the Senate on June 25 (37-0) and the Assembly on the same day and sent to the Governor. **It was signed on July 14 (Chap. 86)**

AB 883 (Low) would prohibit employers from indicating directly or indirectly, when advertising job openings, that applicants may not be current or former public employees, nor may they disqualify an applicant for employment because he or she is a current or former public employee. There is concern that public employers would use this tactic to avoid employing persons who would have to be placed in a legacy retirement tier, as opposed to being a PEPRA employee. This bill was amended on July 16 to more clearly define "current or former public employee", and sent to the Appr. Committee on the same date.

AB 963 (Bonilla) would revise the definition of creditable service under the Teacher's Retirement Law for service rendered prior to December 31, 2015. **It was amended again on July 1 at the Senate PE & R Committee to add additional services as creditable, passed out of the committee on July 14 (5-0) and sent to the Appr. Committee.**

AB 991 (Public Employees, Retirement, and Social Security Committee) would make certain part time work creditable under STRS. **It passed out of the Senate on June 29 (39-0), the Assembly concurred in the Senate amendments on July 2 (77-0), and signed by the Governor on July 16 (Chap. 123).**

AB 992 (Public Employees, Retirement, and Social Security Committee) would enable a retiree who took a service retirement while he or she had a disability application pending to change the retirement option selected if granted a disability retirement. This bill is sponsored by SACRS. **It passed the Senate (37-0) on June 18, and sent to the Governor, who signed it on July 2 (Chap. 40).**

AB 1031 (Thurmond) would require any public agency that has elected to become subject to PEMCHA to make its required employer contributions. **It was amended on June 22 to provide that such contributions may include reimbursement for Medicare Part B premiums, if agreed upon in collective bargaining. It has remained on the Senate floor since that date.**

AB 1052 (Cooley) would authorize the retirement boards of PERS and STRS to enter into agreements for investment of funds, and with investment managers and custodians using processes they deem necessary and consistent with their fiduciary duties. Apparently, there are other laws establishing requirements for state agencies when entering into agreements. Those laws would no longer apply to these retirement systems. **The bill was amended on July 6 to require that the process of selection be competitive but not in the manner provided for in section 10340 of the Public Contract Code. The amendment also provided that selection of emerging managers need not be competitive. It is still in the Appr. Committee**

AB 1291 (Williams) would authorize the Retirement Board of VCERA to appoint 5 expressly identified executive and managerial employees subject to terms and conditions of employment determined by the Board. These employees would be employees of the Board, rather than of the County, exempt from Civil Service, and eligible to become members of the County retirement system. OCERS and SBCERA were previously granted this authorization in 2002 and 2006, respectively. Last year CCCERA was granted the authority to make all its staff employees of CCCERA. The bill is sponsored by VCERA. **It passed out of the Senate on July 6 (38-0), the Assembly concurred in the Senate amendments on July 9 (79-0), and the bill was sent to the Governor. It is still at the Governor's office.**

SJR 1 (Beall) is a measure which would request the President and Congress to pass legislation to repeal the Government Pension Offset and the Windfall Elimination Provisions from the Social Security Act. This request has been made a number of times before. The argument is that teachers and most public safety employees are not covered by Social Security during the public careers, and are penalized if they enter Social Security through a subsequent or concurrent private career. It is unlikely that it will gain any traction in Congress since it would seriously affect the financial viability of the Social Security system, although a couple of bills have been introduced. **It passed out of the Assembly on July 2 (66-0), and was signed by the Governor on July 6 (Chap. 92).**

SB 21 (Hill) would require a nonprofit organization that pays for certain types of travel for an elected state officer or local elected officeholder that are reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, to disclose the names of donors responsible for funding the payments. The Political Reform Act currently exempts such gift payments for the actual costs of specified travel from the annual limit on the value of gifts from a single source. The bill would also require a person who receives a gift of a travel payment from any source to report the travel destination on his or her statement of economic interests. **The bill passed out of the Assembly Elections & Redistricting Committee (E & R) on July 1 (5-0) and sent to the Appr. Committee.**

SB 185 (De Leon) would require the boards of PERS and STRS to divest the public employee retirement funds of any investments and prohibit additional or new investments or the renewal of existing investments in a thermal coal company. This bill would require these actions to be undertaken consistent with the board's fiduciary responsibilities specified in the California Constitution. **The bill is still at the Appr Committee, where it was placed on suspense on July 15.**

SB 216 (Pan). PERL directs the PERS board to invest not less than 25 % of all funds that become available in a fiscal year for new investments in specified obligations and securities connected with residential realty, subject to the board's authority to substitute other investments consistent with its fiduciary obligations to the retirement system and standards for prudent investment. This bill would repeal these provisions regarding investing in residential realty. It would also reduce the frequency of a currently required quarterly report on the system's portfolio. Finally, it would require that the option to purchase service credit for a period a state employee was on uncompensated leave be elected prior to retirement, that the member be returning to state service. Under current law, the board has the authority to audit employers to determine the correctness of

retirement benefits, reportable compensation, enrollment in, and reinstatement to the system. **It passed out of the Appr Committee on July 8 (14-0) and ordered to consent. On July 16, it passed (79-0) and returned to the Senate for concurrence in the Assembly amendments, which is still pending.**

SB 272 (Hertzberg) would have required each local agency, in implementing the California Public Records Act, to make a catalog of enterprise systems used by the local agency available to the public, along with related information. It was amended on June 25 to exempt school districts from the requirement and to substitute “information technology systems” for “enterprise systems”. **The bill passed out of the Assembly Judiciary Committee (Jud) on June 30 (10-0), and was sent to the Local Government Committee (L.Gov.). It passed out of L.Gov. on July 16, and sent to the Appr. Committee.**

SB 292 (Pan) provides that the requirement for employees subject to PEPRA to pay 50% of the actuarial normal cost of their pension benefits does not apply in cities and counties in which voter-approved tax levies were enacted prior to 1978 for the purpose of paying pension costs. It was amended insubstantially on June 25, and passed out of the Assembly PE, R & SS Committee (5-0), and sent to the Assembly floor. **On July 9 it was placed in the inactive file.**

SB 330 (Mendoza) would **have**, on and after January 1, 2017, and notwithstanding any other law, expand prohibitions to deem that a public officer who is an elected member of any state or local body, board, or commission has a prohibited financial interest in a contract made by them, if that public officer’s spouse, child, parent, sibling, or the spouse of the child, parent, or sibling has a financial interest in any contract made by that public officer in his or her official capacity, or by any body, board, or commission of which that public officer is a member. **It was amended in the E & R Committee on July 7 to, instead, identify as a remote interests, those interests which had earlier been prohibited by the bill. On July 15 it was held for interim study.**

SB 354 (Huff) pertains to PEPRA and addresses retirement benefits for employees of agencies that become part of a joint powers agency. **The bill passed out of the Appr. Committee on July 8 (14-0) and ordered to consent. It passed the Assembly on July 16 and was sent to the Governor.**

SB 574 (Pan) requires disclosure by the University of California of information regarding alternative investments it has made that is in the constructive possession of, or is otherwise accessible or obtainable by it. Under current law, specified records concerning alternative investments are exempt from disclosure unless the information in those records have already been publicly released. **The bill passed out of the Assembly Higher Education Committee on July 8 (8-4) and sent to the Appr. Committee, where it was placed on suspense on July 15.**

Bills on which there has been no movement

ACA 3 (Gallagher) would, if passed by the Legislature and a vote of the electorate, embed in the Constitution the provision of PEPRA prohibiting retroactive enhancement of retirement benefits. It is at the PE, R & SS Committee where it failed to pass on June 24. Reconsideration has been granted.

AB 241 (Gordon) would require, notwithstanding any other law and under certain conditions, a local public entity to provide the name and mailing address of each retired employee or his or her beneficiary receiving the retired employee's retirement benefit to any 501(c)(5) organization that is incorporated for the purpose of representing retired employees or their beneficiaries as members of the organization in the neutral evaluation process required under current law before a public entity may file for bankruptcy under Chapter 9. The problem with this bill is that most county retiree associations are not 501(c)(5) organizations but, rather, 501(c)(3), (4), or (7) organizations. 501(c)(5) organizations are labor organizations formed for collective bargaining purposes, not to represent retirees, although a 501(c)(7) organization composed of retired employees can qualify for exemption as a labor organization under IRC 501(c)(5) where it acts to secure and maintain retirement benefits for its members. I am only aware of a single county retiree association that is a 501(c)(5) organization; the Contra Costa County Retired Employees Association (CCCREA). Accordingly, CRCEA sought to have the bill amended to include 501(c)(3), (4) and (7) organizations. The bill is now at the Appropriations (Appr) Committee, where it appears to have died.

AB 505 (Melendez) would have, for taxable years beginning on or after January 1, 2016, exclude from gross income, as provided, concurrent retirement and disability pay payments received under Title 10 of the U.S. Code by an active, reserve, or retired member of the United States military who served in active duty. It is still at the Assembly Appr. Committee.

AB 511 (Gipson) would expand the presumptions in workers compensation law relating to compensable injury for CHP, law enforcement officers and firefighters, to include other, full-time peace officers described in other provisions of law. The bill would also expand the coverage of these provisions to include, upon the approval of an ordinance or resolution adopted by a contracting public agency, or the adoption of language to this effect in a city or county charter, or pursuant to a collective bargaining agreement, a custody assistant, correctional officer, security officer, or security assistant employed by a public agency, or a peace officer other than a peace officer to whom these presumptions already apply. The bill is at the Appr Committee, where it has been held.

AB 537 (Travis Allen) would prohibit a public agency, state employer, employee organization, or public employee from entering into a memorandum of understanding that provides postemployment health care benefits without a strategy for permanently prefunding members' postemployment health care benefits. The bill is in the PE, R & SS Committee.

AB 584 (Cooley) would rename the Joint Legislative Retirement Committee as the Joint Pension Administration and Sustainability Committee, and change its composition. Current law requires that all bills pertaining to retirement to be transmitted to this committee. This bill would also require the committee to forward an analysis, including an actuarial analysis if necessary, of each bill to the responsible policy committee. The committee is also supposed to review the performance of PERS and STRS annually. This is a strange bill in that the roster of joint committees on the Legislature's website does not include this committee under its current name, I don't recall ever seeing a policy committee analysis refer to an analysis by this committee, and I don't believe it has any members. If it does actually exist, I'm willing to bet PEPRAs were never sent to it for analysis. The bill is now at the Rules Committee.

AB 736 (Cooley) would add Chief Operating Officer and Chief Financial Officer to the list of executive and managerial positions for which the Teacher's Retirement Board can set the compensation. It is still at the Senate PE & R Committee.

AB 1121 (Calderon) is a spot bill pertaining to destruction of customers' records containing personal information that are no longer to be retained by a business. The bill has never been assigned to a committee.

AB 1190 (Cooley) would authorize the Secretary of State to designate an entity to certify election results for the PERS Board of Administration, in lieu of certification by the Secretary. The bill was referred to the PE, R & SS Committee, where it still is.

AB 1410 (Nazarian) would prohibit investments by PERS and STRS from investing in a Turkish investment vehicle, and to sell or transfer any such investments it already has, consistent with its fiduciary duties. The bill passed out of the PE, R & SS committee on April 22 (6-0) and sent to the Appr Committee, where it has been held.

SB 57 (Knight) is a spot bill pertaining to the County Employees Retirement Law of 1937. It is still at the Senate Rules Committee awaiting assignment.

SB 58 (Knight) is a spot bill pertaining to the Public Employees Retirement Law. It is still at the Senate Rules Committee awaiting assignment.

SB 201 (Wiekowski) would require a court, in an action by a third party to enjoin disclosure of a public record or declaratory relief concerning a request to inspect a public record, to apply the provisions of the California Public Records Act as if the action had been initiated by a person requesting disclosure of a public record. It would also require the third party seeking an injunction or declaratory relief to provide notice to the person whose request prompted the action at the same time the defendant public agency in the action is served. It is still at the Judiciary Committee (Jud)

SB 258 (Bates) would state the intent of the Legislature to enact legislation that would protect the right of the public to participate in open deliberations of the legislative bodies of local agencies by clarifying the appropriate use of special meetings. It still hasn't been assigned to a committee.

SB 293 (Pan) is a spot bill pertaining to PERL. It still hasn't been assigned to a committee.

SB 294 (Pan) is a spot bill pertaining to STRS. It still hasn't been assigned to a committee.

SB 309 (Morrell) is a spot bill pertaining to CERL. It still hasn't been assigned to a committee.

SB 375 (Berryhill) is a spot bill pertaining to PERL. It still hasn't been assigned to a committee.

SB 459 (Liu) is a bill expressing the intent of the Legislature to enact legislation requiring the sharing of data collected by the state from state and county agencies to share that data with state, county, local education agencies, researchers, practitioners,

and organizations serving youth and families. It still hasn't been assigned to a committee.