

Legislative Report

March 2018

Amended bills or bills on which there has been activity, or about which there is new information are highlighted in bold text.

Important Legislative Deadlines:

Apr. 27 - Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.

May 11 - Last day for policy committees to hear and report to the floor non-fiscal bills introduced in their house.

May 25 - Last day for fiscal committees to hear and report to the Floor bills introduced in their house.

AB 2004 (Oberholte). This bill is an urgency statute and would enact the Big Bear Fire Agencies Pension Consolidation Act of 2018, which, on and after the effective date of a resolution of the Board of Retirement of the San Bernardino County Employees' Retirement Association consenting to membership by employees of the Big Bear Fire Authority, would provide that all safety employees currently employed by the Big Bear Lake Fire Protection District as of that date would be deemed to be employees of the authority and that all duties and obligations of the fire protection district in the employment relationship would be assumed by the authority. The bill would specify that the authority is a "district" for purposes of the CERL. The bill would also provide that the authority would assume the rights, obligations, and status previously occupied by the City of Big Bear Lake as to the portion of the city's retirement plan that covers safety employees of the fire protection district, and to the replacement benefits program. Additionally, the bill would provide that termination of the city safety plan would not trigger withdrawal liability. **The bill passed out of the Assembly PER&SS Committee on March 14 (7-0) and is on the Assembly floor.**

AB 2076 (Rodriguez). This bill was introduced at the request of LACERA. It would authorize LACERA to correct a prior board decision determining the date of retirement for a member permanently incapacitated for disability that was made between January 1, 2013, and December 31, 2015, and was based upon an error of law existing at the time of the decision. The bill would also authorize a member seeking correction under these provisions to file an application with the board no later than one year from the date this law becomes operative. **The bill was amended for clarification on February 27 and passed out of the Assembly PER&SS Committee on March 14 (7-0) and sent to the Assembly, where it was placed on consent on March 15.**

AB 2085 (Cooley). This bill was introduced at the request of VCERA. It is intended to clarify existing law by defining "surviving spouse" as a person legally married to the member, who is neither divorced or legally separated at the time of the member's death, and who meets all other requirements of CERL pertaining to the length of marriage and the person's age at the time of the member's death. **The bill was sent to the Assembly PER&SS Committee.**

AB 2196 (Cooper). This bill would permit the member, survivor, or beneficiary, where prior service credits are being purchased under an installment plan, to elect to discontinue the payments and receive a retirement allowance that is reduced by the actuarial equivalent of any

balance remaining unpaid by the member. **The bill was sent to the Assembly PER&SS Committee.**

AB 2310 (Aguiar-Curry). PERL authorizes a public agency wishing to participate in PERS to request a quotation of the approximate contributions that would be required. If the governing body intends to approve the proposed contract, PERL requires the body to adopt a resolution giving notice of that intention and prohibits approval of the contract until an election has been held that permits the employees to be included in PERS to express their approval or disapproval. This bill would make nonsubstantive changes to the provisions requiring a governing body to adopt a resolution and conditioning contract approval on holding an election above. *This bill is obviously a placeholder.*

AB 2196 (Calderon). This bill would add a chief operating officer and a chief health director to the list of positions for which PERS is authorized to appoint and fix the compensation. **The bill was sent to the Assembly PER&SS Committee.**

AB 2571 (Gonzalez Fletcher). This bill, if consistent with fiduciary responsibilities of a public investment fund as determined by its board, would restrict new, additional, or renewed investments by a public investment fund to an alternative investment vehicle where, if the investment vehicle is managed by an investment manager, the investment manager has adopted and committed to comply with a race and gender pay equity policy consistent with requirements established in the bill. The bill would require an investment manager, beginning September 1, 2019, to submit at least once annually to the public investment fund a certified report regarding compliance. Because a certified report would be required to be verified under penalty of perjury, this bill would expand the crime of perjury, thereby imposing a state-mandated local program. The bill would require each contractually enforceable instrument for additional or new investments or renewal of existing investments with an investment manager to require that the investment manager take prescribed actions consistent with the bill as a material term of the instrument. The bill would require a public investment fund to disclose pay equity reporting information provided to it pursuant to the bill at least once annually to the State Auditor and in a report presented at a meeting open to the public. The bill would define terms for its purposes.

AB 3068 (Daly). This bill would require the county auditor or auditor-controller to also be the chief auditor of the county. This bill would grant the county auditor or auditor-controller, as part of its supervisory powers, the authority to audit, rather than review, departmental and countywide internal controls. This bill would prohibit this authorization from being construed to limit either (A) the ability of the auditor-controller, district attorney, ethics commission, or sheriff of a county to retain special services for the respective auditing, accounting, prosecutorial, and investigative functions of those offices or (B) the ability of any district or court to retain special services. This bill would extend these provisions to additionally require the board of supervisors to contract with legal counsel to assist the auditor-controller, as described above. The bill would also, if the presiding judge determines that a conflict exists and the creation of an ethical wall within the county counsel's or district attorney's office is inappropriate, require the presiding judge to select the legal counsel that the board of supervisors employs for the assessor, auditor-controller, or sheriff.

This bill was sent to the Assembly Local Government Committee. Since it has nothing to do with public retirement, it will be dropped from future reports.

AB 3084 (Levine). Each state and local public retirement system shall, in its annual audited financial statements submitted to the Controller pursuant to Section 7504, in a form prescribed by the Controller, show that the retirement system has met or if it has not met, detail why it has not met and what the retirement system is doing to meet, all of the following relating to other postemployment benefits:

- (a) Making targeted prefunding contributions on a timely basis.
- (b) Depositing contributions in an irrevocable qualified trust for the exclusive benefit of plan members.
- (c) Investing contributions in excess of any pay-as-you-go amounts in a diversified investment portfolio with a defined investment policy.
- (d) Ensuring that the discounted rate used to develop the actuarial account liability and normal cost recognizes the expected return of the entire portfolio.

The bill was sent to the Assembly PER&SS Committee. Because most OPEB plans are sponsored and financed by entities other than retirement systems, the SACRS Legislative Committee has asked the SACRS lobbyist to communicate to the author that this bill needs to be amended to remove references to retirement systems.

AB 3150 (Brough). Existing law creates state and local public pension and retirement systems that provide pension benefits based on age at retirement, service credit, and final compensation. Existing law requires each state and local public pension or retirement system, on and after the 90th day following the completion of the annual audit of the system, to provide a concise annual report on the investments and earnings of the system, as specified, to any member who makes a request and pays a fee, if required, for the costs incurred in preparation and dissemination of that report.

This bill would also require each state and local pension or retirement system to post a concise annual audit of the information described above on that system's Internet Web site no later than the 90th day following the audit's completion.

The bill was sent to the Assembly PER&SS Committee.

AB 3235 (Grayson). This bill make a non-substantive amendment to PEPR. *This bill is obviously a placeholder.*

AB 3245 (Rodriguez) This bill would revise the provisions of PERL relating to retirement under concurrent systems to specify that the compensation earnable or pensionable compensation as a member of PERS is subject to the restrictions on compensation earnable under PERS and the restrictions on pensionable compensation under PEPR. This bill would require that an overpayment made to or on behalf of any member, former member, or beneficiary, including, but not limited to, contributions, interest, benefits of any kind, federal or state tax, or insurance premiums be deducted from any subsequent benefit that may be payable. This bill, with respect to an employee who is not in a group or class, would specify that increases in compensation during that final compensation period are limited to the average increase in compensation earnable during the same period reported by the employer for all similarly situated employees who are in the closest related group or class within the same membership classification. The bill, with respect to an employee who is in a group or class would limit increases in

compensation earnable during the final compensation period, as well as the 2 years immediately preceding that period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same group or class of employment within the same membership classification, as prescribed. This bill would provide that a member is ineligible to retire for disability if the member separates from employment for any reason, including termination, voluntary resignation, resignation with disciplinary action pending, rejection on probation, or mutual agreement. Despite that limitation, the bill would specify that a member may be eligible to retire for disability under PERS if the member's separation from employment was the ultimate result of a disabling medical condition or preemptive of an otherwise valid claim for disability retirement.

SB 656 (Moorlach & Lara). Existing law authorizes a judge who is a member of the Judges' Retirement System II system and who retires upon attaining both 65 years of age and 20 or more years of service, or upon attaining 70 years of age with a minimum of 5 years of service, to receive specified retirement benefits, including a monthly pension. Existing law requires a judge who leaves judicial office after accruing 5 or more years of service, but who has not reached the applicable age of retirement, to be paid a lump sum equal to monetary credits that accrued while he or she was in office. Existing law also authorizes a judge who separates from office after accruing 5 or more years of service but has not reached 65 years of age to continue health care benefits if he or she assumes certain payments.

This bill would authorize a judge who has attained 60 years of age with a minimum of 5 years of service, or who has accrued 20 or more years of service, to retire and to elect to receive a monthly pension that would be deferred until the judge reaches retirement age, but to continue health care benefits upon separation from office if he or she assumes specified payments.

This bill passed out of the Senate on January 29 and was sent to the Assembly, where it awaits referral to a committee.

SB 1022 (Pan). PERL provides that data filed by a member or beneficiary with PERS is confidential, subject to certain exceptions, and is to be used only for carrying out PERL.

This bill would specify that those confidentiality provisions also apply to the Public Employees Medical and Hospital Care Act, which PERS also administers.

PERL prescribes a process by which an agency contracting of PERS may terminate its contract, including requiring the adoption by the relevant governing body of a resolution giving notice of intention to terminate and adopting an ordinance or resolution terminating the contract not less than one year after giving notice.

This bill would require terminating agencies to notify past and present employees who are members, former members, or retired members of the PERS, within 7 days of the adoption of the resolution giving notice of intention to terminate and, for contracts that were approved by the electorate, to make notification of a pending vote to terminate at least 90 days before the date of vote. The bill would require that the ordinance or resolution terminating the contract be adopted not less than 90 days and not more than one year after the PERS's receipt of the resolution giving notice of intention to terminate. The bill would prohibit the termination effective date from being earlier than the date of adoption of the ordinance or resolution terminating the contract.

The notice provisions in this bill are intended to shield PERS from the ire of employees and retirees of terminating agencies, and shift it to the terminating agency.

This bill was amended by the author on March 14 to eliminate the provision that would have repealed existing law that authorizes PERS to elect not to impose a benefit reduction, or to impose a lesser reduction, on a plan that has been terminated, if the

board has made all reasonable efforts to collect the amount necessary to fully fund the liabilities of the plan and CalPERS finds that not reducing the benefits, or imposing a lesser reduction, will not impact the actuarial soundness of the terminated agency pool. It is set for hearing at the Senate PE & R Committee on April 9.

SB 1031 (Moorlach). This bill would prohibit all public retirement systems, except those of charter cities and counties unless they choose to be covered by the new law, from granting a cost-of-living adjustment (COLA) to any retiree or to his or her survivor or beneficiary for any year beginning on or after January 1, 2019, in which the unfunded actuarial liability of that system is greater than 20%. The bill would require that the determination of unfunded actuarial liability be based on the retirement system's CAFR and would apply the COLA prohibition to the calendar year following the fiscal year upon which the report is based.

I think there are some procedural difficulties with the drafting of this bill. To begin with, CAFRs are not generally completed until sometime within the calendar year following the fiscal year the report is for. Secondly, for CERL systems, COLAs are effective on April 1. Would the COLA prohibition extend through March 31 of the next calendar year? The bill doesn't appear to say so.

The bill has been sent to the Senate PE & R Committee.

SB 1032 (Moorlach). This bill applies to PERS. Existing law authorizes a contracting agency to terminate its contract with PERS if the contract has been in effect for at least 5 years. Under existing law, PERS is required to hold the accumulated contributions from a terminated contract in a terminated agency pool for the benefit of the members and requires the terminating contracting agency to contribute to the terminated agency pool the difference between the accumulated contributions and the PERS's pension liability for the contracting agency's members.

This bill would authorize a contracting agency to terminate its contract with PERS at the agency's will and would not require the contracting agency to fully fund PERS's pension liability upon termination of the contract. The bill would also authorize PERS to reduce the member's benefits by the percentage of liability unfunded. It would also authorize a contracting agency who terminates its contract with PERS to transfer the assets accumulated in PERS to a pension provider designated by the contracting agency.

The bill is set for hearing at the Senate PE & R Committee on April 23.

SB 1033 (Moorlach). This bill would require that an agency participating in PERS that increases the compensation of a member who was previously employed by a different agency to bear all actuarial liability for the action, if it results in an increased actuarial liability beyond what would have been reasonably expected for the member. The bill would require, in this context, that the increased actuarial liability be in addition to reasonable compensation growth that is anticipated for a member who works for an employer or multiple employers over an extended time. The bill would also require, if multiple employers cause increased liability, that the liability be apportioned equitably among them. The bill would apply to an increase in actuarial liability, as specified, due to increased compensation paid to an employee on and after January 1, 2019.

This bill is obviously intended to prevent spiking of pension benefits resulting from inordinate salary increases. However, who is to determine what was reasonably expected, and how will movement between agencies for the purpose of career advancement be addressed? It's also notable that CERL is not addressed in the bill since the same issues of spiking apply in CERL counties.

The bill is set for hearing at the Senate PE & R Committee on April 23.

SB 1060 (Mendoza). This bill would require a contracting agency that fails to make a required employer contribution to PERS to notify its employees and retirees of the delinquency within 30 days. *This appears to be another bill to divert pressure away from PERS and direct it to the contracting agency.*

SB 1061 (Mendoza). This bill would require an employer that fails to make a required employer contribution to STRS to notify its employees and retirees of the delinquency within 30 days. *This appears to be a bill to divert pressure away from STRS and direct it to the school district.*

SB 1062 (Mendoza). This bill would require certain employers that fail to make a required employer contribution to STRS or PERS to notify members of the delinquency within 30 days. *If individual bills can't do the job, why not a single bill to do it collectively! One or more of these bills must be placeholders.*

SB 1149 (Glazer). This bill would create a new optional defined contribution plan for new state employees who are eligible to become members of PERS and who choose not to make contributions into the defined benefit program. The bill would require state employees who opt to participate in this alternate system to contribute the same percent of compensation as similarly situated employees who contribute to the defined pension program, subject to applicable limits of federal law. The bill would authorize an employee in the defined contribution program, after 5 years, to have the right to continue in the program or switch to the defined benefit plan, subject to certain terms and conditions.

The bill is set for hearing at the Senate PE & R Committee on April 9.

SB 1165 (Pan). Existing law creates the Cash Balance Benefit Program, which is administered by STRS, to provide a retirement plan for the benefit of participating employees who provide creditable service for less than 50% of full time. This bill would redefine "school year" as the time period beginning on July 1 of one calendar year and ending on June 30 of the following calendar year. The bill would make a variety of conforming amendments to reference school term instead of school year.

The bill is set for hearing at the Senate PE & R Committee on April 9.

SB 1166 (Pan). This bill would make a nonsubstantive change in provisions relating to the validity of Teachers' Retirement Board actions. *This appears to be another placeholder bill. It was referred to the Senate Rules Committee on February 22.*

SB 1270 (Vidak). CERL authorizes the retirement boards of 5 specified counties to appoint assistant administrators and chief investment officers who, following appointment, are outside county charter, civil service, and merit system rules. CERL also provides that these appointees are employees of the county, although they will serve at the pleasure of the appointing retirement board, and who may be dismissed without cause.

This bill would apply these provisions to any county if the board of supervisors for that county, by resolution adopted by majority vote, makes those provisions applicable in the county.

The bill is set for hearing at the Senate PE & R Committee on April 9.

SB 1413 (Nielson). This bill would make nonsubstantive changes in provisions of PEPR. *This appears to be another placeholder bill. It was referred to the Senate Rules Committee on March 8.*

SB 1433 (Moorlach). This bill would make nonsubstantive changes in provisions of PEPR. *This appears to be another placeholder bill. It was referred to the Senate Rules Committee on March 8.*