CalPERS

Summary of Public Employees' Pension Reform Act of 2013 and Related Changes to the Public Employees' Retirement Law

This summary is not intended to provide a comprehensive discussion of the Public Employees' Pension Reform Act of 2013 (PEPRA). This summary includes CalPERS current interpretations of the key areas of the law. CalPERS pension reform team continues to analyze PEPRA and the related changes to the Public Employees' Retirement Law (PERL) and, as such, this summary may be revised.

Brief Summary	SECTIONS	IMPACTS CLASSIC MEMBERS	IMPACTS NEW MEMBERS
Definition of a New Member A new member includes: (1) A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who has no prior membership in any other California public retirement system. (2) A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who is not eligible for reciprocity with another California public retirement system. (3) A member who established CalPERS membership prior to January 1, 2013, and who is hired by a different CalPERS employer after January 1, 2013, after a break in service of greater than six months. All State agencies are considered the same employer, as are all school employers. CalPERS refers to all members that do not fit the definition of a "new member" as	**7522.04(f)**	**X**[1]	**X**

[1] Classic members may be impacted where they change employers and/or change retirement systems and do not meet the statutory requirements related to reciprocity or where there is break in service of more than six months.

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"classic members."			
Reduced Benefit Formulas & Increased Retirement Ages Creates a new defined benefit formula of 2% at age 62 for all new miscellaneous (non-safety) members with an early retirement age of 52 and a maximum benefit factor of 2.5% at age 67. Creates three new defined benefit formulas for new safety members with a normal retirement age at 50 and a maximum benefit factor at age 57. Also requires that new safety members be provided with the new formula that is the closest to the formula offered to classic members of the same classification and that provides a lower benefit at 55 years of age than the formula offered to classic members. Normal Ret Age / Maximum Benefit Factor Basic Formula: 1.426% at Age 50 / 2% at Age 57 and older Option Plan 1: 2% at Age 50 / 2.5% at Age 57 and older Option Plan 2: 2% at Age 50 / 2.7% at Age 57 and older	**7522.15** **7522.20** **7522.25**		**X**

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An employer and its employees may agree by MOU to place new employees (hired after the date of the MOU) in a lower tier of safety benefits, but this change cannot be imposed through impasse procedures.			
Pensionable Compensation Cap Caps the annual salary that can be used to calculate final compensation for all new members, excluding judges, at $113,700 (2013 Social Security Contribution and Benefit Base) for employees that participate in Social Security or $136,440 (120% of the 2013 Contribution and Benefit Base) for those employees that do not participate in Social Security. Adjustments to the caps are permitted annually based on changes to the CPI for All Urban Consumers.	**7522.10**		**X**
Replacement Benefit Plans Prohibits a public employer from offering a plan of replacement benefits for new employees who are subject to the federal benefit limitations under Internal Revenue Code section 415(b). Also prohibits a public employer from offering a replacement benefit plan for any employee if the employer does not offer a plan of replacement	**7522.43**	*****	**X**

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benefits prior to January 1, 2013, or to any additional employee group that was not covered by an existing plan prior to January 1, 2013.			
Industrial Disability Retirement (IDR) Benefits for Public Safety Members In addition to the current calculation options for the IDR benefit for a safety member, this provision adds a calculation for a safety member who qualifies for an IDR that may result in a higher benefit than 50% of salary. This section remains in effect only until January 1, 2018. After that date, the new IDR provisions will not apply unless the date is extended by statute.	**7522.66 21400**	**X**	**X**
Equal Sharing of Normal Cost • For public agencies, schools employers, the CSU, and the judicial branch, a new member's initial contribution rate[2] will be at least 50% of the total normal cost rate or the current contribution rate of similarly situated employees, whichever is greater, except where it would cause an existing Memorandum of Understanding (MOU) to be impaired. Once the impaired MOU is amended, extended, renewed, or expires, the new requirements will apply. CalPERS has interpreted "similarly situated	**7522.30 20516.5 20683.2**	**X**	**X**

[2] CalPERS has interpreted this provision to apply to new members rather than new employees.

Brief Summary	SECTIONS	IMPACTS CLASSIC MEMBERS	IMPACTS NEW MEMBERS
employees" to mean those employees that are in the same benefit group (meaning those employees with the same benefit formula). • Employer Paid Member Contributions (EPMC) are also prohibited for new members employed by public agencies, school employers, the judicial branch or CSU. An exception to this prohibition exists where the employer's Memorandum of Understanding (MOU) would be impaired by the prohibition. If an employer determines that an existing MOU is impaired and communicates that decision to CalPERS, then any stated EPMC agreements will apply to new members through the duration of the MOU. Once the impaired MOU is amended, extended, renewed or expires, employers will no longer be able to report EPMC for new members. • For classic members of a public agency or school employer, the member contribution rate is not required to change. In addition, EPMC can continue to be reported as it is today for classic members pursuant to existing PERL provisions. • State employees (excluding new CSU members and new judicial branch members) will pay the contribution rates determined through bargaining and/or as provided by statute. For certain State employees, contribution rates will increase by a fixed			

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percentage at specific dates beginning July 1, 2013. Rates increase and vary by bargaining unit and by classification. • Beginning on January 1, 2018, public agency and school employers that have collectively bargained in good faith and have completed impasse procedures, including mediation and fact finding, have the ability to unilaterally require classic members to pay up to 50% of the total normal cost of their pension benefit. However, the employee contribution may only be increased up to an 8% contribution rate for miscellaneous members, a 12% contribution rate for local police officers, local firefighters, and county peace officers, or an 11% contribution rate for all other local safety members.			
Cost Sharing of Employer Contributions Permits public agencies and their employees to agree to share the cost of the <u>employer</u> contribution with or without a change in benefit. These contributions are paid in addition to the member contribution rate. Allows cost-sharing agreements to differ by bargaining unit or for classifications of employees subject to different benefit levels as agreed to in an MOU. Also permits cost sharing of the employer costs for non-represented	**20516**	**X**	**X**

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employees as approved in a resolution passed by the public agency.			
Close Legislators' Retirement System (LRS) to New Members Prohibits new members from participating in the LRS. However, new statewide constitutional and legislative statutory officers would still be eligible for optional membership in CalPERS.	**9355.4 9355.41 9355.45**		**X**
Equal Health Benefit Vesting Schedule for Non-Represented and Represented Employees Generally prohibits employers from providing a more advantageous health benefit vesting schedule to certain individuals (namely a public employee who is elected or appointed, a trustee, excluded from collective bargaining, exempt from civil service, or a manager) than it does for other public employees, including represented employees, of the same public employer who are in related retirement membership classifications.	**7522.40**	**X**	**X**
Prohibits Purchase of Additional Retirement Service Credit (ARSC) Prohibits the purchase of nonqualified service credit on or after January 1, 2013. This prohibition will not apply if an official application is received by CalPERS on or before December 31, 2012. Only applications from individuals who qualify to purchase ARSC	**7522.46**	**X**	**X**

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on or before December 31, 2012, will be accepted. CalPERS is reviewing whether other types of nonqualified service credit may be impacted by this prohibition.			
Prohibits Retroactive Pension Benefit Enhancements Prohibits public employers from granting retroactive pension benefit enhancements that would apply to service performed prior to the date of the enhancement. In addition, if a change in a member's membership classification or employment results in a benefit enhancement, that enhancement can only be applied to service performed on or after the operative date of the change. This provision applies to both classic and new members. Annual cost-of-living adjustments are excluded from this prohibition.	**7522.44**	**X**	**X**
Prohibits Pension Holidays Requires that the combined employer and member contributions, in any fiscal year, not be lower than the total year's normal cost.	**7522.52**	**X**	**X**
Pensionable Compensation PEPRA uses the term "pensionable compensation" for the purpose of determining reportable compensation for new members. Pensionable compensation for new members is defined as "the normal monthly rate of pay or base pay of the member paid	**7522.34**		**X**

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in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules." Also specifically excludes certain types of pay from being reported as pensionable compensation, including, bonuses, overtime, pay for additional services outside normal working hours, cash payouts for unused leave (vacation, annual, sick leave, CTO, etc.,), and severance pay, among others. Also excludes any compensation determined by the retirement board to have been paid to increase a member's retirement benefit and any other form of compensation determined to be inconsistent with the statutory definition. CalPERS continues to evaluate what compensation can be reported by employers and will update employers once additional information is available. Existing compensation earnable provisions continue to apply for classic members.			
Requires Three-Year Final Compensation For new members, provides that final compensation means the highest average annual pensionable compensation earned by a member during a period of at least 36	7522.32	*	X

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consecutive months, or three school years, as applicable. Also prohibits a public employer from adopting a final compensation period of less than three years for classic members who are currently subject to a three-year final compensation period.			
Felons Forfeit Pension Benefits Requires both current and future public officials and employees to forfeit certain specified pension and related benefits if they are convicted of a felony in carrying out their official duties, in seeking an elected office or appointment, or in connection with obtaining salary or pension benefits, subject to certain requirements.	**7522.72** **7522.74**	**X**	**X**
Limits Post-Retirement Public Employment • Provides that a CalPERS retiree cannot serve, be employed by or be employed through a contract directly by a CaPERS employer unless he or she either reinstates or his or her employment satisfies the following conditions: o The person is appointed either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration; o The appointment does not exceed a total for all CalPERS employers of 960	**7522.56** **7522.57**	**X**	**X**

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hours, or other equivalent limit, per fiscal year; and o The person's pay rate must be within the range paid by the employer to other employees performing comparable duties. • In addition, requires a 180-day waiting period before the retiree can return to work for a CalPERS employer without reinstating from retirement, except under certain specified circumstances. The 180-day waiting period generally does not apply to public safety officers or firefighters. However, the 180-day waiting period provision applies without exception to retirees who receive either a golden handshake or some other employer incentive to retire. • The 180-day waiting period starts on the date of retirement. Retired annuitants already employed before January 1, 2013, are not impacted by the 180-day waiting period. • A retiree who accepts an appointment after receiving unemployment insurance compensation must terminate that employment and will not be eligible for reappointment thereafter for 12 months. • Any public retiree appointed to a full-time position on a State board or commission on			

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or after January 1, 2013, will be required to suspend his or her retirement allowance and become an active member of CalPERS, unless the appointment is non-salaried.			
Contracting Agency Liability for Excessive Compensation Requires CalPERS (for plans it administers) to define a "significant increase" in actuarial liability due to increased compensation paid to a non-represented employee and further directs the Board to implement program changes to ensure that a public agency that creates a significant increase in actuarial liability bears the increased cost associated with that liability. CalPERS is working to develop the program changes and definitions necessary to administer these provisions.	**20791**	**X**	**X**
Alternate Retirement Program (ARP) ARP, a retirement savings program that certain State employees are automatically enrolled in for two years from their initial hire date, will be closed to new members effective July 1, 2013.	**20281.5**		**X**

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