Legislative Report
April 2018

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

Important Legislative Deadlines (Repeated):

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 1912 (Rodriguez). This bill originally would have made non-substantive changes to PERL. It was gutted and amended on March 19 and would now eliminate many provisions within the Joint Exercise of Powers Act regarding the debts, liabilities, and obligations of the joint powers agency. The bill would additionally specify that a joint powers agency that participates in a public retirement system, all parties, both current and former to the joint powers agreement, would be jointly and severally liable for all obligations to the retirement system. The bill would also provide that if a judgment is rendered against an agency or a party to the agreement for a breach of its obligations to the retirement system, the time within which a claim for injury may be presented or an action commenced against the other party that is subject to the liability determined by the judgment begins to run when the judgment is rendered. The bill would specify that those provisions apply retroactively to all parties, both current and former, to the joint powers agreement. This bill would prohibit the CalPERS board from contracting with any agency formed under the Joint Exercise of Powers Act unless all the parties to the joint powers agreement are jointly and severally liable for all the agency's obligation to the system, and would specify that those provisions apply retroactively to all parties, both current and former, to the agreement. The bill would also require any current joint powers agreement that does not meet these requirements to be reopened to include a provision holding all member agencies party to the agreement jointly and severally liable for all the joint powers agency's obligations to the system.
The bill would also revise the provisions of PERL regarding termination of an agreement with CalPERS and an agency formed under the Joint Exercise of Powers Act. This bill would extend that liability and lien to all of the parties of a terminating agency that was formed under the Joint Exercise of Powers Act. The bill would specify that the liability to the system for any deficit in funding for earned benefits, interest, and for reasonable and necessary costs of collection, including attorney's fees of those parties is joint and several. The bill is at the Assembly PER&SS Committee.

AB 2004 (Obernolte). 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 PE, R, & SS Committee (7-0) on March 14, and out of the Assembly (70-0) with an urgency clause on March 22. It is in the Senate awaiting referral.

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 passed out of the Assembly PE, R, & SS Committee (7-0) on March 14, and out of the Assembly (69-0) on March 22. It is in the Senate awaiting referral.**

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. **Although there was no earlier indication there would be active opposition to the bill, LACERA filed a lengthy letter in opposition. VCERA's proposed amendment to address LACERA's opposition apparently did not suffice. Due to the unmitigated opposition, the author decided to "park" the bill. VCERA agrees with that decision.**

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 is at 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 have made nonsubstantive changes to the provisions requiring a governing body to adopt a resolution and conditioning contract approval on holding an election. *I must have been wrong on this bill. It may not be a placeholder after all.*

The bill was amended on March 20 to provide that collective bargaining agreements, as an alternative to specifying the exact percentage of member compensation to be paid toward the current service cost of the benefit by members, to specify the methodology for calculating that cost-sharing rate. It would specify that once a contracting agency elects to be subject to the cost-sharing provision, contract amendments are not required to effectuate cost sharing in subsequent collective bargaining agreements or memoranda of understanding ratified by the employee bargaining unit and the governing body of the agency. The bill would, however, require the contracting agency, if a collective bargaining agreement or memorandum of understanding sets forth a methodology for calculating the cost-sharing rate instead of an exact percentage, to provide the retirement system with a signed side letter ratified by the employee bargaining unit and the agency indicating the exact percentage at least 90 days prior to the effective date of the cost-sharing rate set forth in the signed side letter. The bill is still at the Assembly PER&SS Committee.

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AB 2415 (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 passed out of the Assembly PER&SS Committee (4-0) on April 4 and was referred to the Assembly APPR Committee.**

AB 2571 (Gonzalez Fletcher. This bill, if consistent with fiduciary responsibilities of a public investment fund as determined by its board, would have restricted 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 have required 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 have required 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 have required 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 was amended on April 11 to limit its applicability solely to public retirement funds invested in alternative investment vehicles involved in hospitality businesses to require an alternative investment vehicle to report to the fund at least annually certain information concerning specified hospitality employers relating to race and gender pay equity and sexual harassment. It would also would require a public investment fund to disclose race and gender pay equity and sexual harassment information provided to it pursuant to the bill at least once annually in a report presented at a meeting open to the public and would require the fund to provide the report upon request to a member of the Legislature. Additionally, the bill would authorize the Department of Fair Employment and Housing to issue regulations for the implementation of these reporting requirements. The bill would also provide that board members of any public pension or retirement system, other officers and employees, and investment managers under contract with the system shall be held harmless and be eligible for indemnification from the General Fund in connection with actions taken pursuant to the bill. The bill is at still at the Assembly PER&SS Committee.**

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). This bill originally provided that 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.

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.

The bill was amended on April 10 to address SACRS' concerns. It now applies the above requirements only to public agencies that provide post-employment benefits other than retirement. The bill is at the Assembly PER&SS Committee.

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 is at the Assembly PER&SS Committee.

AB 3235 (Grayson)**.** This bill make a non-substantive amendment to PEPRA.
This bill is obviously a placeholder. **It has not yet been assigned.**

AB 3245 (Rodriguez). This bill would have revised 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 PEPRA. It would have required 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 have specified that increases in compensation during that final compensation period would be 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 have limited 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. It would have provided 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 have specified 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. The bill was gutted and amended on April 9 and now only makes non-substantive amendments to PERL. It is still at the Assembly PER&SS Committee.

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 (38-0) and was sent to the Assembly, where it awaits referral to a committee.

SB 964 (Allen). This bill would have made non-substantial changes to the Secretary of States online filing and disclosure system. It was gutted and amended on March 14 and would now, until January 1, 2035, require climate-related financial risk to be analyzed to the extent the boards of CalPERS and CalSTRS identify the risk as a material risk to their funds. The bill, by January 1, 2020, and every 3 years thereafter, would require each board to publicly report on the climate-related financial risk of its public market portfolio, including alignment of their funds with the COP 21 climate agreement and California climate policy goals and the exposure of the fund to long-term risks. The bill would provide that it does not require either board to take action unless the board determines in good faith that the action is consistent with its fiduciary responsibilities. The billed passed out of the Senate PE & R Committee (3-2) on April 9 and was re-referred to the Senate APPR 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 was set for hearing at the Senate PE & R Committee on April 9, but that hearing was cancelled and re-set for April 23.**

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 was amended on April 5 and now applies only to employees who became a new member of the retirement system on or after January 1, 2019. It is at the Senate PE & R Committee, with a hearing set for April 23.

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 was amended on April 5 to correct a spelling error, and 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 1124 (Leyva). This bill was gutted and amended on March 22 and would establish new procedures under PERL for cases in which a member's benefits are erroneously calculated by the state or a contracting agency. The bill, with respect to a memorandum of understanding (MOU) entered into before January 1, 2019, would require the system, upon determining that compensation for an employee member covered by that MOU reported by the state or a contracting agency conflicts with specified law, to discontinue the reporting of the disallowed compensation and not to pay benefits based on the

disallowed compensation. The bill would require the contributions made on the disallowed compensation, for active members, to be credited against future contributions on behalf of the member. The bill would require PERS, with respect to retired members or beneficiaries whose final compensation at retirement was predicated upon disallowed compensation, to permanently adjust the benefit to reflect the inclusion of the disallowed compensation. The bill would also require the retired member or beneficiary to be permitted to retain the benefit level and not be required to repay that benefit, if, among other things, the member was unaware the compensation was disallowed when reported. The bill is at the Senate PE & R Committee.

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 was amended on April 10 to apply only to state employees who begin employment in a miscellaneous or industrial classification on or after January 1, 2020, and who were not members of any public retirement system prior to that date, and would require those employees who are subject to the bill's provisions, within 30 days of beginning employment, to choose either to contribute to the defined contribution plan or to become a member of PERS. The bill would require, if an employee fails to make this decision within that timeframe, that the employee automatically be placed in PERS. The bill was set for hearing at the Senate PE & R Committee on April 9, but that hearing was cancelled and re-set for April 23.**

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. **It passed out of the PE & R Committee (5-0) on April 9 and was re-referred to the APPR. Committee.**

SB 1166 (Pan). This bill was gutted and amended on March 22 and is now exactly the same as SB 1060, above. It is at the Senate PE & R Committee.

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 passed out of the Senate PE & R Committee (5-0) on April 9, and ordered to consent.

SB 1413 (Nielson). This bill originally would have made non-substantive changes in provisions of PEPRA. It was gutted and amended on April 9 and would enact the California Employers' Pension Prefunding Trust Program and establish the California Employers' Pension Prefunding Trust Fund to allow state and local public agency employers that provide a defined benefit pension plan to their employees to prefund their required pension contributions. The bill would authorize an employer, upon terms and conditions set by the CalPERS board (board), to elect to participate in the prefunding plan, and would require the governing body of that employer to enter into a contract with the board relative to the prefunding plan. Each participating employer would be required to pay an amount, determined by the board, for administrative and asset management costs of the prefunding plan to the fund and would grant the board the sole and exclusive control of the administration and investment of the fund. The bill would also set the terms under which a prefunding plan contract could be terminated or transferred. The bill was re-referred to the Senate Rules Committee.

SB 1433 (Moorlach). This bill was gutted and amended on April 2 and now would prohibit a county or district that is part of a CERL system having a Deferred Retirement Option Program (DROP) from allowing a member to participate in the program if that member was not participating in it on or before December 31, 2018. The bill would also prohibit such counties or districts from establishing a new or additional DROP. It is at the Senate PE & R Committee.