

Legislative Report July 2017

Amended bills or bills on which there has been activity, or about which there is new information are highlighted in bold text. **There are two important deadlines in July. These are that fiscal bills had to be out of their policy committee by July 14, and non-fiscal bills must be out of their policy committee by July 21, after which the Legislature takes its Summer break.** 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 Senate PE & R Committee (3-2) on July 10 and was sent to the Senate Appr Committee, where it was amended on July 12 to express that it is the Legislature's intent that the above factors be considered, rather than requiring such consideration.**

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 July 10 at the Senate PE & R Committee, but it was canceled at the request of the author.**

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. **The bill passed out of the Senate PE & R Committee (5-0) on June 26 and was sent to the Senate Appr Committee, where it was placed on suspense.**

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, where a hearing scheduled for July 10 was cancelled by the author. Apparently, the bill is opposed by Sacramento County.**

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 was amended in the Senate PE & R Committee on June 19 to except the City and the**

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County of Los Angeles from its provisions. It was further amended on July 3 to provide that any peace officer or a recognized employee organization that represents any person who is a peace officer may bring an action in superior court to seek injunctive relief or a writ of mandamus to preserve the status quo or prevent irreparable harm pending a final determination by PERB on any issue upon which a court has not made a ruling. The bill was passed out of the Committee (3-1) on July 10 and referred to the Senate Appr. Committee.

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 passed out of the Senate (33-0) on July 3 and sent to enrollment.**

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 passed out of the Senate PE & R Committee (5-0) on June 26 and referred to the Senate Appr committee, where it was sent to consent. It passed the Senate (39-0) on July 13 and returned to the Assembly for concurrence in amendments.**

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 on June 19 (33-0), and was signed by the Governor on July 10 (Chap. 48, Stats. of 2017).**

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 it is pending.**

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 it is pending.**

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

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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 it is pending.**

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 is in the Senate PE & R Committee, where it was amended on June 22 in a minor way. A hearing set for July 10 was cancelled at the author's request. This is a fiscal bill that has not been passed by its policy committee, so is dead.**

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, so will probably die.**

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 passed out of the Assembly PE, R & SS Committee (7-0) July 6, and referred to the Senate Appr. Committee.**

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 passed**

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out of the Assembly PE, R &SS Committee on July 6 (7-0) and referred to the Senate Appr. Committee.

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 passed out of the Assembly PE, R &SS Committee on June 21 (6-0), and out of the Senate (74-0), and sent to enrollment.**

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 was amended on July 6 to require that the sick leave be credited to a qualifying officer or employee on the effective date of the employee's disability rating decision from the United States Department of Veterans Affairs or on the first day that the qualifying employee begins, or returns to, employment after active duty, whichever is later, and remain available for use for the following 12 months of employment. The bill passed out of the Assembly PE, R & SS Committee (7-0) on the same date and referred to the Assembly V.A. Committee. It passed out of that committee (9-0) on July 12 and sent to the Appr Committee.**

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 was set for hearing on June 26 at the Senate PE & R Committee, but was cancelled at the author's request.**

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 was set for hearing on June 26 at the Senate PE & R Committee, but was cancelled at the author's request.**