

Legislative Report
October 2017

October 15 was the deadline by which the Governor had to sign or veto bills passed by the Legislature in the last session. A total of 977 bills were passed, of which the Governor vetoed 118. Any bill not signed or vetoed become law without signature. Of the bills that were tracked by CRCEA, the Governor vetoed 2, and signed all the others, unless they failed passage and died, which was reported previously. A couple of bills passed their house of origin but remained in the second house. These may become 2-year bills.

Bills being tracked that were signed

AB 20 (Kalra), requires the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System to make a specified report, on or before April 1, 2018, to the Legislature and the Governor regarding investments in the Dakota Access Pipeline. It also declares the intent of the Legislature that the boards, on or before April 1, 2018, review and consider factors related to tribal sovereignty and indigenous tribal rights as part of the boards' investment policies related to environmental, social, and governance issues, and provides that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the constitution. **It passed the Senate on August 3 (24-14), the Assembly concurred in the Senate's amendments on September 5 (46-28), and the Governor signed it on October 8 (Chap. 575, Stats. of 2017).**

AB 512 (Rodriguez) amends 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 on September 14 (40-0). The Assembly concurred in the Senate amendments on the same date and the Governor signed it on October 15 (Chap. 841, Stats. Of 2017).**

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 limits 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 the Governor signed it on July 24 (Chap. 108, Stats. Of 2017).**

AB 679 (Cooley) requires 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 also requires 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. **The bill passed out of the Senate (39-0) on July 13. The Assembly concurred in the Senate amendments on August 21, and the Governor signed it on September 1 (Chap. 198, Stats. of 2017).**

AB 995 (Limon) pertains solely to VCERA and requires 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**

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 authorizes 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 on August 31 (39-0). The Assembly concurred in the Senate amendments on September 5 and the Governor signed it on September 25 (Chap. 277, Stats. of 2017).**

AB 1309 (Cooley). Existing law allows an employer to hire a retired member without reinstatement under certain conditions. This bill requires 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 on August 31 (40-0), and the Governor signed it on September 23 (Chap. 261, Stats. of 2017).**

AB 1487 (Rodriguez) prohibits 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 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 requires 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 passed out of the Senate on August 21 (29-10). The Assembly concurred in the Senate amendments on August 24 (56-21), and the Governor signed it on September 11 (Chap. 229, Stats. of 2017).**

SB 525 (Pan) This bill applies to PERS and Judges' Retirement. It provides that the duration of disability or incapacity must be expected to last at least 12 consecutive months or result in death and also revises the nonindustrial disability retirement formula. Additionally, the bill revises and recasts the definition of final compensation for local members and requires 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 also specifies 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 also extends 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 authorizes 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 makes 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.

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This bill revises 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 on August 24 (76-0), and the Governor signed it on September 11 (Chap. 241, Stats. of 2017).**

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 also authorizes advance payment of all or part of a future year's contributions. 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 was supported by SACRS. **It passed out of the Senate (74-0) on June 29, and the Governor signed it on July 17 (Chap. 76, Stats. of 2017).**

SB 728 (Newman) grants 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 requires 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 on September 7 (79-0). The Assembly concurred in the Senate amendments on September 14, and the Governor signed it on October 8 (Chap. 596, Stats. of 2017).**

Bills that were tracked that were vetoed

AB 530 (Cooper) expands 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. The bill also provides 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 passed out of the Senate on August 21 (30-10). The Assembly concurred in the Senate amendments on September 11 (58-16), and the Governor vetoed it on October 14. His veto message was "This bill authorizes peace officers to bring unfair practice charges to the Public Employment Relations Board while preserving their existing right to directly petition a superior court for injunctive relief. No other group has both of these rights and I'm unconvinced that providing such a unique procedure is warranted."**

SB 599 (Portantino) authorizes 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 out of the Assembly on August 31 (73-0). The Senate concurred in the Assembly amendments on September 5 (40-0), and the Governor vetoed it on October 15. His veto message was "This bill allows**

specified public safety employee associations to offer multiple statewide and regional health benefit plans to their members.

Existing association health benefit plans are currently afforded very little oversight by the California Public Employees' Retirement System. By allowing these employee associations to offer additional health plans to their members, CalPERS would be left with major unanticipated costs should any of the plans fail.

The state now faces over \$240 billion in unfunded pension and health liabilities. Since 2011, the annual costs for all this have increased significantly as the state takes steps to pay down the long-term obligation faster.

In light of these enormous fiscal commitments, I am unable to sign this bill."

Bills that were tracked and which could be 2-year bills

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.

AB 526 (Cooper) classifies 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. CRCEA has gone on record in support. Apparently, the bill is opposed by Sacramento County, thus the failure of the bill to move out of the second house.

There were also two proposed constitutional amendments which did not move, but did not face the same deadlines as bills, so could become alive next year. These are:

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".

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.