

The Legislature was originally scheduled to return from its brief summer recess on July 13. However, several Assembly members were confirmed to have COVID-19, one of whom is hospitalized. In addition, a few Assembly staff have contracted the virus. Consequently, the Senate and Assembly have been forced to delay their work for the second time this year. As of now, they plan to return to session on July 27.

Even if the Legislature is not further prevented from returning by a rising rate of infection across the state, they will have very little time left to consider the roughly 700 bills that have been moving through the Houses. Most of these bills must still be heard in their “second house” policy committees, then in fiscal committees, on the floor of that house, and must finally return to their “house of origin” for concurrence in any amendments. This is a process which usually plays out over several months, but the Legislature will only have five weeks for this before the August 31 constitutional deadline to adjourn session. This will be all the more challenging given the limited number of hearings that can be conducted every day given social distancing requirements.

All of this will necessitate a revisiting of the Legislative Schedule and likely require almost daily hearings, including weekends, from the day the Legislature returns up until August 31. It may ultimately require the Legislature to pare down the number of bills it considers, and some 2-year bills may die as a result. This what could have happened to AB 783, the planned vehicle for comprehensive CERP amendments, had its planned contents not been dealt with as discussed below.

AB 664 (Cooper) is a two-year bill that dealt with determining permanent incapacity of 1937 Act members employed as peace officers. It was gutted and amended on April 17, as an urgency statute, to deal with injuries or death caused by COVID-19. This bill would define “injury,” under workers’ compensation law for certain state and local firefighting personnel, peace officers, certain hospital employees, and certain fire and rescue services coordinators who work for the Office of Emergency Services to include being exposed to or contracting, on or after January 1, 2020, a communicable disease, including coronavirus disease 2019 (COVID-19), that is the subject of a state or local declaration of a state of emergency that was issued on or after January 1, 2020. It would also create a conclusive presumption that the injury arose out of and in the course of the employment and would apply to injuries that occurred prior to the declaration of the state of emergency. There were minor author’s amendments on May 5 and May 18. The bill is still at the Senate L, PE & R Committee.

AB 1975 (Bigelow) was introduced relating to gambling. It was gutted and amended on May 4 to create an alternative funding formulation for employer contributions for postretirement health care benefits for specified employees of the County of Madera. The bill would apply its provisions to unrepresented and extra help employees, appointed department heads, and represented employees, as specified, provided that these employees are otherwise eligible. The bill would require the employees to have a specified minimum amount of service credit, including at least 5 years of service with the county. If the employees are represented, the bill would require a mutually agreed-

upon memorandum of understanding regarding contributions for postretirement health benefits consistent with the bill's provisions to be in place. The bill is at the Asm PE & R Comm.

AB 2101 (Asm PE&R Comm) was originally a CalSTRS bill in its second house until it was amended on June 29 to incorporate all the CERL amendments on which the SACRS LegComm was working. Rather than attempt to incorporate a description of all the changes here, I elected to plagiarize most of a matrix used by the LegComm to keep track of them. It is at the end of this report.

AB 2378 (Cooper) would authorize the Board of Administration of the Public Employees' Retirement System (CalPERS), to adjust the death benefit amounts following each actuarial valuation to reflect changes in the All Urban California Consumer Price Index, beginning on or after January 1, 2021. The bill is at the Asm PE & R Comm.

AB 2394 (Cooper). Existing CalPERS law generally provides that retirement allowances are adjusted annually to reflect increases in the cost of living in relation to the consumer price index, defined as the United States city average "Consumer Price Index for All Urban Consumers". This bill would change the definition of consumer price index to instead refer to the California Consumer Price Index for All Urban Consumers for all items. The bill is at the Asm PE & R Comm.

AB 2452 (Christina Garcia) would add associations such as SACRS, CSAC, and LCC to the list of entities for which the California State Auditor (CSA) has the authority to identify, audit, and identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness. If the CSA determines that a local government agency is at high risk, the California State Auditor shall issue audit reports at least once every three years with recommendations for improvement in the local government so identified. The bill is at the Asm Accountability and Administrative Review (A & AR) Comm.

AB 2473 (Cooper) would add to the records exempt from disclosure under the California Public Records Act ("Act") specified records regarding an internally managed private loan made directly by a public investment fund, including quarterly and annual financial statements of the borrower or its constituent owners, unless the information has already been publicly released by the keeper of the information. Records related to a public investment fund's indirect funding of a private loan via a fund or other type of externally managed investment vehicle shall remain subject to the Act. The bill was amended on June 3 to add additional categories of records that are exempt from the law. It passed out of the Assembly (76-1) on June 8 **and is now at the Senate L, PE & R Comm.**

AB 2510 (Cooley). The CalSTRS Board currently may, upon a finding by the Board that necessary investment expertise is not available within existing civil service

classifications and, with approval of the State Personnel Board (SPB), to contract with qualified investment managers. This bill would additionally authorize the Board to contract with investment advisers, upon the same finding by the Board and approval by the SPB. The bill would also authorize it to adopt a policy to establish a competitive bidding process and to specify the contract terms and conditions it solely deems necessary and prudent to contract with qualified investment managers and investment advisers. The bill is at the Asm PE & R Comm.

AB 2780 (Holden) as originally introduced addressed civil actions pertaining to human rights violations. It was gutted and amended on May 4 and now would, upon the passage of a federal law imposing sanctions on the government of Turkey for imposing an economic blockade of Armenia, prohibit the Boards of CalPERS, STRS, the Legislators' Retirement Fund, the Judges' Retirement Fund, the Judges' Retirement System II Fund, Retirement System II Fund, the Volunteer Firefighter Fund, and the General Fund portion of the University of California Retirement Fund from making additional or new investments or renew existing investments of these retirement funds in any investment vehicle that is issued or owned by the government of Azerbaijan or Turkey. The bill would require the boards to liquidate investments in the government of Azerbaijan or Turkey within 18 months of the passage of the above-described federal law. The bill is at the Asm PE & R Comm.

AB 2937 (Fong) CERL prescribes the methods for calculating a non-service-connected disability (NSCD) retirement allowance for different membership classifications and for the purpose of calculating reciprocal benefits. The allowance may vary depending on whether the retirement board finds, in its opinion, the member's disability is the result of intemperate use of alcoholic liquor or drugs, among other things. This bill would enable a county board of supervisors by resolution adopted by majority vote, to repeal the authority of the retirement board to consider the intemperate use of alcoholic liquor or drugs in calculating the amount of the NSCD retirement allowance. The bill is at the Asm PE & R Comm.

AB 2967 (O'Donnell). This bill would have amended a number of public retirement statutes to eliminate any reference to sex. It was gutted and amended and now would change existing law which requires the employer of the deceased firefighter or peace officer to notify the CalPERS Board within 10 business days of the death of the employee, among other things, if that spouse or family member may be eligible for enrollment. The bill would now reduce the period within which an employer is to provide notice to the Board to within 7 calendar days. It passed the Asm PE & R Comm. on May 5 (7-0), the Asm Appr Comm. (18-0) on June 2, and out of the Assembly (76-0) on June 8 and sent to the Senate. **It was amended on June 29 to apply only to contracts entered into, amended, or extended after January 1, 2020. The bill is at the Senate L, PE & R Comm.**

AB 2998 (Kiley) initially stated it was the intent of the Legislature to subsequently amend it to include provisions that would authorize a school district to offer an optional

contract to its employees a defined contribution plan in lieu of a defined benefit plan under Cal STRS, provided that the decision to select that contract was made by the employee. The bill was substantially amended on May 4 to authorize a school district to offer a defined contribution plan to certificated employees and would exclude a certificated employee who opts into a defined contribution plan from membership in its Defined Benefit Program. The bill would also authorize a school district to offer a higher salary or lower contribution rate to a defined contribution plan as an incentive for a certificated employee to opt into a defined contribution plan. In addition, the bill would authorize a certificated employee to negotiate a salary or contribution rate for a defined contribution plan outside of the school district's salary schedule. To the extent the bill's provisions conflict with any provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2021, these provisions would not apply to the school district until the expiration or renewal of that collective bargaining agreement. The bill is at the Asm PE & R Comm.

AB 3249 (Fong). State and local public retirement systems are required to submit audited financial statements to the Controller at the earliest practicable opportunity within 6 months of the close of each fiscal year, and requires the Controller, within 12 months of receipt of the information, to compile and publish a report on the financial condition of all state and local public retirement systems. This bill would additionally require the Controller to post the report on the financial condition of all state and local public retirement systems on the Controller's internet website. The bill is at the Asm PE & R Comm.

SB 783 (Sen. L, PE & R Committee) is the omnibus bill from last year which will be the vehicle for making a number of potential non-controversial amendments to CERL. The amendments are the product of hard work by the SACRS Legislative Committee. **The bill was at still at the Asm PE & R Comm. awaiting final drafting of amendments by Leg Counsel but, on June 29, all of the work put together by the SACRS LegComm was amended into AB 2101, which was already in the Senate.**

SB 1042 (Pan) Renames the "California Secure Choice Retirement Savings Trust Act" as the "CalSavers Retirement Savings Trust Act", and makes conforming changes in the text of the Act. The bill would authorize the trust's board to delegate rulemaking authority to its executive director. It would also authorize an employee to opt out of participation in the program by telephone and would eliminate a condition relating to contribution amounts dependent on the length of time that an employee has contributed to the program. Additionally, this bill would require the authorities that license commercial cannabis activity in the state to provide specified information regarding licensees to the CalSavers Retirement Savings Board upon request. The bill is at the Senate L, PE & R Comm.

SB 1159 (Hill) was originally introduced to address a different subject. It was gutted and amended on April 1 to deal with injuries or death caused by COVID-19. Under existing workers' compensation law, an employee is compensated for injuries sustained in the course of employment. Such law also creates a disputable presumption that certain

injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of the employment. This bill would, until an unspecified date, define “injury” for described critical workers to include illness or death that results from exposure to coronavirus disease 2019 (COVID-19) and would create a disputable presumption that an injury that develops or manifests itself while a critical worker is employed arose out of and in the course of the employment. It was further amended on April 22. The bill passed the Senate L, PE & R Comm. on May 18 (3-1) and sent to the Senate Appr. Comm. **It passed out of the Senate Appr Comm on June 18 (5-2) and out of the Senate on June 26 (28-11). It is now at the Asm Ins. Comm.**

SB 1297 (Moorlach) would prospectively revise the pension and other benefits provided to members of all state or local public retirement systems who is employed upon the date of its enactment and to any person who may be employed and become a member thereafter. The bill would void any limit on a pension that prohibits the pension from exceeding a percentage of final compensation, would prohibit a local entity from establishing a deferred retirement option program and, if a local entity has established a deferred retirement option program, whether or not the program is closed to new participants, it would be required to disenroll any participating employees and close the program. Additionally, the bill would require that final annual compensation used for purposes of calculating any pension or benefit by any state or local public retirement system be calculated as an average of the member’s 3 highest earning years. It would also provide, for any pension based on fractional percentage of final compensation multiplied by years of service age at retirement, that such percentage shall not exceed 2.7%. Finally, it adds to the requirement in PERL that CalPERS ensure that a contracting agency that creates a significant increase in actuarial liability as a result of increased compensation paid to an unrepresented employee bear the associated liability, by requiring that an agency participating in PERS that increases the compensation of a any 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. In this context, the increased actuarial liability would be for the member’s compensation in excess of 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 additional actuarial liability would pertain to increased compensation paid to an employee on and after January 1, 2021. The bill is at the Senate L, PE & R Committee.

AB 2021 CERL Amendments by section

31465- Additional member contributions

Removes incorrect reference to GC 31504, which was repealed

31627.1- Additional member contributions, refunds

Removes incorrect cross reference to GC 31504; adds gender neutral language

31627.2- Additional member contributions, refunds

Removes incorrect cross reference to GC 31504; adds gender neutral language

Fixes incorrect cross reference to GC 31639 (currently 21639)

31453- Withdrawn Employer Liabilities

Affirms *Mijares vs. OCERS* ruling to emphasize Board's authority to set contributions for employers (even if they no longer have active members) to ensure sustainability of the fund.

31641.45- Refunds

Removes incorrect cross reference to 20023.1, which was repealed in 1995.

31646- Service Purchase for Uncompensated Illness

Allows members to purchase parental leave time, similar to CalPERS (GC 21013) and CalSTRS (EC 22803). Current statute does not permit purchases for unpaid absences other than for illness. This amendment adds parity for county retirement systems in an area of law and practice that has been evolving regarding parental leave. Unlike current statute that requires only member contributions for service purchases related to unpaid medical leave, this amendment requires the member to pay ALL contributions (employee and employer). This provision also requires BOS approval, and applies prospectively to future parental leave to ensure compliance with PEPRAs ban on retroactive benefit increases.

31649, 31649.5, 31649.5, 31649.6, 31650, and 31651- Military Leave

Consolidates military service credit statutes to conform to federal laws to ensure members who have been called to duty and return to work can be made whole for retirement purposes due to their leave of absence. These amendments do not contain policy changes, but add clarity and remove potential conflict with federal law regarding the treatment of military service purchases.

31662.2, 31670- Board Approval of Retirements

Delegates authority to the system administrator or other personnel to accept and process service retirement applications, approve effective retirement dates, and pay members, and directs staff to notify Board at the next public meeting. The recent *Wilmot v. CCCERA* appellate ruling raised a question as to when a member officially retires. The court, citing section 31670, held that a member was not retired until the Board formally approved the member's retirement application. There are various approaches that retirement boards currently use to approve, ratify, or review service retirement applications. By formally delegating the authority to staff to process service retirements, current practices can be codified to comply with section 31670 to ensure members can be paid in a timely manner.

31672, 31672.1, 31672.2, 31672.3- 60-Day Advance Application Window

Allows each system to set an application window based on business needs/ability. Statute currently prohibits members from submitting applications more than 60 days before retirement, which will remain the default unless proactively changed by the Board. The 60-day rule is arbitrary and likely reflected the constraints on a manual processes. Technology solutions today can accommodate applications filed earlier, which can help facilitate retirement planning for the individual and succession planning for the employer.

31680- Reinstatement from Retirement

Reinstates to prior status members who had involuntarily termination overturned by administrative or judicial proceeding. This amendment clarifies that member return to

previous benefit level, if the member was separated from service during the appeal that may have stretched for long periods. Similar to CalPERS (GC 21198)

31706- Minimum Age Distribution

Conforms to SECURE Act and IRS regulations the timing of notice for mandatory distribution by clarifying that member deadline to retire/take action is April 1 of year following the year in which the member attains age 72. Adds language for flexibility for lump sum distribution of contributions instead of an "allowance." There are frequent situations in which a deferred member who worked for the county many years ago may have a small amount of member contributions on file. It is cumbersome and inefficient to provide an annual pension on what may amount to a few dollars, instead of providing a lump sum distribution.

31760.1, 31760.2, 31765, 31765.1, 31781.1, 31782.2, 31785, 31785.1, 31787, 31787.5, 31853.3- Optional Retirement Allowances and Death Benefits: Age 21

Amends CERL sections to clarify survivor benefit are to be paid up to the child's 22nd birthday as long as the child remains unmarried and enrolled full time. CERL provides for a benefit to be paid to a child over the age of 18 who is regularly enrolled as a full-time student in an accredited school. The benefit is to be paid "through the age of 21." "Through the age of 21" could mean up to the date that the child turns 21 because as of that date the child is 21 plus one day. On the other hand, it could mean up to the child's 22nd birthday. This amendment reflects the majority interpretation and practice.