

MEMORANDUM

Date: November 6, 2013

To: Board of Retirement
Marilyn Leedom, Retirement Chief Executive Officer

From: Karen Levy, General Counsel

Subject: Legislation Update

Recommendation

Receive and File.

Summary of Legislation Recently Enacted

October 13, 2013 was the last day for the Governor to sign or veto legislative bills. Here is a summary of recently enacted legislation that is relevant to CCCERA and its Board of Retirement. The legislation includes topics such as Public Employees' Pension Reform Act of 2013 ("PEPRA") clean-up language, investments, public records and open meetings laws.

AB 205 – PUBLIC EMPLOYEES' RETIREMENT: PENSION FUND MANAGEMENT.

Effective January 1, 2014, this bill amends Government Code Section 7514.2 to authorize CERL retirement boards to prioritize investment in an in-state infrastructure project over a comparable out-of-state infrastructure project. Such authority already exists in the law for CalPERS and CalSTRS. This bill states that the legislature encourages each retirement board to prioritize investment in in-state infrastructure projects over alternative out-of-state infrastructure projects if the investments in the in-state projects are consistent with the board's fiduciary duties to minimize the risk of loss and to maximize the rate of return.

AB 382 – STATE AND LOCAL GOVERNMENTS: ALTERNATIVE INVESTMENTS: PUBLIC ACCESS.

Effective January 1, 2014, this bill adds an exemption to the Ralph M. Brown Act Open Meetings Law, which generally requires that any documents provided to the board at a public



meeting must be made available upon request without delay. The Public Records Act already exempts from disclosure certain specified alternative investments records, for example, due diligence materials and quarterly statements. (Government Code Section 6254.26.) AB 382 added a consistent exemption to the Brown Act: if the alternative investments records specified as confidential pursuant to 6254.26 are distributed to the board members at a public meeting, that distribution does not make them public document. The records retain their confidential nature.

AB 1380 – COUNTY EMPLOYEES' RETIREMENT.

This was an urgency bill that is effective immediately. It is "round one" of PEPRA clean up language sponsored by the State Association of County Retirement Systems ("SACRS"), with "round two" anticipated to come next year. The bill amended various provisions of the County Employees Retirement Law of 1937 ("CERL") to coordinate with PEPRA. The bill added references in CERL to PEPRA in general as well as to specific provisions within PEPRA, as appropriate.

SB 13 – PUBLIC EMPLOYEES' RETIREMENT BENEFITS.

SB 13 was also an urgency bill. Its purpose is to clarify PEPRA and it states that it is declaratory of existing law and is intended to be applied as of the effective date of PEPRA, January 1, 2013. The bill:

- Clarifies that members with concurrent membership within 6 months of beginning employment with a new employer are exempt from PEPRA tiers and should be placed in the pre-PEPRA Classic/Legacy retirement tiers (Section 7522.02(c));
- Clarifies that an employer is not precluded from offering a defined contribution plan on or after January 1, 2013, if the employer did not offer one prior to that date (Section 7522.02(e));
- Clarifies that a retirement system must modify its plans in accordance with PEPRA and is authorized to adopt resolutions or regulations to do so (Section 7522.02(h));
- Clarifies that the calculation of normal cost can be done either as a single rate of contribution or as age-based rate of contributions (Section 7522.04(g));
- Clarifies that the pensionable compensation Consumer Price Index ("CPI") adjustment is to be calculated each September and compared to the month of September in the preceding calendar year (Section 7522.10(d)(1));
- Clarifies that employers are required on and after January 1, 2013 to offer PEPRA formulas to "new members" who are safety employees (deleting the reference to "new employees") (Section 7522.25(e));
- Clarify that the definition of "normal cost rate" takes into account actuarial assumptions and must include any elements that would impact the actuarial determination of the



- normal cost, including retirement formula, eligibility and vesting criteria, ancillary benefit provisions, and automatic cost-of-living adjustments (Section 7522.30(b));
- Clarifies that new members must have an initial contribution rate of at least 50 percent of the normal cost rate or the current contribution rate of similarly situated employees, whichever is greater, if the greater current contribution rate has been agreed to through the collective bargaining process (Section 7522.30(c));
 - Clarifies that exclusions from "pensionable compensation" apply to "new members." (Section 7522.34(c));
 - Adds that State employers and State employees can agree in a Memorandum of Understanding ("MOU") that any form of compensation they identify in the MOU is nonpensionable. The State can determine whether the same exclusion applies to non-represented employees. The State employer must inform the retirement system of the excluded form of compensation and provide a copy of the MOU (for represented employees) and public pay schedule detailing the exclusion (for unrepresented employees) (Section 7522.34(c)(13)).
 - Clarifies that the prohibition against employers offering Internal Revenue Code Section 415 replacement benefit plans is applicable to "new members" (deleting the reference to "new employees") (Section 7522.43(a));
 - Clarifies that the exemption from the 180 "sit out" for safety members who retire and are reemployed without reinstatement only applies if the reemployed retiree is a safety member "hired to perform a function or functions regularly performed by a safety officer or firefighter" (Section 7522.56); and
 - Repeals Section 7522.66 regarding safety industrial disability in its entirety.