Santa Clara County Office of Education
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County Superintendent of Schools

Informational Bulletin

For Santa Clara County Districts

District Business & Advisory Services

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Bulletin: 13-038

Date: October 24, 2012

To: District Fiscal Directors
Charter School Administrators

From: Cathy McKim

Re: Pension Reform- AB340

The purpose of this bulletin is to provide a summary of the Pension Reform Legislation (AB340) and to include the supporting documents published by CalSTRS and CalPERS for your review.

AB340 encompasses comprehensive state-wide public pension reform that becomes effective on January 1, 2013. The Bill applies to all public agencies except charter cities and charter counties that are not a member of a retirement system governed by state code (*e.g.* CalPERS & CalSTRS) and will affect New[i] and Current Employees.

This information has been communicated to Quintessential School Systems (QSS), who await final clarification from both CalSTRS and CalPERS before making system changes.

Changes for All Members:

- **Elimination of purchase of service credit**
- **Accrual of service credit forfeited for time after a felony was committed** (employee who commits a felony while performing their official duties)
- **Retiree work limitations added**
  - Limited to 960 hours in a consecutive 12 month period
  - Employees who retire after January 1, 2013 cannot work as a retiree for a period of 180 days without need to fill critically needed position (*public meeting of LEA*)
- **Suspending employer and employee contributions is prohibited**

New Members hired after January 1, 2013

- **Retirement age increased**
  - Increases retirement ages from 50 at 1% to 52 at 1% *(CalPERS)*
  - Increases retirement ages from 55 (5 yrs) at 1.4% to 55 at 1.16% *(CalSTRS)*
  - Eliminates the early retirement age of 50 (even with 30 years) *(CalSTRS)*
  - Implements 2% at 62 *(CalSTRS/PERS)*
  - Implements 2.4 at 65 from 2.4 at 63 *(CalSTRS)*
  - Increases the retirement age for top benefits from 63 at 2.418% to 67 at 2.5% *(CalPERS)*

- **Employee/Employer share 50/50 normal costs of pension benefits**
  - New employees must make a contribution of at least 50% of the normal costs or the contribution level of current employees, whichever is higher. They are not limited to the 8% cap referred to for current employees.
  - Employers cannot pay the employee contribution for new employees.
  - Even though the code says that the standard shall be that employees pay at least 50% of the normal cost, this is not a requirement of current employees. The employer can choose to pursue an increase in the contribution rate, or an elimination of the employer's payment of the employee contribution, up to a maximum of an 8% employee contribution (for regular members), which would need to be negotiated. Impasse procedures can only be used to accomplish this after January 1, 2018.

- **Limits pensionable compensation used to calculate defined benefit paid**
  - Caps pensionable income at:
    1. $110K in 2012 (in SSN= 100% of SSN contribution)
    2. $132 in 2012 (w/out SSN = 125% of SSN base)
  - Limits benefits from Defined Benefit program to Federal 415 limit

- **Eliminates spiking final compensation highest annual compensation over 3 years**

- **Requires that compensation for all new public sector employees be defined as the normal rate of regular, recurring pay**
  - Excluding special bonuses, unplanned overtime, payouts for vacation or sick time or other perks

- **Excludes allowances, bonuses and cash in lieu from defined benefits**

- **Eliminates retroactive pension increases**

Please distribute this memo within your District as deemed appropriate.

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[i] *Definition- **New** Employee:*

- An employee, including one who is elected or appointed, of a public employer who is first employed on or after January 1, 2013, and who was not previously employed by any other public agency prior to that date.
- An employee , including one who is elected or appointed, of a public employer who is first employed on or after January 1, 2013, and who was previously employed by another public employer, but who was not subject to reciprocity. (*was not employed in a public employee capacity within the last six months*)

Summary of AB 340, the California Public Employees' Pension Reform Act of 2013 and its Impact on CalSTRS Members

Reform Title	AB 340	Impact on CalSTRS Members	Applies To:
1. Require Equal Sharing of Pension Costs	Requires new members to pay at least 50% of the normal, ongoing cost of benefits or the current contribution rate, whichever is greater.	**Moderate.** Current members pay 8% in contributions, equal to 44% of normal costs. Fifty percent of the estimated normal cost of the new plan is less than 8%. Therefore, the new member contribution rate will likely be 8%, according to preliminary estimates.	New members
2. Places a Cap on Compensation used to Calculate a Defined Benefit	Places a cap equal to 120% of the Social Security wage base on compensation earnable. The cap is adjusted each year based on changes to the Consumer Price Index for All Urban Consumers. An employer may provide a contribution to a defined contribution plan on compensation in excess of the cap.	**Significant impact to a minimal number of members.** The cap significantly affects members who earn above 120% of the Social Security wage base (or $136,440 in 2013). Approximately 4,500 current members make more than that amount.	New members
3. Change Age Factors and Eliminate Career Factor	Changes the normal retirement age from 60 to 62 with a 2% age factor. Changes the maximum age factor from 2.4% at age 63 to 2.4% at age 65. Changes the age factor for early retirement at age 55 with five years of service from 1.4% to 1.16%. Eliminates the ability for members with 30 years of service to retire as early as age 50. Eliminates the career factor.	**Significant impact to a significant number of members.** Current normal retirement age is 60. Current maximum age factor is 2.4% at age 63. Actual average retirement age is about 62. Age factors will be lower for new members retiring before age 65. The current career factor applies to members with 30 or more years of service, which represents about 39% of recently retired members.	New members
4. Require Three-Year Final Compensation	Extends the final compensation period to three years for all new members, regardless of years of service.	**Moderate impact to a significant number of members.** Current members who retire with 25 years of service have their final compensation based on the highest 12 consecutive months of average annual compensation. Approximately 52% of recently retired members qualify for the one-year calculation.	New members
5. Eliminate Replacement Benefits Program	Limits benefits from the Defined Benefit Program to the federal 415 limit ($171,202 at age 65 in 2012).	**Significant impact to a minimal number of members.** Federal law allows payment of benefits in excess of the 415 limit. There are 317 members currently receiving benefits under this provision.	New members

All changes are proposed to take effect January 1, 2013

see reverse

Reform Title	AB 340	Impact on CalSTRS Members	Applies To:
6. Calculate Benefits Based on Regular, Recurring Pay	Excludes allowances, bonuses and cash in lieu from the Defined Benefit Program.	**Significant impact to a minimal number of members.** Compensation related to “overtime” work, such as summer school or after school activities, is already *not* counted toward the Defined Benefit Program. Allowances (auto and housing), bonuses and cash in lieu no longer count toward any benefit for new members.	New members
7. Limit Post-Retirement Employment	Extends the $0 earnings limit to all members during the first 180 days of retirement. Extends a very limited earnings limit exemption until June 30, 2014, and includes additional restrictions based on the receipt of retirement incentives.	**Moderate impact to minimal number of members.** Current earnings limit is $40,011 in 2012-13, based on 50% of the median final compensation for recently retired members. Currently, members under age 60 are subject to a $0 earnings limit during the first six months of retirement or until they turn age 60. Only 1,100 retired members earned over the limit in 2010–11.	All (retired, current active and new members who retire on or after January 1, 2013)
8. Felons Forfeit Pension Benefits	Requires that a member forfeit pension and related benefits if convicted of a felony in carrying out official duties, in seeking an elected office or appointment or in connection with obtaining salary or pension benefits.	**Minimal.** Only elected members currently have such forfeiture requirements, but felony convictions are very rare.	Current active and new members
9. Prohibit Retroactive Benefit Increases	Prohibits applying pension improvements to prior service.	**No immediate impact.** In the past, when pension benefits were improved, the improvement usually would apply to service that was performed in the past as well as future service.	All (retired, current active and new members)
10. Prohibit Pension Holidays	Prohibits all employers from suspending employer and/or employee contributions necessary to fund annual pension costs. Contributions may not be less than the normal cost.	**Minimal.** CalSTRS contributions are currently fixed in statute and cannot be reduced without legislation. The only reductions have been in 1998 and 2000 when the state reduced its contribution from 4.607% to the current level of 2.541%. However, since 2002 the contributions fixed in statute that are paid by the state (as plan sponsor) and the employers have been less than the amounts required actuarially to fund CalSTRS in full.	Current active and new members
11. Prohibit Purchase of Nonqualified Service	Prohibits the purchase of nonqualified service, or airtime, for requests submitted on or after January 1, 2013.	**Moderate impact to minimal number of members.** Current members may purchase up to five years of nonqualified service (as allowed by the IRS) and pay the entire cost based on the actuarial assumptions. About 700 members purchase this type of service each year.	Current active and new members

All changes are proposed to take effect January 1, 2013

Member Information > Retirement Benefits > **Pension Reform Impacts**

Pension Reform Impacts

Recent news about the enactment of new pension laws has generated increased attention and questions from our members. We have created this section on our website to help answer your questions and provide additional information on potential changes for current and new members. These are preliminary interpretations that may be revised as the law is implemented.

Will pension reform impact me?
Review the major elements of the Public Employees' Pension Reform Act of 2013 and how it impacts current and future CalPERS members.

- **Preliminary Summary of Pension Reform Provisions** (PDF, 125 KB)

Will my State employee contributions to CalPERS increase?
The Pension Reform Act establishes the standard of equal cost-sharing between the State and its employees, and finds that this equal sharing is currently the standard for most State employees. Specifically, the legislation requires State employees that become CalPERS members on or after January 1, 2013, to pay at least half of the normal cost of their pension benefits, and it creates an expectation that existing employees pay at least 50 percent of the normal cost for pensions going forward.

- **Proposed Changes in Employee Contribution Rates for Current State Employees** (PDF, 137 KB).

Will my contributions to CalPERS increase as a school or local public agency employee?
The Pension Reform Act calls for increasing the employee's contribution for contracting agencies and school district members to 50 percent of the total annual normal cost of pensions through collective bargaining. However, if that is not accomplished through negotiations by 2018, your employer could increase employee contributions up to eight percent of pay for local miscellaneous and school members, up to 12 percent of pay for local police, firefighters, and county peace officers, and up to 11 percent of pay for all other local safety members according to the legislation.

Will the Pension Reform Act impact me if I'm retired?
The Act limits retirees from working more than 960 hours or 120 days per year for any public employer in the same public retirement system from which the retiree receives benefits. It also requires a 180-day "sit-out" period before a retiree could return to work except under limited circumstances that are outlined in CalPERS analysis of the legislation.

Additional Resources

Preliminary Analysis of the Conference Committee Report (AB 340) (PDF, 185 KB)
Actuarial Cost Analysis - California Public Employees' Pension Reform Act of 2013 (PDF, 82 KB)

Dated: 09-25-2012

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IRS Announces Pension Plan Limitations for 2012

IR-2011-103, Oct. 20, 2011

WASHINGTON — The Internal Revenue Service today announced cost of living adjustments affecting dollar limitations for pension plans and other retirement-related items for Tax Year 2012. In general, many of the pension plan limitations will change for 2012 because the increase in the cost-of-living index met the statutory thresholds that trigger their adjustment. However, other limitations will remain unchanged. Highlights include:

- The elective deferral (contribution) limit for employees who participate in 401(k), 403(b), most 457 plans, and the federal government's Thrift Savings Plan is increased from $16,500 to $17,000.
- The catch-up contribution limit for those aged 50 and over remains unchanged at $5,500.
- The deduction for taxpayers making contributions to a traditional IRA is phased out for singles and heads of household who are covered by a workplace retirement plan and have modified adjusted gross incomes (AGI) between $58,000 and $68,000, up from $56,000 and $66,000 in 2011. For married couples filing jointly, in which the spouse who makes the IRA contribution is covered by a workplace retirement plan, the income phase-out range is $92,000 to $112,000, up from $90,000 to $110,000. For an IRA contributor who is not covered by a workplace retirement plan and is married to someone who is covered, the deduction is phased out if the couple's income is between $173,000 and $183,000, up from $169,000 and $179,000.
- The AGI phase-out range for taxpayers making contributions to a Roth IRA is $173,000 to $183,000 for married couples filing jointly, up from $169,000 to $179,000 in 2011. For singles and heads of household, the income phase-out range is $110,000 to $125,000, up from $107,000 to $122,000. For a married individual filing a separate return who is covered by a retirement plan at work, the phase-out range remains $0 to $10,000.
- The AGI limit for the saver's credit (also known as the retirement savings contributions credit) for low-and moderate-income workers is $57,500 for married couples filing jointly, up from $56,500 in 2011; $43,125 for heads of household, up from $42,375; and $28,750 for married individuals filing separately and for singles, up from $28,250.

Below are details on both the unchanged and adjusted limitations.

Section 415 of the Internal Revenue Code provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415(d) requires that the Commissioner annually adjust these limits for cost of living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments under Section 415. Under Section 415 (d), the adjustments are to be made pursuant to adjustment procedures which are similar to those used to adjust benefit amounts under Section 215(i)(2)(A) of the Social Security Act.

The limitations that are adjusted by reference to Section 415(d) generally will change for 2012 because the increase in the cost-of-living index met the statutory thresholds that trigger their adjustment. For example, the limitation under Section 402(g)(1) on the exclusion for elective deferrals described in Section 402(g)(3) will increase from $16,500 to $17,000 for 2012. This limitation affects elective deferrals to Section 401(k) plans, Section 403(b) plans, and the Federal Government's Thrift Savings Plan.

Effective January 1, 2012, the limitation on the annual benefit under a defined benefit plan under section 415(b)(1)(A) is increased from $195,000 to $200,000.

Under section 1.415(d)-1(a)(2)(ii) of the Income Tax Regulations, the adjustment to the limitation under a defined benefit plan under section 415(b)(1)(B) is determined using a special rule. This special rule takes into account the following recent history of changes in the cost-of-living indexes: (1) the cost-of-living index for the quarter ended September 30, 2009, was less than the cost-of-living index for the quarter ended September 30, 2008; (2) the cost-of-living index for the quarter ended September 30, 2010, was greater than the cost-of-living index for the quarter ended September 30, 2009, but less than the cost-of-living index for the quarter ended September 30, 2008; and (3) the cost-of-living index for the quarter ended September 30, 2011, was greater than the cost-of-living indexes for all prior periods.

For a participant who separated from service before January 1, 2010, the limitation under a defined benefit plan under Section 415(b)(1)(B) for 2012 is computed by multiplying the participant's 2011 compensation limitation by 1.0327 in order to reflect changes in the cost-of-living index from the quarter ended September 30, 2008, to the quarter ended September 30, 2011. For a participant who separated from service during 2010 or 2011, the limitation under a defined benefit plan under Section 415(b)(1)(B) for 2012 is computed by multiplying the participant's 2011 compensation limitation by 1.0376 in order to reflect changes in the cost-of-living index from the quarter ended September 30, 2010, to the quarter ended September 30, 2011.

The limitation for defined contribution plans under Section 415(c)(1)(A) is increased in 2012 from $49,000 to $50,000.

The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the dollar limitation of Section 415(b)(1)(A). After taking into account the applicable rounding rules, the amounts for 2012 are as follows:

The limitation under Section 402(g)(1) on the exclusion for elective deferrals described in Section 402(g)(3) is increased from $16,500 to $17,000.

The annual compensation limit under Sections 401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii) is increased from $245,000 to $250,000.

The dollar limitation under Section 416(i)(1)(A)(i) concerning the definition of key employee in a top-heavy plan is increased from $160,000 to $165,000.

The dollar amount under Section 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a 5 year distribution period is increased from $985,000 to $1,015,000, while the dollar amount used to determine the lengthening of the 5 year distribution period is increased from $195,000 to $200,000.

The limitation used in the definition of highly compensated employee under Section 414(q)(1)(B) is increased from $110,000 to $115,000.

The dollar limitation under Section 414(v)(2)(B)(i) for catch-up contributions to an applicable employer plan other than a plan described in Section 401(k)(11) or Section 408(p) for individuals aged 50 or over remains unchanged at $5,500. The dollar limitation under Section 414(v)(2)(B)(ii) for catch-up contributions to an applicable employer plan described in Section 401(k)(11) or Section 408(p) for individuals aged 50 or over remains unchanged at $2,500.

The annual compensation limitation under Section 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed cost of living adjustments to the compensation limitation under the plan under Section 401(a)(17) to be taken into account, is increased from $360,000 to $375,000.

The compensation amount under Section 408(k)(2)(C) regarding simplified employee pensions (SEPs) remains unchanged at $550.

The limitation under Section 408(p)(2)(E) regarding SIMPLE retirement accounts remains unchanged at $11,500.

The limitation on deferrals under Section 457(e)(15) concerning deferred compensation plans of state and local governments and tax-exempt organizations is increased from $16,500 to $17,000.

The compensation amounts under Section 1.61 21(f)(5)(i) of the Income Tax Regulations concerning the definition of “control employee” for fringe benefit valuation purposes is increased from $95,000 to $100,000. The compensation amount under Section 1.61 21(f)(5)(iii) is increased from $195,000 to $205,000.

The Code also provides that several pension-related amounts are to be adjusted using the cost-of-living adjustment under Section 1(f)(3). After taking the applicable rounding rules into account, the amounts for 2012 are as follows:

The adjusted gross income limitation under Section 25B(b)(1)(A) for determining the retirement savings contribution credit for married taxpayers filing a joint return is increased from $34,000 to $34,500; the limitation under Section 25B(b)(1)(B) is increased from $36,500 to $37,500; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D), is increased from $56,500 to $57,500.

The adjusted gross income limitation under Section 25B(b)(1)(A) for determining the retirement savings contribution credit for taxpayers filing as head of household is increased from $25,500 to $25,875; the limitation under Section 25B(b)(1)(B) is increased from $27,375 to $28,125; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D), is increased from $42,375 to $43,125.

The adjusted gross income limitation under Section 25B(b)(1)(A) for determining the retirement savings contribution credit for all other taxpayers is increased from $17,000 to $17,250; the limitation under Section 25B(b)(1)(B) is increased from $18,250 to $18,750; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D), is increased from $28,250 to $28,750.

The deductible amount under § 219(b)(5)(A) for an individual making qualified retirement contributions remains unchanged at $5,000.

The applicable dollar amount under Section 219(g)(3)(B)(i) for determining the deductible amount of an IRA contribution for taxpayers who are active participants filing a joint return or as a qualifying widow(er) is increased from $90,000 to $92,000. The applicable dollar amount under Section 219(g)(3)(B)(ii) for all other taxpayers (other than married taxpayers filing separate returns) is increased from $56,000 to $58,000. The applicable dollar amount under Section 219(g)(7)(A) for a taxpayer who is not an active participant but whose spouse is an active participant is increased from $169,000 to $173,000.

The adjusted gross income limitation under Section 408A(c)(3)(C)(ii)(I) for determining the maximum Roth IRA contribution for married taxpayers filing a joint return or for taxpayers filing as a qualifying widow(er) is increased from $169,000 to $173,000. The adjusted gross income limitation under Section 408A(c)(3)(C)(ii)(II) for all other taxpayers (other than married taxpayers filing separate returns) is increased from $107,000 to $110,000.

The dollar amount under Section 430(c)(7)(D)(i)(II) used to determine excess employee compensation with respect to a single-employer defined benefit pension plan for which the special election under section 430(c)(2)(D) has been made is increased from $1,014,000 to $1,039,000.

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