



District Business & Advisory Services

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Cathy McKim, Manager-DBAS: 408-453-6588

Bulletin: 13-046

Date: December 28, 2012

To: District Fiscal Directors
Personnel and Payroll Directors
Charter School Administrators

From: Cathy McKim

Re: Pension Reform Information

The purpose of this bulletin is to distribute the following documents from CalPERS and CalSTRS regarding the Pension Reform Act of 2013.

- CalPERS Circular Letter No: 200-062-12 Dec 27,2012
RE: Pensionable Compensation and Benefit Enhancements
 - This letter provides further clarification of pensionable compensation and benefit enhancements subject to the provisions enacted in Assembly Bill (AB) 340. I have also attached a summary of the Pension Reform dated November 27, 2012 for your information.

- CalSTRS Employer Directive, ED2012-07 Dec 27, 2012
RE: CalSTRS Defined Benefit (DB) and Defined Benefit Supplement (DBS) programs.
 - This document also provides further clarification of pensionable compensation and outlines the changes that go into effect on January 1st. It also provides clarification on “existing members” as someone who may have refunded, reinstated, retired, started as a nonmember or elected to have their creditable service covered by another retirement plan, including Social Security would be entitled to the 2% at 60 DB plan. They also identify a new assignment code (72) which will be used in conjunction with contribution code 6 to report specific payments such as master’s stipends that are considered creditable compensation for CalSTRS 2% at 62 members. Be advised that this assignment code will not be available for use until early February 2013.

Please distribute this memo within your District as deemed appropriate.



California Public Employees' Retirement System
P.O. Box 942709
Sacramento, CA 94229-2709
(888) CalPERS (or **888-225-7377**)
TTY: (877) 249-7442
www.calpers.ca.gov

Reference No.:
Circular Letter No.: 200-062-12
Distribution: V, VI, XII, XVI
Special:

Circular Letter

December 27, 2012

TO: PUBLIC AGENCIES, AGRICULTURAL DISTRICTS, COUNTY SUPERINTENDENT OF SCHOOLS AND INDIVIDUAL SCHOOL DISTRICTS

SUBJECT: PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013 – PENSIONABLE COMPENSATION AND BENEFIT ENHANCEMENTS

The purpose of this Circular Letter is to provide further information regarding CalPERS current interpretation of "pensionable compensation" and "benefit enhancements" subject to the provisions of the Public Employees' Pension Reform Act of 2013 (PEPRA) and related Public Employees' Retirement Law (PERL) amendments in Assembly Bill (AB) 340.

PENSIONABLE COMPENSATION

For new members, as defined by Government Code (G.C.) Section 7522.04(f), "pensionable compensation" must meet the following four criteria as provided in G.C. Section 7522.34(a):

- Pay is part of the normal monthly rate of pay or base pay.
- Pay is paid in cash to similarly situated members of the same group or class of employment.
- Pay is for services rendered during normal working hours.
- Pay is paid pursuant to publicly available pay schedules.

G.C. Section 7522.34(c) also provides what cannot be included in "pensionable compensation" for new members. For example, "pensionable compensation" does not include monies paid to new members for bonuses, uniform allowance, overtime allowance or reimbursement for housing and vehicles, or any ad hoc or one-time payments. Please refer to G.C. Section 7522.34(c) for additional forms of compensation that are not considered "pensionable compensation" under PEPRA; the items listed above are only some of the most commonly reported items by employers.

CalPERS interpretation of the types of compensation that may be reported as "pensionable compensation" for CalPERS contracting agencies, provided those items meet the four criteria above, are attached to this letter. This list of "pensionable compensation" will be implemented on January 1, 2013, for new PEPRA public agency and school members. As discussed below, CalPERS intends to propose implementing

regulations to, among other things, include this list of items that may be reported as “pensionable compensation” for contracting agencies.

For classic members, please refer to California Code of Regulations (CCR) Section 571 for a list of special compensation items that may be reported. Employers should continue to report both pay rate and all reportable special compensation under CCR 571 as PEPRA does not impact reportable compensation for classic members.

BENEFIT ENHANCEMENTS

G.C. Section 7522.44(a) specifies that “any enhancement to a public employee’s retirement formula or retirement benefit adopted on or after January 1, 2013, shall apply only to service performed on or after the operative date of the enhancement and shall not be applied to any service performed prior to the operation date of the enhancement.”

Circular Letter #200-055-12, stated CalPERS would develop a list of those existing optional benefits that CalPERS considers to be retirement “benefit enhancements” and therefore subject to the restrictions of PEPRA. The proposed list of existing optional benefit provisions is as follows:

- G.C. Section 21427 – Improved Nonindustrial Disability Allowance
- G.C. Section 21547.7 – Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service
- G.C. Section 21548 – Pre-Retirement Option 2W Death Benefit
- G.C. Sections 21624, 21626, 21628 – Post-Retirement Survivor Allowance
- G.C. Section 21151 – Industrial Disability Retirement for Local Miscellaneous Members
- Miscellaneous Member Classifications Optionally Reclassified to Safety by Amendment to the Contract

See the document [Optional Benefits Listing](#) on CalPERS On-Line for details on the benefit provisions listed above.

Please note that pursuant to G.C. Section 7522.44(d) “an increase to a retiree’s annual cost-of-living adjustment within existing statutory limits shall not be considered to be an enhancement to a retirement benefit.”

2013 REGULATORY PROCESS

In 2013, CalPERS will propose implementing regulations to clarify its interpretation of “publicly available pay schedules” and “benefit enhancements” as the terms apply to new members, and to provide a list of items that may be reported as “pensionable compensation” for contracting agencies to the extent those items meet the four criteria above. It is important to note that as the proposed regulations proceed through the regulatory process, some changes, including the items contained in the attached list, may be required. CalPERS will provide information on the proposed regulations as it becomes available.

Circular Letter No.: 200-062-12
December 27, 2012
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CalPERS will continue to develop the program changes and interpretations for terms necessary to administer the provisions required by PEPRA. We recommend that you continue to refer to the [Pension Reform Impacts](#) page on CalPERS On-Line at www.calpers.ca.gov for the latest PEPRA updates.

In addition, a new online training class is available for employers. *my|CalPERS Changes Due to the Public Employee's Pension Reform Act of 2013 (PEPRA)* reviews important changes to the my|CalPERS system based on PEPRA provisions. To enroll in online training, log in to in [my|CalPERS](#) and select the **Education** tab.

If you have any questions, please call the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

KAREN DeFRANK, Chief
Customer Account Services Division

Enclosure

[Pensionable Compensation Items – New PEPRA Public Agency and School Members](#) (PDF, 31 KB)

“Pensionable Compensation” Items – New PEPR Public Agency and School Members

CalPERS interpretation of the types of compensation that may be reported as “pensionable compensation” for CalPERS contracting agencies, provided those items meet the criteria contained in Government Code Section 7522.34(a), are listed below. CalPERS will initiate the regulatory process in 2013 to provide this list of items that may be reported as “pensionable compensation” for contracting agencies. More information on the proposed regulations will be provided to you as it becomes available.

In the meantime, the proposed list of “pensionable compensation” items below will be implemented, and can be reported on January 1, 2013, for new PEPR public agency and school members. It is important to note that as the proposed regulations proceed through the regulatory process, some changes, including the items contained in this list, may be required.

Type	Reportable Special Compensation Items
Incentive Pay	<ul style="list-style-type: none"> • Dictation/Shorthand/Typing Premium • Longevity Pay • Marksmanship Pay • Master Police Officer • Physical Fitness Program
Educational Pay	<ul style="list-style-type: none"> • Applicator’s Differential • Certified Public Accountant Incentive • Educational Incentive • Emergency Medical Technician Pay • Engineering Registration Premium • Government Agency Required Licenses • International Conference of Building Officials (ICBO) Certificate • Mechanical Premium (Brake Adjustment License, SMOG Inspector License) • National Institute of Automotive Service Excellence (NIASE) Certificate • Notary Pay • Paramedic Pay • Peace Officer Standard Training (POST) Certificate Pay

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“Pensionable Compensation” Items – New PEPR Public Agency and School Members, Continued

Type	Reportable Special Compensation Items
Educational Pay, Continued	<ul style="list-style-type: none"> • Reading Specialist • Recertification Certificate • Special Class Driver’s License Pay • Undergraduate/Graduate/Doctoral Credit
Special Assignment Pay	<ul style="list-style-type: none"> • Accountant Premium • Administrative Secretary Premium • Aircraft/Helicopter Pilot Premium • Asphalt Work Premium • Audio Visual Premium • Auditorium Preparation Premium • Bilingual Premium • Branch Assignment Premium • Canine Officer/Animal Premium • Cement Finisher Premium • Circulation Librarian Premium • Computer Operations Premium • Confidential Premium • Contract Administrator Coordinator Premium • Crime Scene Investigator Premium • Critical Care Differential Premium • D.A.R.E. Premium • Detective Division Premium • Detention Services Premium • DUI Traffic Officer Premium • Extradition Officer Premium • Fire Inspector Premium • Fire Investigator Premium • Fire Prevention Assignment Premium • Fire Staff Premium • Flight Time Premium • Float Differential Premium • Front Desk Assignment (Jail) • Fugitive Officer Premium • Gang Detail Assignment Premium • Grading Assignment Premium

Continued on next page

“Pensionable Compensation” Items – New PEPRA Public Agency and School Members, Continued

Type	Reportable Special Compensation Items
Special Assignment Pay, Continued	<ul style="list-style-type: none"> • Hazard Premium • Heavy/Special Equipment Operator • Height Premium • Housing Specialist Premium • Juvenile Officer Premium • Lead Worker/Supervisor Premium • Library Reference Desk Premium • Gas Maintenance Premium • Plumber Irrigation System Premium • Refuse Collector Premium • Street Lamp Replacement Premium • MCO Instructor Premium • Motorcycle Patrol Premium • Mounted Patrol Premium • Narcotic Division Premium • Paramedic Coordinator Premium • Park Construction Premium • Park Maintenance/Equipment Manager Premium • Parking Citation Premium • Patrol Premium • Police Administrative Officer • Police Investigator Premium • Police Liaison Premium • Police Polygraph Officer • Police Records Assignment Premium • Rangemaster Premium • Refugee Arrival Cleanup Premium • Safety Officer Training/Coordinator Premium • Sandblasting Premium • School Yard Premium • Search Pay Premium • Severely Disabled Premium • Sewer Crew Premium • Shift Differential

Continued on next page

“Pensionable Compensation” Items – New PEPRA Public Agency and School Members, Continued

Type	Reportable Special Compensation Items
Special Assignment Pay, Continued	<ul style="list-style-type: none">• Solo Patrol Premium• Sprinkler and Backflow Premium• Tiller Premium• Tire Technician Premium• Traffic Detail Premium• Training Premium• Tree Crew Premium• Utility Meter Premium• Utilities Systems Operation Premium• Water Certification Premium
Statutory Items	<ul style="list-style-type: none">• Fair Labor Standards Act (FLSA)• Holiday Pay



Summary of Public Employees' Pension Reform Act of 2013 and Related Changes to the Public Employees' Retirement Law

This summary is not intended to provide a comprehensive discussion of the [Public Employees' Pension Reform Act of 2013 \(PEPRA\)](#). This summary includes CalPERS current interpretations of the key areas of the law. CalPERS pension reform team continues to analyze PEPRA and the related changes to the Public Employees' Retirement Law (PERL) and, as such, this summary may be revised.

Brief Summary	SECTIONS	IMPACTS CLASSIC MEMBERS	IMPACTS NEW MEMBERS
<p>Definition of a New Member A new member includes: (1) A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who has no prior membership in any other California public retirement system. (2) A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who is not eligible for reciprocity with another California public retirement system. (3) A member who established CalPERS membership prior to January 1, 2013, and who is hired by a different CalPERS employer after January 1, 2013, after a break in service of greater than six months.</p> <p>All State agencies are considered the same employer, as are all school employers. CalPERS refers to all members that do not fit the definition of a "new member" as</p>	7522.04(f)	X ¹	X

¹ Classic members may be impacted where they change employers and/or change retirement systems and do not meet the statutory requirements related to reciprocity or where there is break in service of more than six months.

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Brief Summary	SECTIONS	IMPACTS CLASSIC MEMBERS	IMPACTS NEW MEMBERS												
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<p>Reduced Benefit Formulas & Increased Retirement Ages Creates a new defined benefit formula of 2% at age 62 for all new miscellaneous (non-safety) members with an early retirement age of 52 and a maximum benefit factor of 2.5% at age 67.</p> <p>Creates three new defined benefit formulas for new safety members with a normal retirement age at 50 and a maximum benefit factor at age 57. Also requires that new safety members be provided with the new formula that is the closest to the formula offered to classic members of the same classification and that provides a lower benefit at 55 years of age than the formula offered to classic members.</p> <table border="0" data-bbox="233 1149 1150 1278"> <tr> <td></td> <td>Normal Ret Age</td> <td>Maximum Benefit Factor</td> </tr> <tr> <td>Basic Formula</td> <td>1.426% at Age 50</td> <td>2% at Age 57 and older</td> </tr> <tr> <td>Option Plan 1</td> <td>2% at Age 50</td> <td>2.5% at Age 57 and older</td> </tr> <tr> <td>Option Plan 2</td> <td>2% at Age 50</td> <td>2.7% at Age 57 and older</td> </tr> </table>		Normal Ret Age	Maximum Benefit Factor	Basic Formula	1.426% at Age 50	2% at Age 57 and older	Option Plan 1	2% at Age 50	2.5% at Age 57 and older	Option Plan 2	2% at Age 50	2.7% at Age 57 and older	<p>7522.15 7522.20 7522.25</p>		<p>X</p>
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Brief Summary	SECTIONS	IMPACTS CLASSIC MEMBERS	IMPACTS NEW MEMBERS
An employer and its employees may agree by MOU to place new employees (hired after the date of the MOU) in a lower tier of safety benefits, but this change cannot be imposed through impasse procedures.			
Pensionable Compensation Cap Caps the annual salary that can be used to calculate final compensation for all new members, excluding judges, at \$113,700 (2013 Social Security Contribution and Benefit Base) for employees that participate in Social Security or \$136,440 (120% of the 2013 Contribution and Benefit Base) for those employees that do not participate in Social Security. Adjustments to the caps are permitted annually based on changes to the CPI for All Urban Consumers.	7522.10		X
Replacement Benefit Plans Prohibits a public employer from offering a plan of replacement benefits for new employees who are subject to the federal benefit limitations under Internal Revenue Code section 415(b). Also prohibits a public employer from offering a replacement benefit plan for any employee if the employer does not offer a plan of replacement	7522.43	*	X

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Brief Summary	SECTIONS	IMPACTS CLASSIC MEMBERS	IMPACTS NEW MEMBERS
benefits prior to January 1, 2013, or to any additional employee group that was not covered by an existing plan prior to January 1, 2013.			
Industrial Disability Retirement (IDR) Benefits for Public Safety Members In addition to the current calculation options for the IDR benefit for a safety member, this provision adds a calculation for a safety member who qualifies for an IDR that may result in a higher benefit than 50% of salary. This section remains in effect only until January 1, 2018. After that date, the new IDR provisions will not apply unless the date is extended by statute.	7522.66 21400	X	X
Equal Sharing of Normal Cost <ul style="list-style-type: none"> For public agencies, schools employers, the CSU, and the judicial branch, a new member's initial contribution rate² will be at least 50% of the total normal cost rate or the current contribution rate of similarly situated employees, whichever is greater, except where it would cause an existing Memorandum of Understanding (MOU) to be impaired. Once the impaired MOU is amended, extended, renewed, or expires, the new requirements will apply. CalPERS has interpreted "similarly situated 	7522.30 20516.5 20683.2	X	X

² CalPERS has interpreted this provision to apply to new members rather than new employees.

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<p>employees” to mean those employees that are in the same benefit group (meaning those employees with the same benefit formula).</p> <ul style="list-style-type: none"> • Employer Paid Member Contributions (EPMC) are also prohibited for new members employed by public agencies, school employers, the judicial branch or CSU. An exception to this prohibition exists where the employer’s Memorandum of Understanding (MOU) would be impaired by the prohibition. If an employer determines that an existing MOU is impaired and communicates that decision to CalPERS, then any stated EPMC agreements will apply to new members through the duration of the MOU. Once the impaired MOU is amended, extended, renewed or expires, employers will no longer be able to report EPMC for new members. • For classic members of a public agency or school employer, the member contribution rate is not required to change. In addition, EPMC can continue to be reported as it is today for classic members pursuant to existing PERL provisions. • State employees (excluding new CSU members and new judicial branch members) will pay the contribution rates determined through bargaining and/or as provided by statute. For certain State employees, contribution rates will increase by a fixed 			

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<p>percentage at specific dates beginning July 1, 2013. Rates increase and vary by bargaining unit and by classification.</p> <ul style="list-style-type: none"> Beginning on January 1, 2018, public agency and school employers that have collectively bargained in good faith and have completed impasse procedures, including mediation and fact finding, have the ability to unilaterally require classic members to pay up to 50% of the total normal cost of their pension benefit. However, the employee contribution may only be increased up to an 8% contribution rate for miscellaneous members, a 12% contribution rate for local police officers, local firefighters, and county peace officers, or an 11% contribution rate for all other local safety members. 			
<p>Cost Sharing of Employer Contributions Permits public agencies and their employees to agree to share the cost of the <u>employer</u> contribution with or without a change in benefit. These contributions are paid in addition to the member contribution rate. Allows cost-sharing agreements to differ by bargaining unit or for classifications of employees subject to different benefit levels as agreed to in an MOU. Also permits cost sharing of the employer costs for non-represented</p>	20516	X	X

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employees as approved in a resolution passed by the public agency.			
Close Legislators' Retirement System (LRS) to New Members Prohibits new members from participating in the LRS. However, new statewide constitutional and legislative statutory officers would still be eligible for optional membership in CalPERS.	9355.4 9355.41 9355.45		X
Equal Health Benefit Vesting Schedule for Non-Represented and Represented Employees Generally prohibits employers from providing a more advantageous health benefit vesting schedule to certain individuals (namely a public employee who is elected or appointed, a trustee, excluded from collective bargaining, exempt from civil service, or a manager) than it does for other public employees, including represented employees, of the same public employer who are in related retirement membership classifications.	7522.40	X	X
Prohibits Purchase of Additional Retirement Service Credit (ARSC) Prohibits the purchase of nonqualified service credit on or after January 1, 2013. This prohibition will not apply if an official application is received by CalPERS on or before December 31, 2012. Only applications from individuals who qualify to purchase ARSC	7522.46	X	X

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on or before December 31, 2012, will be accepted. CalPERS is reviewing whether other types of nonqualified service credit may be impacted by this prohibition.			
Prohibits Retroactive Pension Benefit Enhancements Prohibits public employers from granting retroactive pension benefit enhancements that would apply to service performed prior to the date of the enhancement. In addition, if a change in a member's membership classification or employment results in a benefit enhancement, that enhancement can only be applied to service performed on or after the operative date of the change. This provision applies to both classic and new members. Annual cost-of-living adjustments are excluded from this prohibition.	7522.44	X	X
Prohibits Pension Holidays Requires that the combined employer and member contributions, in any fiscal year, not be lower than the total year's normal cost.	7522.52	X	X
Pensionable Compensation PEPRA uses the term "pensionable compensation" for the purpose of determining reportable compensation for new members. Pensionable compensation for new members is defined as "the normal monthly rate of pay or base pay of the member paid	7522.34		X

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Brief Summary	SECTIONS	IMPACTS CLASSIC MEMBERS	IMPACTS NEW MEMBERS
<p>in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.” Also specifically excludes certain types of pay from being reported as pensionable compensation, including, bonuses, overtime, pay for additional services outside normal working hours, cash payouts for unused leave (vacation, annual, sick leave, CTO, etc.), and severance pay, among others. Also excludes any compensation determined by the retirement board to have been paid to increase a member’s retirement benefit and any other form of compensation determined to be inconsistent with the statutory definition. CalPERS continues to evaluate what compensation can be reported by employers and will update employers once additional information is available.</p> <p>Existing compensation earnable provisions continue to apply for classic members.</p>			
<p>Requires Three-Year Final Compensation For new members, provides that final compensation means the highest average annual pensionable compensation earned by a member during a period of at least 36</p>	7522.32	*	X

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consecutive months, or three school years, as applicable. Also prohibits a public employer from adopting a final compensation period of less than three years for classic members who are currently subject to a three-year final compensation period.			
Felons Forfeit Pension Benefits Requires both current and future public officials and employees to forfeit certain specified pension and related benefits if they are convicted of a felony in carrying out their official duties, in seeking an elected office or appointment, or in connection with obtaining salary or pension benefits, subject to certain requirements.	7522.72 7522.74	X	X
Limits Post-Retirement Public Employment <ul style="list-style-type: none"> • Provides that a CalPERS retiree cannot serve, be employed by or be employed through a contract directly by a CaPERS employer unless he or she either reinstates or his or her employment satisfies the following conditions: <ul style="list-style-type: none"> ○ The person is appointed either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration; ○ The appointment does not exceed a total for all CalPERS employers of 960 	7522.56 7522.57	X	X

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<p>hours, or other equivalent limit, per fiscal year; and</p> <ul style="list-style-type: none"> ○ The person's pay rate must be within the range paid by the employer to other employees performing comparable duties. • In addition, requires a 180-day waiting period before the retiree can return to work for a CalPERS employer without reinstating from retirement, except under certain specified circumstances. The 180-day waiting period generally does not apply to public safety officers or firefighters. However, the 180-day waiting period provision applies without exception to retirees who receive either a golden handshake or some other employer incentive to retire. • The 180-day waiting period starts on the date of retirement. Retired annuitants already employed before January 1, 2013, are not impacted by the 180-day waiting period. • A retiree who accepts an appointment after receiving unemployment insurance compensation must terminate that employment and will not be eligible for reappointment thereafter for 12 months. • Any public retiree appointed to a full-time position on a State board or commission on 			

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or after January 1, 2013, will be required to suspend his or her retirement allowance and become an active member of CalPERS, unless the appointment is non-salaried.			
Contracting Agency Liability for Excessive Compensation Requires CalPERS (for plans it administers) to define a “significant increase” in actuarial liability due to increased compensation paid to a non-represented employee and further directs the Board to implement program changes to ensure that a public agency that creates a significant increase in actuarial liability bears the increased cost associated with that liability. CalPERS is working to develop the program changes and definitions necessary to administer these provisions.	20791	X	X
Alternate Retirement Program (ARP) ARP, a retirement savings program that certain State employees are automatically enrolled in for two years from their initial hire date, will be closed to new members effective July 1, 2013.	20281.5		X

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California State Teachers'
Retirement System
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Sacramento, CA 95851-0275
www.CalSTRS.com

December 27, 2012

TO: All County Superintendents of Schools
District Superintendents of Schools
County Offices of Education
Community College Districts
Charter School Administrators and
All Employing Agencies

FROM: Jack Ehnes
Chief Executive Officer

SUBJECT: Employer Directive 2012-07
California Public Employees' Pension Reform Act of 2013

PURPOSE

This directive notifies employers of changes to Education Code and Government Code sections contained in Chapter 296, Statutes of 2012 (AB 340—Furutani), known as the California Public Employees' Pension Reform Act of 2013, that becomes effective January 1, 2013.

SCOPE

This directive contains information for county superintendents of schools, school districts, charter schools, community college districts, and any agency that employs persons to perform creditable service under the CalSTRS Defined Benefit (DB) and Defined Benefit Supplement (DBS) programs.

DISCUSSION

Chapter 296 applies differently to employees depending on when they first became employed to perform activities creditable to CalSTRS.

CalSTRS 2% at 60: First *hired* to a position to perform activities subject to coverage by the DB Program on or before December 31, 2012. An existing member is also someone who may have refunded, reinstated, retired, started as a nonmember or elected to have their creditable service covered by another retirement plan, including Social Security.

CalSTRS 2% at 62: First *hired* to a position to perform activities subject to coverage by the DB Program on or after January 1, 2013.

ACTION

If you hire a person to perform service that is creditable to the DB Program before January 1, 2013, establish his or her account in the Secure Employer Web site before December 31, 2012. All members with accounts established prior to January 1, 2013 will be under CalSTRS 2% at 60.

Employers will be prohibited from backdating a status date for any CalSTRS 2% at 62 accounts established on or after January 1, 2013.

If a member is defaulted into CalSTRS 2% at 62 in error, please contact your CalSTRS Member Account Services Representative for further instruction.

Compensation Cap

Chapter 296 added section 7522.10 to the Government Code, which establishes a limit on compensation used to calculate benefits for CalSTRS 2% at 62, including compensation credited to the DBS Program. For CalSTRS 2% at 62, the cap on compensation is equal to 120 percent of the 2013 Social Security wage base and will be adjusted annually based on changes to the Consumer Price Index for All Urban Consumers.

Beginning January 1, 2013, the compensation cap for CalSTRS 2% at 62 is \$136,440.

ACTION

CalSTRS 2% at 62:

- Report the full compensation earnable and actual compensation earned.
- Do not submit contributions on compensation over the compensation cap.

Edits implemented in the Secure Employer Web site will prevent employers from submitting contributions to the DB Program for CalSTRS 2% at 62 members whose earnings exceed the cap.

Employers may elect to offer a defined contribution plan for the contributions on salary above the cap to CalSTRS 2% at 62 members. However, the employer contribution rate cannot be greater than the 8.25 percent employer contribution rate for the DB Program.

For members under CalSTRS 2% at 62 who earn more than one year of service credit in a school year, contributions for that compensation will continue to be credited to the DBS Program provided that the compensation does not exceed the compensation cap.

Creditable Compensation

Chapter 296 added section 22119.3 to the Education Code and added section 7522.34 to the Government Code. These sections define and limit the types of compensation creditable to the DB and DBS programs for CalSTRS 2% at 62 as follows:

1) Creditable compensation is:

- A. The normal monthly rate of pay or base pay of the member;
- B. Paid pursuant to a publicly available pay schedule;
- C. Paid in cash to all persons in the same class of employees on a full-time basis.

For compensation to be creditable, it must be included in the full-time equivalent or specifically identified on a salary schedule or other publically available document.

2) Creditable compensation paid to CalSTRS 2% at 62 members excludes:

- A. An allowance;
- B. A bonus;
- C. Cash in-lieu of receiving a benefit;
- D. Compensation that is payable for a specified number of times;
- E. Compensation paid for the purposes of enhancing a benefit.

ACTION

For members under CalSTRS 2% at 62, employers cannot report special compensation creditable to the DBS Program only (account code 71) to CalSTRS. Edits implemented in the Secure Employer Web site will prevent employers from submitting special compensation to the DBS Program only for CalSTRS 2% at 62.

Employers may only report compensation paid to CalSTRS 2% at 62 members that meets the definition of creditable compensation under Education Code section 22119.3 and Government Code section 7522.34. Pay schedules may include individual employment contracts or agreements, traditional step and column salary schedules, or other publicly available documentation that delineates pay for a class of employees. Pay schedules must be publicly available, and employers must provide CalSTRS with copies upon request.

Certain payments, such as master's stipends, are considered creditable compensation as long as they are included in the full-time equivalent or specifically identified on a salary schedule or other publically available document. To report these types of compensation, use the existing contribution code 6 and a new assignment code 72.

Contribution Rates

Section 7522.30 was added to the Government Code by Chapter 296. This section establishes the contribution rate paid by members under CalSTRS 2% at 62 based on the normal cost of pension benefits. At its November meeting, the Teachers' Retirement Board adopted a normal cost of 15.9 percent for pension benefits under CalSTRS 2% at 62, based on analysis by the system's actuary. Based on this action, the contribution rate paid by a CalSTRS 2% at 62 members will be the same 8 percent rate currently set in statute for CalSTRS 2% at 60 members. There also is no change to the 8.25 percent employer contribution rate for compensation paid for any DB Program member.

Education Code section 22909 allows employers to pay all or a portion of the employee contributions, if that payment is made on behalf of all members in the same class of employees. However, Chapter 296 prohibits employers from paying employee contributions for CalSTRS 2% at 62 members, unless the prohibition would impair the obligations of an existing contract. Consequently, if such a contract currently exists, an employer may continue to pay all or a portion of employee contributions until the expiration of that contract, and upon expiration of that contract, may do so only if all members in the class of employees are CalSTRS 2% at 60 members. Employers may, however, continue to "pick-up" their employee's contributions, pursuant to Education Code section 22903, for the purposes of deferring income taxes, as authorized by Internal Revenue Code Section 414(h)(2) and Revenue and Taxation Code Section 17501.

ACTION

Contribution rates for all members, regardless of the benefit structure, and employers remain the same as set forth in Education Code sections 22901, 22950 and 22951. However, member contribution rates for CalSTRS 2% at 62 may change in the future.

Do not pay any portion of the employee contributions for CalSTRS 2% at 62 members unless an existing contract provides for such payment. Continue to pay all or a portion of the employee contributions for CalSTRS 2% at 60 members upon the expiration of that contract or a future contract only if all members in the same class of employees are CalSTRS 2% at 60 members.

Employer Election to Offer One-Year Final Compensation

Currently, Education Code section 22135 gives districts the ability to negotiate with employee organizations to provide one-year final compensation for all classroom teachers, as defined, who meet criteria specified in that section. Under Chapter 296, pursuant to added Government Code section 7522.32, CalSTRS 2% at 62 members' final compensation may only be averaged over at least three school years. Consequently, districts may still negotiate with employee organizations to provide one-year final compensation for CalSTRS 2% at 60 members who are classroom teachers only if all of their classroom teachers in the DB Program who meet the criteria specified in section 22135 are CalSTRS 2% at 60 members.

ACTION

Employers can continue to negotiate with employee organizations to provide one-year final compensation only if all of their classroom teachers in the DB Program who meet the criteria specified in section 22135 are CalSTRS 2% at 60 members.

Members Convicted of a Felony

Chapter 296 adds Government Code sections 7522.72 and 7522.74, which state if any member, regardless of their benefit structure, is convicted of committing a felony in the course of his or her official duties, any benefits that member accrued after committing the felony will be forfeited. Any benefits the member accrued prior to committing the felony will remain intact. Any contributions made by the member to CalSTRS after the date the felony was committed will be returned, without interest.

ACTION

A member convicted of a felony in the course of his or her official duties and the prosecuting agency are required to notify that member's employer within 60 days of the conviction.

The member and the employer are then required to notify CalSTRS within 90 days of the conviction. At a later date, we will provide more information regarding the process to notify CalSTRS of such felony convictions. In the meantime, if you become aware of such a conviction, please contact CalSTRS Legal Office by email at LegalServices@CalSTRS.com or by mail at the following address:

CalSTRS-Legal Services
PO Box 15275, MS #3
Sacramento, CA 95851

Postretirement Employment

Chapter 296 amends Education Code sections 24214 and 24214.5, which affect employers' ability to hire retired teachers and administrators to fill vacancies, depending on when a member retired.

Existing restrictions apply to retirees and members who retire on or before December 31, 2012. New restrictions apply to members who retire on or after January 1, 2013.

CalSTRS will publish a separate employer directive regarding postretirement work, exemptions and earnings limits.

Other Provisions Affecting Members

Nonqualified Service Credit

Chapter 296 adds Government Code section 7522.46, which prohibits any member from purchasing nonqualified service credit, also known as airtime, after December 31, 2012. In order for a member to purchase nonqualified service credit, he or she must be vested, and CalSTRS must receive the appropriate CalSTRS form by 5:00 p.m. on December 31, 2012.

Retirement Age and Career Factor

Chapter 296 adds Education Code sections 24202.6, 24202.7 and 24202.8, which make changes to the retirement age for CalSTRS 2% at 62. The normal retirement age for these members is 62 with a 2 percent age factor. The maximum age factor is 2.4 percent at 65 and the minimum age a CalSTRS 2% at 62 member can retire is age 55 with 5 years of service. Additionally, the career factor is eliminated for these members.

Replacement Benefits Program

Chapter 296 adds Government Code section 7522.43, which prohibits CalSTRS 2% at 62 members from receiving any benefits above the federal limit, known as the Replacement Benefits Program.

Retroactive Benefit Increases

Government Code section 7522.44 was added by Chapter 296, which stipulates future benefit enhancements for all members will only apply to service performed on or after the operative date of the improvement.

No employer action is needed for these other provisions affecting members.

If you have any questions, please contact your CalSTRS Member Account Services Representative.