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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 PEPRAs do 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 PEPRAs. 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.

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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)