



Agenda Item 5

May 15, 2012

ITEM NAME: SB 1294 (Berryhill) – Mariposa County: Employer Contribution for Retiree Health Benefits

As Amended April 23, 2012

PROGRAM: Legislation

ITEM TYPE: Action

RECOMMENDATION

Adopt a **Neutral, with Suggested Amendments** position. The bill should be clarified to specify that employer health contribution changes that apply to represented employees must occur through collective bargaining and approved in a Memorandum of Understanding (MOU), and for unrepresented employees, through a resolution adopted by the County Board of Supervisors. This change will better reflect the County's current practice, as well as the approval requirements for employers to adopt the retiree health vesting schedule as a contract option in existing law.

EXECUTIVE SUMMARY

The Public Employees' Medical and Hospital Care Act (PEMHCA) requires contracting agencies to provide a minimum employer contribution for employee and retiree health benefits, and requires these contributions to be equal, unless the employer elects a statutory schedule that allows its contributions to retiree health benefits to gradually increase until they ultimately equal the contributions made for active employees.

This bill would allow Mariposa County to provide a higher employer contribution for its retirees than for its active employees, and require it be executed through a MOU or by a resolution adopted by a majority of the County Board of Supervisors. Its provisions would not apply to annuitants that retire before enactment of the bill, or to annuitants that retire before the effective date of the MOU or the date a resolution is adopted or MOU is signed.

BACKGROUND

Mariposa County Negotiates Alternative Employer Contributions for Health Care
According to the author, Mariposa County provides employee and retiree medical through CalPERS under PEMHCA. The County established its monthly contribution rates for health insurance on behalf of active employees through negotiations with its employee associations, and through discussions with its non-represented employees. County employees hired prior to January 1, 2007, (or May 1, 2007, for Elected Officials and department heads) become eligible to retire and receive

employer-paid health benefits upon attainment of age 50 and 5 years of covered service, or by qualifying for disability retirement. The county pays for 100 percent of the cost of a retiree's premiums up to specified dollar amounts that apply to both active employees and retirees of each bargaining unit.

The author states that: "The County has negotiated a change to their benefit package, which would reduce the health insurance benefit for some current employees. This change also eliminates an automatic escalator in benefits which was incorporated in some, but not all, of the County's labor agreements. At this time the employees' overall compensation would not change, however, the health insurance benefit is being adjusted. For many employees it will increase but others will see a decrease."

Because PEMCHA requires contracting agencies to provide retirees the same employer health care premium contributions as current employees, Mariposa County is sponsoring Senate Bill (SB) 1294 to ensure its current retirees will not experience a reduction in benefits as a result of the change it has negotiated in employer contributions for current employees and future retirees.

Vesting Options Available to Contracting Agencies

Vesting is the amount of time in employment needed to be eligible to receive employer contributions towards the cost of retirees' monthly health premiums. The vesting requirements for employer-paid retiree health benefits are different for CalPERS' State, California State University, judicial, public agency, and school members.

CalPERS provides three vesting alternatives for contracting agencies under PEMHCA:

- Contracting agencies are required to make equal contributions for both active employees and annuitants, whereby, an employee who retires and meets the definition of an annuitant, becomes 100 percent vested and receives an employer contribution amount equal to what active employees receive.
- Agencies joining PEMHCA on or after January 1, 1986, have the option to temporarily pay a lesser employer contribution amount for annuitants than for active employees, provided the agency increases its contribution for annuitants each year, over a 20-year period, until it equals the agency's contributions for active employees.
- Contracting agencies also have the option to be subject to a pre-set "vesting schedule" which establishes specific percentages of employer contributions toward retiree health care premiums based on an employee's credited years of service. Under this option, an employee must work at least 10 years to qualify for a 50 percent employer contribution toward retiree healthcare, increasing 5

percent for each year of service, until the employee is 100 percent vested at 20 years of service.

Mariposa County Vesting and Contributions

The County's vesting varies by its employees' date of hire. Those hired on or after February 1, 2007, (or May 1, 2007, for Elected Officials and department heads) are eligible for retiree health benefits under the vesting schedule that provides an employer contribution of 50/45 percent per annuitant/dependent after 10 years of service, increasing 5 percent each year until it reaches the maximum of 100/90 percent with 20 years of service. In addition, the County has previously allowed its employees hired prior to these dates to opt-in to this vesting schedule, as allowed under PEMHCA.

Unlike the vesting provisions that apply to Mariposa County employees hired before these dates in 2007, which requires the County to provide the same set-dollar contribution toward health care premiums for both active employees and annuitants with at least five years of service, the optional vesting schedule does not require the County to provide equal contributions for its most recently hired employees.

Employer-Specific Vesting

The Mariposa County legislation is not without precedent. Other CalPERS contracting agencies have succeeded in enacting legislation that allows them to establish alternate health benefit vesting schedules, including the following:

- The City of San Diego is permitted to contribute to postretirement health care coverage for the San Diego Police Officers Association members, and also for unclassified or unrepresented employees with at least 10 years credited service. The employer contribution amount is subject to an MOU, and applies only to those employees retiring on or after the effective date of the MOU. The City is also authorized to establish different vesting schedules for employees in the same category with similar job duties.
- With regard to employees of North Orange County Community College District and the Riverside County Superintendent of Schools, first hired on or after July 1, 1993, these agencies will provide 100 percent of the employer contribution for a part-time employee with 20 or more years of credited service.
- The Alameda County Transportation Improvement Authority vesting schedule requires an employee to work at least 5 years to qualify for a 50 percent employer contribution toward retiree healthcare, increasing 5 percent for each year of service, until the employee is 100 percent vested at 15 years of service.

In addition, PEMHCA grants school employers a contract option not available to other public agencies, which allows them to use collective bargaining to

establish an employer contribution amount for annuitants with at least five years of credited service with the school employer. Under this provision, a MOU establishes the employer contribution and only applies it to those employees who retire subsequent to the MOU effective date.

ANALYSIS

1. Proposed Changes

Specifically, SB 1294 would allow Mariposa County, subject to an MOU or upon resolution by the Board of Supervisors, to do the following:

- Establish employer contributions for retiree health care of no less than the statutorily required amount.
- Provide an employer contribution that is higher for retirees than for active employees.
- Require that any changes will not apply to any employee who retired before the effective date of the MOU or resolution, and further specifies, regardless of any retroactivity required by the MOU or resolution, that any employee who retires before the MOU is signed or the resolution is adopted shall not be affected by these changes.
- Provide that the obligations or benefits of either annuitants or the county that exist at the time of the bill's enactment will not be affected.
- Requires Mariposa County to provide CalPERS with notification of the MOU agreement or resolution, and to provide any necessary information in order to implement the requirements of these changes.

2. Impacts to Mariposa County Employees and Annuitants

Under PEMHCA, contracting agencies that do not provide **PEMHCA** under the optional vesting schedule are required to provide the same employer contribution for health benefits to their active and retired employees. SB 1294 would apply to Mariposa County employees hired before February 1, 2007, (or May 1, 2007, for Elected Officials and department heads), and employees hired prior to those dates that have not elected to become subject to the optional vesting schedule. It would allow, but not require, the County to provide an employer contribution toward retiree health benefits that is higher for retirees than for active employees, so long as it exceeds the minimum amount specified in PEMHCA.

Under SB 1294, the employer contribution toward health care would also become fixed for current retirees, but could vary from year-to-year for future retirees hired before February 1, 2007, (or May 1, 2007, for Elected Officials and department heads), and employees hired prior to those dates that have not elected to become subject to the optional vesting schedule, based on what the County and its employee groups' exclusive representatives negotiate in an

MOU, or the County Board of Supervisors adopts for its non-represented employees. The employer contribution toward retiree health care for County employees hired on or after these dates in 2007, or that have elected to become subject to the optional vesting schedule will remain unchanged.

3. Employers Seek Greater Flexibility to Address Benefit Costs

SB 1294 is the latest of approximately a half-dozen bills introduced in as many years to provide exceptions to the vesting and contribution provisions of PEMHCA. Mariposa County indicates the benefit changes it has negotiated are intended to standardize employer contributions among its various bargaining units and are not anticipated to reduce its costs. Instead, the County expects its benefit costs to increase. Its situation is an example of a broader issue for many contracting agencies that have found the existing PEMHCA vesting options to be static and not flexible to negotiation.

Since the adoption of Government Accounting Standards Board Rule 45, which requires public employers to report in their annual financial statements any non-pension liabilities associated with post-employment health and welfare benefits for current and future retirees, many contracting agencies have also been exploring and implementing methods to control and pre-fund such liabilities.

CalPERS staff recently completed a Health Benefits Purchasing Review to evaluate current health benefit design and purchasing strategies, and to identify areas of improvement in the Health Benefits Program. These efforts led to the Board of Administration's (Board) approval of 21 strategies and initiatives, including staff exploration of statutory and regulatory actions which may create more flexible vesting schedules. Among the potential solutions is to provide public agencies the same flexibility in crafting health benefit vesting schedules currently afforded school districts, by allowing them to collectively bargain for any vesting schedule that they negotiate.

4. Clarify Approval Process

SB 1294 proposes to allow the Mariposa County Board of Supervisors to provide different employer contribution amounts to current retirees than for current employees and future retirees, and to adopt these changes either through an MOU mutually agreed upon through collective bargaining, or a resolution adopted by a majority of the Mariposa County Board of Supervisors. The CalPERS Board's Legislative Policy Standards recommend a Neutral or No Position on proposals to change benefits which are appropriately subject to collective bargaining and are consistent with other Board policies.

This bill should be clarified to specify that employer health contribution changes that apply to represented employees must occur through collective bargaining

and approved in a MOU, and for unrepresented employees, through a resolution adopted by the County Board of Supervisors. This change would be consistent with the requirements for employers to approve the existing retiree health vesting schedule as a contract option.

5. Costs

Benefit Costs

Potential unknown future health benefit savings for Mariposa County, depending upon the details of the MOU agreements approved.

Administrative Costs

Minor and absorbable.

BENEFITS/RISKS

Pros:

- Providing additional flexibility allows Mariposa County to make the same contribution to all of its active employees' health care, regardless of their date of hire.
- Depending on the provisions of future MOUs, Mariposa County could experience a reduction in its future postretirement health benefits liabilities.

Cons:

- Mariposa County will have contracting flexibility not provided by PEMHCA, which may encourage other contracting agencies to also seek additional statutory exceptions.
- Establishes another employer-specific exemption in statute.

ATTACHMENTS

Attachment 1 – Legislative History

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