CalPERS

Pension & Health Benefits Committee

California Public Employees' Retirement System

Agenda Item 6

May 20, 2014

ITEM NAME: Assembly Bill 2582 (Bonta) – Post-employment Health Benefits: San Francisco Bay Area Rapid Transit District

As Amended April 21, 2014

Sponsor: San Francisco Bay Area Rapid Transit District

PROGRAM: Legislation

ITEM TYPE: Action

RECOMMENDATION

Adopt a **Neutral** position on Assembly Bill (AB) 2582 because the bill provides the San Francisco Bay Area Rapid Transit District (BART) with the flexibility to address its post-retirement health benefits, which are the result of collective bargaining, and does not have an significant impact on the administration of the Public Employees' Medical and Hospital Care Act (PEMHCA).

EXECUTIVE SUMMARY

AB 2582 would authorize BART to make an employer contribution towards annuitant health benefits for employees first hired on or after January 1, 2014, and Directors who first served as Director on or after January 1, 2014 with the full contribution amount determined in a Memorandum of Understanding (MOU) agreed to by its employees' exclusive representative. Annuitants would receive 50 percent of the full employer contribution after 10 years of service performed entirely with BART, increasing 10 percent annually to 100 percent after 15 years of service performed entirely with BART, with a specified exception for those employees who retire for disability with at least five years of credited service with BART.

STRATEGIC PLAN

This legislation is consistent with the CalPERS Strategic Plan Goal A to improve long–term pension and health benefit sustainability.

BACKGROUND

1. Vesting Options Provided to PEMHCA Contracting Agencies
   Vesting is the amount of time in employment needed to be eligible to receive employer contributions towards the cost of annuitants' monthly health premiums. The vesting requirements for employer-paid annuitant health benefits are different for CalPERS State, California State University, Judicial, Public Agencies, and School Employers.

CalPERS provides one vesting option for contracting Public Agencies under PEMHCA.

- Contracting Public Agencies have the option to elect Section 28893 and adopt a pre-set "vesting schedule" which establishes specific percentages of employer contributions toward annuitant health care premiums based on an employee's total credited years of PERS service. Under this option, an employee must have 10 years of PERS service, with at least 5 of those years performed with the Public Agency to qualify for a 50 percent employer contribution toward annuitant healthcare, increasing five percent for each year of service, until the employee is 100 percent vested at 20 years of service. The employer contribution under this option is mandated at minimum to be the 100/90 State Annuitant Contribution Amounts prescribed in Section 22871.

Additionally, CalPERS provides one vesting option for contracting School Employers under PEMHCA:

- Contracting School Employers have the option to elect section 22895 to establish a vesting schedule and employer contribution amounts determined by collective bargaining for annuitants with at least five years of credited service with the School Employer. Under this provision, a collective bargaining agreement establishes the employer contribution and only applies to those employees who retire subsequent to the MOU effective date.

2. Current BART Post-Employment Health Coverage
Effective July 1, 1993, BART elected to be subject to PEMHCA with respect to the following groups: AFSCME Local 3993, Police Officers Association, Police Management Association, Amalgamated Transit Union, SEIU Local 790, and Non-Represented Employees. BART contracts under the “By Group” method which allows them to designate a different contribution for each group.

Pursuant to their former collective bargaining agreements, BART currently provides equal employer contributions for both active employees and annuitants. According to CalPERS records, the BART bargaining agreements with its Police Officers’ Association and Police Management Association provide an employer monthly contribution for each employee and annuitant equal to the amount necessary to pay the full cost of his/her enrollment. This includes the enrollment of his/her family members in a health benefits plan up to the maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less $95.01 employee/annuitant share each month for calendar year 2014.

In addition, the BART bargaining agreements with its other groups provide an employer monthly contribution for each employee and annuitant equal to the amount necessary to pay the full cost of his/her enrollment. This includes the enrollment of his/her family members in a health benefits plan up to the maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less $131.01 employee/annuitant share each month for calendar year 2014.

ANALYSIS

1. Proposed Changes
   Specifically, AB 2582 would:

   - Authorize BART to make contributions for postretirement health benefits for members of the district Board of Directors, the districts' unrepresented employees, and for any unit of employees whose terms and conditions of employment are determined through collective bargaining, who were first hired or who first serve on the Board on or after January 1, 2014.

   - Require contributions for represented employees to be set through collective bargaining; and for unrepresented employees, require contributions conform to eligibility criteria and schedules in approved bargaining agreements for represented employees.

   - Require the agreement to provide an employer contribution of 50 percent after 10 years of service performed entirely with BART, increasing 10 percent annually to 100 percent after 15 years of credited service with BART.

   - Provide full employer contributions for those employees who retire for disability with at least five years of service with BART.

   - Specify that these provisions only apply to represented employees if the agreement is expressly incorporated into a MOU, as specified.

   - Specify that these provisions do not apply to employees who retire prior to the effective date of the bargaining agreement, and, in the event the bargaining agreement establishes a retroactive effective date, these provisions will only apply to prospective retirements.

   - Requires BART to notify CalPERS of each agreement or personnel action executed pursuant to these provisions, as well as any additional information necessary for their implemention.

2. Reason for the Bill
According to the author, AB 2582 will authorize implementation of new labor contract provisions related to vesting of healthcare benefits for BART retirees. This Collective Bargaining Agreement was reached by BART labor and management representatives in fall 2013 and has been ratified by all parties.

According to the author, this modification to the vesting schedule for retiree health care benefits is estimated to save BART $13.8 million dollars over the next 30 years.

3. Employers Seek Greater Flexibility to Address Benefit Costs
What BART proposes to do is not without precedent. Other public agencies that contract with CalPERS for health benefits have also succeeded in getting legislation implemented that allows them to have flexibility in their vesting schedules. These legislative changes to the PEMHCA for public agencies have resulted in minimal administrative costs to CalPERS, but provide cost savings to these agencies' future annuitant healthcare.

AB 2582 is the latest of approximately a dozen bills introduced in recent years to provide exceptions to the vesting and contribution provisions in PEMHCA. This 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 annuitants, 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 approval of 21 strategies and initiatives, including providing regulatory flexibility for public agencies. Among the potential solutions is to provide public agencies more flexibility or options in the area of vesting schedules for annuitant health care.

BUDGET AND FISCAL IMPACTS

1. Benefit Costs
According to the author, this modification to the vesting schedule for retiree health care benefits is estimated to save BART $13.8 million dollars over the next 30 years. However, any future benefit costs or savings experienced by BART beyond the expiration dates of its current bargaining agreements will vary based on the employer contribution negotiated in future agreements.

2. Administrative Costs
   Minor and absorbable.

BENEFITS/RISKS

1. Benefits of Bill Becoming Law
   This bill provides BART the flexibility to manage its future post-retirement health coverage liabilities through collective bargaining.

2. Risks of Bill Becoming Law
   Continuing to enact carve-out legislation like AB 2582 may make the PEMHCA increasingly complex by having to administer multiple agency-specific vesting schedules.

ATTACHMENTS

Attachment 1 – Legislative History
Attachment 2 – List of Support and Opposition

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