



Pension and Health Benefits Committee Agenda Item 5

August 15, 2017

Item Name: Final Proposed Regulation for Pensionable Compensation under PEPRA

Program: Employer Account Management Division

Item Type: Action

Recommendation

Staff recommends the Board of Administration (Board) approve the final proposed regulation defining pensionable compensation under the Public Employees' Pension Reform Act (PEPRA) of 2013. With Board approval, staff will submit the final rulemaking package to the Office of Administrative Law (OAL) for adoption.

Executive Summary

This regulation is intended to clarify the California Public Employees' Retirement System (CalPERS) interpretation of what is considered pensionable compensation for "new members" hired on or after January 1, 2013, and promote uniform compliance amongst all covered employers. The 45-day public comment period for the proposed regulation closed on June 5, 2017, wherein CalPERS staff did not receive any public comments. The proposed regulation, therefore, is unmodified from the version the Board approved for public comment in March 2017.

Strategic Plan

This agenda item supports Fund Sustainability, Strengthen the long-term sustainability of the pension fund by clarifying and communicating CalPERS' interpretation of pensionable compensation.

Background

At the March 2017 Board meeting, the Board approved the proposed regulatory action defining pensionable compensation. CalPERS subsequently filed a Notice of Proposed Regulatory Action with OAL, initiating a 45-day public comment period where interested parties could submit public comments relevant to the proposed regulatory action. CalPERS staff did not receive any public comments during this period, and thus did not make any changes to the proposed regulation approved by the Board in March.

Analysis

The Notice of Proposed Regulatory Action was published in the California Regulatory Notice Register (File Number Z-2017-0407-01) on April 21, 2017. The 45-day comment period commenced on April 21, 2017, and closed on June 5, 2017. CalPERS staff did not receive any public comments or requests for a public hearing during this period.

With Board approval of the proposed regulation, the rulemaking package will be prepared and submitted to OAL, who has 30 days to review the package. If OAL approves the proposed regulation, they will file the regulation with the Secretary of State for official publication in the California Code of Regulations and the regulation is anticipated to be effective by October or November 2017.

Budget and Fiscal Impacts

Administrative Costs

CalPERS will incur some costs in order to comply with the PEPRA legislation. In general, certain administrative costs will be attributable to the regulation, including education outreach and training, publication costs, and postage. In some instances, CalPERS-covered employers may also incur certain administrative costs for training and costs associated with complying with the regulation; however, staff may be unable to quantify all of the costs incurred by CalPERS-covered employers.

Benefit Costs

CalPERS staff analyzed reporting data for the three Fiscal Years (FY) following PEPRA's enactment (FY 2013-14 through FY 2015-16), and estimates that pensionable compensation reporting in FY 2017-18 may result in an employer normal cost of approximately \$16 million for public agencies, schools, and the State. This normal cost is not a new cost, as employers are required to pay contributions on all compensation reported to CalPERS and the pensionable compensation items that are included in the regulation package have historically been reported. In addition, for comparative purposes, the total normal cost for all employers in FY 2016-17 is \$5.3 billion.

Benefits and Risks

Without adoption of a regulation, CalPERS members and covered employers may challenge CalPERS' interpretation of pensionable compensation. By adopting the regulation, CalPERS may achieve cost savings as a result of decreased litigation and administrative appeals related to the definition of pensionable compensation as members and covered employers understand what compensation is or is not reportable to CalPERS.

Attachments

Attachment 1 – Proposed Regulation

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