



Pension and Health Benefits Committee Agenda Item 6

February 13, 2018

Item Name: Proposed Regulation for the Definition of Full-Time Employment

Program: Employer Account Management Division

Item Type: Action

Recommendation

Approve staff's recommendation to pursue the proposed regulation defining Full-Time Employment.

Executive Summary

The attached proposed regulation would clarify the California Public Employees' Retirement System's (CalPERS) interpretation of what is considered "full-time" employment for purposes of determining CalPERS membership eligibility, reporting overtime positions, and determining compensation earnable and pensionable compensation. The proposed regulation would explicitly define "full-time" employment as a minimum of 34 hours per calendar week or the equivalent as determined by the Board of Administration (Board) (for example, a normal work schedule consisting of 68 hours for two calendar weeks may be determined to be full-time), which amends CalPERS' current definition of full-time employment as 34 to 60 hours per calendar week as established in a 1980 Board resolution. This proposed regulation would support the information included in the Public Agency & Schools Reference Guide (PA & Schools Guide), which contracting agencies use as a resource. Explicitly defining "full-time" employment in the California Code of Regulations (CCR) ensures consistent use of the term by CalPERS, its members, contracting agencies, and other stakeholders.

Strategic Plan

This agenda item supports the 2017-22 CalPERS Strategic Plan, Risk Management Goal to cultivate a risk-intelligent organization and the objective to enhance compliance and risk functions throughout the enterprise.

Background

In 1932, the CalPERS Board approved a resolution that determined 270 days a year, 8 hours a day, and 12 months a year to be the average time of employment for the purpose of determining compensation earnable. The Board stated that this average formula was to apply to determining disability and death benefits as well. At that time, the CalPERS Actuarial Office determined the average time by inspecting the payroll hours from various classifications.

In 1953, the Board amended the 1932 Board resolution, citing changes in employment conditions. The 1953 Board resolution established a five-day work week with 40 hours as the average work week and 260 days a year as the average time for compensation earnable. The 1953 Board resolution also required contracting agencies with members whose work week was other than 40 hours to contact the Board for special consideration. If contracting agencies failed

to notify the Board, CalPERS would calculate such members' final compensation based on a 40-hour work week, which could result in the members receiving higher or lower benefits than they would otherwise be entitled to.

On October 15, 1980, the Board amended the 1953 Board resolution and established 34 to 60 hours per calendar week, four to six working days per calendar week, and nine to 12 months per fiscal year as the minimum and maximum period which will be considered full-time employment for System purposes. The Board cited changes in employment conditions and the issue of members potentially receiving higher or lower benefits than they would otherwise be entitled to if their employers failed to notify CalPERS of a deviation from the 40-hour work week as the main reasons for the change.

The 1980 Board resolution states that "only the individual contracting agency can determine what constitutes the normal work week for full-time employment for its employees, provided however, that the Board may establish both minimum and maximum work week periods which it will consider as full-time employment for System purposes. Each employer shall inform the Board of the normal work week periods which are considered full-time and that such periods are to be established for all employees in the same group such as by department or duties and not by individual employees." In addition, the 1980 amendment states that if a contracting agency's full-time employment hours for the purpose of determining compensation earnable are not within the Board established minimum and maximum ranges, that contracting agency shall contact the Board for special consideration. Before setting the minimum and maximum ranges, CalPERS surveyed all contracting agencies about their normal work week and reported compensation.

Analysis

The proposed regulation would define "full-time" employment for purposes of determining CalPERS membership eligibility, reporting overtime positions, and determining compensation earnable and pensionable compensation. This addition is necessary to provide clarity and uniformity for CalPERS, its members, contracting agencies, and other stakeholders to ensure consistent use of the term "full-time." This regulation also supports the PA & Schools Guide as a resource to contracting agencies. CalPERS provides the PA & Schools Guide to contracting agencies to assist them in preparing reportable information to CalPERS. Currently, the PA & Schools Guide communicates full-time as between 34 and 60 hours per week. This regulation provides contracting agencies and members with more clarity and ensures the uniform application of the definition of "full-time" employment. Removing the upper limit of 60 hours per calendar week will allow contracting agencies more flexibility to determine full-time employment for employees such as firefighters, for example, who may have a weekly schedule of greater than 60 hours per week.

The proposed regulation will require contracting agencies to notify CalPERS of the normal work week periods which are considered full-time by the contracting agencies and will require that these periods be established for all employees in the same "group or class of employment" within the meaning of the Public Employees' Retirement Law. Currently, contracting agencies already notify CalPERS of what constitutes full-time employment for their normal work week schedules through the payroll reporting process; therefore, no additional reporting will be required from the contracting agencies.

Budget and Fiscal Impacts

The proposed regulatory action is technical and does not impose any budget or fiscal impacts to the state.



Benefits and Risks

The proposed regulatory action would provide further clarification regarding the definition of “full-time” employment for the purposes of:

- Determining CalPERS Membership Eligibility
- Reporting Overtime Positions
- Determining Compensation Earnable and Pensionable Compensation.

In addition, the proposed regulation would also provide more flexibility for contracting agencies with employees who have normal work week schedules of greater than 60 hours per calendar week.

Without the adoption of this regulation, there is a risk that members or contracting agencies could misinterpret CalPERS’ definition of “full-time” employment. Adopting this regulation would clarify CalPERS’ interpretation of “full-time” employment and provide uniformity for CalPERS, its members, contracting agencies, and other stakeholders to ensure consistent use of the term.

Attachments

Attachment 1 – Text of proposed regulation

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