Title 2. Administration

Proposed Adoption of Section 579.9 of Article 6 of Subchapter 1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations

§ 579.9_Significant Increase in Actuarial Liability Due to Increased Compensation Paid to a Non-Represented Employee

(a) For purposes of Government Code Section 20791, a significant increase in actuarial liability due to increased compensation occurs if the conditions described in both subsections (a)(1) and (a)(2) below are met. Satisfaction of these conditions shall be determined by the Chief Actuary as of the earlier of the date of retirement or death of a member on or after January 1, 2013.

(1) Actuarial Liability Test – A contracting agency's actuarial liability with respect to the member is increased by $25,000 or more per year of service allocated to the contracting agency due to increased compensation, as defined in subsection (a)(2) below, paid by a subsequent employer. The increase in the contracting agency's actuarial liability for purposes of this subsection (a)(1) shall be the difference between the contracting agency's actuarial liability based on the member's final compensation and the contracting agency's hypothetical actuarial liability based on the member's expected final compensation. Expected final compensation shall be calculated by the Chief Actuary by projecting compensation based upon average annual expected pay increases reflecting the actuarial assumptions of the system for the most recently completed actuarial valuation as of the earlier of the date of the member's retirement or death.

(2) Compensation Test – an increase in actuarial liability under subsection (a)(1) is due to increased compensation if:

(i) The highest annual compensation paid to the member by the contracting agency is at least $65,000 less than the member's highest annual compensation as of the earlier of the date of retirement or death; and

(ii) The compound average growth rate between the two compensation amounts referenced in condition (i) above was ten percent or greater. This rate shall be calculated over the number of years between the date the member's employment terminated with the contracting agency and the earlier of the date of the member's retirement or death.

The actuarial liability threshold of $25,000 per year of service and the compensation threshold of $65,000 may be adjusted at the discretion of the Chief Actuary based upon changes in the Consumer Price Index.

(b) For purposes of this section, an impacted agency is a contracting agency that has a significant increase in actuarial liability due to increased compensation under subsection (a).

(c) For purposes of this section, a causative agency is a contracting agency that employed a member who was previously employed by an impacted agency and for which either condition (1) or (2) below is also met. Neither condition (1) or (2) shall be met where the highest annual compensation paid by the contracting agency is for service performed by the member while covered by a memorandum of understanding or while a member of a recognized employer organization, as that term is defined in Government Code Section 3501.

(1) The compound average growth rate between the highest annual compensation paid by the contracting agency and the highest annual compensation paid by the impacted agency was ten percent or greater. This rate shall be computed over the number of years between the date the member's employment terminated with the impacted agency and the date the member's employment terminated with the contracting agency.

(2) The contracting agency employed a member who was previously employed by a causative agency under condition (1) above and the highest annual compensation paid to the member by the contracting agency is greater than the highest annual compensation paid by such causative agency.

(d) If it is determined that there is an impacted agency and one or more causative agencies for purposes of this section, the Chief Actuary shall decrease the monthly benefit payable by the impacted agency with respect to the member. The amount of the monthly benefit payable by the impacted agency shall be calculated based on the member's service allocated to the impacted agency and the member's expected final compensation at retirement as determined by the Chief Actuary. The portion of the monthly benefit that would otherwise have been payable by the impacted agency shall instead be payable by the causative agency or agencies. If there is more than one causative agency with respect to a single member, the decrease in the impacted agency's share of the member's total monthly benefit shall be allocated among the causative agencies.