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Circular Letter

**TO: ALL PUBLIC AGENCIES, COUNTY OFFICES OF EDUCATION,
AND SCHOOL DISTRICTS**

**SUBJECT: INFORMATION ON AB 1651 AND IMPACTS OF MANDATORY
FURLOUGH FOR SCHOOL AND LOCAL SAFETY EMPLOYEES**

On September 30, 2010, Assembly Bill (AB) 1651 was chaptered, which adds Government Code section 20969.2 to the Public Employees' Retirement Law. This bill ensures that certain persons subject to mandatory furloughs will not have their CalPERS retirement benefits impacted due to the furlough. Those covered under this legislation include local safety members as defined in Government Code Section 20420 and persons employed by a county office of education, school district, school district that is a contracting agency, or community college district. AB 1651 does not impact local miscellaneous members.

This bill applies to furlough plans administered on or after July 1, 2008, for members employed by the above mentioned entities. The retroactive element of this legislation compels CalPERS to obtain furlough data beginning in the 2008/2009 fiscal year and continuing to present.

A furlough plan, as defined by AB 1651, represents any time period on or after July 1, 2008 during which members are directed to be absent from work without pay on the day or days designated by their employer or by a memorandum of understanding by the parties entered into on or after July 1, 2008 for purposes of achieving budgetary savings. A reduction in pay or pay cut imposed by an employer without any corresponding days off does not constitute a mandatory furlough under AB 1651.

Impact of AB 1651 on Membership Eligibility and Member Benefits

Membership Eligibility

The work hours of employees who do not have a fixed term of appointment and who work on a seasonal, limited-term, on-call, emergency, intermittent, substitute, irregular or other part-time basis as outlined in Government Code Section 20305 should be monitored to determine the point at which service that

would have been credited but for the mandatory furlough would have qualified the employee for membership in CalPERS. The hours that an employee would have worked had the employee not been subject to mandatory furloughs should be counted toward qualification of CalPERS membership.

Member Benefits

A member's retirement allowance is computed based on benefit formula, final compensation and service credit. The benefit formula is unaffected by a furlough, but service credit and final compensation may see an impact because of the loss of member earnings due to furlough. However, AB 1651 is designed to restore the service credit and final compensation totals to the amounts the member would have received had there been no furlough.

Please refer to Circular Letters 200-023-10 dated May 12, 2010 and 200-016-09 dated March 19, 2009 for similar information relating to membership eligibility and the impact a furlough has on member benefits.

Implementation of AB 1651

Implementation of AB 1651 does not change the manner in which an employer reports payroll to CalPERS. Employers should continue to report the member's normal payrate and the furlough reduced earnings to the System. Due to the variety and complexity of the furlough plans being administered among employers, CalPERS determined that the most efficient approach to implement this legislation is through an annual adjustment process, in which CalPERS will request employers furnish furlough information.

We expect to provide specific implementation information in a second Circular Letter in December. Meantime, impacted employers should begin to identify and organize their furlough information, such as, the number of furlough days or hours administered per fiscal year and member earnings lost due to the furlough plan. Implementation of AB 1651 is a substantial undertaking for employers as well as CalPERS. As we implement this legislation we appreciate your continued patience and cooperation.

If you have any specific questions about furloughs as they relate to CalPERS, please contact the CalPERS Employer Contact Center at **888 CalPERS** (or **888-225-7377**).

Lori McGartland, Chief
Employer Services Division