STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
California Public Employees' Retirement Sys	Renee Ostrander	(916) 795-7373
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		NOTICE FILE NUMBER
Pension Reform Act of 2013 Regulatory Action		Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- [ ] a. Impacts businesses and/or employees
- [ ] b. Impacts small businesses
- [ ] c. Impacts jobs or occupations
- [ ] d. Impacts California competitiveness
- [ ] e. Imposes reporting requirements
- [ ] f. Imposes prescriptive instead of performance
- [ ] g. Impacts individuals
- [x] h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) This proposed package of regulations has no cost impact on the private sector.

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: 0 Describe the types of businesses (Include nonprofits.): n/a

Enter the number or percentage of total businesses impacted that are small businesses: 0

3. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: n/a

4. Indicate the geographic extent of impacts: [ ] Statewide [ ] Local or regional (List areas.): n/a

5. Enter the number of jobs created: unk or eliminated: 0 Describe the types of jobs or occupations impacted: See attachment 1.

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

[ ] Yes [x] No If yes, explain briefly:

B. ESTIMATED COSTS (Include calculations and assumptions in the rulemaking record.)

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? $ 0

a. Initial costs for a small business: $ 0 Annual ongoing costs: $ 0 Years:

b. Initial costs for a typical business: $ 0 Annual ongoing costs: $ 0 Years:

c. Initial costs for an individual: $ 0 Annual ongoing costs: $ 0 Years:

d. Describe other economic costs that may occur: n/a

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

2. If multiple industries are impacted, enter the share of total costs for each industry: n/a

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): $ n/a

4. Will this regulation directly impact housing costs? ☐ Yes ☑ No If yes, enter the annual dollar cost per housing unit: _____ and the number of units: _____

5. Are there comparable Federal regulations? ☐ Yes ☑ No Explain the need for State regulation given the existence or absence of Federal regulations: I

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $ 0

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: See attachment 1.

2. Are the benefits the result of: ☑ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
Explain: See attachment 1.

3. What are the total statewide benefits from this regulation over its lifetime? $ unknown

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: See attachment 1.

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: $ Not quantified	Cost: $ $0
Alternative 1:	Benefit: $ n/a	Cost: $ n/a
Alternative 2:	Benefit: $ n/a	Cost: $ n/a

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:
See attachment 1.

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☑ No

Explain: The proposed regulations are clarifying and procedural in nature, performance standards are not applicable.

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.) Cal/EPA boards, offices, and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million ? ☐ Yes ☑ No (If No, skip the rest of this section.)

2. Briefly describe each equally as an effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

   Alternative 1: _____

   Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:	$ _____	Cost-effectiveness ratio: $ _____
Alternative 1:	$ _____	Cost-effectiveness ratio: $ _____
Alternative 2:	$ _____	Cost-effectiveness ratio: $ _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

   ☐ a. is provided in _____, Budget Act of _____ or Chapter _____, Statutes of _____

   ☐ b. will be requested in the _____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____

☐ 2. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

   ☐ a. implements the Federal mandate contained in _____

   ☐ b. implements the court mandate set forth by the _____

   court in the case of _____ vs. _____

   ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____ (DATE) election;

   ☐ d. is issued only in response to a specific request from the _____

   _____, which is/are the only local entity(s) affected;

   ☐ e. will be fully financed from the _____ (FEES, REVENUE, ETC.) authorized by Section

   _____ of the _____ Code;

   ☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

   ☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 3. Savings of approximately $ _____ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

☑ 6. Other. See Attachment 1.

B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☑ 1. Additional expenditures of approximately $ see Atchmt 1 in the current State Fiscal Year. It is anticipated that State agencies will:

☑ a. be able to absorb these additional costs within their existing budgets and resources.

☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.

☐ 2. Savings of approximately $ _____ in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☐ 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year.

☐ 2. Savings of of approximately $ _____ in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☑ 4. Other. The proposed regulatory action does not affect federal funding of state programs.

FISCAL OFFICER SIGNATURE		DATE 3/1/13
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE		DATE 3/1/13
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER	DATE

1. *The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.*

Economic Impact Statement

Section A.

Answer to Question #5: Pension reform legislation and the related proposed regulations may minimally impact the personnel departments of state agencies and CalPERS-covered employers (local agencies) in order for those entities to comply with the legislation and related proposed regulations. Impacts that relate solely to the proposed regulations (as opposed to the pension reform legislation) are difficult to determine because CalPERS and CalPERS-covered employers have to comply with pension reform laws absent any proposed regulations, and in many cases both CalPERS and CalPERS-covered employers would have to take similar actions to comply with the pension reform legislation itself. For instance, absent a regulation defining the term "Active Member" as in proposed regulation section 579.2, both CalPERS and CalPERS-covered employers would still be required to determine if a member is "active" using their respective interpretations of "active member" to report and enroll the member in the appropriate CalPERS retirement plan. It is difficult to determine whether the analysis and determination using the definition under the proposed regulation would result in the personnel department spending slightly more or slightly less time making the determination. CalPERS is unable to determine at this point whether any such impacts might result in the creation of additional jobs or whether the agencies may be able to absorb these impacts.

Section C.

Answer to Question #1:

Benefits of Proposed Regulatory Action

The benefits that result from the proposed regulatory action are many. The proposed regulations are designed to implement and interpret the new pension reform provisions. By interpreting key phrases and outlining certain processes that CalPERS intends to use, the proposed regulations will provide clarity and uniformity for CalPERS, its members, and covered employers. The proposed regulations will also ensure that individuals are properly enrolled into CalPERS membership from the beginning of their employment so that the required contributions will be collected from the employees and their employers. These proposed regulations will also help provide the correct level of benefits at the time the members retire. Additionally, the proposed regulations make clear certain processes that CalPERS intends to use to implement the pension reform laws which should make administration of these new statutes more efficient.

Without the adoption of the proposed regulations, there are significant risks. It is possible that CalPERS-covered employers may interpret the new legislation differently than CalPERS which could lead to inconsistent application of these pension reform laws. Without the proposed regulations, CalPERS-covered employers might interpret key phrases in a manner that could potentially be detrimental to CalPERS

members. Further, should the proposed regulations not be promulgated, when members are enrolled into CalPERS, there could be confusion amongst CalPERS-covered employers which could lead to members being improperly enrolled as "new members" when they should have been enrolled as "classic members", or vice versa. Proper enrollment is critical to ensuring that members receive the correct benefit formula, final compensation period, and applicable cap on pensionable compensation, as well as ensuring that members pay the statutorily required amount of member contributions. Finally, without the proposed regulations, legal challenges may be undertaken to resolve disputes over the meaning of various key phrases used in the pension reform statutes.

Answer to Question #2:

The benefits of this proposed regulatory action are the result of specific statutory requirements. The specific statutes at issue are included in Assembly Bill (AB) 340 (Stats. 2012, Ch. 296) which included the California Public Employees' Pension Reform Act (PEPRA) and related pension reform changes to the Public Employees' Retirement Law and Legislators' Retirement Law. This bill was signed by Governor Brown into law on September 12, 2012 and became effective on January 1, 2013.

Section D.

Answer to Question #1: (Alternatives that were considered).

Alternatives Considered for Proposed Regulation Section 579 (Scope and Authority)

The alternative to this proposed section 579 was to not include it as an introductory section for the proposed regulations that pertain to pension reform. By not including this proposed regulation, it might not be clear that all the proposed regulations under Article 6 serve to implement the pension reform legislation recently enacted. Since the pension reform legislation includes the PEPRA (Government Code sections 7522-7522.74) and related changes to the Public Employees' Retirement Law (Government Code sections 20281.5, 20516, 20516.5, 20677.96, 20683.2, 20791, 21076, 21076.5, and 21400), and changes to the Legislators' Retirement Law (Government Code sections 9350 et. seq.), it was necessary to make clear the scope and authority for the proposed regulatory action. If the proposed pension reform regulations were interspersed with CalPERS' existing regulations, it would have been confusing and unclear as to what regulations applied in any specific situation. As a result, CalPERS determined that there exists no reasonable alternative to this proposed regulation.

Alternatives Considered for Proposed Regulation Section 579.1 (New Member and Classic Member Defined)

No alternatives were considered to the proposed regulation. The "new member" definition as stated in this proposed regulation is the definition as provided by Government Code section 7522.04(f). It is necessary for CalPERS to define the term

"classic member" as that term will be frequently used by CalPERS to distinguish "new members" from other members who are not "new." The difference between the two types of members is critical in administering the System.

Alternatives Considered for Proposed Regulation Section 579.2 (Additional Definitions)

CalPERS considered not defining "active member" in a regulation. However, this could leave the term subject to various interpretations and may lead to inconsistent application of the phrase by CalPERS-covered employers which could result in members being classified incorrectly as "new members" or "classic members." An incorrect classification of "new member" or "classic member" could cause a CalPERS member to be subject to the wrong member contribution rate, compensation limit, or an inaccurate benefit. CalPERS is unable to quantify the potential cost of this alternative because CalPERS lacks the data that could demonstrate the number of times members might be misclassified.

CalPERS also considered defining "active member" as any member who has contributions on deposit. Expanding the definition of "active member" to include members who have contributions on deposit, even when not currently employed, would result in an increased number of members being classified as "active members" which then might result in more members who fall under the "classic member" definition if those members did not have a break in service of greater than six months (pursuant to Government Code section 7522.04(f)). This alternative definition was rejected because it is inconsistent with the use of the term "active member" in other sections of the Public Employees' Retirement Law (PERL) including Government Code sections 20840 and 21541, and existing regulation section 554.5 which all require that a member must be employed to be "active". Considering members who are not actively employed as "active members" is also inconsistent with Government Code section 7522.04 (f) (3) where it states a member can return to active membership after a break in service of more than six months which implies that a member is not "active" unless he or she is employed. This alternative definition would expand the definition of "active member" and could result in increased costs to CalPERS-covered employers because more CalPERS members might be considered "classic members" and the CalPERS-covered employer's share of the cost of benefits for a "classic member" would likely be higher than the CalPERS-covered employer's share of the cost of benefits for a "new member". CalPERS is unable to quantify the potential increased cost to employers because no data exists today that provides the number of members with contributions on deposit who return to CalPERS-covered employment after a break in service of greater than six months, nor does CalPERS have data on those members who do not have contributions on deposit who return to CalPERS-covered employment after a break in service of greater than six months. Without this type of information, CalPERS is unable to estimate the number of times that members might be misclassified as "new members" or "classic members."

The interpretation included in this proposed regulation was selected because it is consistent with other provisions in the PERL including Government Code sections

20840 and 21541, and existing regulation section 554.5 since the term "Active Member" is used in the same manner as the proposed regulation where the member is required to be employed by a CalPERS-covered employer.

Alternatives Considered for Proposed Regulation Section 579.4 (Break in Service Defined)

CalPERS considered not defining "break in service" in a regulation. However, this could leave the term subject to various interpretations and may lead to inconsistent applications of the phrase by CalPERS-covered employers which could result in confusion over whether a member has had a break in service and therefore should be classified as a "Classic Member" or a "New Member". An incorrect classification of "new member" or "classic member" could cause a CalPERS member to be subject to the wrong member contribution rate, compensation limit, or an inaccurate benefit. CalPERS is unable to quantify the potential cost of this alternative because CalPERS lacks the data that could demonstrate the number of times members might be misclassified due to the inconsistent interpretation of the term "break in service."

CalPERS considered defining "break in service" as any type of leave, including temporary leave. This definition was rejected because it would conflict with the proposed definition of "Active Member" in section 579.2 because a member who takes a temporary leave of absence (as defined in Government Code sections 20990 through 21013) is still considered to be under CalPERS-covered employment. An "active member" cannot have a "break in service" while under CalPERS-covered employment. This alternative definition would expand the number and type of events that could result in a "break in service" from only permanent separations to permanent separations and temporary leaves of absence. This could result in an increased number of members being classified as a "New Member" under PEPRA because a temporary leave of absence greater than six months would be considered a "break in service". An increased number of members classified as "New Members" could result in decreased costs to CalPERS-covered employers because the CalPERS-covered employer share of the cost of benefits for a "new member" could be lower than the CalPERS-covered employer share of the cost of benefits for a "classic member". CalPERS is unable to quantify this potential decreased cost to employers as current data does not exist that would enable CalPERS to estimate the number of members who may take a temporary leave of absence greater than six months so that how many members might be classified as "new members" rather than "classic members" could be estimated.

The interpretation included in this proposed regulation was selected because members on a temporary leave of absence should still be classified as "active members" and should not be considered to have experienced a "break in service" if they have not permanently separated from CalPERS-covered employment.

Alternatives Considered for Proposed Regulation Section 579.5 (Similarly Situated Defined)

CalPERS considered not defining "similarly situated" in a regulation. However, this could leave the term subject to various interpretations by CalPERS and CalPERS-covered employers. Since the definition of "similarly situated" is dependent on the Government Code section where the term is used, the alternative to not define "similarly situated" in a regulation in the context of the pension reform laws was rejected. The potential cost of not defining similarly situated is undetermined because CalPERS is unable to quantify the number of different interpretations that might be applied by CalPERS-covered employers in determining the contribution rates of "similarly situated employees" (as provided in Government Code Section 7522.30(c)).

In the context of Section 7522.30 (c), the proposed regulation interprets "similarly situated" to include members with the same retirement benefit formula and who share similarities in job duties, work location, collective bargaining unit, or other logical work-related characteristics. This interpretation and application expands on the previous interpretation of the phrase "similarly situated," as the phrase is used within the PERL, to include retirement formula in addition to similarities in job duties, work location, collective bargaining unit, or other logical work-related characteristics. The definition that was consistent with the PERL interpretation of "similarly situated" was ultimately rejected because not all members in the same membership group (e.g., miscellaneous members or safety members) or employer type (e.g., School member or Public Agency member) are eligible to receive the same benefit formula. CalPERS is unable to quantify the costs associated with this alternative because CalPERS is unable to forecast the projected hiring of new employees by CalPERS-covered employers that would come into CalPERS membership, whether those members would be classified as "new members" or "classic members" and the members' corresponding salaries.

CalPERS considered defining "similarly situated" broadly to include all members in the same membership group (e.g., miscellaneous members or safety members) or employer type (e.g., School member or Public Agency member) regardless of their classification as a "new member" or "classic member." This alternative definition was ultimately rejected because not all members in the same membership group or employer type are eligible to receive the same benefit formula which impacts the contribution rates. The context in which the term "similarly situated" is used in Government Code section 7522.30(c) is closely tied to contribution rates, so to not use the benefit formula as a criterion in identifying "similarly situated" members would be inconsistent with the statute. Further, not including the benefit formula as a criterion in identifying "similarly situated" members may result in the same contribution rate applying to both "classic members" and "new members" solely based on similar membership group or employer type which ignores the other factors that should be considered in determining contribution rates. The contribution rate for a "classic member" that could be applied to a "new member" under this definition could result in a "new member" paying more than fifty (50) percent of the normal cost of the benefit formula as provided by PEPRA, even though the "new member" is restricted to a

lower benefit. This could result in an unbalanced sharing of costs between the CalPERS-covered employer and the member. CalPERS is unable to quantify the potential savings to CalPERS-covered employers because CalPERS is unable to forecast the projected hiring of new employees by CalPERS-covered employers that would come into CalPERS membership, whether those members would be classified as "new members" or "classic members" and the members' corresponding salaries. However, using this definition could result in a CalPERS-covered employer paying a lower rate and the CalPERS member paying a correspondingly higher rate.

CalPERS determined the phrase "similarly situated" should be interpreted to mean members with the same retirement benefit formula and who share similarities in job duties, work location, collective bargaining unit, or other logical work-related characteristics because benefit formulas are generally tied to these factors which in turn impact member contribution rates.

Alternatives Considered for Proposed Regulation Section 579.24 (Final Compensation Calculations for Service Accrued Under PEPRA and the PERL)

CalPERS considered not defining the process for calculating final compensation for service accrued under PEPRA and the PERL in a regulation. However, this could leave the process subject to various interpretations by CalPERS staff. The pension reform laws state that final compensation calculations shall be based on pensionable compensation for "new members." Pensionable compensation only exists for "new members" under PEPRA. "Classic members" have "compensation earnable" as provided by the PERL. Because PEPRA and the PERL differentiate between compensation earnable and pensionable compensation and call out the type of compensation that can be used in the calculation of final compensation for "new members" or "classic members", CalPERS is required to apply different statutes to "new member" service than the statutes that apply to service earned as a "classic member." The calculations for "classic members" are based on the PERL provisions regarding compensation earnable and the associated service earned. Without a regulation that clarifies the process to be used, the varying interpretations and applications of the statutes could result in inconsistent final compensation calculations. The potential cost of not defining the process to determine these final compensation calculations for members with service under PEPRA and the PERL is undetermined because CalPERS is unable to quantify the variations of calculations that might be performed and the differences in the final compensation calculations that might result.

CalPERS considered the alternative of allowing the use of "classic member" "compensation earnable" as provided by Government Code section 20636 for purposes of determining final compensation for service as a "new member." CalPERS rejected this alternative because the statutory requirements for the calculation of "classic member" final compensation cannot be reconciled with the calculation of "new member" final compensation as defined by PEPRA. This is due to differing final compensation periods (e.g., one versus three years), the pensionable compensation caps under PEPRA, and differences in special compensation allowed

under the PERL compared to what PEPRA allows as pensionable compensation. This alternative does not result in costs or savings to CalPERS because the same work effort would have been required to perform the final compensation calculations under this alternative compared with what is required by the proposed regulation.

The interpretation included in this proposed regulation was selected because the pension reform legislation requires CalPERS to calculate "new member" final compensation using rules which are different and incompatible with those that are used in the calculation of "classic member" final compensation.

Answer to Question #2: Summary of Total Statewide Costs and Benefits

CalPERS expects to incur one-time costs to update the my|CalPERS computer system to differentiate between "new members" and "classic members" and to perform the required final compensation calculations. In addition, CalPERS may incur costs to update informational publications distributed by CalPERS in print form and electronically, and to perform employer outreach and training at various already-scheduled events. However, these costs result from the underlying pension reform legislation and will not be incurred by CalPERS as a result of this proposed regulatory action.

CalPERS expect that costs incurred, if any, by any other state agencies will be attributable to the pension reform legislation, and not to this proposed regulatory action. The benefits to CalPERS and other state agencies are discussed in the answer to question C(1) above.

Answer to Questions #2 & #3: Explanation of Estimated Costs and Benefits and Alternatives Considered; and Any Quantification Issues that are Relevant.

Proposed Section 579. Scope and Authority

Background

The proposed addition of Section 579 to the California Code of Regulations (CCR) provides the scope and authority for the proposed regulations added to Article 6 of Chapter 2 of Division 1 of Title 2 of the CCR. This proposed regulation establishes that these regulations interpret and implement the PEPRA and related pension reform statutes. This proposed regulation is necessary to provide clarity and to define the scope of the proposed regulations to be housed in Article 6.

CalPERS Costs / Savings

No costs or savings will be incurred by CalPERS because this proposed regulation serves only to define the scope of the authority for the proposed pension reform regulations to be housed within this Article.

Other State Agency Costs / Savings

No costs or savings will be incurred by other state agencies because this proposed regulation serves only to define the scope of the authority for CalPERS' proposed pension reform regulations that will be housed within this Article.

Proposed Section 579.1 New Members and Classic Members Defined

Background

The proposed addition of section 579.1 to the CCR intends to interpret the terms "new member" and "classic member" as those terms will be used by CalPERS to implement pension reform and to administer the System. The term "new member" is defined in Government Code section 7522.04(f), and CalPERS intends the term "classic member" to be, therefore, all members who do not meet the "new member" statutory definition. It is important that CalPERS be able to easily classify members as "new members" (who are therefore subject to PEPRA and related pension reform statutes), from those "classic members" who are eligible for certain benefits (including but not limited to, benefit formulas and special compensation) as provided for in the existing Public Employees' Retirement Law provisions.

CalPERS Costs / Savings

CalPERS expects to incur one-time costs to update the my|CalPERS computer system to differentiate between "new members" and "classic members", to update informational publications distributed by CalPERS in print form and electronically, and to perform employer outreach and training at various already-scheduled events. However, these costs result from the underlying pension reform legislation and will not be incurred by CalPERS as a result of this proposed regulation.

Other State Agency Costs / Savings

Due to the pension reform legislation, there may be costs incurred by state agencies related to the internal systems they use to input and track data for CalPERS membership purposes, including but not limited to, the changes that may be necessary so that the state agencies can appropriately determine and track whether their employees are "new members" or "classic members" in order to enroll an employee into CalPERS system. However, these costs result from the underlying pension reform legislation and will not be incurred by the state agencies as a result of this proposed regulation.

State agencies may also incur costs associated with communicating to existing and new employees about their classification as either a "classic member" or "new member" and the effects on their contribution rates and retirement benefits. However, again, any costs associated with these types of communications are not required by

this proposed regulation and are instead related to the underlying pension reform statutes.

Proposed Section 579.2 Additional PEPRA Terms Defined

Background

The proposed addition of section 579.2 to the CCR intends to clarify the definition of the phrase "active member" to enable state agencies and other CalPERS-covered employers to properly classify an employee as a "new member" or a "classic member."

CalPERS Costs / Savings

CalPERS may incur minimal one-time costs associated with updating publications and training materials to reflect this proposed regulation's definition of "active member." However, these costs are expected to be absorbed into CalPERS' existing workload and budget. CalPERS does not expect to incur any on-going costs or savings because this proposed regulation serves only to define this phase in order for CalPERS-covered employers to properly enroll their employees as "new members" or "classic members" as required by the pension reform statutes.

Other State Agency Costs / Savings

State agencies may incur minimal costs associated with determining whether employees are "active members" and with communicating this proposed regulation's definition of "active member" to existing and new employees because it may impact whether the employee is classified as a "new member" or a "classic member." However, any costs associated with this determination would have been incurred despite the proposed regulation because of the underlying pension reform statutes and the types of communications contemplated above are not required by this proposed regulation.

Proposed Section 579.4 Break in Service

Background

The proposed addition of section 579.4 to the CCR intends to implement CalPERS' definition of the phrase "break in service" as that phrase is used in Government Code section 7522.04(f)(3). Clearly defining "break in service" is essential to correctly identifying those individuals who will be "new members" since the PEPRA definition of a "new member" includes reference to the phrase "break in service" without defining it. A member, who after a break in service that is greater than six (6) months, who returns to active membership in the same retirement system with a new employer will be considered a "new member" under the proposed regulation. The classification of "new member" or "classic member" is important because it will ultimately impact the amount of retirement benefits received and the amount of required member retirement contributions that must be paid. This proposed regulation is necessary to ensure that

members are correctly enrolled, receive the correct benefit formula, and contribute the correct required member contributions from the start of their service.

CalPERS Costs / Savings

CalPERS may incur minimal one-time costs associated with updating publications and training materials to reflect this proposed regulation's definition of "break in service." However, these costs are expected to be absorbed into CalPERS' existing workload and budget. CalPERS does not expect to incur any on-going costs or savings because this proposed regulation serves only to define this phase in order for CalPERS-covered employers to properly enroll their employees as "new members" or "classic members" as required by the pension reform statutes.

Other State Agency Costs / Savings

State agencies may incur minimal costs in order to determine whether an employee has a "break in service," and then communicate the impact of the "break in service" on the employee's membership status, contribution rates, and retirement benefits, to the employee. However, any costs associated with this determination result from compliance with the pension reform statutes and not the proposed regulation, as this proposed regulation serves only to clarify the "break in service" term to enable consistent determinations by local entities and state employers. Additionally, these types of employer-employee communications are not required by this proposed regulation.

Proposed Section 579.5 Similarly Situated

Background

The proposed addition of section 579.5 to the CCR intends to implement CalPERS' interpretation of the meaning of the phrase "similarly situated," as the phrase is used in Government Code section 7522.30(c), for the purpose of determining the appropriate member contribution rate for certain "new members." Section 7522.30 sets the contribution rates for certain "new members" (those employed by public agencies, school employers, California State University and the judicial branch) as the greater of either fifty percent (50%) of the normal cost rate or the contribution rate established for "similarly situated" employees. Since the phrase "similarly situated" could be interpreted in more than one way, it is necessary to promulgate the proposed regulation to make clear the interpretation CalPERS will utilize. The proposed regulation defines the phrase "similarly situated" to mean members with the same retirement benefit formula and who share similarities in job duties, work location, collective bargaining unit, or other logical work-related characteristics. Clarifying the meaning of this phrase will help ensure member contribution rates are correctly established for "new members" from the start of their service and the clarification is necessary for the efficient administration of the System.

CalPERS Costs / Savings

CalPERS may incur minimal one-time costs associated with updating publications and training materials to reflect this proposed regulation's definition of "similarly situated." However, these costs are expected to be absorbed into CalPERS' existing workload and budget. CalPERS does not expect to incur any on-going costs or savings because this proposed regulation serves only to define this phase for the purpose of determining the appropriate member contribution rates for "new members" as required by the pension reform statutes.

Other State Agency Costs / Savings

State agencies may incur costs related to communicating with existing and new employees concerning the definition of "similarly situated" and the effects on their status, contribution rates, and retirement benefits. However, any costs associated with these types of employer-employee communications are not required by this proposed regulation and are a result of the pension reform statute that utilizes this phrase.

Proposed Section 579.24 Final Compensation Calculations

Background

The proposed addition of section 579.24 to the CCR intends to clarify the process that will be used by CalPERS when a member has accrued service credit both as a "new member" and as a "classic member." In such a situation, the calculated final compensation amount for each period of service may differ because pensionable compensation for a "new member" may be limited and may not include all of the compensation amounts allowed for a "classic member" for various reasons. These reasons may include but are not limited to the following: 1) special compensation items earned during service as a "classic member" may not constitute pensionable compensation for a "new member"; 2) payrates established during service as a "classic member" may exceed the pensionable compensation limits for new members; and 3) final compensation periods of less than thirty-six (36) months may be used to calculate final compensation for service accrued as a "classic member" that would not apply to service earned as a "new member".

In those instances where members have earned service as both a "classic member" and a "new member," CalPERS will determine two final compensation amounts. The first final compensation amount will be determined for the service earned as a "classic member", using the rules applicable to classic members, and the second final compensation amount will be determined for the service earned as a "new member' using the PEPRA rules. Those two final compensation amounts will then be used to calculate the member's retirement benefit allowance. This proposed regulation should assist members, employers, and CalPERS staff by clearly articulating the process that will be followed under these circumstances.

CalPERS Costs / Savings

CalPERS expects to incur one-time costs to update the my|CalPERS computer system to be able to calculate final compensation amounts according to the process identified in this proposed regulation. While this proposed regulation describes the process for calculating final compensation for a "new member", the underlying pension reform legislation requires the different calculation. Therefore, these costs to update the my|CalPERS computer system are a result of the pension reform legislation and will not be incurred by CalPERS as a result of this proposed regulation.

Other State Agency Costs / Savings

No costs will be incurred by state agencies because the final compensation calculations will be performed by CalPERS when a member requests a retirement estimate or elects to retire.

Savings to state agencies could be significant because the lower final compensation rates provided by the pension reform legislation will likely result in lower actuarial valuations and lower employer contribution rates. These savings, however, will result from compliance with the pension reform statutes and will not be due to this proposed regulation.

Fiscal Impact Statement.

Section A. Explanation of Selection of Box 6. Local Mandate Determination & Costs/Savings Estimates for Local Entities:

There may be a minimal fiscal impact to local entities, but any costs or related savings realized by local entities will not result in a new local program or increased services for an existing program, and it is possible that the costs might be absorbed by the local entities within their existing budgets. As detailed above, the pension reform legislation which serves as the basis for this regulatory action is AB 340 (Stats. 2012, Ch. 296). Below, CalPERS has attempted to quantify the costs and savings that local entities may incur in complying with these proposed regulations.

Proposed Regulation Section 579 (Scope and Authority)

No costs or savings will be incurred by local entities because this proposed regulation serves only to define the scope of the authority for CalPERS' proposed pension reform regulations that will be housed within this Article.

Proposed Regulation Section 579.1 (New Member and Classic Member Defined)

Due to the pension reform legislation itself, there may be costs incurred by local entities related to the internal systems they use to input and track data for CalPERS membership purposes, including but not limited to, the changes that may be necessary so that the local entities can appropriately determine and track whether their employees are "new members" or "classic members" in order to enroll an

employee into CalPERS' membership, including but not limited to retirement benefit formula and member contribution rate However, these costs result from the pension reform statutes and will not be incurred by the local entities due to this proposed regulation. Therefore, CalPERS is not able to provide estimates of these types of costs.

Local entities may also incur costs associated with communicating to existing and new employees about their classification as either a "new member" or a "classic member" and the effects on their contribution rates and retirement benefits. However, any costs associated with these types of communications are not required by this proposed regulation and are a result of the statute. Therefore, CalPERS is not able to provide estimates of these types of costs.

Proposed Regulation Section 579.2 (Additional Definitions)

Local entities may incur minimal costs associated with determining whether employees are "active members." However, any costs associated with this determination would have been incurred due to the pension reform statutes and not because of the proposed regulation. Since the determination contemplated above is not required by this proposed regulation, CalPERS is not able to provide estimates of these types of costs.

Proposed Regulation Section 579.4 (Break in Service Defined)

Local entities may incur costs in order to determine whether an employee has a "break in service," and then communicate the impact of the "break in service" on the employee's membership status, contribution rates, and retirement benefits, to the employee. However, any costs associated with this determination result from compliance with the pension reform legislation and not the proposed regulation, as this proposed regulation serves only to clarify the "break in service" term to enable consistent determinations by local entities and state employers. Additionally, these types of employer-employee communications are not required by this proposed regulation.

Proposed Regulation Section 579.5 (Similarly Situated Defined)

Local entities may incur costs related to communicating with existing and new employees concerning the definition of "similarly situated" and the effects on their employees' status, contribution rates, and retirement benefits. However, any costs associated with these types of employer-employee communications are not required by this proposed regulation and are the result of the pension reform statute; therefore, CalPERS is not able to provide estimates of these types of costs.

Proposed Regulation Section 579.24 (Final Compensation Calculations for Service Accrued Under PEPRA and the PERL)

No costs will be incurred by local entities because the final compensation calculations will be performed by CalPERS when a member requests a retirement estimate or elects to retire.

Savings to local entities could be significant because the lower final compensation rates provided by the pension reform legislation will likely result in lower actuarial valuations and lower employer contribution rates. These savings, however, will result from compliance with the pension reform legislation and will not be due to this proposed regulation.

Section B. Explanation of Selection of Box (1)(a):

Costs estimated to be incurred by CalPERS, a state agency, will be absorbed into its existing budget and resources. CalPERS is unable, as explained above in the discussion on total statewide costs, to quantify the potential costs that other state agencies might incur. However, the costs incurred by any other state agencies due to this regulatory action will be minimal, if any, and the benefits from the cost savings provided by the pension reform legislation will likely outweigh the minimal costs, if any, incurred by complying with these proposed regulations.