

NOTICE OF PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the Board of Administration (board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below in the Informative Digest after considering public comments, objections, or recommendations regarding the proposed regulatory action.

I. PROPOSED REGULATORY ACTION

In this filing, the board proposes to amend sections 588, 588.1, 588.2, 588.3, 588.4, 588.6, 588.7, and 588.8 and repeal sections 588.5, 588.9, and 588.10 of Article 7.6 of Subchapter 1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). By proposing this regulatory action, CalPERS seeks to clarify operational procedures for maintaining risk pools and to refine the criteria for rate plans to enter and cease participation in a risk pool in accordance with Government Code (Gov. Code) section 20840.

II. WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period has been established commencing on November 17, 2025 and closing at 11:59 p.m. on January 2, 2026. The Regulation Coordinator must receive all written comments by the close of the comment period. Comments may be submitted by e-mail to Regulation_Coordinator@calpers.ca.gov or mailed to the following address:

Andrea Peters, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942720
Sacramento, CA 94229-2720
Telephone: (916) 795-3038

III. PUBLIC HEARING

A public hearing will not be scheduled unless an interested person, or their duly authorized representative, submits a written request for a public hearing to CalPERS no later than 15 days before the close of the written comment period. Notice of the time, date, and place of the hearing will be provided to every person who has filed a request for notice with CalPERS.

IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and the room can be made accessible to persons with hearing or visual impairments upon advance request to the CalPERS Regulation Coordinator.

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V. AUTHORITY AND REFERENCE

Under Gov. Code section 20121, the board has authority to make rules as it deems proper.

Gov. Code section 20840 requires the board to establish, by regulation, the criteria for contracting agency participation in a risk pool and circumstances under which a contracting agency may cease participation in a risk pool. The purpose of risk pools is to mitigate demographic risks for smaller contracting agencies and reduce the likelihood of large changes in required contributions for smaller contracting agencies.

VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Assembly Bill 1974 (Chapter 1133, Statutes of 2002) added Gov. Code section 20840, which established the board's authority to create, combine, or eliminate risk pools for contracting agencies participating in the retirement system. The purpose of the risk pools is to stabilize contributions and spread risk among multiple agencies. Risk pooling allows CalPERS actuaries to first calculate the total actuarial results for the entire risk pool and then allocate unexpected experience evenly across the contracting agencies participating in the risk pool.

In 2004, CalPERS promulgated regulations to establish the details of the administration of contracting agency risk pools. Rate plans that shared the same benefit formula for active members would be grouped together in a risk pool. Inactive benefit plans (those with no active members) would be combined in an inactive pool. In 2009, the original risk pool regulations were updated. No further amendments have been made to the regulations.

PEPRA Legislative Changes

The California Public Employees' Pension Reform Act of 2013 (PEPRA) introduced one new service retirement formula for miscellaneous members and three for safety members. In 2014, CalPERS combined separate risk pools into two consolidated pools: the Miscellaneous Risk Pool and the Safety Risk Pool. This change aggregated classic benefit pools that were projected to shrink with their associated PEPRA benefit pools preserving the ability to adequately distribute demographic risk. These combinations were formalized by the board through resolution number 03-03-AESD. This legislative change and subsequent process change have made some of the language and terms in the current regulations outdated, such as reference to a plan's superfunded status.

Superfunded is a term to describe when a plan's assets exceed the present value of benefits. Current regulations require the actuary to annually determine whether a pooled plan is superfunded. However, this practice is now outdated due to PEPRA.

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Changes in Rate Plan Size

Under current regulations, a non-pooled plan is required to enter a risk pool if its active member count is less than 100 on any valuation date. Once a plan enters a risk pool, there is no provision for CalPERS to cease its participation in the risk pool and reinstate it as a non-pooled plan, even if its active member count later far exceeds 100. Some plans within risk pools have active member counts that have grown to several hundred. This is problematic because risk pools were not originally designed to accommodate plans of this size, which can affect overall performance and outcomes of the risk pool.

This proposed regulatory action explicitly defines new thresholds and criteria for determining risk pool participation that provides flexibility. These thresholds were carefully structured to avoid overlap, ensuring that two plans of identical size would not simultaneously be entering and ceasing participation in the pool, or that one plan could be entering when a slightly smaller plan was ceasing participation. Under the proposed framework, only smaller plans can enter the pool, while only larger plans can leave. This design prevents conflicting movements and maintains consistency in the administration of risk pools. The new criteria for exiting a risk pool are expected to better support the goals of risk pooling while offering agencies some flexibility.

Procedural Changes

Procedural changes have occurred, necessitating conforming amendments to the current regulations. For example, procedural changes have occurred with respect to side funds. Side funds were originally created to account for differences in the funded status between individual plans and the risk pool they joined. They were particularly useful when all contracting agencies contributed to the pool's Unfunded Accrued Liability as a percentage of payroll. However, since the consolidation of risk pools, no new side funds have been established.

Consistency Evaluation

CalPERS has determined that the proposed regulatory action is not inconsistent or incompatible with existing state regulations. After reviewing all relevant regulations that may impact this area, CalPERS concluded that the only applicable regulations pertain to the subject of Participation in Risk Pools.

Anticipated Benefit

Adoption of the proposed regulatory action will clarify CalPERS operational procedures for maintaining risk pools and refine criteria for rate plans to enter or cease participation in a risk pool. The proposed regulatory action ensures the fairness, stability, and sustainability of risk pools, allows CalPERS to effectively manage the program in alignment with its intended goals, and provides clarity and uniformity for contracting agencies, CalPERS team members, and stakeholders.

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VII. PRENOTICE CONSULTATION WITH THE PUBLIC

No pre-notice consultation was done with the public, as all public comments and hearing requests can be submitted during the written comment period.

VIII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to CalPERS and its contracting agencies.

IX. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The board has made the following initial determinations:

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose any mandates on local agencies and school districts.
- B. **COSTS OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action will not result in any additional costs or savings to any state agency.
- C. **COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action will not result in any additional overall costs to any local agency or school district. CalPERS contracting agencies may experience shifts in future employer contribution requirements, depending on changes in experience between contracting agencies that cease participation in a risk pool and contracting agencies that remain in that risk pool. Future contribution requirements for contracting agencies that cease participation in a risk pool will be based on the actuarial experience of members within that plan. The change in employer contribution rates after ceasing participation are similar to the fluctuations employers are already subject to in a risk pool.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose any nondiscretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action will not result in costs or savings in federal funding to the State.
- F. **ADVERSE ECONOMIC IMPACT:** The proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability for California businesses to compete with businesses in other states. The proposed regulatory action serves only to clarify CalPERS operational procedures for maintaining risk pools and refine the criteria for rate plans to enter and cease participation in a risk pool.

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- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.
- H. **RESULTS OF THE ECONOMIC IMPACT ANALYSIS:** The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; (3) affect the expansion of businesses currently doing business within California; or (4) affect the health and welfare of California residents, worker safety, or the State's environment because the proposed regulatory action serves only to clarify CalPERS operational procedures for maintaining risk pools and refine the criteria for rate plans to enter and cease participation in a risk pool.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action will have no effect on housing costs.
- J. **COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 17500 THROUGH 17630:** There are no costs to any local agency or school district which must be reimbursed in accordance with Gov. Code sections 17500 through 17630.

X. CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5(a)(13), the board must determine that no reasonable alternative considered by the board, or that has otherwise been identified and brought to the attention of the board, would be:

- more effective in carrying out the purpose of the proposed action,
- as effective as, and less burdensome to affected private persons than the proposed action, or
- more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action at a hearing or during the written comment period.

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XI. CONTACT PERSON

Please direct inquiries concerning the proposed action to:
Andrea Peters, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942720
Sacramento, CA 94229-2720
Telephone: (916) 795-3038
Regulation_Coordinator@calpers.ca.gov

The backup contact person for the proposed action is:
Joshua Robinson
California Public Employees' Retirement System
P.O. Box 942720
Sacramento, CA 94229-2720
Telephone: (916) 795-3038
Regulation_Coordinator@calpers.ca.gov

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to the Regulation Coordinator at the contact information listed above.

XII. AVAILABILITY OF THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATORY ACTION, AND RULEMAKING FILE

The board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at 400 Q Street, Sacramento, CA 95811. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed amended text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting the CalPERS Regulation Coordinator at the contact information listed in Section XI.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' website at: <https://www.calpers.ca.gov/page/about/laws-legislation-regulations/regulatory-actions>.

XIII. AVAILABILITY OF CHANGED OR MODIFIED TEXT

After receiving comments from the public and considering all timely and relevant comments received, the board may adopt the proposed regulatory action substantially as described in this notice. If the board makes modifications which are sufficiently related to the originally proposed amended text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the board adopts the amended regulations as revised. Please send requests for copies of any modified regulation to the attention of the CalPERS

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Regulation Coordinator at the mailing address listed in Section XI. The board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

XIV. AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the CalPERS Regulation Coordinator at the contact information listed in Section XI.