

Article 7.6 Participation In Risk Pools

Proposed Amendment of Sections 588, 588.1, 588.2, 588.3, 588.4, 588.6, 588.7 and 588.8 and Repeal of 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

§ 588. Risk Pools--Definitions

For purposes of this article:

- (a) A "rate plan" consists of all of a contracting agency's members with the same benefit level, enrollment level (Classic or PEPR) and member category, as determined by the CalPERS Board;
- (a)(b) For purposes of this Article, a "non-pooled rate plan" consists of all of a contracting agency's rate plans that are not in a risk pool and CalPERS members for which a single employer normal cost contribution rate is produced annually; and
- (b)(c) A "pooled plan" consists of all of a contracting agency's rate plans that are in a risk pool and are combined for the purpose of amortizing the unfunded accrued liability of those rate plans. For purposes of this Article, a "Side Fund" shall be the difference between the actuarial value of assets and the actuarial liabilities of the rate plan at the time of joining a risk pool.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

§ 588.1. Risk Pools--Required Participation for Existing Contracting Agencies; Effective Date for Mandated Benefits for New and Existing Contracting Agencies

Following the creation of risk pools pursuant to Section 20840 of the Government Code, any existing contracting agency with a non-pooled rate plan of less than 100 active members on any annual actuarial valuation date shall be required to participate in a risk pool provided that the actuary determines such participation will not be unfavorable to other agencies in the pool. In the event that such participation would be unfavorable, the matter may be referred to the CalPERS Board for a hearing. Participation shall be effective as of that valuation date for all members of that non-pooled rate plan, but no earlier than the June 30, 2003, actuarial valuation which will be used to set employer contribution rates for fiscal year 2005-2006. The effective date of a pool's mandated benefits pursuant to §Section 20840 of the Government Code for a rate plan contracting agencies who participate in a risk pool is the first day that the contracting agency is required to pay the employer normal cost for that rate plan based on an actuarial valuation for the pool mandated benefits.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

§ 588.2. Risk Pools--Required Participation for New Contracting Agencies

A new contracting agency with CalPERS following the creation of risk pools shall be required to participate in a risk pool if the number of active members in the new rate plan or combined rate plans that would constitute the pooled or non-pooled plan is less than 100 at the time of the initial actuarial valuation provided that the actuary determines such participation will not be

unfavorable to other agencies in the pool. In the event that such participation would be unfavorable, the matter may be referred to the CalPERS Board for a hearing.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

§ 588.3. Risk Pools--Optional Participation

A contracting agency with a non-pooled plan of less than 150 active members on any annual actuarial valuation date beginning on June 30, 2026, ~~400 or more active members on each annual valuation date after June 30, 2003~~ may, by amendment to its contract prior to the next annual actuarial valuation date, participate in a risk pool, effective on the June 30th following the amendment, provided that the actuary determines such participation will not be unfavorable to other agencies in the pool. In the event that such participation would be unfavorable, the matter may be referred to the CalPERS Board for a hearing. Notwithstanding the criteria for optional removal from a risk pool in Section 588.7, following optional participation in a risk pool by contract amendment, the affected pooled plan may not be removed from the pool unless removal is mandatory under the criteria in Section 588.7.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

§ 588.4. Risk Pools--County Offices of Education, School Districts and Community College Districts

~~Notwithstanding Section 588.1, c~~County offices of education, school districts and community college districts shall not be required to participate in a risk pool. County offices of education, school districts and community college districts shall only be allowed to establish a contract with CalPERS to participate in a risk pool if the service retirement formula of the risk pool provides higher factors at all ages than the service retirement formula applicable to school members.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

§ 588.5. Repealed Risk Pools--Amortization of Side Funds

~~The side fund shall be amortized at the actuarially assumed investment return. All investment gains and losses on the side fund that exceed or fall below the actuarially assumed investment return shall be attributed to the risk pool.~~

~~NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.~~

§ 588.6. Risk Pools--Assignment to Risk Pools

A pooled rate plan participating in a risk pool shall be assigned to one of the risk pools based on whether the service retirement formula or formulas applicable to its active members are for the Miscellaneous or Safety member classification.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

§ 588.7. Risk Pools--Leaving and Transferring WithinBetween Risk Pools

(a) Any contracting agency participating in a risk pool ~~may shall be allowed elect~~ to transfer all the assets and actuarial liabilities of its ~~a pooled rate plan~~ comprised of safety members, effective on the June 30th following the election:

- (1) ~~e~~Either (A) into another of its pooled plans comprised of safety members, or (B) into one of its non-pooled plans comprised of safety members, upon which time the affected pooled plan shall be removed from the risk pool and affected members shall become part of that non-pooled plan.

- (2) Upon transfer of the pooled plan's assets and actuarial liabilities pursuant to paragraph (1), the contracting agency may not transfer the affected assets and actuarial liabilities out of the pooled plan or non-pooled plan, as applicable, to which they were transferred.

(b) ~~risk pool by contracting for a service retirement formula offered by the other risk pool. For this purpose, the assets to be transferred shall be the pro-rata share of the current pool's net assets (net of all side funds) plus the rate plan's remaining side fund, as determined by the actuary. Following the transfer to the new pool, a new side fund shall be established equal to the difference between the assets brought into the new pool and the product of the actuarial liabilities of the rate plan under the new service retirement formula and the net funded ratio of the new pool as determined by the actuary. A pooled plan shall also be removed from a risk pool as follows.~~

- (1) A pooled plan of at least 150 but less than 200 active members on any annual actuarial valuation date beginning on June 30, 2026, may, by amendment to the agency's contract prior to the next annual actuarial valuation date, be removed from the risk pool, effective on the June 30th following the amendment, subject to the approval of the actuary. Upon removal from the risk pool, the affected members shall become part of a non-pooled plan. Notwithstanding the criteria for optional participation in a risk pool in Section 588.3, following optional removal from a pool by contract amendment, that non-pooled plan may not return to a pool unless participation is mandatory under the criteria in Section 588.1.

- (2) A pooled plan of 200 or more active members on any annual actuarial valuation date beginning on June 30, 2026, shall be removed from the risk pool, effective on that valuation date. Upon removal from the risk pool, the affected members shall become part of a non-pooled plan.

- (3) A contracting agency shall ~~not be allowed to~~ terminate its participation in a risk pool, ~~unless if~~ the agency's contract, or applicable portion of it, is terminated pursuant to Sections 20570, 20571, 20571.5, or 20572 of the Government Code. Upon termination of the contract, or applicable portion of it, the affected members shall become part of the terminated agency pool pursuant to Section 205768 of the Government Code.

(a)(c) All mandated benefits under Section 20840 of the Government Code shall continue to apply to rate plans after they are removed from a risk pool. Upon their removal from a risk pool, a contracting agency may amend its contract to exclude mandated benefits for active members who subsequently enter the former pooled plan, effective on the date of the amendment.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

§ 588.8. Risk Pools--Classification of Benefit Provisions

The ~~CalPERS Board~~ shall ~~separate the benefit provisions available to a contracting agency~~ shall be separated into various classifications to establish how their costs shall be allocated among the contracting agencies in a risk pool. These classifications ~~shall~~will be handled as follows:

- (a) ~~a~~b Class 0 benefit provisions are the service retirement benefit formulas. The cost of a service retirement benefit formula shall be incorporated into the base total normal cost of the rate plan.
- (~~a~~)(b) Class 1 benefit provisions may vary by rate plan within each risk pool. Agencies contracting for a Class 1 benefit ~~shall~~will be responsible for the past service liability associated with such benefit and ~~shall~~will be required to pay a surcharge established by the actuary to cover the ~~ongoing cost (employer normal cost)~~ of the Class 1 benefit. Class 1 benefits shall be the optional benefit provisions, other than Class 0 benefit provisions, meeting either of the following criteria:
- (1) ~~Impacts either the ongoing cost (either total or employer normal cost) of any Class 0 benefit provision in~~ Impacts either the ongoing cost (total or employer normal cost) of any Class 0 benefit provision in the risk pool by more than 0.25% of payroll; or
 - (2) ~~The benefit is not available to all rate plans participating in the risk pool.~~
- (~~b~~)(c) b Class 2 benefit provisions may vary by rate plan within each risk pool. Agencies contracting for a Class 2 benefit ~~shall~~will be ~~required to pay~~ responsible for the full one time cost of increase in accrued liability resulting from the benefit, as established determined by the actuary. Class 2 benefits shall be the optional benefits provisions, other than Class 0 or Class 1 benefit provisions, meeting the following criteria:
- (1) ~~i~~Does not impact either on the ongoing cost (total or employer normal cost) of any Class 0 benefit provision in the risk pool; and
 - (2) Provides an one time increase in benefit with an identifiable increase in accrued liabilities.
- (~~c~~)(d) e Class 3 benefit provisions may vary by rate plan within each risk pool. However, the employer normal cost and amortization of the unfunded accrued liability contribution rate ~~shall~~will not vary between rate plans within the risk pool due to the Class 3 benefits. Class 3 benefits shall be the optional benefits provisions, other than Class 0, Class 1 or Class 2 benefit provisions, meeting either of the following criteria:
- (1) Impacts the ongoing cost (total and employer normal cost) of each of the Class 0 benefit provisions in the risk pool by no more than 0.25% of payroll; or
 - (~~1~~)(2) Is mandatory.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

§ 588.9. Repealed Risk Pools--Merger of Risk Pools

~~In the event that the number of contracting agencies participating in a risk pool is determined by the actuary to be too small to reduce the volatility in employer contribution rates caused by~~

~~unexpected demographic events, the risk pool will be merged with another risk pool identified by the actuary.~~

~~NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.~~

§ 588.10. Repealed Risk Pools--Superfunded Status

~~For employers participating in a risk pool, the actuary shall determine on an annual basis whether or not the employer's rate plan is superfunded pursuant to Section 20816 of the Government Code. In determining whether the rate plan is superfunded, the actuary shall use assets equal to the pro-rata share of the current pool's net assets plus the plan's remaining side fund. Superfunded plans may cover its employees' normal member contributions using its employer assets. Such transaction will be tracked through the rate plan's individual side fund.~~

~~NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.~~