



County of Los Angeles CHIEF EXECUTIVE OFFICE

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August 31, 2012

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

Executive Summary

This memorandum contains a report on the following:

- **Pension Reform. AB 340 (Furutani)**, as amended August 28, 2012, would establish the California Public Employees' Pension Reform Act (PEPRA) to govern pensions for public employers and public pension plans on and after January 1, 2013. The bill passed the Assembly by a vote of 48 to 8, and the Senate by a vote of 36 to 1 today. **This measure now proceeds to the Governor.**
- **Workers' Compensation Proposed Overhaul. SB 863 (De León)** would reform the workers' compensation system by streamlining administrative, legal and medical processes in order to fund increases to permanent disability benefits. **This measure is currently in the Assembly Floor awaiting consideration.**

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Pension Reform

After several months of negotiations, on August 28, 2012, Governor Brown and the Legislature announced they had reached a deal that will reform pensions for local and State workers. **AB 340 (Furutani)** as amended on August 28, 2012 would establish the California Public Employees' Pension Reform Act to govern pensions for public employers and public pension plans on and after January 1, 2013. For new employees, the plan includes pension caps, equal sharing of pension costs, changes in retirement age, and three-year final compensation. For all employees, changes include the prohibition of retroactive pension increases, pension holidays, and purchases of service credit. This bill includes all public employers, including Los Angeles County. **AB 340 passed the Assembly and the Senate today and now proceeds to the Governor for consideration. As previously reported, Governor Brown has indicated his intent to sign this measure.**

AB 340 would apply to all State and local public retirement systems, including county and district retirement systems created pursuant to the County Employees Retirement Law of 1937, independent public retirement systems, and to individual retirement plans offered by public employers. The bill only exempts the University of California system and charter cities and counties whose pension plans are not governed by State statute. Because the County's retirement system is governed by the County Employees Retirement Law of 1937, a State statute, Los Angeles County would have to adhere to the provisions of the California Public Employees' Pension Reform Act (PEPRA). Only pension systems created by charter, such as the City of Los Angeles and the County of San Francisco systems, are exempted from adhering to the PEPRA.

Based on preliminary analyses by various retirement systems, the following are highlights of the proposed California Public Employees' Pension Reform Act:

- **Pension Cap – New Employees:** salary of future hires that will be considered for pension purposes will be capped at:
 - \$110,000 for employees who participate in Social Security; and
 - \$130,000 for employees who do not participate in Social Security.
- **Equal Sharing of Pension Costs – New Employees:** New employees will pay half of their normal pension costs. Employers would still have to bargain contribution rates for current employees.

- Rolls Back Retirement Ages and Formulas – New Employees: Increases retirement age to receive maximum retirement by two years or more for all new public employees. Eliminates all 3 percent formulas going forward:
 - For local miscellaneous employees: 2.5 percent at 55 changes to 2 percent at 62; with a maximum of 2.5 percent at 67.
 - For local fire and police employees: 3 percent at 50 changes to 2.7 percent at 57.
- Three-Year Final Compensation – New Employees: Final compensation would be defined as the highest average annual compensation over a three-year period.
- Benefits Based on Regular, Recurring Pay - New Employees: Pensions will be figured using only regular recurring pay. This measure would prohibit certain cash payments from being counted as compensation earnable, including payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off.
- Limit Post-Retirement Employment - All Employees: All employees who retire from public service would be limited to working 960 hours or 120 days per year for a public employer.
- Felons Forfeit Pension Benefits - All Employees: Public officials and employees would forfeit pension benefits if they are convicted of a felony in carrying out official duties, in seeking an elected office or appointment, or in connection with obtaining salary or pension benefits.
- Prohibit Retroactive Pension Increases - All Employees: No more retroactive pension enhancements.
- Prohibit Pension Holidays: All Employees: All employers would be prohibited from suspending employer and/or employee contributions necessary to fund annual pension costs.
- Prohibit Purchases of Service Credit - All Employees: The purchase of additional retirement service credit, sometimes termed "airtime," would be prohibited.

The California Public Employees' Retirement System (CalPERS) today released an Actuarial Cost Analysis of the proposed Public Employee Pension Reform Act (PEPRA).

If enacted, CalPERS estimates the proposed legislation will save between \$42 billion and \$55 billion over 30 years for CalPERS administered pension plans. The analysis only reflects the savings for employers participating in CalPERS. The analysis notes that a complete analysis of the cost impact of the reform will require information on the impact on other systems and on other areas such as post-retirement medical benefits.

This office will work with CEO Compensation and Benefits, County Counsel and LACERA to better define the proposed provisions and determine impact on the County and its employees.

AB 340 is opposed by the CDF Firefighters and Professional Engineers in California Government. It is supported by the California State Association of Counties Urban Counties Caucus; and League of California Cities.

The Legislature is also expected to consider a separate measure on AB 197 to make technical changes to AB 340. Currently, this language is not available for review.

Updated Analysis on Workers' Compensation Overhaul

SB 863 (De León), as amended August 30, 2012, would reform the workers' compensation system by streamlining administrative, legal and medical processes in order to fund increases to permanent disability benefits. With some provisions taking effect January 1, 2013, SB 863 would reform specified system functions including: 1) timelines and uniformity in the medical dispute process; 2) requirements to have medical professionals determine disability; 3) the permanent disability benefits system; and 4) billing systems, among others.

The State Department of Industrial Relations, via Bickmore Risk Services, estimates that SB 863 would yield up to \$670 million in statewide net savings a year. The Workers' Compensation Insurance Rating Bureau projects that by the second year net savings would exceed \$100 million per year. A third actuarial projection, from the State Compensation Insurance Fund, the largest workers' compensation carrier in the State, estimates second year net savings for the system of \$543 million per year. Overall, these three agencies project net savings for the workers' compensation system of \$100 million to \$670 million a year.

Based on further analysis, the Chief Executive Office Risk Management Branch (CEO-RMB) notes that SB 853 attempts to address long standing pressure to increase permanent disability benefits, streamline medical dispute issues, and relieve stress caused by approximately 800,000 liens swamping the system. CEO-RMB indicates that while the actuarial projections noted above can be characterized as preliminary because of the limited time available to prepare them, all three do conclude that the

reform would yield overall net cost savings. However, CEO-RMB acknowledges the difficulty in analyzing the costs associated with specific provisions of SB 863, including the initial costs to develop the reformed medical dispute process, potential litigation challenges, and unintended consequences that might result from this last minute legislation.

Furthermore, SB 863 would require the Commission on Health and Safety and Workers' Compensation to conduct an examination of public self-insured programs, such as the County's, which would evaluate cost of program administration, solvency, and performance. Post examination, the State Department of Industrial Relations would need to provide recommendations that include addressing public self-insured insolvencies. CEO-RMB indicates that it is not certain why this provision was added or how solvency would be assessed by the State.

On August 29, 2012, CEO-RMB met with staff from County Counsel, City of Los Angeles, State Compensation Insurance Fund, Metropolitan Transportation Authority, and Los Angeles Unified School District, and the group's general consensus was that from a technical standpoint the reforms in SB 863 contain many potentially good provisions, including:

- abolishing certain litigation costs and exposures;
- establishing limitations on home healthcare service charges;
- removing the spinal implant pass-through;
- applying a maximum fee for services performed in an ambulatory surgical center;
- reducing litigation related to utilization review decisions;
- streamlining the Medical Provider Network process; and
- significantly improving procedures and reducing exposure to workers' compensation lien filings.

This office will continue to work with CEO-RMB to better define the bill's provisions and attempt to further determine the impact of these measures on the County.

SB 863 is supported by the California State Association of Counties; Regional Council of Rural Counties; California Special Districts Association; Association of California

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Healthcare Districts; State Compensation Insurance Fund; California Association of Joint Powers Authorities Conference; and the State Department of Industrial Relations.

It is opposed by the California Applicants' Attorneys Association; the California Society of Industrial Medicine; Injured Workers National Network; and other activist groups and associations of injured workers, workers' compensation attorneys, and a variety of medical practitioners.

SB 863 is currently pending hearing in the Assembly Insurance Committee. **The bill must pass both the Assembly and the Senate today in order to proceed to the Governor.**

We will continue to keep you advised.

WTF:RA
MR:PC:lm

c: All Department Heads
Legislative Strategist
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Coalition of County Unions
California Contract Cities Association
Independent Cities Association
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