California Public Employees' Pension Reform Act of 2013

California Public Employees' Pension Reform Act of 2013 (PEPRA), the most significant and complex pension legislation in decades was signed into law September 12, 2012. Since that time, the SCERA Board, staff and legal counsel have conducted a diligent analysis of the impact of this legislation to current and future SCERA members. On November 26, 2012 the Retirement Board passed Resolution #112 (attached) that sets forth policy regarding SCERA's administration of this legislation. A packet of supporting documents reviewed by the Board is also attached.

What It Means

In short, the legislation makes significant changes for new SCERA members hired after December 31, 2012. In contrast, there are fewer changes that apply to current SCERA members. The legislation is clearly respectful of the pension rights of existing retirement system members and retirees.

Provided below is a limited summary of SCERA's interpretation of some key provisions in the new legislation. This is not intended as an exhaustive or definitive legal document. The terms of the legislation as finally interpreted will control the administration of the plan.

Current Members (hired before January 1, 2013)
What Remains the Same

- There are no changes to current members' retirement formula (3% @ 60 for General members and 3% @50 for Safety members).
- Current members' salary for retirement purposes will still be averaged over the highest one-year equivalent of pensionable income. For employees who are less than full time, the one year equivalent is 2087 hours.
- Pensionable income: All pensionable salary received prior to January 1, 2013, which was used to calculate contributions owing, will continue to be considered for the benefit calculation, even if the member retires after that date. For example, a member might retire in 2016, but their highest average salary may have been earned in 2012. Remember, the highest average salary SCERA uses to calculate your lifetime retirement benefit does not have to be from your final year of service.

Current Members (hired before January 1, 2013)
What Will Change

For SCERA members, the 1997 Ventura Supreme Court case, and the consent decree that resolved the court cases that followed, established that particular salary items would be considered pensionable. The recent pension reform legislation clarified the law in a way that means a few salary items paid after December 31, 2012 will no longer be considered pensionable. Therefore, these salary items that were pensionable if paid prior to January 1, 2013, will no longer be included in compensation earnable when paid from that date forward. For example:

- Employer payments to an employee's deferred compensation account paid after December 31, 2012 will be excluded.
- Cash-outs (also called buybacks) of unused vacation, sick leave or compensatory time off paid after December 31, 2012 will be included in compensation earnable only if they do not exceed what is earned and payable in one year. A cash-out of banked hours above the amount earned and payable in one year will not be included in the compensation earnable.
- Standby pay paid after December 31, 2012 will be excluded.

The legislation reinforces SCERA's ability to review compensation and reject items paid to enhance retirement benefits. Examples may include:

- Reimbursement allowances (like a car allowance) will not be included in highest average salary if they were previously received in-kind and converted to a cash payment in the highest average salary year.
- A one-time or ad hoc payment to a member that is not made to all similarly situated employees.
- Any payment made during employment but solely due to termination of member's employment except for an amount that does not exceed what was earned and payable during the highest average salary period.

Returning to work after retirement

After December 31, 2012, a retiree will have to wait at least 180 days from date of retirement before returning to work on a temporary basis, except under the following conditions:

- The employer certifies it is necessary to fill a critically needed position, and the hiring has been approved by the Board of Supervisors in an open meeting.
- If the retiree is a public safety officer or a firefighter.

Any retiree who has returned to work in an Extra Help capacity prior to January 1, 2013 will not be subject to the 180-day waiting period.

Other break in service rules still apply, in accordance with IRS regulations, for members who retire prior to "normal retirement age" (58 for General members and 50 for Safety members).