The Impacts of Statewide Pension "Reform" on AFSCME District Council 36 Members and Where We Go From Here

For quite a while now public employees have been dealing with a very difficult economic and political environment, spurred on by the Great Recession and conservative attacks on the "unfunded liabilities" of public pensions. The retirement security that California's public employees have long counted on is suddenly now being threatened.

Many ideas were advanced by the State Legislature and even Governor Jerry Brown proposed a 12 point "reform" plan. The Legislature held many hearings, during which AFSCME supported common sense reforms such as a crackdown on "spiking" and other abuses (which in any case has no effect on Council 36 members).

At the same time, AFSCME presented a strong case as to why many of the proposals in this plan are unfair and harmful. We emphasized *the importance of collective bargaining* as a basic principle in any changes to be made, as well as the success we have already achieved in dealing with fiscal problems – including creating innovative alternatives and revenue solutions – in local jurisdictions across the State.

In the end, the Legislature approved AB 340 – "The California Public Employees' Pension Reform Act" (PEPRA) on August 31st and the Governor signed it on September 12th. You can find the specific bill language by clicking here. While we are not pleased with all the changes, it is important to note that AFSCME's political influence resulted in curbing the most drastic cuts and giving us the right to negotiate the implementation and hopefully soften the pain.

Most of the plan's provisions go into effect on **January 1, 2013,** with the balance becoming effective by **January 1, 2018.**

Who is affected?

All local government agencies in California that contract with PERS for retirement benefits and "1937 Act" County retirement systems are affected by the legislation.*

All employees in these retirement systems (including those with reciprocity agreements) prior to January 1, 2013 are considered "current" employees. Employees hired after that date who have never been in one of these retirement systems or who have been out of one of these systems for more than six months are considered "new" employees. (These differences in employment status determine how employees will be affected. See chart below for details.)

**Please note:* Charter cities like Los Angeles or San Diego and the University of California that have their own retirement systems are exempted.

What changed exactly?

The following chart illustrates the changes for non-safety members[1] and some of the finer details about these provisions are described below the table.

Provision	Current Employees	New Employees
Pension Cap	No change	$110,100 if in Social Security - $132,120 if NOT in Social Security
Increase in Retirement Age	No change	Earliest age 52, maxing out at age 67
Cost Sharing	Pay at least 50% of normal cost – negotiated by 2018	Pay at least 50% of normal cost
Final Compensation	No change	Highest three years
Retiree Re-employment	180 day waiting period but no more than 960 hours per year	180 day waiting period but no more than 960 hours per year
Regular Pay/Spiking	No change	Eliminates bonuses, overtime, allowances, leave payouts, etc.
Retirement Forfeiture	If convicted of a felony in office or seeking office	If convicted of a felony in office or seeking office
Airtime	Eliminated January 1, 2013	Eliminated
Retroactive Increases	Not allowed	Not allowed
Pension Holidays	Not allowed	Not allowed
Health Benefits & Vesting	Must be same for all employees	Must be same for all employees

[1] Please contact Steve Koffroth at the Council 36 Office, 213 252-1355, for details regarding safety employees.

Pension Cap – New employees have the amount of salary that counts towards final compensation capped at the Social Security taxable wage base – adjusted annually by inflation. Employers are prohibited from using substitute retirement systems to go over the cap.

Retirement Formulas – New employees get the newly created 2% @ 62 formula – which starts at a 1% factor for each year of service at age 52, incrementally increasing until 2.5% at age 67. It is unlikely but unclear whether current employees could still negotiate for improvements in existing retirement formulas.

Cost Sharing – New employees in PERS must pay at least 50% of the normal cost; however, they cannot be required to do so if there is a current MOU provision requiring the employer to pay their share. In that event, cost sharing is effective once the current MOU expires. Current employees and '37 Act employees are not subject to sharing until they renegotiate their collective bargaining agreement (aka MOU). Employers may (but are not required to) impose 50% cost sharing (though not greater than 8%) after January 1, 2018 or after re-negotiating the MOU. New provisions prohibit the employer from granting better cost sharing arrangements to non-represented employees.

Airtime – PERS members currently have the ability to buy up to 5 years of "non-qualified" service (aka airtime) to increase their retirement benefit. The cost becomes more expensive as you near retirement age, but has proven to be an enhancement worthy of consideration. Applications must be made prior to January 1, 2013, after which members will be given an estimate of the cost and three months to consider whether and how to pay for it.

Pension Holiday – PERS formerly allowed employers to pay less than the normal cost if the investment performance was better than expected and there was a surplus of funding. Employers were considered "over funded" or "superfunded" in those instances and for many years paid no employer contribution into the retirement system. Employers are now required to pay their portion of the normal cost regardless of the funding status. Though this would not apply for many years, it should provide for long term funding and stability – essentially ending any arguments about "unfunded liabilities".

How much will we be expected to pay?

PERS estimates that the normal cost for new employees (the reduced 2%@62 formula) will be 11.9% - so new employees would pay at least 5.95%.

The normal cost for existing formulas (current employees) varies depending on the employer – you can find the latest PERS actuarial report for your employer by clicking here. Beginning with the actuarial evaluations in November 2012 (for the period ending June 30, 2011), the Total Normal Cost is found in the actuarial report under the Required Employer Contribution section (sample shown below). In the sample, half of the normal cost for fiscal year 2013/14 is 15.634/2 = 7.817% of regular pay.

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Required Employer Contribution

Required Employer Contributions		**Fiscal Year 2012/2013**		**Fiscal Year 2013/2014**
1. Contribution in Projected Dollars				
a) Total Normal Cost	$	4,480,490	$	3,825,221
b) Employee Contribution[1]		1,988,218		1,686,533
c) Employer Normal Cost [(1a) – (1b)]		2,492,272		2,138,688
d) Unfunded Contribution		2,083,746		2,805,575
e) Total Employer Contribution [(1c) + (1d)]	$	4,576,018	$	4,944,263
f) Employee Cost Sharing				0
g) Net Employer Contribution [(1e) – (1f)]				4,944,263
Annual Lump Sum Prepayment Option[2] [(1g) / 1.075^.5]	$	4,408,381	$	4,768,671
2. Contribution as a Percentage of Payroll				
a) Total Normal Cost		15.520%		15.634%
b) Employee Contribution[1]		6.887%		6.893%
c) Employer Normal Cost [(2a) – (2b)]		8.633%		8.741%
d) Unfunded Rate		7.218%		11.467%
e) Total Employer Rate [(2c) + (2d)]		15.851%		20.208%
f) Employee Cost Sharing				0.000%
g) Net Employer Contribution Rate [(2e) – (2f)]				20.208%

[1]This is the percentage specified in the Public Employees Retirement Law, net of any reduction from the use of a modified formula. Employee cost sharing is shown separately and is therefore not included in this line item.

[2]Payment must be received by CalPERS before the first payroll reported to CalPERS of the new fiscal year and after June 30.

The table below represents PERS' estimate of normal costs for current formulas for large employers:

Formula	Estimated Normal Cost	50% Minimum Contribution	Current Required Employee Contribution
2% @ 60	13.2%	6.6%	7%
2% @ 55	14.4%	7.2%	7%
2.5% @ 55	16.5%	8.25%**	8%
2.7% @ 55	17.7%	8.85%**	8%
3% @ 60	18.3%	9.15%**	8%

** Though the maximum they can impose is 8%

It is important to realize that there is a difference between the normal cost and the unfunded actuarial liability (UAL). The UAL takes into account any changes in funding due to investment gains/losses and is the primary reason employer rates are higher now – the employer absorbs the investment risk by paying more when returns are lower and paying less when returns are higher than expected.

<u>What should I do now?</u>

We will continue to investigate whether any of the bill's provisions can be challenged in court, but it appears at this point that the law is on solid legal footing. One area that may be challenged is the elimination of airtime for current members – the premise being that it is currently a vested right. We will continue to keep you updated as we learn more.

Members should ***quickly*** investigate whether they want to purchase airtime because their opportunity to apply for the benefit ***will end after January 1st***. You can access the PERS website by clicking here to find out how to apply.

In addition, leaders should begin preparing now for upcoming negotiations by understanding the PERS calculations, researching bargaining history, and analyzing their employer's fiscal condition. It will be important to know, for example, what the employees traded or sacrificed to get their portion of the required employee contribution paid for by the employer. We can negotiate to increase salaries and other benefits in order to make up for increased employee retirement contributions.

If your employer asks you to meet or negotiate about the implementation of PEPRA, please contact your AFSCME Business Representative **<u>immediately</u>**. Remember you are NOT required to negotiate about implementation for current employees until your MOU expires. In addition, we have received reports that some employers are not correctly interpreting PEPRA and its implementation – so please make sure you confirm these claims before you make any decisions.

Finally, AFSCME Council 36 will be planning a briefing on PEPRA and suggested strategies in negotiations early next year so you can receive more details and analysis from various sources. The details will be sent out soon.