

Legislative Report

June 2012

While there hasn't been a lot of action in the Legislature in connection with bills pertaining to retirement, I wanted to wait to prepare this report until after the June 20 hearings at the Assembly Public Employees, Retirement & Social Security (PER & SS) Committee. As I've mentioned previously, bills that would affect retirement benefits have generally been held in committee, failed in committee, or hearings on them cancelled at the request of the author, due to the deliberations of the Joint Conference Committee on Public Employee Pensions. It was initially thought the Joint Committee would issue its report in June; now it isn't expected until August. The overwhelming voter approval of pension reform ballot measures in San Jose and San Diego will probably weigh on whatever comes out of the Joint Committee.

AB 1248 (Hueso) would require the City of San Diego to provide coverage under the federal social security system to all employees who are not covered under a defined benefit plan. This bill was filed in anticipation that the ballot measure in San Diego would pass and eliminate the existing defined benefit plan for future employees. It was felt to be necessary since, currently, employees of the city are not in Social Security.

AB 1519 (Wieckowski), the SACRS-sponsored bill requiring education of trustees, passed out of the Senate (31-0) on June 5, was signed by the Governor and chaptered on June 15.

AB 2299 (Feuer) would authorize the board of supervisors of a county to establish a program that requires the names of certain public safety officials to be redacted from any property record of principal residence that is disclosed to the public by that county upon request of the public safety official, and would authorize charging a fee for participation in the program. The bill had an initial hearing in the Senate Government & Finance Committee, and a further hearing is to be set. The bill is not without controversy. While most law enforcement agencies are in favor of it, there is substantial opposition from those involved in real estate transactions. They argue, the program could complicate or delay real estate transactions.

AB 2664 (Assembly PER & SS Committee). Except for the provision regarding LACERA, the bill was sponsored by SACRS. would allow the retirement boards of '37 Act retirement systems to adopt regulations allowing for the use and acceptance of a member's electronic signature with the same force and effect as a signed, valid original document. It would also authorize LACERA to adjust retirement payments due to errors or omissions in the same manner as CalPERS. Finally, it would establish the County Retirement System Dental Care Program (Program) to provide dental care benefits to county and district retirees, their survivors, and eligible dependents of '37 Act retirement systems that elect to offer the Program. The retiree would be responsible for the dental care premium and counties electing to participate in the Program may contract with a third party administrator to provide the dental care, similar to the current vision care program sponsored by SACRS. To insure that no vested rights are created, the bill specifies that the dental benefits may be revised or discontinued at any time. The bill passed out of the Senate (39-0) on June 15 and was returned to the Assembly for concurrence in amendments.

SB 955 (Pavley) would authorize CalPERS and CalSTRS to prioritize investment in in-state infrastructure projects over alternative out-of-state projects if the investments are consistent with their fiduciary responsibility. The bill passed out of the Assembly PER. & S.S Committee (4-0) on June 20 and is on the Assembly floor.

SB 987 (Negrete-McLeod) would primarily provide that survivor benefits for spouses also apply to domestic partners. It would also make some clerical changes to the PERL. It

passed out of the Assembly PER & SS Committee (4-0) on June 20 and was referred to the Assembly Appropriations Committee.

SB 996 (Senate PE&R Committee) would restate and clarify existing 1937 Act law regarding the rebuttable presumption that heart trouble incurred by a safety member arises from the safety member's employment. It passed out of the Assembly PER & SS Committee (5-0) on June 20 and is on the Assembly floor on consent.

SB 1002 (Yee) would require public records to be produced in searchable form, if requested. It was amended to require the requestor to bear the cost of converting an electronic record into a searchable format, including the cost of programming and computer services necessary to produce the electronic record. It passed out of the Assembly Committee on Governmental Organization (13-3) on June 20, and referred to the Assembly Local Government Committee.

SB 1234 (DeLeon) would establish the California Secure Choice Retirement Savings Program to operate as a state-administered retirement savings plan for private sector workers who do not participate in any other type of employer-sponsored retirement savings plan. This is a controversial bill, with many business, financial and investment organizations lined up in opposition, and public and private labor organizations in support. CRCEA and NCPERS are also in support. It passed out of the Assembly Labor & Employment Committee (5-2) on June 20 and was referred to the Assembly PER & SS Committee.

SB 1382 (Negrete-McLeod) would make the County Employees Retirement Law ("the 1937 Act") internally consistent with respect to references to the organization recognized by the Board of Retirement as representing retirees of the system, and clearly define such organization. The bill would also clarify the types of deductions that may be made from a retirement allowance upon written authorization by a retiree. Probably most importantly, it also requires retirement systems to cooperate with retiree associations and assist in their communications with retirees. The bill was amended to overcome the concerns of the San Joaquin system and SACRS; in fact, SACRS testified in support of the bill. It passed out of the Assembly PER & SS Committee (4-1) on June 20 and is on the Assembly floor.

SB 1494 (DeSaulnier), which would authorize the Contra Costa County Board of Supervisors and the governing boards of districts within that county to negotiate with recognized employee organizations to create new retirement formulas, passed out of the Assembly PER & SS Committee (5-0) on June 20 and is on the Assembly floor.

I previously distributed the appellate decision in *Gaylan Harris et al v. County of Orange*, which reversed the trial court's dismissal of the case. That was great news to the plaintiffs. The case was remanded back to the district court with instructions to coordinate Harris et al's claims with the pending REAOC litigation, which had also been remanded back to the same court. The hearing in the REAOC case took place on May 21, 2012, and the judge promised a prompt decision. I wonder what effect the order to coordinate the two cases will have on promptness!

In the hearing held on June 13 in the *Sonoma County Association of Retired Employees (SCARE) v. Sonoma County* case, the appeals court seemed to be sympathetic to SCARE, but no decision has been forthcoming yet.

As mentioned earlier, voters approved ballot measures in San Jose and San Diego which would affect pensions. In each city, the unions have filed actions to overturn the ballot measures. In San Diego, there was a recent appeals court decision on an earlier case related to an attempt by the Public Employment Relations Board (PERB) to prevent the measure from even being on the ballot because of the involvement of the mayor and a city council member's involvement in drafting the measure, because such involvement might be a

violation of the Meyers Milias Brown Act. The city had prevailed in the trial court, but the appeals court decided that PERB had jurisdiction and a hearing before them should go forward, despite the city's argument that a hearing before PERB was futile since they had obviously made up their mind. My guess is that whatever decision PERB makes, there will be litigation over it, either filed by the unions or the city.