An act to amend Section 7522.04 of, and to add Section 7522.06 to, the Government Code, relating to public employees’ retirement.

LEGISLATIVE COUNSEL’S DIGEST


The California Public Employees’ Pension Reform Act of 2013 (PEPRA) generally requires a public retirement system, as defined, to modify its pension plan or plans to comply with the act, as specified. Among other things, PEPRA prohibits a public employer offering a defined benefit pension plan from exceeding specified retirement formulas for new members and prohibits an enhancement of a public employee’s retirement formula or benefit adopted after January 1, 2013, from applying to service performed prior to the operative date of the enhancement. PEPRA defines terms for those purposes, including defining “new member” to include mean, among other things, an individual who becomes a member of any public retirement system for the first time on or after January 1, 2013, and who was not a member of any other public retirement system prior to that date; an individual who becomes a member of a public retirement system for the first time on or after January 1, 2013, and who was a member of another public retirement system prior to that date, but who was not subject to reciprocity under specified law; or an individual who was an active member in a retirement system and who, after a break in service of more than 6 months, returned to active membership in that system with
a new employer. Existing law creates the Judges’ Retirement System II, which is administered by the Board of Administration of the Public Employees' Retirement System, for the provision of retirement and other benefits to specified judges and their beneficiaries.

This bill would specifically exclude from the definition of “new member” a judge, as defined in specified existing law, elected to office before January 1, 2013, grant a judge who was elected to office in 2012, but did not take office until on or after January 1, 2013, the option of making a one-time, irrevocable election to have a pre-January 1, 2013, membership status in the Judges’ Retirement System II for service accrued after on and after July 1, 2020. The bill would require the election to be made during a 30-day period beginning March 1, 2020. A judge making this election would no longer be a new member under specified provisions of PEPRA. The election would apply prospectively only, and membership rights and obligations that accrued based on service subject to PEPRA prior to July 1, 2020, would remain unchanged. The bill would specify that the Public Employees’ Retirement System is not obligated to inform or locate a person who may be eligible to make the election and that its provisions do not affect the Legislature’s reserved right to increase contributions or reduce benefits for purposes of the Judges’ Retirement System II.


The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature, for reasons of equity unique to the circumstances of judges that this measure affects, to provide a one-time opportunity for judges who were elected in 2012, but who were unable to assume office until 2013, to have access to the retirement benefits granted to other judges who were able to assume office prior to January 1, 2013.

SEC. 2. Section 7522.04 of the Government Code is amended to read:

7522.04. For the purposes of this article:

(a) “Defined benefit formula” means a formula used by the retirement system to determine a retirement benefit based on age, years of service, and pensionable compensation earned by an employee up to the limit defined in Section 7522.10.
(b) “Employee contributions” means the contributions to a public retirement system required to be paid by a member of the system, as fixed by law, regulation, administrative action, contract, contract amendment, or other written agreement recognized by the retirement system as establishing an employee contribution.

c) “Federal system” means the old age, survivors, disability, and health insurance provisions of the federal Social Security Act (42 U.S.C. Sec. 301 et seq.).

d) “Member” means a public employee who is a member of any type of a public retirement system or plan.

e) “New employee” means either of the following:
    1. An employee, including one who is elected or appointed, of a public employer who is employed for the first time by any public employer on or after January 1, 2013, and who was not employed by any other public employer prior to that date.
    2. An employee, including one who is elected or appointed, of a public employer who is employed for the first time by any public employer on or after January 1, 2013, and who was employed by another public employer prior to that date, but who was not subject to reciprocity under subdivision (c) of Section 7522.02.

(f) “New member” means any of the following:
    1. Except as provided in Section 7522.06, an individual who becomes a member of any public retirement system for the first time on or after January 1, 2013, and who was not a member of any other public retirement system prior to that date.
    2. An individual who becomes a member of a public retirement system for the first time on or after January 1, 2013, and who was a member of another public retirement system prior to that date, but who was not subject to reciprocity under subdivision (c) of Section 7522.02.
    3. An individual who was an active member in a retirement system and who, after a break in service of more than six months, returned to active membership in that system with a new employer. For purposes of this subdivision, a change in employment between state entities or from one school employer to another shall not be considered as service with a new employer.

(g) “Normal cost” means the portion of the present value of projected benefits under the defined benefit that is attributable to the current year of service, as determined by the public retirement system’s actuary according to the most recently completed
valuation. For the purpose of determining normal cost, the system’s 
an actuary may use a single rate of contribution or an age-based rate 
of contribution as is applicable to that retirement system. 
(h) “Public employee” means an officer, including one who is 
elected or appointed, or an employee of a public employer. 
(i) “Public employer” means:
(1) The state and every state entity, including, but not limited 
to, the Legislature, the judicial branch, including judicial officers, 
and the California State University. 
(2) Any political subdivision of the state, or agency or 
instrumentality of the state or subdivision of the state, including, 
but not limited to, a city, county, city and county, a charter city, a 
charter county, school district, community college district, joint 
powers authority, joint powers agency, and any public agency, 
authority, board, commission, or district. 
(3) Any charter school that elects or is required to participate 
in a public retirement system.
(j) “Public retirement system” means any pension or retirement 
system of a public employer, including, but not limited to, an 
independent retirement plan offered by a public employer that the 
public employer participates in or offers to its employees for the 
purpose of providing retirement benefits, or a system of benefits 
for public employees that is governed by Section 401(a) of Title 
26 of the United States Code.

SEC. 3. Section 7522.06 is added to the Government Code, to 
read:
7522.06. (a) This section only applies to a judge, as defined 
in subdivision (a) of Section 75502, who was elected to office in 
2012 but did not take office until on or after January 1, 2013. A 
judge who fulfills the requirements of this section is not a new 
member for purposes of paragraph (1) of subdivision (f) of Section 
7522.04.
(b) A judge described in subdivision (a), between March 1, 
2020, and March 30, 2020, inclusive, may make a one-time, 
irrevocable election to have a pre-January 1, 2013, membership 
status in the Judges Retirement System II (Chapter 11.5 
(commencing with Section 75500) of Title 8) for service accruing 
on and after July 1, 2020. The election shall apply prospectively 
only, and membership rights and obligations that accrued based 
on service subject to this article prior to July 1, 2020, including,
but not limited to, contribution amounts prescribed by this article, shall remain unchanged.

(c) (1) The Public Employees’ Retirement System is not obligated to inform or locate a person who may be eligible to make the election described in subdivision (b).

(2) This section does not affect in any way the right reserved to the Legislature to increase contributions or reduce benefits, as provided by Sections 75603 and 75604.

SECTION 1. Section 7522.04 of the Government Code is amended to read:

7522.04. For the purposes of this article:

(a) “Defined benefit formula” means a formula used by a retirement system to determine a retirement benefit based on age, years of service, and pensionable compensation earned by an employee up to the limit defined in Section 7522.10.

(b) “Employee contributions” means the contributions to a public retirement system required to be paid by a member of the system, as fixed by law, regulation, administrative action, contract, contract amendment, or other written agreement recognized by the retirement system as establishing an employee contribution.

(c) “Federal system” means the old age, survivors, disability, and health insurance provisions of the federal Social Security Act (42 U.S.C. Sec. 301 et seq.).

(d) “Member” means a public employee who is a member of a public retirement system or plan.

(e) “New employee” means either of the following:

(1) An employee, including one who is elected or appointed, of a public employer who is employed for the first time by a public employer on or after January 1, 2013, and who was not employed by another public employer prior to that date.

(2) An employee, including one who is elected or appointed, of a public employer who is employed for the first time by a public employer on or after January 1, 2013, and who was employed by another public employer prior to that date, but who was not subject to reciprocity under subdivision (e) of Section 7522.02.

(f) (1) “New member,” except as provided in paragraph (2), means any of the following:

(A) An individual who becomes a member of a public retirement system for the first time on or after January 1, 2013, and who was
not a member of another public retirement system prior to that
date.
(B) An individual who becomes a member of a public retirement
system for the first time on or after January 1, 2013, and who was
a member of another public retirement system prior to that date,
but who was not subject to reciprocity under subdivision (c) of
Section 7522.02.
(C) An individual who was an active member in a retirement
system and who, after a break in service of more than six months,
returned to active membership in that system with a new employer.
For purposes of this subdivision, a change in employment between
state entities or from one school employer to another shall not be
considered as service with a new employer.
(2) Notwithstanding any other provision of this subdivision, a
judge, as defined in subdivision (a) of Section 75502, elected to
office before January 1, 2013, shall not be considered a new
member for the purposes of this article.
(g) “Normal cost” means the portion of the present value of
projected benefits under the defined benefit that is attributable to
the current year of service, as determined by the public retirement
system’s actuary according to the most recently completed
valuation. For the purpose of determining normal cost, the system’s
actuary may use a single rate of contribution or an age-based rate
of contribution as is applicable to that retirement system.
(h) “Public employer” means an officer, including one who is
elected or appointed, or an employee of a public employer.
(i) “Public employer” means:
(1) The state and every state entity, including, but not limited
to, the Legislature, the judicial branch, including judicial officers,
and the California State University;
(2) A political subdivision of the state, or agency or
instrumentality of the state or subdivision of the state, including,
but not limited to, a city, county, city and county, a charter city, a
charter county, school district, community college district, joint
powers authority, joint powers agency, and any public agency;
authority, board, commission, or district;
(3) Any charter school that elects or is required to participate
in a public retirement system;
(j) “Public retirement system” means a pension or retirement
system of a public employer, including, but not limited to, an
independent retirement plan offered by a public employer that the public employer participates in or offers to its employees for the purpose of providing retirement benefits or a system of benefits for public employees that is governed by Section 401(a) of Title 26 of the United States Code.