

AMENDED IN ASSEMBLY APRIL 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 160**

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**Introduced by Assembly Member Alejo**

January 22, 2013

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An act to amend ~~Section~~ *Sections 7522.04 and 7522.18* of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 160, as amended, Alejo. California Public Employees' Pension Reform Act of 2013: exceptions.

**The**

(1) *The California Public Employees' Pension Reform Act of 2013 (PEPRA), on and after January 1, 2013, requires a public retirement system, as defined, to modify its plan or plans to comply with the act, as specified. Among other things, PEPRA prohibits a public employer from offering a defined benefit pension plan exceeding specified retirement formulas, requires new members of public retirement systems to contribute at least a specified amount of the normal cost, as defined, for their defined benefit plans, 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.*

This bill would except from PEPRA, by excepting from the definition of public retirement system, certain multiemployer plans authorized under federal law and retirement plans for public employees whose collective bargaining rights are protected by a specified provision of federal law *if a federal agency determines a conflict with federal law.*

(2) PEPPRA prohibits a public employer from offering a supplemental defined benefit plan if the public employer did not do so before January 1, 2013, or, if it did, from offering this plan to an additional employee group after that date.

This bill would exclude from the definition of a supplemental defined benefit plan for purposes of this prohibition a multiemployer plan, as defined in federal law, pursuant to a collective bargaining or similar agreement.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

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

3 7522.04. For the purposes of this article:

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

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

13 (c) "Federal system" means the old age, survivors, disability,  
14 and health insurance provisions of the federal Social Security Act  
15 (42 U.S.C. Sec. 301 et seq.).

16 (d) "Member" means a public employee who is a member of  
17 any type of a public retirement system or plan.

18 (e) "New employee" means either of the following:

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

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

1 (f) “New member” means any of the following:

2 (1) An individual who becomes a member of any public  
3 retirement system for the first time on or after January 1, 2013,  
4 and who was not a member of any other public retirement system  
5 prior to that date.

6 (2) An individual who becomes a member of a public retirement  
7 system for the first time on or after January 1, 2013, and who was  
8 a member of another public retirement system prior to that date,  
9 but who was not subject to reciprocity under subdivision (c) of  
10 Section 7522.02.

11 (3) An individual who was an active member in a retirement  
12 system and who, after a break in service of more than six months,  
13 returned to active membership in that system with a new employer.  
14 For purposes of this subdivision, a change in employment between  
15 state entities or from one school employer to another shall not be  
16 considered as service with a new employer.

17 (g) “Normal cost” means the portion of the present value of  
18 projected benefits under the defined benefit that is attributable to  
19 the current year of service, as determined by the public retirement  
20 system’s actuary according to the most recently completed  
21 valuation.

22 (h) “Public employee” means an officer, including one who is  
23 elected or appointed, or an employee of a public employer.

24 (i) “Public employer” means:

25 (1) The state and every state entity, including, but not limited  
26 to, the Legislature, the judicial branch, including judicial officers,  
27 and the California State University.

28 (2) Any political subdivision of the state, or agency or  
29 instrumentality of the state or subdivision of the state, including,  
30 but not limited to, a city, county, city and county, a charter city, a  
31 charter county, school district, community college district, joint  
32 powers authority, joint powers agency, and any public agency,  
33 authority, board, commission, or district.

34 (3) Any charter school that elects or is required to participate  
35 in a public retirement system.

36 (j) (1) “Public retirement system” means any pension or  
37 retirement system of a public employer, including, but not limited  
38 to, an independent retirement plan offered by a public employer  
39 that the public employer participates in or offers to its employees  
40 for the purpose of providing retirement benefits, or a system of

1 benefits for public employees that is governed by Section 401(a)  
2 of Title 26 of the United States Code.

3 (2) “Public retirement system” does not include:

4 (A) A multiemployer plan authorized by Section 302(c)(5) of  
5 the Taft-Hartley Act (29 U.S.C. Sec. 186(c)(5)) if the public  
6 employer began participation in that plan prior to January 1, 2013,  
7 and that plan is regulated by the Employee Retirement Income  
8 Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.).

9 (B) A retirement plan for public employees whose collective  
10 bargaining rights are protected by Section 5333(b) of Title 49 of  
11 the United States Code and the agreements entered *into* pursuant  
12 to that provision *if the United States Department of Labor has*  
13 *issued a written determination that this division is in conflict with*  
14 *federal law.*

15 *SEC. 2. Section 7522.18 of the Government Code is amended*  
16 *to read:*

17 7522.18. (a) A public employer that does not offer a  
18 supplemental defined benefit plan before January 1, 2013, shall  
19 not offer a supplemental defined benefit plan for any employee on  
20 or after January 1, 2013.

21 (b) A public employer that provides a supplemental defined  
22 benefit plan, including a defined benefit plan offered by a private  
23 provider, before January 1, 2013, shall not offer a supplemental  
24 defined benefit plan to any additional employee group to which  
25 the plan was not provided before January 1, 2013.

26 (c) Except as provided in Chapter 38 (commencing with Section  
27 25000) of Article 1 of Part 13 of Title 1 of the Education Code, a  
28 public employer shall not offer or provide a supplemental defined  
29 benefit plan, including a defined benefit plan offered by a private  
30 provider, to any employee hired on or after January 1, 2013.

31 (d) *For purposes of this section, a “supplemental defined benefit*  
32 *plan” does not include a multiemployer plan, as defined in the*  
33 *federal Employee Retirement Income Security Act (29 U.S.C. Sec.*  
34 *1002(37)), in which a public employer participates pursuant to a*  
35 *collective bargaining agreement or similar agreement covering*  
36 *its employees.*

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