

AMENDED IN SENATE SEPTEMBER 4, 2013

AMENDED IN SENATE JUNE 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1222**

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**Introduced by Assembly Member Members Bloom and Dickinson  
(Coauthor: Assembly Member Cooley)**

February 22, 2013

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~~An act relating to hazardous substances. An act to amend Section 7522.02 of the Government Code, relating to public employees' retirement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1222, as amended, Bloom. ~~Hazardous substances: oil recycling: legislative intent. Public employees' retirement: collective bargaining: transit workers: transportation.~~

*The California Public Employees' Pension Reform Act of 2013 (PEPRA), among other things, establishes new retirement formulas for employees first employed on or after January 1, 2013, which a public employer offering a defined benefit pension plan is prohibited from exceeding, requires those employees to contribute a specified percentage of the normal cost of the defined benefit plan, and prohibits public employers from paying an employee's share of retirement contributions. PEPRA excepts certain retirement systems from its provisions.*

*This bill would except from PEPRA public employees whose collective bargaining rights are subject to specified provisions of federal law until a specified federal district court decision on a certification by the United States Secretary of Labor, or his or her designee, or until January 1,*

2015, whichever is sooner. The bill would also provide that if a federal district court upholds the determination of the United States Secretary of Labor, or his or her designee, that application of PEPRA to those public employees precludes certification, those employees are excepted from PEPRA. The bill would authorize the Director of Finance to authorize a loan of up to \$26,000,000 from the Public Transportation Account in the State Transportation Fund to be made to local mass transit providers in amounts equal to federal transportation grants not received due to noncertification from the federal Department of Labor, as specified. By providing for loans in the manner specified, this bill would make an appropriation. The bill would prescribe requirements regarding the disbursement of these funds. The bill would require a local transit provider to repay the loan based on the occurrence of certain contingencies or by January 1, 2019.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law requires the Department of Toxic Substances to implement and administer various programs regulating the treatment and disposal of hazardous substances. The California Oil Recycling Enhancement Act, which is administered by the California Department of Resources Recycling and Recovery, establishes a used oil recycling program designed to discourage the illegal disposal of used oil.~~

~~This bill would declare the intent of the Legislature to enact subsequent statutory changes to the Department of Toxic Substance's hazardous waste fee system that would streamline the system, harmonize the department's hazardous waste program objectives and fees with the Department of Resources Recycling and Recovery's responsibilities and program objectives under the California Oil Recycling and Recovery Enhancement Act, and align hazardous waste fees with the actual regulatory costs associated with managing hazardous waste and used oil.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~<sup>yes</sup>. Fiscal committee: ~~no~~<sup>no</sup>. State-mandated local program: no.

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

- 1 SECTION 1. Section 7522.02 of the Government Code is
- 2 amended to read:
- 3 7522.02. (a) (1) Notwithstanding any other law, except as
- 4 provided in this article, on and after January 1, 2013, this article

1 shall apply to all state and local public retirement systems and to  
2 their participating employers, including the Public Employees'  
3 Retirement System, the State Teachers' Retirement System, the  
4 Legislators' Retirement System, the Judges' Retirement System  
5 I, ~~System~~, the Judges' Retirement System II, county and district  
6 retirement systems created pursuant to the County Employees  
7 Retirement Law of 1937, independent public retirement systems,  
8 and to individual retirement plans offered by public employers.  
9 However, this article shall be subject to the Internal Revenue Code  
10 and Section 17 of Article XVI of the California Constitution. The  
11 administration of the requirements of this article shall comply with  
12 applicable provisions of the Internal Revenue Code and the  
13 Revenue and Taxation Code.

14 (2) Notwithstanding paragraph (1), this article shall not apply  
15 to the entities described in Section 9 of Article IX of, and Sections  
16 4 and 5 of Article XI of, the California Constitution, except to the  
17 extent that these entities continue to be participating employers in  
18 any retirement system governed by state statute. Accordingly, any  
19 retirement plan approved before January 1, 2013, by the voters of  
20 any entity excluded from coverage by this section shall not be  
21 affected by this article.

22 (3) (A) *Notwithstanding paragraph (1), this article shall not*  
23 *apply to a public employee whose interests are protected under*  
24 *subsection (b) of Section 5333 of Title 49 of the United States Code*  
25 *until a federal district court rules that the United States Secretary*  
26 *of Labor, or his or her designee, erred in determining that the*  
27 *application of this article precludes certification under that section,*  
28 *or until January 1, 2015, whichever is sooner.*

29 (B) *If a federal district court upholds the determination of the*  
30 *United States Secretary of Labor, or his or her designee, that*  
31 *application of this article precludes him or her from providing a*  
32 *certification under subsection (b) of Section 5333 of Title 49 of*  
33 *the United States Code, this article shall not apply to a public*  
34 *employee specified in subparagraph (A).*

35 (b) The benefit plan required by this article shall apply to public  
36 employees who are new members as defined in Section 7522.04.

37 (c) Individuals who were employed by any public employer  
38 before January 1, 2013, and who became employed by a subsequent  
39 public employer for the first time on or after January 1, 2013, shall  
40 be subject to the retirement plan that would have been available

1 to employees of the subsequent employer who were first employed  
2 by the subsequent employer on or before December 31, 2012, if  
3 the individual was subject to reciprocity established under any of  
4 the following provisions:

5 (1) Article 5 (commencing with Section 20350) of Chapter 3  
6 of Part 3 of Division 5 of Title 2.

7 (2) Chapter 3 (commencing with Section 31450) of Part 3 of  
8 Division 4 of Title 3.

9 (3) Any agreement between public retirement systems to provide  
10 reciprocity to members of the systems.

11 (d) If a public employer, before January 1, 2013, offers a defined  
12 benefit pension plan that provides a defined benefit formula with  
13 a lower benefit factor at normal retirement age and results in a  
14 lower normal cost than the defined benefit formula required by  
15 this article, that employer may continue to offer that defined benefit  
16 formula instead of the defined benefit formula required by this  
17 article, and shall not be subject to the requirements of Section  
18 7522.10 for pensionable compensation subject to that formula.  
19 However, if the employer adopts a new defined benefit formula  
20 on or after January 1, 2013, that formula must conform to the  
21 requirements of this article or must be determined and certified by  
22 the retirement system's chief actuary and the retirement board to  
23 have no greater risk and no greater cost to the employer than the  
24 defined benefit formula required by this article and must be  
25 approved by the Legislature. New members of the defined benefit  
26 plan may only participate in the lower cost defined benefit formula  
27 that was in place before January 1, 2013, or a defined benefit  
28 formula that conforms to the requirements of this article or is  
29 approved by the Legislature as provided in this subdivision.

30 (e) If a public employer, before January 1, 2013, offers a  
31 retirement benefit plan that consists solely of a defined contribution  
32 plan, that employer may continue to offer that plan instead of the  
33 defined benefit pension plan required by this article. However, if  
34 the employer adopts a new defined benefit pension plan or defined  
35 benefit formula on or after January 1, 2013, that plan or formula  
36 must conform to the requirements of this article or must be  
37 determined and certified by the retirement system's chief actuary  
38 and the system's board to have no greater risk and no greater cost  
39 to the employer than the defined benefit formula required by this  
40 article and must be approved by the Legislature. New members of

1 the employer's plan may only participate in the defined  
2 contribution plan that was in place before January 1, 2013, or a  
3 defined contribution plan or defined benefit formula that conforms  
4 to the requirements of this article.

5 (f) The Judges' Retirement System I and the Judges' Retirement  
6 System II shall not be required to adopt the defined benefit formula  
7 required by Section 7522.25 or 7522.30 or the compensation  
8 limitations defined in Section 7522.10.

9 (g) This article shall not be construed to provide membership  
10 in any public retirement system for an individual who would not  
11 otherwise be eligible for membership under that system's  
12 applicable rules or laws.

13 *SEC. 2. (a) Notwithstanding any other law, the Director of*  
14 *Finance may authorize a cashflow loan of up to twenty-six million*  
15 *dollars (\$26,000,000) from moneys in the Public Transportation*  
16 *Account in the State Transportation Fund to local mass transit*  
17 *providers upon their request to the Director of Finance. The*  
18 *cashflow loans shall be provided as follows:*

19 *(1) The loan to a local mass transit provider shall be in an*  
20 *amount equal to the federal transportation grant not received by*  
21 *the provider due to the noncertification by the United States*  
22 *Secretary of Labor, or his or her designee, under subsection (b)*  
23 *of Section 5333 of Title 49 of the United States Code for the funds*  
24 *scheduled to lapse on September 30, 2013, as determined by the*  
25 *Director of Finance.*

26 *(2) The Director of Finance shall provide a schedule to the State*  
27 *Controller for the disbursement of the loan amount for each local*  
28 *mass transit provider that receives a loan under paragraph (1).*

29 *(3) The Controller shall draw warrants against the Public*  
30 *Transportation Account in the State Transportation Fund per the*  
31 *schedule provided by the Director of Finance in paragraph (2)*  
32 *within 14 days of receipt of the schedule.*

33 *(b) (1) On or before 60 days after a federal district court rules*  
34 *that the United States Secretary of Labor, or his or her designee,*  
35 *erred in determining that application of the California Public*  
36 *Employees' Pension Reform Act of 2013 precludes certification*  
37 *under subsection (b) of Section 5333 of Title 49 of the United States*  
38 *Code, or longer if so authorized by the Director of Finance, a local*  
39 *mass transit provider shall repay the amount loaned pursuant to*  
40 *subdivision (a) to the Public Transportation Account in the State*

1 *Transportation Fund with the interest calculated at the rate earned*  
2 *by the Pooled Money Investment Account at that time of loan,*  
3 *unless interest charges are waived by the Director of Finance.*

4 *(2) On or before 60 days after a certification by the United*  
5 *States Secretary of Labor, or his or her designee, that results in*  
6 *the receipt of funds described in paragraph (1) of subdivision (a),*  
7 *a local mass transit provider shall repay the amount loaned*  
8 *pursuant to subdivision (a) to the Public Transportation Account*  
9 *in the State Transportation Fund with the interest calculated at*  
10 *the rate earned by the Pooled Money Investment Account at that*  
11 *time of loan, unless interest charges are waived by the Director*  
12 *of Finance.*

13 *(3) No later than January 1, 2019, if neither of the contingencies*  
14 *described in paragraph (1) or (2) have occurred, a local mass*  
15 *transit provider shall repay the amount loaned pursuant to*  
16 *subdivision (a) to the Public Transportation Account in the State*  
17 *Transportation Fund with the interest calculated at the rate earned*  
18 *by the Pooled Money Investment Account at that time of loan,*  
19 *unless interest charges are waived by the Director of Finance.*

20 *(c) A cashflow loan from the Public Transportation Account in*  
21 *the State Transportation Fund authorized by this section does not*  
22 *constitute budgetary expenditures. A cashflow loan, and the*  
23 *repayment of a cashflow loan, made under this section shall not*  
24 *affect the budgetary reserve.*

25 *SEC. 3. This act is an urgency statute necessary for the*  
26 *immediate preservation of the public peace, health, or safety within*  
27 *the meaning of Article IV of the Constitution and shall go into*  
28 *immediate effect. The facts constituting the necessity are:*

29 *In order to preserve the funding for essential transportation*  
30 *infrastructure projects while balancing the public's need to control*  
31 *the costs of public employee pension benefits, it is necessary that*  
32 *this measure take effect immediately.*

33 ~~SECTION 1. It is the intent of the Legislature to enact~~  
34 ~~subsequent statutory changes to the Department of Toxic Substance~~  
35 ~~Control's hazardous waste fee system that would streamline the~~  
36 ~~system, harmonize the department's hazardous waste program~~  
37 ~~objectives and fees with the Department of Resources Recycling~~  
38 ~~and Recovery's responsibilities and programs under the California~~  
39 ~~Oil Recycling Enhancement Act, and align the hazardous waste~~

- 1 ~~fees with the actual regulatory costs associated with managing~~
- 2 ~~hazardous waste and used oil.~~

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