California Pension Reform FAQs

What is it?

1. What is Pension Reform?
   The Public Employees’ Pension Reform Act of 2013 (PEPRA) and related Public Employees’ Retirement Law (PERL) amendments (AB 340 and AB 197) were signed by the Governor on September 12, 2012. Collectively referred to as Pension Reform, the provisions of the new law take effect as of January 1, 2013.

2. What are the main changes?
   Pension Reform changes 5 main areas for Yuba County:
   1) Membership and Benefit Formulas
   2) Employer and Member Contributions
   3) Pensionable Compensation
   4) Work after retirement
   5) Pension and Health Benefits

Membership and Benefits

3. Who is affected by Pension Reform?
   Most all government agencies in California are affected by Pension Reform. The new law mandates pension reform statewide. Starting on January 1, 2013, new members entering the CalPERS retirement system are subject to the new law.

4. Who is a New Member?
   A New Member is a new hire brought into CalPERS membership for the first time on or after January 1, 2013, and who has no prior membership in any California public retirement system. A new member is a new hire after January 1, 2013 who is not eligible for reciprocity with another California public retirement system. The definition of New Member also includes a member who first established CalPERS membership prior to January 1, 2013, and who is rehired by a different CalPERS employer after a break in service of greater than six months.
   A prior Yuba County employee is considered a “legacy” or “classic” employee and even if rehired after January 1, 2013, will fall under the County’s current (in effect as of December 31, 2012) retirement formulas.

5. Are leaves of absence considered a break in service?
   Leaves of absence (i.e., maternity leave, military leave) are not considered a break in service since there is no termination of the employment relationship.

6. What if the County hires a previous employee who left County service and withdrew their retirement funds?
   If a previous member of CalPERS pulls out all of his/her money upon leaving public service, CalPERS considers this a “refunded” member. If this member is rehired by Yuba County after 1/1/13, s/he is considered a legacy or classic member and will fall under the retirement formulas in place as of 12/31/12 regardless of the length of break in service.
   If this member has a break in service of less than 6 months and is hired by another CalPERS agency, s/he is also considered a legacy or classic member and will fall under the retirement formulas in place in the other agency as of 12/31/12.
If this member has a break in service of greater than 6 months and is hired by another agency, the member is considered a new member and the new retirement formulas apply.

7. What is the new benefit formula?
   a) New Safety Members: for new safety members, the retirement formula is 2.7%@57
   b) New Miscellaneous Members: the new retirement formula is 2%@62

Employer and Member Contributions

8. What is the contribution rate for New Members?
   The law requires new members to contribute at least 50% of the total normal cost rate for their defined benefit plan or “the current contribution rate of similarly situated employees, whichever is greater.

9. What about DSA and MSA for which the County pays the Employees’ Share?
   The existing labor agreements with DSA and MSA provide that the County pays the Employer Paid Member Contribution (EPMC) which is presently 9%. The law now considers those labor agreements to be “impacted” by the pension reform changes. CalPERS is in the process of creating a checklist for the County to complete in order to determine whether or not our labor agreements are impaired. Since the labor agreements between the County and DSA/MSA don’t expire until 6-30-14, any new hire/new member in those associations will fall under the provisions of the existing agreements until the agreements expire. Once the impaired agreements are amended, extended, renewed, or expire, the new requirements will apply.

10. Do existing non-represented employees have to contribute 50% of normal costs come 2013?
    Existing employees, both represented and non-represented, are not required to start paying half the normal cost on January 1, 2013. After January 1, 2013, employers continue to have the same authority to increase non-represented employees’ contributions as under current law. In general, Pension Reform does not change existing non-represented employees’ contribution rates nor an employer’s authority to alter those contribution rates.

11. Does PEPRA prohibit employers from paying Employer Paid Member Contributions (EPMC) or reporting it as special compensation for existing employees?
    Pension reform does not prohibit employers from paying the member’s contributions or converting these contributions to pay rate where statutory and regulatory requirements have been met.

Pensionable Compensation

12. What is a Compensation Cap?
    This provision of Pension Reform caps the annual pensionable compensation that can be used to calculate final compensation for New Members. This cap is tied to a compensation cap set by the Internal Revenue Service for Social Security Benefits, referred to as the 430(b) limit. The New Member cap for Yuba County in 2013 will be $136,440. Adjustments to the caps are permitted annually based on changes to the Consumer Price Index for All Urban Consumers. Member contributions will stop when the member’s actual earnings reach the contribution limits.
13. Will the Compensation Cap affect Yuba County's Employer Contribution?
   The Compensation Cap will not affect Yuba County's payment into the retirement system. Regardless of the cap on the member contributions, CalPERS has no intention of capping the Employer contributions for at least two years.

14. Is there a change to the calculation of Final Compensation?
   Yuba County currently counts income earned in an employee’s highest year (12 month period of time) as the Final Compensation for retirement benefits calculations. Pension Reform requires that a three-year final compensation period be used to calculate the average final compensation for all new members.

15. Has the reporting of Special Compensation (specialty pay) changed?
   Pension Reform does not change how public employers treat special compensation for current employees. However, it does establish a definition of pensionable compensation for new employees. While it specifically excludes some forms of compensation, it does not clearly identify which forms of pay fall within the scope of pensionable compensation. CalPERS is evaluating what forms of compensation are considered as pensionable compensation and how they should be reported.

16. Will there be any changes to how unused sick leave will be applied to service credit at retirement?
   No, Pension Reform does not change the provision allowing members to convert unused sick leave to service credit. However, sick leave pay outs will not count toward pensionable compensation for new members.

Working After Retirement

17. Is there a cap on the number of hours a retired annuitant may work?
   All employees who retire from public service will be prohibited from working more than 960 hours per calendar or fiscal year for any public employer in the same public retirement system that the individual is retired from without reinstating from retirement.

18. Is there a waiting period between retirement and working again?
   A 180-day waiting period is required for all employees who retire from a public employer before the retiree can return to work without reinstating from retirement. The 180-day waiting period starts from the date of retirement. This part of the provision does not apply to safety members.
   There is a one year waiting period that applies to all if the member has received unemployment compensation arising from public employment.

19. Are there any exceptions to the 180-day waiting period?
   Safety members are not subject to the 180-day waiting period unless they have received a golden handshake or other incentive to retire.

20. Can a retired annuitant work under a contract as a consultant?
   The County must report to CalPERS all the hours worked by any CalPERS retired annuitant in order to monitor the 960-hour cap. Retirees who are hired as independent contractors or consultants with a direct relationship are considered retired annuitants and must also be reported and tracked.
21. If an employee’s first day of retirement is prior to December 31, 2012, is that employee exempt from the working after retirement limitations of Pension Reform?
   The post-employment provisions apply to any person receiving a pension from a public retirement system regardless of their retirement date. The issue is the start date which, if after January 1, 2013, is controlled by the new requirements.

22. Does Pension Reform affect work in the Private Sector?
   A retiree can work in the private sector or with another public employer that is not in the same retirement system the individual retired from, without waiting 180 days or being limited to 960 hours.

Pension and Health Benefits

23. Are cost of living adjustments considered enhancements to a retirement benefit?
   Public employers are prohibited from granting retroactive pension benefit enhancements that would apply to service performed prior to the operative date of the enhancement. An increase to a retiree’s annual cost-of-living adjustment within existing statutory limits is not considered to be an enhancement to a retirement benefit.
   CalPERS will develop a list of those existing optional benefits that are considered to be retirement benefit enhancements and will clarify this provision in future Circular Letters.

24. Can employees still purchase Additional Retirement Service Credit (AirTime)?
   The ability to purchase “airtime” will be eliminated on January 1, 2013. The prohibition on future “airtime” service credit purchases does not prohibit purchases of qualified service credit. For example, service credit purchases for qualified military service will still be allowed.
California Public Employees’ Pension Reform Act of 2013 (PEPRA) Pocket Guide

PEPRA is effective January 1, 2013, and implements a new retirement formula and limitations on new PERS members, restrictions on the re-employment of retirees and minimal modifications to current PERS members’ retirement. This document will provide a brief overview of these changes and their impact on County business.

PEPRA implements the following effective 1/1/2013:

- PEPRA distinguishes between members of PERS as of 12/31/2012 and new members on or after 1/1/2013. Current members are referred to as Classic Members (called legacy members in the legislation). Classic Members are not subject to PEPRA (with a few exceptions).
- New hires who meet specific criteria may be considered Classic Members.

Retirement Formulas

- New members will be subject to revised retirement formulas: 2% at 62 for Miscellaneous and 2.7% at 57 for Safety. Classic Members will remain under the current formulas.

Retirement Benefits

- Final compensation will be based on a 3-year highest average.
- Some categories of compensation will be not be considered in pension calculations.
- Pensionable compensation will be capped at 120% of the Social Security rate and adjusted annually for inflation. The cap for 2013 is $136,440. Employee (not employer) contributions will be based on this cap.

Paycheck Deductions

- After existing MOU’s expire in 2014, the County may no longer pay employer paid membership contributions (EPMC) for all new PERS members.
- New members will be required to pay 50% of the “normal cost” towards their retirement and no less than the rate charged to Classic members. This amount may increase/decrease each fiscal year based on rates established by CalPERS. The YCEA/DDAA/YCPPO/Mgmt/Confidential rate is 7% and DSA/MSA rate is 0% Misc. and 1% Safety (the difference between the normal cost and the EPMC). However after the MOU expires DSA/MSA will pay the full cost-share which will be 7% Misc. and 10% Safety.

Impact to Current (Classic) PERS members

- Classic members who separate from County service for more than 6 months may lose their Classic status. They will retain all earned service to that point under Classic terms and any new service will fall under PEPRA.

Impact to All Members

- Additional service credit (air time) can no longer be purchased.
- Felony convictions will result in a forfeiture of pension benefits.
- Benefit enhancements cannot be applied retroactively.
Post-Retirement Public Employment (all members)

- Post-retirement employment is only permissible to prevent a stoppage in public business during an emergency or when the retiree possesses critical and unique skills (for a limited duration).
- Retiree may not return to extra-hire employment for 180 days from the last retirement date.
- Retiree may not return to extra-hire employment for 180 days if they received a golden handshake.
- Retiree may not return to extra-hire employment for 12 months after the receipt of unemployment funds arising from public service.
- To be exempt from the 180 day waiting period, the retiree must be employed in a public safety classification or the appointment must be approved by the BOS in open session and not on the consent agenda. If the retiree received unemployment or a golden handshake this exemption will not apply.

PEPRA implements the following effective 1/1/2018

Paycheck Deductions

- Classic members who are not contributing 50% of their normal cost may be subject to impasse procedures resulting in the imposition of a 50% normal cost share to a maximum of 8% for Miscellaneous and 12% for Safety.