Executive Director's Watch

August 28, 2012

Legislature's Pension Conference Committee Passes Reform Package

Earlier today, the Governor announced that he and the Legislature have reached agreement on a pension reform package. The Legislature's Conference Committee on Pension Reform took up the proposal this evening and passed it on a party line vote, with Republicans not voting. The bill text was not available until moments before the hearing, so there has been little time for analysis. We have provided a bullet point summary of the key issues contained in the proposal below and will provide a more detailed analysis in the coming days. As a conference committee report, the pension reform bill cannot be amended and is expected to be heard on the floors of each house on Friday, August 31, the last day for the Legislature to act on bills. Please contact Eraina Ortega at eortega@counties.org or 916/650-8180 if you have any questions.

- Establishes new pension formulas for new employees hired on or after January 1, 2013.
    - Miscellaneous employees*:* 2% @ 62 formula with full retirement of 2.5% @ 67.
    - Safety employees*:* employer provides one of three formulas based on what is most approximate to the safety formula provided to employees hired on December 31, 2012. Available formulas are at full retirement: 2% @ 57, 2.5% @ 57, and 2.7% @ 57.
- Establishes a cap on the amount of compensation that can be used to determine pension benefits (pensionable compensation) for new employees.
    - Cap is based on the social security contribution and benefit base as specified on January 1, 2013, currently **$110,100**.
    - Cap for employees not receiving social security benefits is 120 percent of the social security base or **$132,120**.

- Cap will be adjusted annually based on changes to the Consumer Price Index.

- Establishes a cap on the contributions to any retirement benefit for employees, including defined contribution plans, at the IRS 401 (a) limits, currently **$250,000**.
- Restricts the use of supplemental defined benefit plans.
- Establishes a new standard that all new employees pay at least 50 percent of the normal costs of pension benefits.
- Authorizes local agencies, including counties, to negotiate cost sharing arrangements that include the costs of the unfunded pension liability.
    - Such arrangements must be by agreement with employees; however, the new authority also allows employers to reach agreements bargaining unit-by-bargaining unit, rather than requiring all safety or all non-safety employees to agree.
- Requires final compensation for new employees to be calculated based on the highest average annual pensionable compensation earned during a period of at least three years.
- Defines a new employee as an individual who has never been a member of any public retirement system prior to January 1, 2013 or an individual who has moved between public employers or retirement systems with more than a 6 month break in service.
- Eliminates pension spiking for new employees with a strict definition of "pensionable compensation" that does not include payments for items, including, but not limited to: vacation, sick leave, vehicle allowance, uniform allowance, and employer contributions to defined benefit plans.
    - Additionally limits pension spiking for existing employees by allowing payments for those items to be included in pensionable compensation only up to the amount earned in each 12-month period during the final average pay period.
- Provides the 1937 Act retirement boards of counties with new authority for assessing and determining whether pension spiking has occurred.
- Prohibits a retired annuitant from returning to service before 180 days has passed unless the employer certifies the appointment is necessary to fill a critically needed position before 180 days and the appointment has been

approved by the governing body of the employer in a public meeting. (The 180 prohibition does not apply to a retiree who is a public safety officer or firefighter.)

- Restricts reciprocity benefits for individuals elected to the City Council or Board of Supervisors on or after January 1, 2013.
- Limits the ability of retired individuals to serve on boards and commissions without reinstatement from retirement.
- Prohibits employers from providing health vesting schedules and pension contribution rates for non-represented individuals and elected or appointed officials that are more advantageous than those provided for represented employees in related membership classifications.
- Prohibits retroactive benefit increases, meaning any future benefit enhancements could only apply to future service.
- Prohibits the purchase of nonqualified service credit (air-time).
- Prohibits contribution holidays, however, the pension board may suspend contributions if a plan is 120 percent funded.
- Limits the ability of individuals who have committed specified felonies related to abuse of office or position to collect a public pension related to that office or position.
- Makes additional changes related to state employees.

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