LEAGUE OF CALIFORNIA CITIES

1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

June 6, 2011

TO: Members: Employee Relations Policy Committee

FROM: David Sifuentes, (Chair), Council Member, South Pasadena
Natasha Karl, League Staff (916) 658-8254

RE: **POLICY COMMITTEE MEETING**
DATE: **Thursday, June 16, 2011**
TIME: **10:00 a.m. – 3:00 p.m.**
PLACE: **League Office**
1400 K Street, Third Floor, Sacramento

SPECIAL ORDER
Joint Policy Committee State Budget and Redevelopment Update
League Sponsored Services Update (Attachment A)
10:00 a.m., Room 204, Sacramento Convention Center

Attached are the agenda and background materials for the upcoming policy committee meeting. If you plan to attend and have not yet returned the attendance form, please email Meg Desmond by **June 13, 2011**. Her email address is: mdesmond@cacities.org. Registration for this meeting is not required; however, your response will help us determine the meal count.

TRANSPORTATION, PARKING and DRIVING DIRECTIONS are provided on the back of this letter.

OVERNIGHT ACCOMODATIONS: If you require an overnight stay in Sacramento, the League can recommend three local properties. Please consider booking online for best available rates or checking www.hotels.com for the Sacramento area.

Hotel Recommendations: Hyatt Regency, 1209 L Street, Sacramento (916) 443-1234
Sheraton Grand, 1230 J Street, Sacramento (916) 447-1700
Residence Inn, 1121 15th Street, Sacramento (916) 443-0500

Deadline for Submitting Annual Conference Resolutions
Saturday, July 23, 2011 – Email, regular mail, fax
For more information, visit: www.cacities.org/resolutions or contact: mdesmond@cacities.org

League of California Cities Policy Committee Meetings – June 16 & 17, 2011

Meeting Locations: Sacramento Convention Center: 1400 J Street, Sacramento 95814 **OR**
League of California Cities: 1400 K Street, Sacramento 95814 *(EQ & ER committees)*
(The League office is located directly behind the Convention Center)

AIR TRANSPORTATION:
Low, refundable airfares are available through the Enhanced Local Government Airfare Program. The program requires that a city be pre-registered; check with your city's travel coordinator. This program is ticketless and includes Southwest, United and United Express. For city pairs, rates, or if your city has not yet registered, please check the League Web site at http://www.cacities.org/travel for details.

TRANSPORTATION FROM AIRPORT:
YOLOBUS information - http://www.yolobus.com/m3.html - (530) 666-BUSS (2877)
Cost: $2.00 each way; seniors (62+) /Disabled, $1.00
Travel time: The bus ride is approximately 20-30 minutes.
From the Airport. (Bus 42A)
Buses run every hour (at approximately 19 minutes past the hour). After departing plane, go to the island outside and locate Public Transit. This is where you will catch YOLOBUS

SUPERSHUTTLE (1-800-BLUE VAN): Upon arrival at the airport, claim your luggage then proceed to the **SuperShuttle** ground transportation booth. A representative will arrange SuperShuttle transportation to your destination. Reservations are not required. **One-way ticket per person: $14.00 ($11 each additional). Round trip ticket per person: $26.00.**

Please note: Downtown hotels do NOT provide shuttle service from the airport.

CABS are quoted between $30.00 to $40.00 from airport to downtown.

RETURN TO AIRPORT:
SuperShuttle (l-800-BLUE VAN) makes regular stops every 1/2 hour in front of these hotels, both within easy walking distance of the Convention Center:

Hyatt Sacramento, 1209 L Street, Sacramento - (916) 443-1234
Sheraton Grand, 1230 J Street, Sacramento - (916) 447-1700

YOLOBUS: Back to Airport (Bus 42B) Pickup location: L & 13th Streets
Buses run every hour (at 5 minutes past the hour). The bus ride is approximately 20-30 minutes.

DRIVING DIRECTIONS:
Below are suggested driving directions to the Convention Center and may not be the most efficient route from your starting point. There are many websites which offer assistance with driving directions. Here are two that may be helpful: www.mapquest.com, and http://maps.yahoo.com/

From I-5: Exit "J" Street. The Convention Center is located on "J" Street (one-way) between 13th & 15th St.
From I-80 (West traveling East): Take I-5 North, then follow the above directions.
From I-80 (East traveling West): Take I-80 to Capitol City Freeway (right lanes), Exit 160 Downtown (right lanes). When freeway ends, merge to near left lane. Turn left on "J" Street, go 1 block.
From the South on Highway 99: Take 99 North to Business 80 West (Capitol City Freeway). Exit at 16th Street. Continue on 16th Street, and turn left on "I", then left on 13th Street.

PARKING: (*Allow time for parking; the downtown area is congested)*
There are numerous public parking garages in the vicinity. Those **closest to the Convention Center** are located at 13th and "J" Streets - directly across from the Sheraton Grand Hotel and the Convention Center. From "J" Street (one way), turn left on 13th Street; entrances to the parking lots are on both the left and the right. The Hyatt Hotel has its own parking garage and valet parking. From "J" Street, turn right on 13th Street, then right on "L" Street. The parking garages **closest to the League offices** are on "K" Street next to the Capitol Garage, corner of 15th & "K" Streets (enter from K Street).

Hotel Recommendations: Hyatt Regency, 1209 L Street, Sacramento (916) 443-1234
Sheraton Grand, 1230 J Street, Sacramento (916) 447-1700
Residence Inn, 1121 15th Street, Sacramento (916) 443-0500

EMPLOYEE RELATIONS POLICY COMMITTEE
AGENDA
Thursday, June 16, 2011
10:00 a.m. – 3:00 p.m.
League Office, 1400 K Street, 3rd Floor Conference Room, Sacramento

Special Order **Joint Policy Committee State Budget and Redevelopment Update** **League Sponsored Services Update** (Attachment A) **10:00 a.m., Room 204, Sacramento Convention Center**

Individuals who wish to review the full text of bills included in this packet are encouraged to do so by visiting the League's website at www.cacities.org and clicking on "Bill Search" found at the left column. Be sure to review the most recent version of the bill.

A G E N D A

I. **Welcome and Introductions**

II. **Public Comment**

III. **State Legislative/Board Action Update** (Attachment B) *Informational*

IV. **State Legislative Action Items** (Attachment C)
A) AB 1184 (Gatto): Public employees' retirement benefits *Action*
Speakers: Danny Brown, Legislative Director and Alan Milligan, Chief Actuary (Attachment C-1 and C-2)
B) Other legislation (as necessary)

Note: Due to the recent introduction of, or pending amendments to these bills, the League analyses were not yet completed at the time of agenda distribution. The full analyses will be provided prior to the policy committee meeting.

V. **Federal Legislative Update** (Handout) *Informational*

VI. **Marijuana Regulation Working Group Report** (Handout) *Informational*

VII. **Pensions**
A) City Managers Draft Pension Reform Action Plan (Attachment D) *Action*
Speakers: Rod Gould, City Manager, Santa Monica, Ron Bates, City Manager, Pico Rivera, and Bruce Channing, City Manager, Laguna Hills
B) Pension Background Document (Attachment E) *Informational*

VIII. **Next Meeting: (*TENTATIVE* *at* Annual Conference - Wednesday, September 21, 2011, San Francisco, time TBD)**

Brown Act Reminder: The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:
1) *Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or*
2) *A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.*

A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.

NOTE: Policy committee members should be aware that lunch is usually served at these meetings. The state's Fair Political Practices Commission takes the position that the value of the lunch should be reported on city officials' statement of economic interests form. Because of the service you provide at these meetings, the League takes the position that the value of the lunch should be reported as income (in return for your service to the committee) as opposed to a gift (note that this is not income for state or federal income tax purposes—just Political Reform Act reporting purposes). The League has been persistent, but unsuccessful, in attempting to change the FPPC's mind about this interpretation. As such, we feel we need to let you know about the issue so you can determine your course of action.

If you would prefer not to have to report the value of the lunches as income, we will let you know the amount so you may reimburse the League. The lunches tend to run in the $30 to $45 range. To review a copy of the FPPC's most recent letter on this issue, please go to www.cacities.org/FPPCletter on the League's Website.

Attachment A

LEAGUE OF CALIFORNIA CITIES

1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

LEAGUE-SPONSORED SERVICES--
VALUE TO CITIES AND TO THE LEAGUE

During its most recent meeting, the League board of directors found information about three League-sponsored services to be very interesting. They encouraged similar briefings for other groups of city officials. The services are provided through three separate organizations that the League helped to form for the value they would bring to cities. The following pages provide introductory information to the three organizations:

California Communities—a joint powers authority that provides local governments and private entities access to low-cost, tax-exempt financing for projects that provide public benefit to their communities.

CalTRUST—a joint powers authority that provides a convenient way for local agencies to pool their assets for investment.

U.S. Communities—a non-profit corporation that allows local agencies to piggyback on competitively bid contracts and take advantage of the enormous collective purchasing power of public agencies nationwide.

The League sponsors these services for the value they provide to cities. As shown in the table following the three flyers, League members derive a second round of benefit from these programs. Fees received by the League allow cities to accomplish through the League what might otherwise be unaffordable, while at the same time reducing League dues. It would require a 55% League dues increase to replace revenue received from California Communities and U.S. Communities.

www.cacommunities.org www.caltrust.org www.uscommunities.org

California Communities

A Unique Asset for Local Government

The California Statewide Communities Development Authority (CSCDA or California Communities) is a joint powers authority sponsored by the League of California Cities and the California State Association of Counties.

California Communities' mission is to provide local governments and private entities access to low-cost, tax-exempt financing for projects that provide a tangible public benefit, contribute to social and economic growth and improve the overall quality of life in local communities throughout California.

Through the variety of innovative public agency and private activity bond programs offered, California Communities has a track record of ensuring that the diverse interests and broad needs of more than 500 local government members, and their communities, are met. With more than $47.2 billion in tax-exempt debt issued since inception in 1988, California Communities® has both earned a trusted name and developed the breadth of experience necessary to operate in the California marketplace.

SOME REMARKABLE ACCOMPLISHMENTS

Local Government Projects
California Communities has funded more than $11.7 billion for 1,456 local agency participants, including:

- Tax and revenue anticipation notes—$9 billion
- Water/wastewater systems—$481 million
- CaLease lease obligations—$123 million
- Pension obligation bonds—$414 million
- Statewide Community Infrastructure Program—$149 million
- Vehicle license fee and property tax securitization—$1.5 billion

Public Benefit Projects
California Communities is known for financing high quality public benefit projects, issuing more than $36.6 billion for 1,775 local community-approved projects for:

- Affordable housing—over 54,000 very-low and low-income affordable housing units for 464 multifamily and 118 senior housing projects.
- Hospitals/medical facilities—645 projects
- Solid waste disposal and alternative energy—19 projects
- Manufacturing—125 projects creating an estimated 10,000 new manufacturing jobs in California.

View the annual Community Benefit Report at www.cacommunities.org

Investment Trust of California

CALTRUST

CalTRUST is an innovative partnership…
The CSAC Finance Corporation and the League of California Cities created CalTRUST to provide a convenient method for local agencies to pool their assets for investment. Recently enacted legislation authorizes local agencies to directly invest in joint investment pools, such as CalTRUST.

CalTRUST makes participation easy…
Local agencies can invest with CalTRUST directly, without the need for a city council action to join the JPA. Any California local agency may participate in CalTRUST.

CalTRUST is governed by local treasurers and investment officers…
As a joint powers authority, CalTRUST is governed by a Board of Trustees made up of local treasurers, finance directors and investment officers.

The Board of Trustees sets overall policy for CalTRUST, and selects and supervises the activities of the Investment Manager and other agents. The CSAC Finance Corporation serves as the Administrator for CalTRUST and Wells Capital Management serves as the Investment Advisor for the Program.

CalTRUST offers account options…
Local agencies have three account options:

- Money Market,
- Short-Term, or
- Medium-Term accounts.

Local agencies may select account options that match their investment time horizon and cash flow needs. Then they can easily reallocate among accounts as those needs change.

Each of the accounts seeks to attain as high a level of current income as is consistent with the preservation of principal by investing only in high-quality, fixed-income securities. All CalTRUST accounts comply with the limits and restrictions placed on local investments by California statutes; no leverage is permitted in any of the CalTRUST accounts.

For more information visit www.caltrust.org

U.S.COMMUNITIES

League-Sponsored
Joint Purchasing Program

U.S. Communities is the leading national government purchasing cooperative, providing world class government procurement resources and solutions to local and state government agencies, school districts (K-12), higher education institutes, and nonprofits looking for the best overall supplier government pricing.

U.S. Communities allows local agencies to piggyback on competitively bid contracts and take advantage of the enormous collective purchasing power of public agencies nationwide.

The program offers:

- **No User Fees**—no costs or fees to participate.
- **Best Overall Supplier Government Pricing**—by combining the potential cooperative purchasing power of up to 90,000 public agencies, California cities are able to access the best overall supplier government pricing.
- **Quality Brands**—thousands of the best brands in a wide variety of categories, services and solutions.
- **Integrity and Experience**—unlike other government cooperative purchasing organizations, U.S. Communities national government purchasing cooperative is founded by 5 national sponsors and over 70 state, city and regional organizations.
- **Oversight by Public Purchasing Professionals**—third-party audits on contracts ensure that program pricing commitments are met, with benchmark analyses against other suppliers and retailers to guarantee participants the best overall value.

A majority of California cities already use one or more of the U.S. Communities contracts. However, there is more money to be saved on the products and services cities use every day!

Registering to participate with U.S. Communities government purchasing cooperative is quick, easy and completely free.

Learn more about this one-of-a-kind joint purchasing program at www.uscommunities.org

Year	Total League Revenue	Dues Revenue	Revenue from CSCDA*	CSCDA % of Total	Dues Increase to Offset CSCDA	Revenue from U.S. Comm	U.S. Comm % of Total	Dues Increase to Offset U.S. Comm
2010	17,109,963	6,217,140	2,077,701	12%	33%	1,491,842	9%	24%
2009	17,040,581	6,403,654	1,658,023	10%	26%	1,378,219	8%	22%
2008	19,183,570	6,485,064	2,318,355	12%	36%	1,455,705	8%	22%
2007	19,515,990	6,034,872	2,355,151	12%	39%	1,367,515	7%	23%
2006	18,520,339	5,962,030	1,849,401	10%	31%	1,173,109	6%	20%
Average	18,274,089	6,220,552	2,051,726	11%	33%	1,373,278	8%	22%

Cities benefit twice from the programs provided by California Communities and U.S. Communities:

First, when they take advantage of the convenient and efficient financing programs or discounted purchasing opportunities.

Second, by avoiding League dues increases.

CalTRUST has the potential to produce revenue for the League in the future. It is still a young and small program.

* The full name of California Communities is California Statewide Communities Development Authority.

ATTACHMENT B

State Legislative/Board Action UPDATE
June 2011

This document is intended to provide policy committee members with an update on board action pertaining to policy committee recommendations on Bell related legislation. This document also provides an update on the status of these bills. This is information only and does not require policy committee action.

Staff: Natasha Karl, (916) 658-8254

Summary:
Responding to misconduct in the City of Bell, California legislators have introduced over 30 bills regulating contracts and open meetings, requiring compensation disclosure, creating new audit programs, and making many other changes to the ways local governments conduct their business.

To respond to this flood of ever-changing reform bills, the League convened several technical review groups: Audits, Compensation and Retirement, and Governance and Transparency. (Members are listed at the end of this report.) The technical review groups met by conference call throughout March to provide initial feedback to help staff set priorities for, and intervene early in, bills that could have a significant impact on cities.

In April 2011, Administrative Services, Employee Relations and Revenue and Taxation policy committees discussed, made revisions to and voted to recommend that the Board adopt new Policy Principles to ensure that staff has sufficient guidance for the many negotiations inherent in the legislative process. Any significant policy issues not covered by these principles will be brought back to the policy committees, otherwise staff will continue to work with Task Force members to resolve technical issues.

Committee Recommendation: The committee voted to recommend that the Board adopt the Compensation and Retirement Principals to guide future policy so that the League can remain an active participant in relevant legislative discussions.

Board Action:
The League's Board of Directors voted to adopt the three sets of principles to guide future policy so that the League can remain an active participant in legislative discussion on audits, compensation, governance, transparency, and ethics-related legislation.

The following are the Compensation and Retirement principals adopted by the board:

Compensation and Retirement Principles

1. The standard practice for establishing employee compensation should be reasonably based upon market conditions, transparent, and tied to experience, benefits and salaries at comparable agencies. Compensation should also be based on job requirements, the complexity of both the make-up of the city organization and community, the leadership

needed, labor market conditions, and the organization's ability to pay.

2. Because the salaries and benefits public employees receive impact public perception, ethical considerations about what is just and fair must be taken into account when determining compensation.

3. State revisions to laws governing local agency retirements, benefits and compensation should address material and documented inadequacies in those laws and have a reasonable relationship to those problems.

4. In order to encourage and facilitate compliance with new benefits, compensation and retirement laws, State laws and regulations should be internally consistent, avoid redundancy and be mindful of the practical challenges associated with implementation.

5. Public retirement systems programs should be fair to taxpayers and employees, and provide long-term financial stability and sustainability.

   Transparency of retirement benefits and other pension obligations ensures the public is informed about the fiscal realities local agencies face as they relate to pension obligations.

Update of Compensation and Retirement Principles Legislation *(As of May 31, 2011)*

AB 148 (Smyth) Local government: ethics training: disclosure *(As amended April 14, 2011)*

Bill Summary:
This bill adds agencies compensation setting guidelines to the required ethics training curriculum. Requires local agencies to post records of ethics training on websites and submit copies of training records to the Controller. Requires local agencies with written attendance compensation or reimbursement policies to post them on its website and submit copies to the Controller. Bill keyed as State mandated local program.

Bill Status: Held in Assembly Appropriations.

AB 582 (Pan). Open meetings: local agencies. *(As amended on April 14, 2011)*

Bill Summary:
This bill would amend the Ralph M. Brown Act to require that proposed compensation increases of more than 5% for specified employees be publically noticed twice. The first notice will be for general notice and nonvoting discussion. The compensation increase, if deemed necessary by the legislative body must be noticed a second time, no less than 12 days after the first notice, announcing a vote on the matter.

Bill Status: Held in Assembly Appropriations.

AB 1344 (Feuer) Local Governance. *(As amended on March 17, 2011)*

Bill Summary:
This bill would require a charter proposed by a charter commission, whether elected or appointed by a governing body, for a city or city and county to be submitted to the voters at and established statewide or municipal general election. This bill includes several provisions related to employment contracts and compensation increases and makes several changes to the Ralph M. Brown Act.

Bill Status: This bill was significantly amended on May 27, 2011. This bill is recently moved to the Senate.

AB 1355 (Lara) City officials: standards *(as amended on March 24, 2011)*

Bill Summary:
This bill would require the Secretary of State (SOS) in consultation with the Controller, the Treasurer and the League of California Cities to develop recommendations for minimum educational and certification standards for the following appointed and/or elected city officials: city clerk, city manager, and city treasurer.

Bill Status: This is a 2-year bill, which means that the bill will not move until Jan. 2012, if at all.

AB 1184 (Gatto) Public Employees' Retirement Benefits.

Bill Summary:
Provides that the obligations for retirement benefits that are attributable to excess compensation earned by a nonrepresented employee who was employed by one or more public agencies is the sole obligation of the subsequent contracting agency that paid the excess compensation. Prohibits PERS or a contracting agency from administering a plan of replacement benefits and applies this to members hired on or after Jan. 1, 2013.

- Requires that the contributions and disbursements of benefits for that portion of the compensation of an employee of a contracting agency that constitutes excessive compensation be the sole obligation of the current contracting agency that paid the excessive compensation;

- Requires that the liability of any prior contracting agency for the contributions and disbursements of benefits of that employee be limited to contributions and other assets sufficient to fund a retirement allowance calculated using the amount of the employee's final compensation at the time her or she terminated his or her service with the prior contacting agency and any amount that is not excess compensation;

- Defines "excessive compensation" to mean final compensation of any employee of a contracting agency who previously worked for another contacting agency to the extent the final compensation received from the current contracting agency is 15-percent or more in excess of the salary paid by the prior contacting agency, as adjusted for actuarial increases in that salary;

- Does not apply to any employee covered by a memorandum of understanding or any member of a recognized bargaining unit;

- Requires the CalPERS actuary, in determining contributions for contracting agencies, to establish a contribution with respect to excessive compensation separate from, and independent of, the contribution required for other benefits under their contracts;

- Requires that total contributions in these cases, for agencies as a group be established, and from time to time be adjusted by actuarial valuation performed by the actuary of the liability for the benefit or benefits on account of the employees of all those agencies;

- Requires that adjustments affect only future contributions and take into account the difference between contributions on hand and the amount required to fund the allowances of benefits for which entitlement has already been established, as well as liability for future entitlements to benefits;

- Requires that the contributions that are established and adjusted from time to time be allocated between the agencies on a basis that, in the opinion of the board, after recommendation of the actuary, provides an equitable distribution between the agencies;

- Prohibits allocations from being based on differences in the incidence of death or disability in the respective agencies;

- Provides that when the board established a separate contribution, it must maintain the contribution and any contributions required to be made by employees towards the cost of the benefit or benefits as a separate account, and that account may only be available for payment of the benefit or benefits and cannot be a part of the accumulated contributions under this system of any of the employers or members included;

- Requires that the board and each contacting agency modify each contract to reflect these requirements on or before July 1, 2012; and,

- Prohibits a CalPERS from administering a plan of replacement benefits for members hired on or after January 1, 2013.

Background:

Existing Law:

- Requires that if a local agency employs 100 or fewer employees, its assets and liabilities shall be pooled with other small agencies having the same benefit structures and that the employers in the pool shall share the same employer rate.

- Requires PERS to actuarially determine the employer rates annually, which are based on various factors, including employee and retiree demographics, experience (e.g., numbers of deaths and retirements, amounts of salary increases, etc.), and the level of investment returns on the retirement fund. The rates are charged as a percentage of the employer's total payroll for active employees and are paid over the course of an employee's career.

- Allows public employees who change public employers to, upon retirement and having met specified criteria, have all their years of service calculated at their highest compensation for the purpose of determining their retirement benefits and specifies that this is one of the benefits of reciprocity.

- Requires employees to also make contributions to fund their benefits, which accumulated contributions are the property of the employees and may be disbursed to them or their survivors upon separation from employment or death.

City of Bell & impact on former cities: In the City of Bell several employees received significant salary bumps from the salaries they received with their previous employers. What was problematic about these increases was not just that they were significant, but that the previous employers would be on the hook for the increased retirement costs associated with these inflated salaries through a process CalPERS has called "salary reciprocity."

Salary reciprocity allows public employees who change public employers to, upon retirement and having met specified criteria, have all their years of service calculated at their highest compensation for the purpose of determining their retirement benefits.

For example: Jon Smith works at City A for 20 years making $80,000 and moves to City B for the final 10 years of his career and receives a salary increase and now makes $100,000. After a full 30 years of service in the public sector John Smith retires. When CalPERS calculates Jon Smith's retirement they will calculate the 20 years of service for City A based on the $100,000 not on the $80,000 Jon Smith was making while employed by City A. So the additional $20,000 Jon Smith received will increase the costs for City A. This same example can also be flipped and work in the benefit of City A. If Jon Smith receives a salary decrease when he moves to City B and retires without receiving any increases, City A's liability will also decrease.

A major benefit of reciprocity is that it enables labor force mobility within California government. Allowing mobility among public agencies provides not only the employee benefits but also provides employers the benefit of an increased pool of well qualified candidates. Some have argued that without reciprocity the public sector is less attractive. Without reciprocity there would be a disincentive for individuals to move from one employer to another, which is common especially for younger generations.

Replacement benefit: The Replacement Benefit Plan (RBP) is a plan that allows for “replacement” of the annual benefit allowance amount that exceeds the IRC Section 415(b) limit (defined below) with wages. Its purpose is to “make whole” the retirement allowances limited by Section 415(b).

The RBP is funded by the employer. CalPERS invoices and collects the replacement benefit amount from the affected employer and then disburses it to affected retirees as wages in quarterly payments within the calendar year.

All member whose combination of reportable compensation, benefit factor and service credit cause their benefits to exceed the Section 415(b) benefit limits are eligible to participate in the RBP.

Internal Revenue Code Section 415(b): This is a provision in federal law which limits the amount of annual retirement benefit an individual can receive from a qualified defined benefit pension plan such as CalPERS. This limit was put into place to prevent employers from using tax-qualified defined benefit plans as tax shelters. The CalPERS retirement plan will lose its tax exempt status if it fails to comply with Section 415.

The current limit or cap is $195,000 for those retiring between the ages of 62-66, this amount is set annually, and applies to anyone entering the system after Jan. 1990. There are adjustments that are made to the limit to reflect variables such as the date of membership in the CalPERS defined benefit plan and age at the time of retirement.

Policy questions to consider:

- Is the 15% threshold too low for defining “excess compensation”?
- Would employers make hiring decisions based on the 15% threshold?
- Does the committee see concerns about significantly limiting reciprocity?
- What concerns, if any, are raised about deleting the Replacement Benefit Plan administered by CalPERS?

Staff Recommendation:
Staff recommends the committee discusses this issue.

Fiscal Impact:
Unknown.

Existing League Policy:
The League has no specific policy that relates directly to this legislation.

Support-Opposition:
Unknown.

A Guide to CalPERS

When You Change Retirement Systems

TABLE OF CONTENTS

INTRODUCTION

When You Change Retirement Systems

This publication provides information on the rights and benefits afforded to eligible CalPERS members in conjunction with certain other public retirement systems in California.

Please note that CalPERS authority extends only to applying and implementing the California Public Employees' Retirement Law; it does not extend to laws and regulations under which other public retirement systems are administered.

Questions relating to rights, benefits, and obligations under any of the other public retirement systems should be addressed directly to the appropriate system.

Reciprocity is a complex subject. If you have questions while reading this publication, please call the CalPERS Customer Contact Center toll free at **888 CalPERS** (or **888**-225-7377).

Reciprocity

As a member of the California Public Employees' Retirement System (CalPERS), you may be eligible for the benefits of reciprocity. Reciprocity is an agreement among public retirement systems to allow members to move from one public employer to another public employer within a specific time limit without losing some valuable retirement and related benefit rights.

There is no transfer of funds or service credit between retirement systems when you establish reciprocity. You become a member of both systems and are subject to the membership and benefit obligations and rights of each system (for example, minimum retirement age may vary between systems), except as modified by the reciprocity agreement. You must apply to retire from each system separately, and you will receive separate retirement allowances from each system. You must retire on the same date from each public retirement system participating in a reciprocal agreement for all benefits of reciprocity to apply.

If you are establishing reciprocity by redepositing formerly withdrawn CalPERS contributions, your retirement date can be no earlier than the day following CalPERS receipt of your request to purchase this service.

This publication explains benefits arising from movement from CalPERS to a reciprocal retirement system. It also includes a list of reciprocal agencies including the public retirement systems that have established reciprocity with CalPERS by contract. Note: Even if you do not qualify for the full benefits of reciprocity, certain benefits may still be available to you from CalPERS.

In addition, although there is no reciprocity established between CalPERS and the State Teachers' Retirement System (CalSTRS), the Judges' Retirement System (JRS), the Judges' Retirement System II (JRS II), or the Legislators' Retirement System (LRS), an agreement with those systems provides similar benefits.

PUBLIC RETIREMENT SYSTEMS WITH RECIPROCITY

County Systems

Counties that maintain retirement systems under the County Employees' Retirement Law of 1937:

Alameda	Sacramento
Contra Costa	San Bernardino
Fresno	San Diego
Imperial	San Joaquin
Kern	San Mateo
Los Angeles	Santa Barbara
Marin	Sonoma
Mendocino	Stanislaus
Merced	Tulare
Orange	Ventura

Independent Public Agency Retirement Systems

Public agencies maintaining their own retirement systems that have contracted with CalPERS to provide the benefits of reciprocity and the dates the reciprocal agreements were established:

*City of Concord (11/27/70)

*City of Costa Mesa (safety employees only) (4/1/78)

City of Fresno (misc. and safety retirement systems) (2/18/02)

City of Oakland (non-safety employees only) (4/1/71)

City of Pasadena (fire and police retirement) (5/4/01)

*City of Sacramento (11/4/74)

*City of San Clemente (non-safety employees only) (1/1/85)

City of San Diego (6/25/92)

*City & County of San Francisco (7/29/88)

City of San Jose (misc. 12/9/94; safety 9/30/94)

Contra Costa Water District (3/2/88)

County of San Luis Obispo (4/19/84)

East Bay Municipal Utility District (4/16/84)

East Bay Regional Park District (safety employees only) (7/1/96)

Los Angeles County Metropolitan Transportation Authority (Non-Contract Employees' Retirement Income Plan, formerly Southern California Rapid Transit District (5/12/71)

City of Los Angeles (7/14/97)

** These entities are now CalPERS-covered employers. If you earned service credit in these systems prior to their CalPERS contract, you may be eligible for reciprocity for that earlier service credit.*

UCRP

The University of California Retirement Plan (UCRP) (10/1/63)

RECIPROCITY REQUIREMENTS

When changing retirement systems, you must satisfy certain statutory conditions in order to receive the full benefits of reciprocity:

- You must continue membership in the first retirement system by leaving your service credit and contributions (if any) on deposit (or by later re-depositing contributions you have withdrawn); and
- You must enter employment that results in membership in the new system within six months of leaving CalPERS employment*; and
- You must retire on the same date from both systems by submitting a retirement application to each system respectively.
- Certain exceptions may exist if you are employed under an independent public agency retirement system before the effective date of that system's reciprocal agreement with CalPERS.

** Eligibility for reciprocity is determined by the retirement laws in effect at the time of movement between employers and retirement systems. Current CalPERS law requires movement within six months.*

Important Restrictions

Concurrent Employment

Reciprocity **does not apply** when your employment under the first retirement system overlaps your employment under the new system. **For the benefits of reciprocity to apply, you must be separated under the first system prior to joining the new system.** This may be true even if the overlapping time is due to running out leave credits or where reciprocity is established with the new system and, while still employed with that system, you return to any CalPERS-covered employment. You should check with your current system and new system about their rules **before** you change employment. If you are concurrently employed we will use your highest rate of pay under CalPERS when computing your retirement allowance.

Refund Restriction

Some retirement systems may not allow you to withdraw your member contributions while you are employed in a position covered by a reciprocal retirement system or CalSTRS, JRS, JRS II, LRS or UCRP. (See Benefits for Non-Qualifying Individuals, page 9).

New State Employees

State miscellaneous or industrial employees hired for the first time on or after August 11, 2004, are placed in the Alternate Retirement Program (ARP) administered by the Savings Plus Program in the Department of Personnel Administration. You are excluded from ARP if you were a member of a CalPERS reciprocal retirement system six months prior to establishing membership with CalPERS; or you are a member of the Judges' Retirement System, Judges' Retirement System II, Legislators' Retirement System, California State Teachers' Retirement System, or the University of California Retirement Plan.

Reinstatement From Retirement

If in the future you reinstate to active employment in a CalPERS covered position and have retired under reciprocity, there is no provision in the law to allow you to apply reciprocal rights to your subsequent retirement since you will no longer be retired from both systems on the same date.

RECIPROCITY BENEFITS & REQUIREMENTS

The following benefits and requirements apply to CalPERS members who make a qualified move between reciprocal retirement systems.

Member Contribution Rate Based on Age at Entry
Retirement formulas for CalPERS miscellaneous members and most safety members are based on a fixed rate of contribution and are not affected by age at entry. However, other systems may use age at entry for their contribution rate. Check with the appropriate system for information.

Exception
If you retire on a service retirement from another system before you have met the CalPERS minimum retirement age, you can later retire under CalPERS effective on the date you become eligible; we will still use your highest rate of pay under any of the systems.

Highest Final Compensation
CalPERS will compute your average final compensation based on the highest rate of pay under any system, as long as you **retire on the same date** from all systems. Systems will use either a 12- or 36-month consecutive highest final compensation. If you are a local member of CalPERS first elected or appointed to a city council or county board of supervisors on or after July 1,1994, your final compensation is based on the highest annual average compensation earnable during the period of State service in each elective or appointed office. Other system salaries cannot be used.

Qualification for Benefits
Service earned under both systems may be used to meet each system's vesting and retirement eligibility requirements.

Disability Retirement
If you are eligible for disability retirement from your other system (or disability income from the University of California Retirement Plan), you may also be entitled to CalPERS disability retirement benefits, if you retire from both systems on the same date. CalPERS will pay a benefit based on CalPERS service credit, subject to CalPERS law, and limited to an amount that does not exceed the difference between what you are going to receive from the other system and what you would receive if all your CalPERS service were also credited with that system. (**If this calculation does not increase your allowance, we will pay an annuity that is the actuarial equivalent of your CalPERS contributions.**)

If you retire from your other system because of a work-related disability, CalPERS will pay an annuity that is the actuarial equivalent of your CalPERS contributions. If you meet the CalPERS minimum age requirements, you may find it to your advantage to take service retirement from CalPERS and still take disability retirement from your other system.

Pre-Retirement Death Benefits
If you die prior to retiring while you are employed as a member of another system, a lump-sum Basic Death Benefit consisting of a return of your CalPERS retirement contributions will be payable to your beneficiary. An additional lump-sum "employer's share" may be payable. However, the total paid by both systems cannot exceed the maximum lump-sum benefit allowable if all service had been under the other system. If you were a safety member of CalPERS and your death is job related, the monthly Special Death Benefit allowance may be payable to a qualifying survivor.

BENEFITS FOR NON-QUALIFYING INDIVIDUALS

Even if you do not qualify for full reciprocity, CalPERS offers you redeposit rights, vesting, and University of California Retirement Plan final compensation.

Other Benefits

If your employer established a reciprocal agreement with CalPERS after you changed membership, and if you would have been eligible for reciprocity had an agreement been in effect at the time of your membership change, your retirement allowance will be based on the highest final compensation under either system as long as you **retire on the same date** under both systems.

Example: You separate from employment as a member of CalPERS on January 1, 2001. You become a member of another retirement system within six months of leaving CalPERS employment. Later, that system signs a reciprocal contract effective July 1, 2002. CalPERS will use your highest final compensation from the other retirement system, because you would have been eligible for reciprocity had the new reciprocal contract been in place when you separated in 2001.

Redeposit Rights

If you withdrew your CalPERS contributions and interest and later joined a reciprocal retirement system, you can re-establish CalPERS service credit and membership by making a redeposit. If you are establishing reciprocity by redepositing formerly withdrawn CalPERS contributions, your retirement date can be no earlier than the day following CalPERS receipt of your request to purchase this service.

Refund Restriction

You may not withdraw your CalPERS contributions once you have entered employment covered by the University of California Retirement Plan or if, within six months of leaving State service, you entered employment covered by a system under the County Employees' Retirement Law of 1937 or covered by certain **other** public agency retirement systems.

Vesting

If you are a CalPERS member who is also a member of a reciprocal retirement system, you are eligible to retire from CalPERS without meeting the CalPERS minimum service credit requirement (but you must still meet the minimum age requirement).

University of California Retirement Plan Final Compensation

The average pay rate during any 12-month or 36-month period of employment with the University of California will be used for computing final compensation, if you **retire from both systems on the same date**.

Important

If you die after reaching age 50, there is no monthly pre-retirement death benefit allowance payable to your surviving spouse or registered domestic partner as there is for CalPERS members who are working for a CalPERS-covered employer at the time of death. Therefore, if you become ill and wish to leave a monthly death benefit to anyone, you **must retire** from CalPERS and choose an option that provides a post-retirement monthly death benefit. In this situation, it is advisable to retire from both systems concurrently.

Important
Please use the ***Election to Coordinate Retirement When Changing Retirement Systems*** form to notify CalPERS that you are a member of the non-reciprocal systems.

NON-RECIPROCAL PUBLIC RETIREMENT SYSTEM BENEFITS & REQUIREMENTS

There is no formal reciprocity agreement established between CalPERS and the following systems:

- State Teachers' Retirement System (CalSTRS);
- Legislators' Retirement System (LRS);
- Judges' Retirement System (JRS);
- Judges' Retirement System II (JRS II).

Note: There is no time requirement for you to enter membership with the above systems. The following benefits and requirements apply to CalPERS members who enter membership with these systems and retire on the same date under both systems.

Final Compensation
CalPERS will compute your final compensation based on your highest rate of pay under CalSTRS, JRS, JRS II, LRS, or CalPERS during any consecutive 12-month or 36-month period of service, as long as you retire on the same date under both systems. (If you became an elective or appointed officer on or after July 1, 1994, we will use your highest rate of pay under CalPERS.)

Redeposit Rights
If you withdrew your CalPERS contributions and interest prior to your employment with (and membership in) CalSTRS, JRS, JRS II, or LRS, you have the right to redeposit your CalPERS contributions in order to re-establish CalPERS service credit and membership. If you are establishing reciprocity by redepositing formerly withdrawn CalPERS contributions, your retirement date can be no earlier than the day following CalPERS receipt of your request to purchase this service.

Refund Restriction
You may not withdraw your CalPERS contributions once you have entered employment with CalSTRS, JRS, JRS II, or LRS.

Vesting
A CalPERS member who is a member of CalSTRS, JRS, JRS II, or LRS is eligible to retire from CalPERS without meeting the CalPERS minimum service credit requirement (but must still meet the minimum age requirement).

Disability Retirement
There is no provision for CalPERS disability retirement when you are eligible for a disability benefit from CalSTRS, JRS, JRS II, or LRS. You must instead take a CalPERS service retirement on the same date you take disability retirement from the other system in order for the provisions of final compensation to apply. If you will be receiving a disability allowance from CalSTRS, you can take a service retirement from CalPERS at the same time (if you meet the minimum retirement age) **or** at age 60, when the disability allowance under CalSTRS is changed to a service retirement. Either way, you are considered to have retired on the same date under both systems, and CalPERS will compute your final compensation based on your highest rate of pay under either system.

Election to Coordinate Retirement When Changing Retirement Systems

CalPERS

888 CalPERS (or **888**-225-7377) • TTY for Speech and Hearing Impaired: (916) 795-3240

Section 1

Member Information

Please complete and return to CalPERS with a copy sent to your new retirement system.

Name of Member (First Name, Middle Initial, Last Name) | Social Security Number

Birth Date (mm/dd/yyyy) | Daytime Phone ( ) | Evening Phone ( )

Address

City | State | ZIP

Section 2

Retirement System You Are Leaving

Name of Retirement System | Date of Separation (mm/dd/yyyy)

Section 3

Retirement System You Are Entering

Name of Retirement System | Date of Entry (mm/dd/yyyy)

Section 4

Member Signature

I understand that by accepting employment in a specific retirement system, I am subject to the laws and regulations administered by that system. I understand that in order to retain the benefits of reciprocity, my contributions may not be withdrawn while I am in employment as a member of JRS, JRS II, LRS, CalSTRS, UCRP, or while I am in employment entered within six months of a system covered under the County Employees' Retirement Law of 1937 or a public agency retirement system listed in this publication. Furthermore, this information may be shared with the other retirement system.

Upon signing and returning this document, I am electing to establish reciprocity rights between retirement systems, where applicable.

Signature | Date (mm/dd/yyyy)

Mail to: **CalPERS Member Services Division** • P.O. Box 942704, Sacramento, California 94229-2704

WHEN YOU CHANGE RETIREMENT SYSTEMS

When you become a member of a reciprocal or non-reciprocal public retirement system you can notify CalPERS by one of the following methods:

- Complete the ***Election to Coordinate Retirement When Changing Retirement Systems*** form in this publication; or
- Complete the separation document (State employees) when separating from CalPERS-covered employment.

JRS, JRS II, and LRS Members

Contact the Judges' or Legislators' Retirement System directly when you become a member of a reciprocal or non-reciprocal public retirement system:

Judges' & Legislators' Retirement Systems
P.O. Box 942705
Sacramento, CA 94229-2705
(916) 795-3688
(916) 795-1500 – FAX

Long-Term Care Program Members

If you are enrolled in the CalPERS Long-Term Care Program and have premiums deducted from your check, call the program's Customer Service Center at (800) 982-1775 to find out what steps you need to take to continue your premiums after retirement.

BECOME A MORE INFORMED MEMBER

CalPERS On-Line

Visit our website at **www.calpers.ca.gov** for more information on all your benefits and programs.

Reaching Us By Phone

Call us toll free at **888 CalPERS** (or **888**-225-7377).
Monday through Friday, 8:00 a.m. to 5:00 p.m.
TTY: For Speech & Hearing Impaired (916) 795-3240

my|CalPERS

Stay informed and be in control of the information you want and need — with my|CalPERS!

my|CalPERS is the personalized and secure website that provides all your retirement, health, and financial information in one place. Take advantage of the convenience of 24/7 access to learn more about CalPERS programs and services that are right for you in your career stage. With my|CalPERS, you can:

- Get quick and easy access to all your account information.
- Manage and update your contact information and online account profile.
- Access information about your health plan and family members enrolled in your plan.
- See all the information you need to make health plan decisions.
- View, print, and save online statements.
- Go "green" by opting out of receiving future statements by mail.
- Use financial planning tools to calculate your retirement benefit estimate, estimate your service credit cost, and even request a staff-prepared retirement estimate.
- Check statuses of requests to purchase service credit or applications for disability retirement.
- Keep informed with CalPERS News so you don't miss a thing.

CalPERS Education Center

my|CalPERS is your gateway to the CalPERS Education Center. Whether you're in the early stages of your career, starting to plan your retirement, or getting ready to retire, visit the CalPERS Education Center to:

- Take online classes that help you make important decisions about your CalPERS benefits and your future.
- Register for instructor-led classes at a location near you.
- Download class materials and access information about your current and past classes.
- Browse our retirement fair schedule.
- Make a personal appointment with a retirement counselor.

Log in today at **my.calpers.ca.gov**.

Visit Your Nearest CalPERS Regional Office

Visit the CalPERS website for directions to your local office.
Monday to Friday, 8:00 a.m. to 5:00 p.m.

Fresno Regional Office
10 River Park Place East, Suite 230
Fresno, CA 93720

Glendale Regional Office
Glendale Plaza
655 North Central Avenue, Suite 1400
Glendale, CA 91203

Orange Regional Office
500 North State College Boulevard, Suite 750
Orange, CA 92868

Sacramento Regional Office
Lincoln Plaza East
400 Q Street, Room E1820
Sacramento, CA 95811

San Bernardino Regional Office
650 East Hospitality Lane, Suite 330
San Bernardino, CA 92408

San Diego Regional Office
7676 Hazard Center Drive, Suite 350
San Diego, CA 92108

San Jose Regional Office
181 Metro Drive, Suite 520
San Jose, CA 95110

Walnut Creek Regional Office
1340 Treat Blvd., Suite 200
Walnut Creek, CA 94597

INFORMATION PRACTICES STATEMENT

The Information Practices Act of 1977 and the Federal Privacy Act require the California Public Employees' Retirement System to provide the following information to individuals who are asked to supply information. The information requested is collected pursuant to the Government Code (Sections 20000, et seq.) and will be used for administration of the CalPERS Board's duties under the California Public Employees' Retirement Law, the Social Security Act, and the Public Employees' Medical and Hospital Care Act, as the case may be. Submission of the requested information is mandatory. Failure to supply the information may result in the System being unable to perform its function regarding your status and eligibility for benefits. Portions of this information may be transferred to State and public agency employers, State Attorney General, Office of the State Controller, Teale Data Center, Franchise Tax Board, Internal Revenue Service, Workers' Compensation Appeals Board, State Compensation Insurance Fund, County District Attorneys, Social Security Administration, beneficiaries of deceased members, physicians, insurance carriers, and various vendors who prepare the microfiche or microfilm for CalPERS. Disclosure to the aforementioned entities is done in strict accordance with current statutes regarding confidentiality.

You have the right to review your membership file maintained by the System. For questions concerning your rights under the Information Practices Act of 1977, please contact the Information Coordinator, CalPERS, 400 Q Street, P.O. Box 942702, Sacramento, CA 94229-2702.

While reading this material, remember that we are governed by the Public Employees' Retirement Law and the Alternate Retirement Program provisions in the Government Code, together referred to as the Retirement Law. The statements in this publication are general. The Retirement Law is complex and subject to change. If there is a conflict between the law and this publication, any decisions will be based on the law and not this publication. If you have a question that is not answered by this general description, you may make a written request for advice regarding your specific situation directly to CalPERS.

California Public Employees' Retirement System
400 Q Street
P.O. Box 942701
Sacramento, CA 94229-2701

888 CalPERS (or **888**-225-7377)
www.calpers.ca.gov

PUB 16
November 2010

2010.11.1

Benefit Services Division
P.O. Box 1652
Sacramento, CA 95812-1652
888 CalPERS (or **888**-225-7377); FAX (916) 795-0385
TTY for Speech and Hearing Impaired: (916) 795-3240

IRC SECTION 415 & CalPERS REPLACEMENT BENEFIT PLAN FACT SHEET

What is Internal Revenue Code Section 415?

Internal Revenue Code Section 415 (Section 415) is a provision in federal law which limits the amount of annual retirement benefit an individual can receive from a qualified defined benefit pension plan such as the California Public Employees' Retirement System retirement plan. The annual retirement benefits payable from the retirement plan administered by CalPERS are subject to the dollar limits imposed by Section 415(b).

The law was enacted to prevent employers from using tax-qualified defined benefit plans as tax shelters.

The CalPERS retirement plan may lose its tax exempt status if it fails to comply with Section 415.

Important

The information included here is general. The California Public Employees' Retirement Law and the Internal Revenue Code are complex and subject to change. If there is a conflict between the law and the information in this document, the law will supersede the information in this document.

Internal Revenue Code Section 415(b) Retirement Benefit Limit

IRC Section 415(b) places a dollar limit on the annual benefit that can be received from a tax-qualified pension plan such as CalPERS. Under Section 415(b), the maximum annual retirement benefit payable at Social Security "normal retirement age" is $195,000 for calendar year 2010. This dollar limit is set every year by the Internal Revenue Service. Determination of whether your retirement benefit will be subject to this limit can only be made at retirement.

At a glance

Section 415(b) limits the amount of annual retirement benefit that may be paid from the CalPERS defined benefit plan. The limit for a given individual is determined by the limit established by the Internal Revenue Service in effect during the calendar year in which the individual retires.

- The 2010 annual benefit limit is $195,000 for members aged 62 to 65.
- For members who retire between the ages of 50 and 61, the annual benefit limit is lower (adjusted to be the actuarial equivalent for the member as if the member had retired between 62 and 65 years of age). For members who retire after age 65, the annual benefit limit is higher (adjusted to be the actuarial equivalent for the member as if the member was aged 62-65 at retirement).
- The Section 415(b) annual benefit limit may be adjusted by the IRS annually for Cost-of-Living Adjustments.
- Determination of whether a member's retirement benefit will be subject to the Section 415(b) limit can only be made at retirement.
- Qualified police officer and firefighter members with at least 15 years of service as full-time employees of any police department or fire department to provide police protection, firefighting services, or emergency medical services are tested against the annual dollar limit for age 62, not their actual age.
- Retirees whose defined benefit allowances are determined to be limited under Section 415(b) will receive their entire retirement entitlement. The annual total benefit that exceeds their Section 415(b) limit will be issued in quarterly payments as "replacement benefits" from a separate fund through the CalPERS Replacement Benefit Plan.

What is the Section 415(b) benefit limit?

The Section 415(b) annual benefit limit is a dollar amount an individual can receive in a retirement allowance from the CalPERS defined benefit plan. The individual's annual benefit limit amount is determined by the dollar limits in effect for the calendar year in which he/she retires.

The dollar limit applies to benefits attributable to:

- employer contributions and
- tax-deferred member contributions

The dollar limit applicable to a member's retirement allowance may be adjusted to reflect variables such as:

- date of membership in the CalPERS defined benefit plan
- age at the time of retirement

Annual benefits (retirement allowance) attributable to rollover contributions and post-tax contributions may be excluded from the calculation of the annual benefit dollar limit.

The dollar limit for the annual benefit is lower:

- For a benefit in any form other than life-only annuity (unmodified allowance) or a qualified joint and survivor annuity (allowance where 50% or more of the retiree's allowance is payable to the spouse upon the retiree's death).
- If retirement occurs before age 62.

- If a member has less than ten years of CalPERS service credit at the time of retirement.

The dollar limit for the annual benefit is higher if retirement occurs after age 65.

How is it determined whether a retirement allowance must be limited?

It cannot be determined before actual retirement whether a member's retirement allowance will be limited by Section 415(b). The allowance is tested as follows:

Screening: At retirement, the highest annual benefit allowance payable for a member's lifetime alone or the "unmodified allowance" is screened against the current year's Section 415(b) dollar limit to determine if testing is required. If the unmodified allowance exceeds the current year's Section 415(b) dollar limit, then the retirement allowance is "tested" to see if it will be limited.

Testing process: Once a screened allowance is identified for testing, an actuarial program is used to test the allowance for limiting. This program incorporates the applicable variables mentioned in "What is the Section 415(b) benefit limit?" and determines whether or not the allowance must be limited.

If the allowance must be limited, the test then determines:

- The maximum amount of retirement allowance payable to the retiree each year of his/her retirement from the California Public Employees' Retirement Fund (PERF).
- The amount in excess of the limit that will be payable as replacement benefits through the CalPERS Replacement Benefit Plan.

When can an adjustment be made to the age-based limit?

Under the age-based limits, the Section 415(b) limit amount is lower for members retiring before age 62 and it is higher for members retiring after age 65.

In the following cases, the age 62-65 dollar limit amount is used instead of actual age:

- For qualified police officer, firefighter members including California Highway Patrol, Local Safety and Peace Officer/Firefighter members with at least 15 years of service as full-time employees of any police department or fire department to provide police protection, firefighting services, or emergency medical services ;
- For a survivor's allowance payable due to the pre-retirement death of a member;
- For disability retirement before age 62.

Grandfather Provision

The “grandfather” provision exempts all or a portion of a retirement allowance from the Section 415(b) dollar limit under the following conditions:

- The individual became a CalPERS member before January 1, 1990 and the employer has not provided a retirement benefit improvement since October 14, 1987. If applicable, the entire retirement allowance is payable from the California Public Employees’ Retirement Fund (PERF), regardless of the Section 415(b) dollar limit.

- The individual became a CalPERS member before January 1, 1990 and the employer has provided a benefit improvement since October 14, 1987. If applicable, the portion of the retirement allowance attributable to the benefit improvement is subject to the dollar limit.

Examples of benefit improvements are a change in retirement formula, a change from three-year to one-year final compensation, etc.

THE CalPERS REPLACEMENT BENEFIT PLAN (RBP)

What is the RBP?

The Replacement Benefit Plan (RBP) is a plan that allows for “replacement” of the annual benefit allowance amount that exceeds the Section 415(b) limit with wages. Its purpose is to “make whole” the retirement allowances limited by Section 415(b).

The RBP is funded by the employer. CalPERS invoices and collects the replacement benefit amount from the affected employer and then disburses it to affected retirees as wages in quarterly payments within the calendar year.

Who is eligible to participate in the RBP?

All members whose combination of reportable compensation, benefit factor and service credit cause their benefits to exceed the Section 415(b) benefit limits are eligible to participate in the RBP.

How does the RBP work?

When an individual’s retirement allowance exceeds the Section 415(b) dollar limit:

1. CalPERS invoices the employer for the amount payable from the RBP.

2. The employer’s payment is required before any payment can be issued to the retiree.
3. Assuming employer payments have been made, replacement benefit payments are made from the RBP to the retiree quarterly, at the beginning of March, June, September, and December.

What is the employer’s obligation?

In general, the RBP is designed to be cost-neutral to employers.

Upon payment of the invoiced amount to the Replacement Benefit Plan (RBP), the employer can take a credit for the amount paid for replacement benefits, less applicable FICA taxes, against their employer contributions currently due to the Public Employees’ Retirement Fund (PERF).

What if the employer contributions due to the PERF are less than the invoiced amount?

To the extent practicable, payments to the RBP are required to be made from amounts that would have been contributed by the employer to CalPERS. However, in certain infrequent circumstances, it is possible that an employer's contributions due to the PERF could be less than the RBP invoiced amount. In that situation, the employer must pay the RBP amount as invoiced to cover the amount owed to the retiree. Please see CalPERS' Replacement Benefit Plan regulations for a description of employer payments required to fund the RBP. (Title 2 CCR section 589 *et seq.*)

How is the replacement benefit taxed?

The income received by a retiree through the Replacement Benefit Plan (RBP) is treated by the federal government as a wage. A member’s replacement benefit will be subject to Federal Insurance Contributions Act (FICA) tax, which consists of the Old Age, Survivors and Disability Insurance (Social Security) and the Hospital Insurance/Medicare (Medicare) tax, if his or her earnings while employed were subject to these taxes. If subject, this FICA tax payment is due only in the first year of a member’s retirement. The taxes are computed as follows:

1. CalPERS actuaries calculate the present value* of the replacement benefit.

2. Taxes are computed for this present value amount:
    - Social Security tax rate is 6.2% up to a maximum earnings amount ($106,800 maximum for 2010)
    - Medicare tax rate is 1.45% with no maximum earnings amount

3. CalPERS invoices the employer for the taxes due. Employers cannot take a credit against their contributions for these taxes.

4. CalPERS deducts the total taxes payable from the retiree's replacement benefit.

5. CalPERS remits the taxes to the Internal Revenue Service.

6. At the end of the tax year, CalPERS issues each retiree a tax form W2 for the replacement benefits paid.

As noted, FICA taxes are paid before any benefits from the RBP are paid to the retiree.

*Present value is the discounted amount the member will receive in lifetime replacement benefits. This discounted amount is based on CalPERS' valuation interest rate, the post-retirement mortality table, and the Cost-of-Living Adjustment assumption. For tax purposes, the present value is treated as if it were fully paid in the year the replacement benefit becomes payable.

Rev. 1/2010

LEAGUE OF CALIFORNIA CITIES

1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

TO: **League Employee Relations Policy Committee**
League Revenue and Taxation Policy Committee

FROM: **League Board Executive Committee**
Jim Ridenour, President and Mayor, Modesto
Mike Kasperzak, First Vice President and Vice Mayor, Mountain View
Bill Bogaard, Second Vice President and Mayor, Pasadena
Judy Mitchell, Past President and Council Member, Rolling Hills Estates
Chris McKenzie, Executive Director

DATE: June 1, 2011

SUBJECT: Review of Draft Pension Reform Action Plan

We are pleased to forward for review and recommendation the attached Draft Pension Reform Action Plan that was prepared by the League's City Managers Department, and initially reviewed by the League board at the May 19-20 board meeting. The board has requested feedback from the committees on certain issues as discussed below:

1. Do Cities Need More or Less PERS Benefit Plan Choices? (pp. 2 and 3)

Background: The yellow highlighted proposals in the Draft Action Plan would support reducing the benefits plan choices of city councils and employee groups. The first proposal would support the repeal the 1999 PERS benefit enhancements, and would return to the PERS benefit formulas of 2% @ 60 for miscellaneous employees and 2% @ 55 for safety employees. The second proposal would support a standard public employee pension system where one benefit level is offered to every employee, as is the case for the current teachers' retirement system. The board had an extensive discussion about whether we should be moving toward fewer options or, instead, additional flexibility. Speaking for more options, one board member mentioned that she would like to negotiate a 2.5% @ 55 formula with her public safety employees (reduced from 3% @ 50) but the PERS law currently only allows a change to a 2% @ 50 benefit level (a level which has proven to be unattainable in the negotiations). Other board members expressed interest in a roll back to the 1999 benefit packages. and some members preferred a one-size-fits-all plan (with possibly a higher benefits level for public safety).

Executive Committee Action: In addition to a recommendation to the board on these issues, the Executive Committee would appreciate the policy committees also discussing, and then outlining for the board, what you see to be the pros and cons of constraining local control and choices when it comes to PERS retirement plan benefits. Since the League normally advocates for maximum local flexibility and control, the extent to which we support limiting local options needs to be reviewed carefully.

2. Revisions to Benefits for Existing Employees (p. 3)

Background: Like the California Little Hoover Commission, the City Managers' Department Draft Action Plan recommends considering a change to benefit formulas for the future benefits of existing employees. Unlike the Little Hoover Commission, the Managers' Draft Action Plan acknowledges the need for a detailed legal analysis of this recommendation's legality since it is widely believed that it raises substantial legal questions about the "vested rights" of existing employees. As a result, the League has retained the law firm of Liebert Cassidy Whitmore, a well-known advisor to local public agencies on labor and employment issues, to prepare a legal opinion on this issue, which we expect to have by late June. As a result, the Executive Committee, acting on the recommendation of the officers of the City Attorneys' Department, is not requesting review and consideration of this recommendation by the committees until the legal opinion is completed, and can be shared with both the committees at your next meetings (at the Annual Conference in all likelihood) and the board of directors.

Executive Committee Action: At this time, the Executive Committee is not asking for a recommendation on this matter until the legal opinion on vested rights issue is complete and shared with the committees.

Thank you very much for your consideration of these requests and for your service to the League.

PENSION REFORM ACTION PLAN
City Manager's Department[1]
May 2, 2011

This report to the League of California Cities Employee Relations and Revenue and Taxation Policy Committees and the Board of Directors is designed to address the League's 2011 Strategic Goal related to Pension Sustainability by providing information and recommendations that may be of assistance toward meeting the competing challenge of maintaining high-quality public services while providing fair and reasonable pensions for employees.

THE PROBLEM

Pension costs for many California municipalities continue to increase, threatening the delivery of basic public services, compromising general fund budgets, pushing some cities to the brink of fiscal collapse and indeed, posing a long-term fiscal challenge to the State itself. A former CalPERS actuary warned that by 2014 it will be common for local governments to budget 50% of police officer, 40% of fire fighter and 25% of miscellaneous employees' salaries for pensions; contributions that are fiscally unsustainable.
Causes of the problem include:

1. Enhanced benefit formulas granted after 1999 (SB400/AB616).
2. Reduced return on pension investments with the Great Recession.
3. Increased life span of retired employees.

A PRINCIPLED APPROACH

Public retirement systems should provide fair benefits for employees, and:

1. Recognize the value of attracting and retaining high performing public employees to design and deliver vital public services to local communities.
2. Recognize and support the value of a dependable, sustainable, employer provided Defined Benefits Plans (DBP) for long term employees; supplemented with other retirement options including personal savings (e.g. 457 Plan).
3. Be portable across all public agencies in California.

STAGES OF A SOLUTION

Many steps below can, are, and should be taken locally and immediately, as part of the collective bargaining process to move local pension costs in a more sustainable direction. Further, as additional steps are taken to level the playing field for municipal agencies, State action is necessary to return the PERS (or other state-authorized pension systems) to a more sustainable framework. Many of the actions below are and will be presented to the State legislature for enactment and we believe the League of California Cities should engage the unions, Legislature, and Governor in the initiative process to formally change the structure of PERS thus protecting the fiscal integrity of cities and PERS retirement for public employees.

ACTIONS CITIES CAN AND ARE TAKING NOW AT THE COLLECTIVE BARGAINING TABLE TO REDUCE COSTS

1. Have employees pay the employee's share of PERS costs: 8% for miscellaneous employees and 9% for safety employees.
2. Provide a two-tier retirement system with new hires being placed in a reduced benefit tier.
3. Have employees pick-up a portion of the employer's PERS costs.
4. Base final retirement salary on the three highest years worked.

[1] With notes and one modification by the Executive Committee of the League board of directors as instructed by the League board on May 20, 2011. See cover memo for more information.

5. Eliminate the PERS contract option of including Employer Paid Member Contribution (EPMC) in the calculation of an employee's base pay for retirement purposes.
6. Restrict the calculation of an employee's retirement benefit to base pay only and do not allow base pay to include discretionary add-ons such as "specialty pays" or "longevity bonus pay" or the addition of accrued and unused sick leave or vacation time.

A City Manager Department survey in February 2011 indicates one in five cities responding to the survey have implemented a second tier for new hires.

ACTIONS NEEDED FROM THE STATE TO RESTORE THE SUSTAINABILITY OF PENSION PROGRAMS

Current constitutional law holds that current and former local government employees have rights to the pensions promised them at hiring. A Defined Benefit Plan is the most effective vehicle to accumulate and distribute pension benefits and is the preferred retirement system for municipal employees. The subsequent action items can be considered individually or in combination to improve the sustainability of PERS, thus, re-designing a system that will contribute to safeguarding public pensions. The following recommendations, with support from labor, would level the field on a statewide basis and lead to a maintainable PERS for public employees.

1. Repeal SB400/AB616 returning to more sustainable PERS benefit formulas of 2% at 60 for miscellaneous employees and 2% at 55 for safety employees. **[See the attached memorandum for a special request on this and a related item from the Executive Committee].**
2. Base final retirement salary on three highest paid years worked.
3. Calculate benefits only on base salary eliminating all "spiking."
4. Eliminate the purchase of "air time."
5. Eliminate the availability of Employer Paid Member Contribution (EPMC).
6. Require employees to pay the employees share of PERS (e.g. 8% for miscellaneous employees and 9% for safety employees.)
7. Remove caps on the percentage employees can pay for the total cost of PERS programs.
8. Give government agencies through the collective bargaining process the option to extend retirement ages for miscellaneous employees up to social security retirement ages.
9. Prohibit retroactive pension increases.
10. Meet any retirement needs for part-time employees with alternatives to a Defined Benefit Plan.
11. Prohibit employees and employers from taking contribution "holidays."
12. Change PERS vesting period to seven years.
13. Provide employers with a hybrid pension system option that caps the Defined Benefit PERS pension at an annual maximum retiree benefit equal to 65% of the retiring employees' eligible base pay (determined by averaging the 3 highest year's pay) and supplement the DBP with a risk managed PERS defined contribution plan. According to staff of the National Institute of Retirement Security, dollar for dollar, a DBP yields considerably more retirement savings than a DCP. Therefore, a DCP should integrate with a DBP not, as some pension revision plans suggest, substitute for it.
14. Have PERS provide more formula choices with lower benefit local options.

ADDITIONAL STEPS THAT APPEAR NECESSARY TO RESTORE PERS TO SUSTAINABILITY AND PROVIDE TRANSPARENCY

1. Pension sustainability cannot be fully achieved without addressing the benefits of both current and future employees. After a detailed legal review and to the extent permitted by federal and state law, a well-designed State Constitutional Amendment is needed for prospective retirement formula reductions and incremental retirement age increases for current employees to guarantee their already accrued earned benefits, while making the plan sustainable, affordable and market competitive on a going-forward basis. The amendment should also include a risk-managed PERS Defined Contribution Plan for public agencies.

2. The PERS Board needs to be restructured with a substantial increase in independent public members to insure greater representation of tax payer interests with regard to public pension decisions.

3. Set uniform standards and definitions for disability benefits and evaluate the level of benefit that is considered as tax exempt. The tax exempt portion should either be eliminated or allowed on a proportional basis to the severity of the disability.

4. Consider a standard public employee pension system where one benefit level is offered to every employee as a further option to restore sustainability to PERS. **[See the attached memorandum for a special request on this and a related item from the Executive Committee].**

5. While not addressed in this paper, Other Post-Employment Benefits (OPEB), such as retiree health care, represents another unfunded liability for many local agencies and must be addressed through comprehensive reform measures.

6. Develop a program with the State to ensure that pension programs offered by localities are fully transparent, and that the actuarial evaluation of unfunded components of OPEB's and Pension Plans are using standard investment return criteria.

7. To the extent permitted by federal and state law prohibit payment of pension benefits to a public employees convicted of a felony related to fraudulently enhancing those benefits.

ISSUE REQUIRING FURTHER LEGAL ANALYSIS

At its May 20 meeting, the League Board of Directors instructed the Executive Committee of the board to consult with the officers of the City Attorneys' Department about the issue of benefits modification for existing employees. The Department officers advised the Executive Committee that it should delay discussion and consideration of the reform option discussed below until the League receives a legal opinion from its legal counsel (Liebert Cassidy Whitmore) on the constitutionality of this recommendation. That legal opinion is currently under preparation, and will discuss the highly complex issues involving the extent of the "vested rights" a public employee may have in pension benefits. Once the opinion is received, the Executive Committee will determine whether this policy option should be forwarded to the policy committees and board of directors for formal consideration through the League's normal policy process. The City Attorneys' Department officers strongly counseled against formal discussion and consideration of this option until its legal feasibility has been determined. As a result, the Executive Committee is not requesting committee consideration of the following issue at this time:

1. Pension sustainability cannot be fully achieved without addressing the benefits of both current and future employees. After a detailed legal review and to the extent permitted by federal and state law, a well-designed State Constitutional Amendment is needed for prospective retirement formula reductions and incremental retirement age increases for current employees to guarantee their already accrued earned benefits, while making the plan sustainable, affordable and market competitive on a going-forward basis. The amendment should also include a risk-managed PERS Defined Contribution Plan for public agencies.

While pension reform is a primary fiscal challenge facing local agencies, it represents but one of several financial challenges that, when combined, represent a "Perfect Storm" that is leading to the insidious erosion of fiscal solvency of local governments. While some changes may take years, delay in dealing with the problem, only makes the situation worse!

LEAGUE OF CALIFORNIA CITIES

1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Background on Pension Reform

This background document is aimed at keeping city officials informed about the current state of pension reform in California.[1]

Public pension reform has emerged as a major issue in recent years as state and local agencies have struggled to adjust to declining revenues and volatile financial markets. Questions have emerged over whether public agencies can continue to offer the level of pension benefits that they have in the past.

Local governments, reeling from budget pressures, have been at the forefront of this discussion. In many cases, agreements have been secured at the local collective bargaining table resulting in second tiers for new employees, greater cost sharing among existing employees as well as other concessions. While reform efforts continue at the local level, some argue that larger statewide reforms must happen in order for pension systems to remain sustainable in the long term.

At the state level, the pension discussion is taking shape in different forms. In February, a report by the Little Hoover Commission (LHC) sparked a heated debate about how far some are willing to go to make what is believed to be necessary changes.

In late March, after budget negotiations broke down, Gov. Jerry Brown released his 12-Point Pension Reform Plan. As part of these same negotiations, Senate Republicans released proposed pension reform ideas, many of which are contained in a package of bills authored by Sen. Mimi Walters (R-Laguna Niguel). Additionally, there have been efforts to place an initiative on the ballot for the next statewide general election.

Some contend that for reforms to take place they have to happen now, otherwise the momentum for change on this issue will be lost. It will be interesting to see whether the Legislature will seriously address this issue or whether the voters will be deciding the fate of public pensions. In any event, public employee unions are gearing up for a fight to protect the pensions they've been promised, and recently launched a new website www.dontscapegoatus.com, which is dedicated to debunking various assertions about the need for reforms.

The following is a snapshot of the discussions on pension reform in California.

Little Hoover Commission recommends changes

In February, LHC issued its report *Public Pensions for Retirement Security* with comprehensive recommendations to reform California's public pension systems including altering unearned future benefits for current employees, putting into place a "hybrid" model containing both a defined benefit and defined contribution, and placing caps on the amount of salary that can be used to calculate retirement benefits. LHC made several other recommendations.

Governor proposes 12-Point Pension Reform Plan in March

The Governor released his pension reform proposal shortly after budget negotiations broke down in March which:

- Eliminates "airtime" purchase;
- Revokes pensions if convicted of felony arriving out of official duties;
- Prohibits retroactive increases in benefits;
- Requires full funding of pension obligations;
- Prohibits employer paying member share of contributions;
- Prohibits pension spiking; and
- Applies reforms to UC and local system

Senate Republicans release demands

Several of LHC recommendations were put forward by the Senate Republicans in March as part of the budget negotiations including altering unearned future benefits for current employees, putting into place a "hybrid" model containing both a defined benefit and defined contribution, and placing caps on the amount of salary that can be used to calculate retirement benefits.

[1] The information contained in this document was used in a handout at the League's Legislative Action Days for a panel discussion on pension reform. The information may have changed since its production on May 19, 2011.

Senator Walters introduces pension reform package (Senate Bills 520 - 528)
These bills propose to impose a hybrid retirement plan; require full funding of post-employment health care benefits with employees and employers each pay half; eliminate "airtime" purchasing option; prohibit PERS pensions for publicly-elected officials; eliminate retroactive benefit increases; raise minimum retirement age for state employees to 55; eliminate pension spiking; limit collective bargaining of pensions except for amount of employee contributions; and replace elected with appointed PERS board members.

League Board identifies pension sustainability as a strategic goal
The League is committing to work with stakeholders to promote sustainable and secure public pensions. Actions taken to date include the following:

- Roughly 300 cities responded to a survey to determine what changes are taking place locally.
- League website added the Pension Information Center, a clearinghouse for pension-focused research, studies, surveys and other relevant information, including the City Managers' Department white papers and local area group principles.
- Pension reform panel discussions held at League conferences.
- Employee Relations and Revenue and Taxation Policy Committees reviewing reform proposals.
- City Managers' Department developed a Pension Reform Action Plan that will be reviewed by the League policy committees and the board.
- Commissioned a legal opinion on the question of "vested rights" to pensions
- Continue outreach to employee unions and other stakeholders

Voters on pension reform
In January, the Public Policy Institute of California released its "Californians and their Government" poll, which found:

- Three of four Californians view the money spent on public employee pensions as a problem;
- The percentage calling it a big problem has grown ten percent since January 2005;
- Republicans (54%) more likely than independents (42%), Democrats (35%) to consider big problem;
- Four in ten across income groups hold this view, while this perception increases with older age; and
- 67% would favor changing the pension system for new public employees from defined benefits to a defined contribution system. Support increases with rising income.

A Los Angeles Times - USC poll conducted in April found that:

- 70% support cap on pensions for current and future public employees;
- 66% of Democrats support pension caps for current and future workers;
- 68% support raising employee contributions to their retirement plans;
- 66% support a blend of traditional pensions and a 401(k); and
- 52% support increasing the retirement age.

Statewide ballot measures
No statewide ballot measures have qualified for the February or November 2012 ballot or have been cleared for circulation. However, former Assembly Member Roger Niello's proposed initiative, the "Public Employee Pension Reform Act," has been submitted to the Attorney General for review. Signature gathering may begin once the review is completed. This proposed initiative would prohibit retroactive benefit increases, provide minimum retirement age of 62, require five consecutive years of service, limit benefits to 60% of highest base wage over three years and require equal employee and employer contributions.

Additionally, California Foundation for Fiscal Responsibility advocates its proposal "The Fair and Sensible Public Employee Retirement Plan Reform Act," which, among other things, seeks to align state and local government retirement benefits with those offered by the federal government and large private employers.