

The California Public Employees' Pension Reform Act of 2013 ("PEPRA")

Presented by:
Contra Costa County Employees' Retirement Association

Disclaimer

The following presentation was developed as a discussion draft to communicate the implications of the California Public Employees' Pension Reform Act of 2013 (PEPRA). Every effort has been made to ensure the accuracy of the information provided; however, the information may be updated as we continue to analyze the legislation. If there is any discrepancy between what is contained in this presentation and the law, the law will govern.

PEPRA

- In September 2012, the legislature passed and the Governor signed into law the “California Public Employees’ Pension Reform Act of 2013” (“PEPRA”) (Government Code Sections 7522, *et seq.*)
 - PEPRA applies to all state and local public retirement systems and to their participating employers, but does not apply to the University of California, to charter cities or to charter counties.
 - PEPRA Applies to all CERL (1937 Act) systems, including CCCERA, and their participating employers.

PEPRA

- Most PEPRA provisions are applicable only to new members who are not subject to reciprocity and who join CCCERA on or after January 1, 2013 (“New Members”). (7522.04(f).) At CCCERA, the membership date is always the first day of the month following employment.

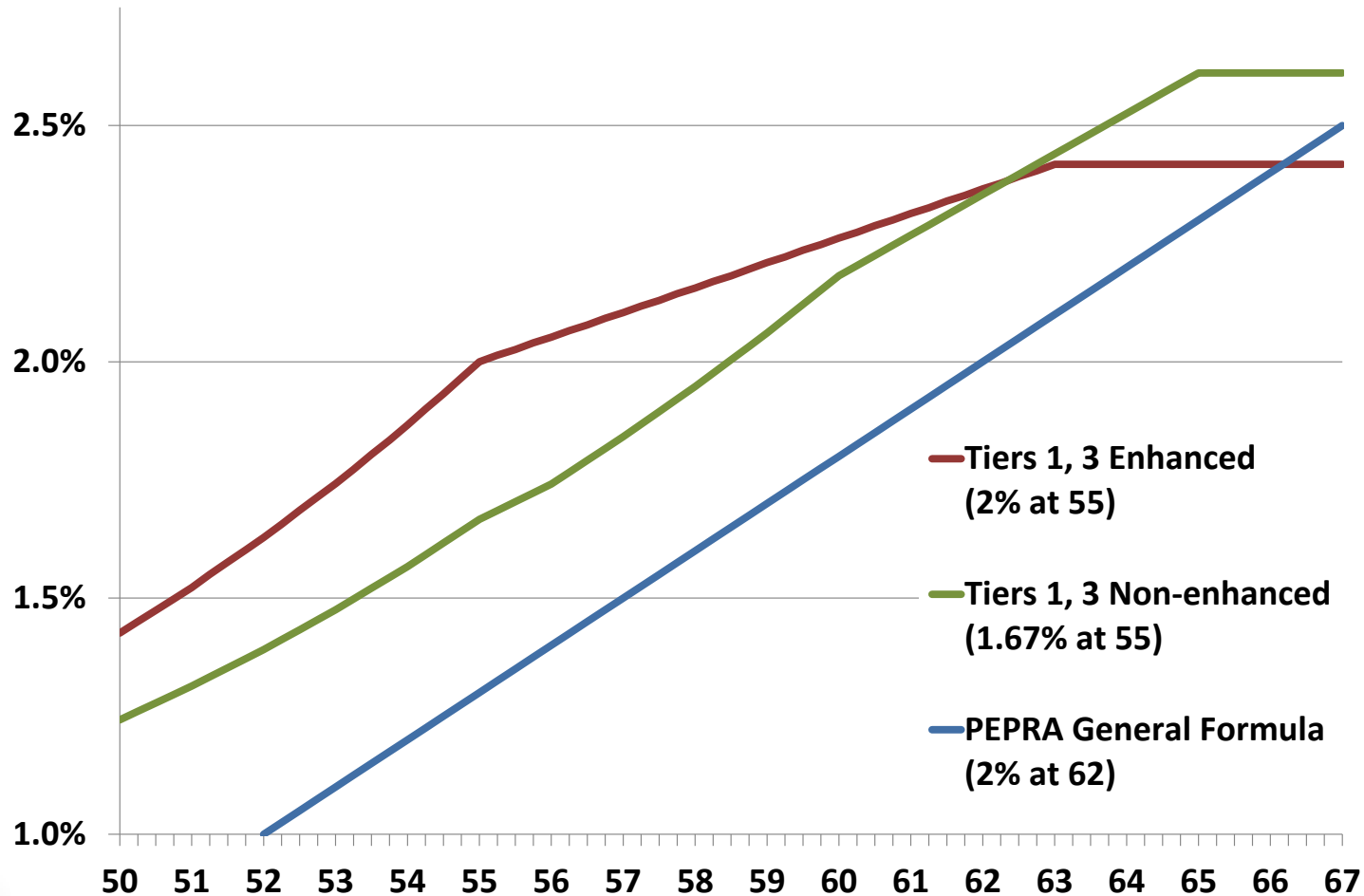
Examples:

- “New member”: If a CCCERA participating employer hires a new employee on or after January 1, 2013, and that employee is not subject to reciprocity, that employee is a “New Member” under PEPRA and will be subject to the new PEPRA retirement formulas in place as of 1/1/2013. possible scenarios:
 - An individual who has never been a member of any public retirement system prior to 1/1/13 would be a “new member”
 - An individual who moved between retirement systems with more than a 6 month break in service and is not subject to reciprocity would be a “new member”
 - An individual who moved between public employers within CCCERA after more than 6 month break in service and is not subject to reciprocity would be a “new member”Employees with a hire date on or after December 1 , 2012 will have a CCCERA membership date of January 1, 2013 and be considered “New members” subject to the new PEPRA benefit plan.
- “Legacy member”: If the “new” employee is subject to reciprocity, the employee is NOT a “New Member” and is subject to the retirement tier in place as of 12/31/2012.

New Required Retirement Formula For CCCERA General Members

- PEPPRA imposes new retirement formulas for new general members:
 - Retirement eligible after 5 years of service and upon reaching 52 years of age. No service retirement prior to age 52.
 - Minimum 1% at 52, 2.5% maximum at 67 formula required, unless a “less costly” plan with less “risk,” as certified by the retirement system actuary, is already in place.
 - PEPPRA does not change previously adopted COLA provisions.
- (7522.20.)

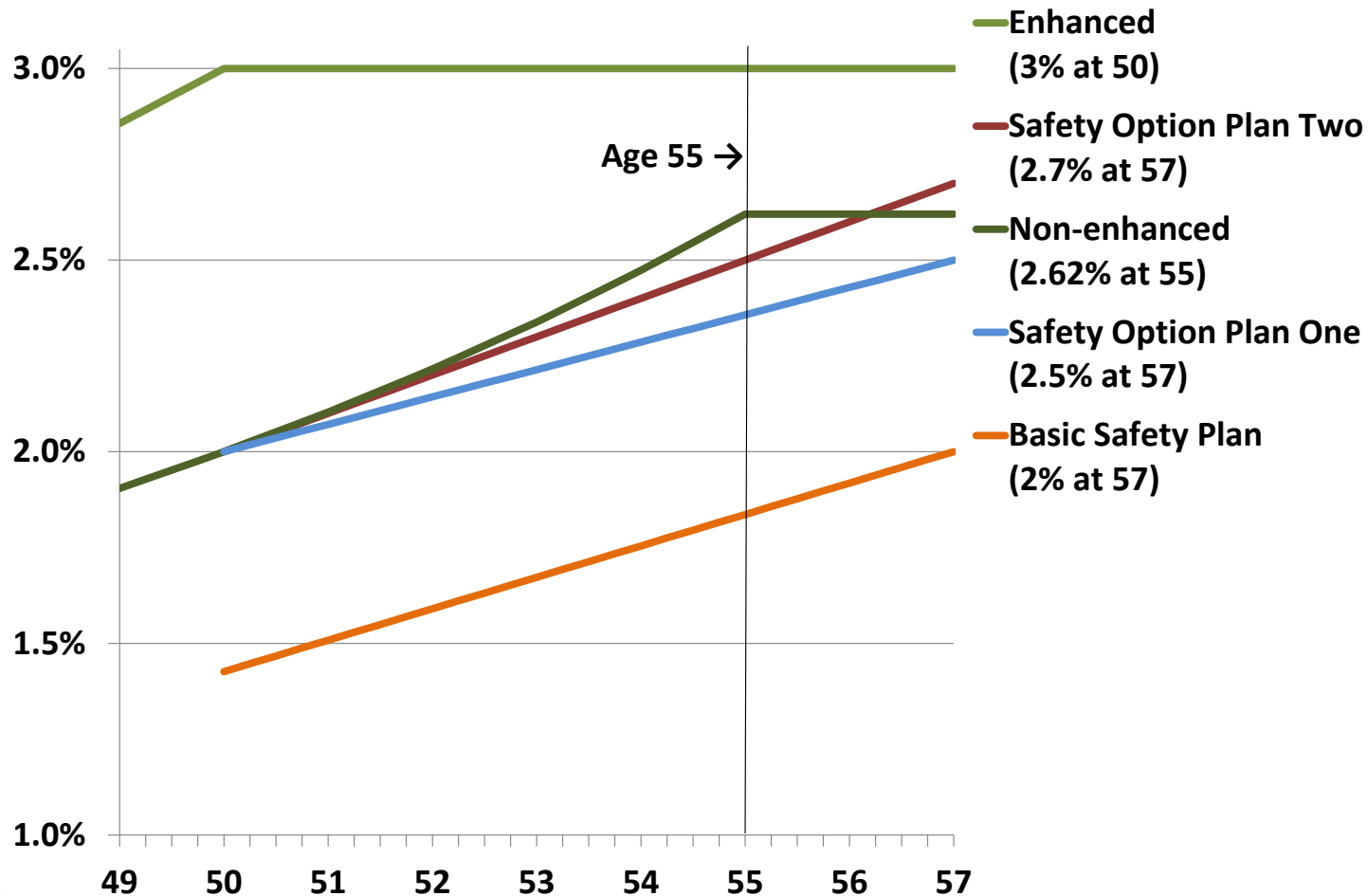
Current CCCERA and New PEPRA **General** Formulas



New Required Retirement Formula For CCCERA **Safety** Members

- Retirement eligible after 5 years of service and upon reaching 50 years of age. No service retirement prior to age 50.
- Minimum 2% at age 50, maximum 2.7% at age 57 formula as prescribed by section 7522.25 as of January 1, 2013, unless a “less costly” plan, with less “risk,” as certified by the retirement system actuary, is already in place.
 - Three formulas:
 - (1) The Basic Safety Plan (2% at age 57)
 - (2) The Safety Option Plan One (2.5% at age 57)
 - (3) The Safety Option Plan Two (2.7% at age 57)
- The formula offered “shall be the formula that is closest to, and provides a lower benefit at 55 years of age than, the formula provided to members in the same retirement classification offered by the employer on December 31, 2012.” (7522.25(e).) (Emphasis added.) This is a mathematical computation.

Current CCCERA and New PEPRA **Safety** Formulas



New Required Safety PEPRA Tiers

- PEPRA does not address previously adopted COLA provisions.
- Lower safety tiers in PEPRA could be applied to new hires if agreed by collectively bargained MOU without impasse.
(7522.25(f).)
- Must be uniform as between represented and non-represented, managerial and supervisory employees of same employer in same membership classifications.
(7522.25(f)(4).)

PEPRA Service-Connected Disability Benefit For **Safety** Members

- A current safety member of a public retirement system who retires for industrial disability shall receive an industrial disability retirement benefit equal to the greater of the following:
 - (1) Fifty percent of his or her final compensation attributable to the defined benefit plan, plus an annuity purchased with his or her accumulated contributions, if any.
 - (2) A service retirement allowance, if he or she is qualified for service retirement.
 - (3) An actuarially reduced factor, as determined by the actuary, for each quarter year that his or her service age is less than 50 years of age, multiplied by the number of years of safety service subject to the applicable formula, if he or she is not qualified for service retirement.

This sunsets on January 1, 2018, unless later extended by statute.

(7522.66.)

Cap on “Pensionable Compensation” for All New Members

- “Pensionable compensation” and defined benefit are capped at 120% of the 1/1/2013 Social Security contribution and benefit base if the member’s service is not included in Social Security, and 100% if it is. The 2012 Social Security contribution and benefit base is \$110,100. It is unknown at this time what the 1/1/2013 Social Security contribution and benefit base will be.
- Note that, at CCCERA, Social Security benefits and CCCERA benefits are integrated, meaning that an offset is applied to decrease the CCCERA benefit amounts.
- “Pensionable compensation” cap will be indexed to inflation based on the CPI for All Urban Consumers, and that adjustment shall be effective annually on January 1 following the annual valuation.

(7522.10.)

Limits on Total Benefits Provided for All New Members

- Public employers may not offer a defined benefit, or combination of defined benefits, on compensation in excess of the “pensionable compensation” cap.
- Public employers may provide a non-vested defined contribution plan for compensation in excess of the “pensionable compensation” cap provided that the plan and contribution meet the requirements and limits of federal law.

(7522.10.)

Final Average Compensation Period

- Three-year final average compensation measuring period for all New Members.

(7522.32.)

Contribution Rates for New Members

- “Equal sharing of normal costs between public employers and public employees shall be the standard. The standard shall be that employees pay at least 50% of normal costs and that employers not pay any of the required employee contributions.” (7522.30(a).)
- If the terms of a contract between the employer and its public employees in effect on 1/1/13 would be impaired, then the equal sharing provision would not apply to that contract, until the expiration of the contract; If the contract is renewed, amended or otherwise extended, it must be subject to these new PEPPRA equal sharing provisions. (7522.30(f).)

“Pensionable Compensation” Definition for New Members

- Brand new term never before used in the laws governing CCCERA: “Pensionable Compensation”.
- Brand new definition of “pensionable compensation”: defined as the “normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class or employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.”

(7522.34.)

New Exclusions From “Pensionable Compensation” For New Members in the PEPRA Tiers

The new definition of pensionable compensation lists additional specific exclusions for new members.

- “Any compensation determined by the [retirement] board to have been paid to increase a member’s retirement benefit under that system.” (7522.34(c)(1).)
- Compensation previously paid in kind or directly to third party by employer, even if converted to cash. (7522.34(c)(2).)

New Exclusions From “Pensionable Compensation” For New Members in the PEPRA Tiers

- Any one-time or ad hoc payments made to a member. (7522.34(c)(3).)
- Severance, even if received by the member while employed. (7522.34(c)(4).)
- Payments of any unused leave, regardless of when reported or paid. (7522.34(c)(5).)
- Payments for additional services rendered outside of normal working hours. (7522.34(c)(6).)
- Employer-provided allowances for uniforms, vehicles, housing, etc. (7522.34(c)(7).)

New Exclusions From “Pensionable Compensation” For New Members in the PEPRA Tiers

- Any “bonus” paid in addition to normal monthly rate of pay of a member paid in cash to similarly situated members of the same group or class of employees for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. (7522.34(c)(10).)
- “Any other form of compensation a public retirement board determines should not be pensionable compensation.” (7522.34(c)(12).)

PEPRA Tiers

Replacement Benefit Plan

- Existing Internal Revenue Code Section 415 replacement benefit plans for employees first hired prior to January 1, 2013 can continue to exist.
- No new plans may be adopted nor may any existing plan be provided to New Members.

(7522.43.)

PEPRA For **Current** Members: No Retroactive Enhancement To Past Service

- Any enhancement to a public employee's retirement formula or benefit adopted on or after January 1, 2013, shall apply only to service performed on or after the operative date of the enhancement (no retroactive upgrades to past service credit).

(7522.44.)

PEPRA For **Current** Members: Service Credit Purchases

- No purchases of “nonqualified service credit, as defined by Section 415(n)(3)(C) of the Internal Revenue Code of 1986.”
- Prohibition “shall not apply to an official application to purchase nonqualified service credit that is received by the public retirement system prior to January 1, 2013, that is subsequently approved by the system.”

(7522.46.)

PEPRA – Limits On Post-Retirement Employment

- As to “any person who is receiving a pension benefit from a public retirement system” as of January 1, 2013 (“retired person”)
- A retired person shall not serve, be employed by, or be employed through a contract directly by, an employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement

(7522.56.)

PEPRA – Limits On Post-Retirement Employment

- Prohibition on post-retirement employment does not apply:
 - “during an emergency to prevent stoppage of public business”.
 - “because the retired employee has skills needed to perform work of limited duration”.

“Work of a limited duration” may not exceed 960 hours in a fiscal or calendar year, depending on the administrator of the system.

(7522.56(d).)

PEPRA – Limits On Post-Retirement Employment

- 180 day (6-month) waiting period until re-employment unless:
 - Employer certifies necessity and governing body approves in public meeting (not consent calendar).
 - OR
 - Retiree is a public safety officer or firefighter.

The exceptions do not apply if the retiree accepted a retirement incentive upon retirement.

(7522.56(f) and (g).)

PEPRA – Limits On Post-Retirement Employment

- 12-month waiting period if retired person received unemployment insurance compensation arising out of his or her prior employment with the public employer during the 12 months prior to appointment.
- Retiree “shall certify in writing to the employer upon accepting an offer of employment that he or she is in compliance with [the above] requirement.”

(7522.56(e).)

PEPRA Forfeiture

- Expands existing forfeiture provisions resulting from felony convictions for “conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits”.
- One felony forfeiture provision applies to all public employees first employed by a public employer, or first elected or appointed to an office, before January 1, 2013, not just to those “elected to public office . . . on or after January 1, 2006,” which is the scope of the current forfeiture law.
- Another provision applies to public employees first employed by a public employer, or first elected or appointed to an office, on or after January 1, 2013.

PEPRA For Employers: Prohibits Pension Holidays

- Requires continued payment of normal cost by employer, even when the system is overfunded, unless overfunding is 120% and other findings are made.

(7522.52.)

