

April 13, 2012

Examining Statewide Pension Benefit Policy for Elected Officials

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Joint Conference Committee on Public Employee Pensions

Hon. Warren T. Furutani, Chair

Hon. Gloria Negrete McLeod, Chair





Overview

- ☑ ***A Variety of Benefits for Elected Officials.*** Defined benefit pension and other retirement benefits for California's state and local elected officials vary considerably.

- ☑ ***Voters Ended State Pension Benefits for State Legislators.*** Proposition 140 (1990) prohibits accrual of state retirement benefits by Members of the Legislature first elected on or after November 7, 1990. The Legislators' Retirement System (LRS)—managed by CalPERS—remains to administer benefits for (1) Members of the Legislature first elected prior to this date, (2) state elected officials (except judges) who elect to join LRS, and (3) four legislative statutory officer positions listed in Section 9350.55 of the Government Code. Judges are in two separate CalPERS-managed systems, the benefits for which were reduced for judges elected or appointed on or after November 9, 1994.

- ☑ ***Some Local Elected Officials Accrue Pension Benefits.*** Unlike state legislators, some elected local officials still accrue defined benefit pensions—in some cases, significant ones. In many cases, however, local governments choose not to provide defined benefit pensions to their elected officials. In other cases, local officials eligible to accrue such benefits choose not to do so.

- ☑ ***Time Commitment and Duties of Officials Vary.*** Local governments provide more or less pay and benefits based, among other things, on the size and complexity of their jurisdictions, as well as local determinations of whether elected officials serve on a full-time or part-time basis.



Local Elected Officials' Pension Benefits Vary Considerably

County Supervisors	
Pension Formula	Number of Counties
3 percent at 60	6
2.7 percent at 55	7
2.5 percent at 55	6
2 percent at 55	25
Other	7
None/blank	2

Source: State Controller's Office compensation database, 2009 data. Some jurisdictions may have changed benefit formulas later. In some cases, some or all supervisors do not elect to accrue or receive any pension benefits.

City Council Members	
Pension Formula	Number of Cities
3 percent at 60	21
2.7 percent at 55	89
2.5 percent at 55	61
2 percent at 55	71
Other	10
None/blank	202

Source: State Controller's Office compensation database, 2009 data. Some jurisdictions may have changed benefit formulas later. In some cases, some or all council members do not elect to accrue or receive any pension benefits.

- In addition to supervisors and council members, some local governments also provide varied pension benefits to other elected and appointed officials, such as sheriffs, district attorneys, special district board members, and others.



Legislative Efforts to Limit These Pensions Have Focused on CalPERS

- ☑ **Anti-Spiking Provisions.** As part of the 1993 “anti-spiking” bill—Chapter 1297, Statutes of 1993 (SB 53, Russell)—the Legislature amended the CalPERS law to provide that county supervisors and city council members first elected during or after July 1994 could receive CalPERS benefits for service in those elective offices based only on the compensation they earned in such office. In other words, this measure prevents *part-time* local elected officials from using their *full-time* salary for prior or later government service to increase their CalPERS benefit associated with the local elective office. In addition, Chapter 1297 ensures that such elected officials cannot earn more than one year of service credit annually, even if they work at the same time for another governmental entity in CalPERS.

- ☑ **No Similar Statutory Provisions Apparent for County or Other Systems.** We were not able to identify similar anti-spiking statutes applicable to county (1937 Act) or other local pension systems. This means that members of some such local systems may, in theory, be able to rely on their years of elective service to increase the pension benefits they have earned during their non-elective governmental service.

 - **Example.** In some local systems, a career governmental employee who served in a full-time position (with, say, 25 years of service credit) could theoretically later be elected to a part-time elective position for eight years and thereafter receive a pension benefit based on 33 years of service and the higher salary of the full-time position. (We do not believe that this situation occurs often.)



Prior Statutory Efforts Have Not Been Completely Successful

- ☑ **1994 Law Tried to Limit City and County Officers' Benefits.** Chapter 1065, Statutes of 1994 (AB 3664, Martinez), states that members of all local legislative bodies—including those of charter cities and charter counties—may not accrue pension benefits “greater than the most generous schedule of benefits being received by any category of nonsafety employees.”

 - **Some Local Governments May Have Responded.** In 1994, legislative committee staff found in the bill analysis that no county board of supervisors granted itself a better retirement program than its employee. It is unclear how many cities needed to change benefits to comply with Chapter 1065.
 - **Some Instances of Non-Compliance Apparent.** Actuarial reports and plan documents of one charter city’s retirement plan state that elected city officials there may retire with a benefit equal to 3.5 percent of their highest annual salary at age 55 after four or more years of service. By contrast, general members of the city plan hired before July 1, 2009, have a 2 percent to 2.5 percent at age 55 retirement formula. During the brief time available for this review, we identified no other instances of possible non-compliance with Chapter 1065.
 - **Statutory Authority Over Charter Cities and Counties Limited.** The Legislature’s ability to control benefits offered by charter cities or counties through statutory action is limited.

- ☑ **Board Members for Various Districts.** The 1993 anti-spiking bill excluded from CalPERS membership eligibility various categories of officials first elected or appointed during or after July 1994. For example, board members of special districts (such as water districts) were removed from CalPERS eligibility. The legislative history indicates a concern that some such elected or appointed officials could “receive full service [pension] credit for minimal service,” for which they were paid only for their meeting expenses.



Prior Statutory Efforts Have Not Been Completely Successful

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- ***Use of the Public Agency Retirement Services (PARS).***
We identified two water districts that contract with CalPERS to provide pension benefits to regular employees, but have used PARS (a multiple-employer pension trust governed by a board of public agency employers) to provide pension benefits to some or all of their elected board members.
- ***Use of Independent Special District Pension Systems.***
Several large special districts have independent pension plans of their own, and some are listed in the State Controller's database as providing pension benefits to their elected board members.



Issues for Legislative Consideration

- Local Autonomy or Legislative Control?*** In our November 2011 report on the Governor's pension proposal, we noted that a key issue in the pension debate was the extent to which the state should limit autonomy of local officials concerning pensions. This issue also is relevant when considering pensions of the local officials themselves. Should local voters and officials have control over elected officials' pensions, or should there be uniform statewide policies?
- Constitutional Amendment Required if Statewide Policy Desired.*** If the Legislature wishes to impose statewide policies concerning future elected officials' pension benefits, a constitutional amendment would be required, given the independence of charter cities and counties in establishing compensation levels for their own officials.
- Should Officials Receive Any Defined Benefit Pensions?*** In 1990, voters determined that future Members of the Legislature should not accrue state pensions or retirement benefits for their legislative service. Given that most elected officials serve for only a limited time, a similar argument can be made that few, if any, other elected officials should receive such benefits. On the other hand, some elected officials serve for significant periods of their lives in state or local elected office, sometimes in a full-time capacity similar to that of other public employees. Accordingly, an argument can be made that some elected officials should be able to accrue benefits similar to those of other full-time or part-time governmental workers. If the Legislature were to adopt this point of view, it could specify that future officials' pensions will be limited in the same manner as those of other governmental workers.



Issues for Legislative Consideration

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- Should CalPERS-Type Limits Be Extended to All Other Public Systems?*** The Legislature has adopted several statutes to limit CalPERS pensions for elected officials. It may wish to consider extending such statutes to cover all other pension systems, such as the county retirement systems. As noted above, a constitutional amendment may be required to ensure that these limits apply to *all* public entities in the state.
 - Should Full-Time Elected Service Be Treated Differently From Part-Time Service?*** Elected officials sometimes serve full-time and sometimes part-time. Should full-time elected officials be eligible for more pension benefits than part-time officials? If so, who makes the determination that officials are full-time or part-time? The variety of California local governments and the desire, if any, to preserve autonomy for local governments add to the complexity of these issues.
 - Offsetting Costs...Just as With Pension Changes for Other Public Employees.*** We have noted that defined benefit pension reductions or changes for public employees may result in additional, offsetting compensation costs—potential increases in pay, health benefits, employer contributions to defined contribution retirement plans, or other benefit payments. The same is true for changes in pensions for future elected officials. In some cases, local governments probably will choose to increase other compensation costs to offset reductions or changes in future officials' pension benefits.



Issues for Legislative Consideration

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What Is the Future of LRS? Over time, the LRS will become a much smaller pension system, as retired legislators first elected prior to November 1990 decline in number. While currently overfunded, the LRS at some point probably will require additional contributions, and these could be large relative to the payroll of the small number of active members then in the system due to (1) the system's fairly high benefit formulas (relative to other plans), (2) the system's low active worker-to-retiree ratio, and (3) potentially large fluctuations in actuarial experience due to the small population and asset base of the system. Moreover, we observe that the continued existence of a system named the Legislators' Retirement System may confuse some Californians, given that Senators and Assembly Members first elected after 1990 do not accrue benefits.

- ***Options for LRS.*** If the Legislature adopts a pension plan that limits benefits broadly for public employees, including state officials, it may wish to direct future state elected officers or legislative statutory officers to the general CalPERS pension pool with other state employees. As noted above, the Legislature also could consider whether the other future state elected officers should continue to accrue defined benefit pensions at all and whether pension benefits for judges should be limited like those of other public workers.