

# **Members:**

## **How Does the New CA Pension Law Affect You?**

**February 20, 2012** – The new law took effect January 1, 2013, but the effective date of sections of the law regarding calculation of salary will be set by the courts pending decision of a lawsuit filed by employee groups. This summary was updated to reflect a revised explanation of changes to Ventura Benefits. Other changes are detailed in the footnotes.

October 25, 2012 – This summary was updated to reflect a revised explanation of changes to Ventura Benefits. Other changes are detailed in the footnotes.

September 28, 2012 – On September 12, Governor Jerry Brown signed into the law the Public Employee Pension Reform Act, which is the culmination of the pension reform plan he had been working on all year. The new law contains many sections that alter the way pensions across the state operate, but much of the bill sets forth limitations that ACERA already operates under, such as a 3-year measurement period for calculating final average monthly salary.

Lawmakers did not make the text or provisions of the new law available until two days before it passed the legislature.

Here are the key ways that the new bill may affect ACERA members:

## **Current Employees**

### **No changes to retirement formulas**

There are no changes to your retirement formula or tier. The new formulas and tiers in the new law do not apply to current members or members who will enter ACERA on or before December 31, 2012 (membership begins on the first day of the employee's second pay period).

### **Ventura Benefits will change<sup>1</sup>**

One of the factors in the retirement formula that determines your lifetime monthly retirement allowance is your Highest Average Monthly Salary, which will increase if you are paid for your earned, unused vacation during your Final Compensation Period. This period is essentially your highest year of consecutive pay periods (Tier I and Tier III) or your highest three years of consecutive pay periods (Tier II). An increase in salary would result in an increased retirement allowance.

Members are paid for earned, unused vacation in two ways that are currently included in retirement calculation: Vacation Sell while employed and Vacation Payoff upon terminating employment. While ACERA will still include this compensation in your salary calculation, there are new limitations to how much we will include in the calculation for members who retire after the Pension Reform law takes effect.

The new maximum is the amount of vacation that is **earned and payable** during each twelve month period of your individual Final Compensation Period. So it's limited by both how much you earn and by how much your employer allows you to sell, whichever is less. For most members, this change may represent a decrease in the amount of vacation compensation that ACERA can include in the Highest Average Salary calculation. For more detailed explanation, please read the document [Ventura Benefits and Pension Reform](#).

## **Other salary calculation changes<sup>2</sup>**

Compensation that Safety Members receive for a portion of unused sick leave at retirement will no longer be included in ACERA's highest average salary calculation.

For current employees, the legislation also addresses some pay items which may not remain as compensation earnable, and therefore shall be excluded from the retirement allowance calculation. Please review the document [Pension Reform FAQ](#) for more information.

## **Your retirement contributions could change<sup>3</sup>**

Every time you get paid, you pay a percentage of your salary into the retirement fund (your employee contribution). Your employer also makes a similar contribution on your behalf, and these two sources of funds are invested worldwide. Earnings from investments are a third source of funding that pays for much of your lifetime monthly retirement allowance.

Currently, your employee contribution rate is based on your age when you enter into the retirement system—members with a younger entry age pay lower rates, and members with older entry ages pay progressively higher rates.

**What will change:** Under the Public Employee Pension Reform Act, employers like Alameda County may require that members pay for half of normal costs to fund the pension plan by 2018, and employers will have option (through collective bargaining) of having employees pay for the full normal cost of the plan. However, sections of MOUs that are in place on December 31, 2012 that speak to contribution rates or pick-up payments will remain in effect until they expire under their own terms. Once they expire, employers will be permitted to increase contributions. All current employees may experience an increase in retirement contributions before 2018. The pension reform law does not require bargaining before increasing contribution rates for unrepresented employees.

These "normal costs" do not include the required employer contributions to pay off ACERA's unfunded liability.

## **Your employer can't designate service you already earned into a higher tier**

As an ACERA member, you belong to a tier selected by your employer. Each tier has its own set of age factor multipliers, some higher some lower. After January 1, 2013, employers cannot adopt an enhanced tier and apply it to your past service.

# **Retirees**

## No changes in retirement allowance or COLA<sup>4</sup>

There are no changes in current retirees' retirement allowance or Cost of Living Adjustment (COLA).

## Retirees are restricted in going back to work for ACERA employers

Currently, ACERA retirees can go back to work for their employer after retirement, and work up to 960 hours in a calendar or fiscal year. This limitation doesn't change, but now the employee must wait 180 days after retirement before working for any of ACERA's participating employers, unless the employer certifies that the nature of employment and the appointment is necessary to fill a critically needed position sooner than 180 days and the employer's governing body approves it in a public meeting. The employment must be during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration. This 180 day limitation does not apply to safety members.

This will mean that any retiree that has not returned to work on or before December 31, 2012, will not be able to do so until 180 days after his/her retirement effective date.

## Future Employees – New Members as of January 1, 2013

Future employees are those who enter the retirement system on or after January 1, 2013. Since members enter ACERA on the first day of their second pay period, these future employees would be hired mid-December or later. Members who enter ACERA with reciprocity will not fall into this future employee category as long as they entered the first reciprocal system before December 31, 2012.

## Retirement eligibility will change

Currently, employees can retire at age 50 with at least 10 years of service (or if deferred, 5 years of service and 10 years of membership). The new law increases the minimum to age 52 with 5 years of service for all new employees except safety employees. New safety employees will be eligible at age 50 with 5 years of service.

## New members will enter new lower tiers

Members who enter ACERA on or after January 1, 2013 will go into one of two tiers, depending on whether they're general or safety members. (Safety members are sworn officers like Sheriff's Deputies and Probation Officers, and General members are everyone else.) Each tier has its own set of age factors that are used in the retirement calculation that increase with every quarter of your birthday between the minimum and maximum ages for the tier. Both new tiers have lower age factors at each age than the current tiers.

Tier	Min. retirement age*	Min. Age Factor %	Max. Age Factor %
Current General Tier II	50	1.18% at age 50	2.43% at age 65
<b>New General Tier</b>	<b>52</b>	<b>1.00% at age 52</b>	<b>2.50% at age 67</b>
Current Safety Tier II-C	50	1.25% at age 41	2.62% at age 55
Current Safety Tier II-D	50	1.43% at age 41	3.00% at age 55
<b>New Safety Tier</b>	<b>50</b>	<b>2.00% at age 50</b>	<b>2.70% at age 57</b>

\* Members can retire with 30 years of service (General) or 20 years of service (Safety) at any age

## **Employer will split pension costs with employees, with the possibility of requiring employee to pay all of normal costs**

Under the Public Employee Pension Reform Act, employers like Alameda County must require that members pay for half of normal costs to fund the pension plan, and employers will have the option (through collective bargaining) of having employees pay for the full normal cost of pensions. However, MOUs that are in place on December 31, 2012 and speak to contribution rates or pick-up payments will remain in effect until they expire under their own terms. Once they expire, employers will be permitted to increase contributions.

These “normal costs” do not include the required employer contributions to pay off ACERA’s unfunded liability.

## **Ventura Benefits and other pensionable pay will be eliminated from the retirement calculation**

For members hired on or after January 1, 2013, only base pay will be considered when calculating a member’s Final Average Salary—no payments for unused vacation, uniform pay, on-call pay, shift differentials, footnotes, sick leave, etc. will be included.

## **Annual retirement allowance cannot be more than Social Security limit<sup>5</sup>**

The maximum amount of salary that ACERA can use to calculate retirement allowance will be limited to 100% of Social Security’s Maximum Taxable Earnings limit for social security integrated members (typically general members) and 120% for non-integrated members (typically safety members). For example, the 2012 100% cap amount would be \$110,100 and the 120% cap amount would be \$132,120, and going forward, these amounts would be adjusted for inflation. A member will only pay retirement contributions as a percentage of the salary that falls under this limit. Since ACERA cannot pay out more than 100% of highest average annual salary, this would also be a cap on annual retirement allowance. An employer may not offer a benefit replacement plan with the intent of exceeding these limits.

# **All Members, Current and Future**

## **Safety Member Disability Retirement will change**

A safety member of a public retirement system who retires for industrial disability between 1/1/13 and 12/31/17 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.

# Employers

ACERA's participating employers are Alameda County, First 5 of Alameda County, Housing Authority of Alameda County, Superior Court of California (Alameda County), Alameda County Medical Center, Livermore Area Recreation and Park District, and a single member from the Office of Education.

## No pension contribution holidays

Prohibits employers from contributing less than normal cost unless the plan is funded above 120% per the system's actuary, the actuary determines that continuing to accrue excess earnings could result in disqualification of the plan's tax exempt status under the Internal Revenue Code, and the board determines that receipt of any additional contributions would conflict with its state constitutional fiduciary duties.

# ACERA

## ACERA must now monitor pensionable compensation

The new law gives the ACERA and its Board of Retirement a new mandate. The Board is now required to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. If so determined by the Board, the member has the opportunity to present evidence to refute the Board's findings. This will require that the Board establish a review process.

The Board may also audit a county or district to determine the correctness of retirement benefits, reportable compensation, and enrollment in, and reinstatement to, the system. During an audit, the board may require a county or district to provide information, or make available for examination or copying at a specified time and place, books, papers, data, or records, including, but not limited to, personnel and payroll records, as deemed necessary by the Board.

# For more information

The text of the Public Employees' Pension Reform Act can be found at the links below:

### AB340

[http://www.leginfo.ca.gov/cgi-bin/postquery?bill\\_number=ab\\_340&sess=PREV&house=B&author=furutani](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_340&sess=PREV&house=B&author=furutani)

### AB197

[http://www.leginfo.ca.gov/cgi-bin/postquery?bill\\_number=ab\\_197&sess=PREV&house=B&author=buchanan](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_197&sess=PREV&house=B&author=buchanan)

- 1 Ventura summary was updated October 25, 2012 to reflect a revised explanation of changes to Ventura Benefits. Ventura summary was further revised on February 20, 2013.
- 2 Salary calculation summary was updated October 25, 2012 to refer to a more detailed document.
- 3 Contribution rates summary was updated October 25, 2012 to comment on members not covered by MOU.
- 4 Retiree benefits summary was updated October 25, 2012 to specify retirement allowance and COLA, as opposed to non-vested benefits.
- 5 Allowance limit summary was updated October 5, 2012 to revise the explanation of the annual retirement allowance limit for new members.