



## **PENSION REFORM LAW TAKES EFFECT JANUARY 1, 2013**

On September 12, 2012, Governor Brown signed the California Public Employees' Pension Reform Act of 2013 (PEPRA) into law. PEPRA takes effect January 1, 2013. As you may know, VCERA is currently governed by the County Employees Retirement Law of 1937 (CERL). As of January 1st, we will also be governed by PEPRA.

The 60-page law, which can be found in the California Government Code, is complex and broad-reaching. Basically, PEPRA affects **new** VCERA members on or after January 1, 2013 through provisions affecting benefit formulas, the definition of what comprises pensionable earnings, limits on pensionable earnings, and other matters. The new law also calls for new members to pay 50 percent of the normal cost of benefits (Reference: Section 7522.30(a)) and strengthens the rules involving pension forfeiture for public employees and elected officials who commit job-related felonies.

## **HOW DOES PEPRA DEFINE A NEW MEMBER?**

Since the majority of the provisions in PEPRA affect new members on or after January 1, 2013, it's important to understand what factors constitute a "new member" under this new law.

### **New Member**

PEPRA defines a new member as an individual who becomes a VCERA member for the first time on January 1, 2013 or later, and who is not eligible for reciprocity. An individual who is a member of a reciprocal retirement system but ineligible for reciprocity prior to January 1, 2013 would also be considered a new member.

### **Current Member (VCERA Member prior to 1-1-13)**

Individuals meeting any of the following conditions are considered to be current members:

- Active member of VCERA prior to January 1, 2013
- Deferred member of VCERA prior to January 1, 2013, who returns to active membership
- An individual who becomes a member on or after January 1, 2013 who is eligible for reciprocity based on membership in a reciprocal system on or before December 31, 2012\*
- Former member of VCERA who terminated membership and withdrew his or her accumulated contributions prior to January 1, 2013 and later returns to service with the same employer and is eligible to redeposit

\*To be eligible for reciprocity, you must meet the requirements, one of which is that, within six months of terminating from a public agency, you must become a member of another public agency covered by a reciprocal retirement system within California. For additional information, contact your VCERA Benefit Specialist at 805-339-4250 or visit [www.ventura.org/vcera-information/brochures](http://www.ventura.org/vcera-information/brochures).

## **BENEFIT FORMULAS**

Benefit formulas are summarized as follows:

- New general members – 2.5% @ 67 yrs. of age as described under PEPRA Section 7522.20(a). (Can retire after 5 yrs. of service and age 52 yrs.)
- New safety members – 2.7% at 57 yrs. of age as described under Section 7522.25(d). (Can retire after 5 yrs. of service and age 50 yrs.)

## **MEMBER CONTRIBUTION RATES**

Member contribution rates are summarized as follows for fiscal year 2013-14:

- PEPRA General Tier 1: 5.75% (Basic 4.07% and COLA 1.68%)
- PEPRA General Tier 2 w/o COLA: 7.25%
- PEPRA General Tier 2 w/ COLA: 10.02% (Basic 7.39% and COLA 2.63%)
- PEPRA Safety Tier: 15.00% (Basic 10.66% and COLA 4.34%)

## PENSIONABLE COMPENSATION

Section 7522.34 defines Pensionable Compensation and it reads as follows per SB 13:

(a) "Pensionable compensation" of a new member of any public retirement system means 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 of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules, subject to the limitations of subdivision (c).

(b) Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid.

(c) Notwithstanding any other law, "pensionable compensation" of a new member does not include the following:

(1) Any compensation determined by the board to have been paid to increase a member's retirement benefit under that system.

(2) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.

(3) Any one-time or ad hoc payments made to a member.

(4) Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

(5) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.

(6) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

(7) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.

(8) Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code.

(9) Employer contributions to deferred compensation or defined contribution plans.

(10) Any bonus paid in addition to the compensation described in subdivision (a).

(11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a).

(12) Any other form of compensation a public retirement board determines should not be pensionable compensation.

(13) (A) Any form of compensation identified that has been agreed to be nonpensionable pursuant to a memorandum of understanding for state employees bound by the memorandum of understanding. The state employer subject to the memorandum of understanding shall inform the retirement system of the excluded compensation and provide a copy of the memorandum of understanding.

(13) (B) The state employer may determine if excluded compensation identified in subparagraph (A) shall apply to nonrepresented state employees who are aligned with state employees subject to the memorandum of understanding described in subparagraph (A). The state employer shall inform the retirement system of the exclusion of this compensation and provide a copy of the public pay schedule detailing the exclusion.

## **36 MONTH FINAL AVERAGE PENSIONABLE COMPENSATION**

For the purposes of determining a retirement benefit to be paid to a new member, “final pensionable compensation” shall mean the highest average annual pensionable compensation earned by the Member during a period of at least 36 consecutive months, immediately preceding his or her retirement or last separation from service if earlier, or during any other period of at least 36 consecutive months, during the member’s applicable service that the member designates on the application for retirement.

For most members (employees), the compensation earned during the 36 month period immediately preceding retirement is usually the highest and is often called final compensation due to its position in an employee’s service. However, a number of circumstances exist where an employee could have earned higher compensation during a 36 month period earlier in his or her career, and the law provides for the ability of the employee to choose that higher period as the “final” compensation amount used when calculating a retirement benefit.

## **PENSIONABLE COMPENSATION LIMITS**

In the determination of pension benefits under the CalPEPRA formulas, the maximum pensionable compensation that can be taken into account for 2013 is equal to \$113,700 (the Social Security Taxable Wage Base for 2013) or 120% of this amount (\$136,440) if not enrolled in Social Security. This is also the maximum amount of compensation over which employer and member contributions will be collected, and is indexed for inflation on an annual basis. (Reference: Section 7522.10)

## **COST OF LIVING**

The applicable Cost-of-Living Adjustment from VCERA’s current open tiers (i.e., 0%, 2% or 3%) apply to the new PEPRA tiers.

- PEPRA General Tier 1: up to 3%, based on CPI
- PEPRA General Tier 2 w/o COLA: 0%
- PEPRA General Tier 2 w/ COLA: 2%
- PEPRA Safety Tier: up to 3%, based on CPI

## **PENSIONABLE COMPENSATION NOTICE**

As defined above, there is more than one possible interpretation for the definition of Pensionable Compensation, and as of this writing, VCERA presently has one interpretation of Pensionable Compensation and the County of Ventura has another. Both have agreed, in recognition that the definition of Pensionable Compensation may be clarified by further legislation, regulations or resolutions authorized by legislation, or by case law resulting from litigation, to continue the discussion and delay final implementation until clarified. Please see the Pensionable Compensation Notice posted on VCERA’s website ([www.ventura.org/vcera](http://www.ventura.org/vcera)) for more information.

## **HOW TO CONTACT VCERA**

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## **HOW TO LEARN MORE**

Visit [www.ventura.org/vcera](http://www.ventura.org/vcera)