
Summary of Ballot Initiatives

Ballot Initiatives

11-0018 (Public Employee Retirement) Cleared for circulation – requires 504,760 signatures by 2/10/12:

This initiative seeks to amend the California Constitution to require, on and after January 1, 2016, that all California public pension funds invest and maintain a minimum of 85% of its assets in California owned businesses, defined as a business in which at least 70 percent of its employees are employed within California.

11-0020 (End Public Sector Bargaining Act) Cleared for circulation – requires 807,615 signatures by 2/3/12:

This initiative seeks to amend the California Constitution to prohibit collective bargaining on “any matter relating to public officers or employees or their employment or service.”

11-0021 (Tax Public Pensions Above \$100,000 Per Year Act) Cleared for circulation – requires 807,615 signatures by 2/3/12:

This initiative seeks to impose an additional 15% state income tax on all public sector pensions paid by CalPERS and CalSTRS between \$100,000 and \$149,999 annually and an additional 25% state income tax on all public sector pensions paid by CalPERS and CalSTRS above \$150,000 annually. The initiative does not mention '37 Act or other local government retirement systems. It also seems to omit an additional tax on those PERS and STRS pensioners who receive exactly \$150,000 annually.

11-0022 (Raise Public Retirement Ages Act) Cleared for circulation – requires 807,615 signatures by 2/3/12:

This initiative adds a section to the California Constitution that prohibits public agencies participating in CalPERS and CalSTRS from negotiating a memorandum of understanding or other contract or agreement with public employees that allows retirement of employees with full retirement benefits at an age younger than 65 for general members and 58 for safety members. The initiative does not define “full retirement benefits.”

11-0026 (The Costa-Matteoli Pension Solvency Act) Cleared for circulation – requires 807,615 signatures by 2/3/12:

The initiative seeks to create the Pension Solvency Act as follows:

- Require all California public agency pension plans to administer the plan in accordance with the Pension Solvency Act

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- Require the pension plans to continue to administer the plan under the Act for at least two years
- Expand the definition of “member” to include beneficiaries and legal representatives of a member
- Limit final average salary for pension calculations to base pay, defined as base pay plus any “extra lump sum compensation”
- If a public agency is mandated by a court or regulatory agency to calculate benefits using anything other than base pay, the public agency shall not fund the benefit until the retirement system is “solvent”
- Solvent is defined as “the ability to pay all that a public agency’s retirement system owes” and there are numerous steps identified to determine solvency
- The retirement system must remain solvent for three years and then can petition the State Comptroller for a confirmation that the system is solvent
- Once a confirmation of solvency is received from the State Comptroller, a vote is taken by active, inactive and retired members of the system on whether to opt out of the Pension Solvency Act
- A vote of 50% plus one will be determinative and such votes are only offered on a two-year cycle paid for by the pension trust
- For each year the retirement system is less than 97% funded, the COLA is reduced to 50% (called a Diet-COLA)
- Benefits are calculated using base salary earned per year multiplied by the “plans accrual rate” (sic) which is not defined
- Every systems’ annual final compensation shall be subjected to the “First Year Solvency Funding Adjustment Index” presented in the initiative
- There are three Solvency Funding Adjustment Indices (first, third and fifth year) which are adjusted annually by the CalPERS COLA and applied on a fiscal year basis
- The accrued adjustments are withheld from each retired member’s annual final compensation
- Prohibits pooling of employers within a public retirement system

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- Mortality rates are calculated and considered on a fiscal year basis
- Minimum retirement age is 59 ½
- Contains health care provisions regarding eligibility that allow active and inactive members to remain eligible for retiree medical benefits even after the system is out of the Pension Solvency Act
- The State Comptroller can determine at any time that the retirement system is not solvent, at which time the system shall immediately be covered by the Pension Solvency Act
- While a system is under the Pension Solvency Act, if their liability increases, the First Year Solvency Funding Adjustment Index is “re-indexed” to withhold additional funds pursuant to the Third Year Solvency Funding Adjustment Index
- If covered by the Third Year Solvency Funding Adjustment Index and liability continues to increase, the Third Year index is re-indexed to withhold additional funds pursuant to the Fifth Year Solvency Funding Adjustment Index
- If using the Fifth Year Solvency Funding Adjustment Index, all public pension income is included, Social Security, Military, etc.
- Widows, widowers and orphans are exempt from re-indexing under the First, Third and Fifth year Solvency Funding Adjustment Indices
- A public agency’s annual obligation to the pension system is based on the annual final compensation
- If the system is 105% funded, the employer may reduce its annual obligation at its discretion but no less than will sustain the system at 100% funded for a three year period
- State Supreme Court judges who hear matters relating to the Pension Solvency Act shall have their personal pensions exempt from the Act
- Within 30 days of voter passage, California’s Attorney General must request the Federal Prosecutor in San Francisco to investigate CalPERS Board of Directors, executives, top level management and investors for various crimes, including fraud, extortion, bribery, RICO violations and conspiracies
- The California AG must also request the Federal Prosecutor to investigate any public employee retired from a district or board who receives more than

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\$250,000 annually, and all elected officials and upper management of a district or Board for the same violations as above

- Conviction results in a forfeiture of all CalPERS or subject trust fund retirement benefits and retirement contributions, and a million dollars in penalties to be paid to the retirement system
- All new and reinstated employees after enactment of the Pension Solvency Act have a base pay cap of \$100,000 plus COLAs to calculate final annual compensation for calculating pensions
- Creates CalSPERS – the California Separate Private Employees Retirement Systems which mirrors CalPERS and is administered by CalPERS
- Benefits accrue at 2% at 63 with a five year final annual compensation measuring period
- Salaried employees are limited to \$100,000 final annual compensation for pension calculations while business owners are limited to \$150,000 subject to COLA every ten years
- CalSPERS members can buy up to five years of military service
- The same vesting requirements of CalPERS applies to CalSPERS and the minimum retirement age is 59 ½
- Only members who have paid into CalSPERS will be eligible for benefits and health care options are available at the discretion of the private agency employer
- CalSPERS cannot offer a 401k, 457 or other similar benefit programs
- CalPERS must cease providing and managing 401k and 457 benefit programs for all CalPERS active, inactive and retired members with a three year phase out
- CalPERS can continue to provide deferred compensation programs

11-0032 (Fair and Proportional Retirement for Public Officials Act of 2012) Cleared for circulation – requires 504,760 signatures by 3/8/12:

This initiative seeks to amend the California Constitution to change the retirement benefits for existing and future “politicians”, defined as elected public officials and appointed government administrators who vote to determine government business, set government policy and/or determine expenditure of tax funds or fee funds or who influence government business. The retirement benefits are limited to the lowest

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benefit level and the same vesting rules as employees of the agency or organization the politician serves or served. If there are no workers lower than the politician's level, or if there is a group of workers who are not eligible for retirement benefits, the politician gets no retirement benefits. It applies retroactively, which means that benefits will be recalculated. If the politician does not abide by the act, he or she forfeits all salary, benefits and retirement rights.

11-0063 (Government Employee Pension Reform Act of 2012 – Version 1) Pending a Title and Summary from the Attorney General:

The stated purpose of this initiative is to provide fiscally responsible and adequately funded pension benefits for all past, current and future government employees and retirees by temporarily requiring government employees to contribute a larger share of their pension benefit costs and meet other requirements while the pension fund is at risk and changing the composition of retirement boards.

Specifically, this initiative seeks to:

- Apply limitations to a retirement plan funded by a government agency for the benefit of government employees hired on or after July 1, 2013 as follows:
 - Eliminate the ability of a retirement plan to accumulate debt or unfunded liabilities and the ability of a government agency to underwrite the pension fund
 - Require employee contributions equal to the employer contribution and eliminate employer pick-ups of employee contributions
 - Limit employer contributions to 6% of a general member's base salary and 9% of a safety member's base salary
 - For employees who are not covered by Social Security, the employer must provide a defined benefit retirement benefit equal to the Social Security benefit the employee would otherwise receive, with the cost shared equally between the employee and employer. Safety members can retire with full benefits at or after age 58
 - No death or disability benefits will be provided by the retirement system
 - Government agencies will retain exclusive authority to modify the terms of the retirement plan at any time
 - New laws in conformance with this initiative must be enacted by June 30, 2013

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- Apply limitations to a retirement plan funded by a government agency for the benefit of government employees hired before July 1, 2013 as follows:
 - Limit final average salary for retirees after June 30, 2016 to the highest annual base wage over a period of three years
 - Require the retirement administrator to secure an independent review of the plan's assets and liabilities, including liability attributed to pension obligation bonds, within 120 days after the closing of the plan's fiscal year. The review must use accounting standards and assumptions established for evaluating private sector plans which includes ERISA standards. If using a market value standard causes the plan's assets to be less than 80% of the liabilities the administrator must notify the public and government employers that the plan does not meet minimum funding levels and is at risk
 - A government employer receiving an at risk notice from the plan must appropriate an amount necessary to fund the plan above the risk level or make a finding that the funding is not available without impairing the employer's ability to provide essential government services
 - If the government employer fails to make the appropriation or the finding that funding is not available within 30 days of receiving the at risk notice the government shall be deemed to have made the finding that the funding is not available without impairing the ability to provide essential government services
 - If the government finds or is deemed to have found that funding is not available without impairing essential government services than it shall immediately limit its contribution to 6% of a general employee's base wage and 9% of a safety employee's base wage. The government employee will be required to make up the difference in the normal cost of the plan. For those employees not covered by Social Security, they will receive an additional contribution to their normal cost obligation
 - Cost savings not needed for essential government services will be used to reduce the plan's unfunded liabilities. Government employees shall contribute towards unfunded liabilities as the employer determines to be necessary and equitable
 - The amounts required of the employee in making up the normal cost difference and paying a portion of unfunded liabilities shall not, in aggregate, be increased by more than 3% of the base wage per year
 - The above limitations will cease once the plan has exceeded the at risk

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funding level

- An employee can withdraw from further participation in the plan once the employer declares it cannot fund the plan without impairing essential government services and enter into the plan for new employees
 - Government agencies can separately provide death and disability benefits
 - COLA's cannot exceed Social Security COLA's for new retirees
 - No retirement benefits for members of the Legislature
 - No retirement benefits for felons
 - No credit for service not worked, i.e. air time
 - No contribution holiday unless the plan is funded greater than 120%
 - No additional retirement plans or deferred compensation benefits may be created or used to circumvent these provisions
- On or after July 1, 2013, every government pension board shall consist of a majority of members with demonstrated expertise in financial, legal, health care, actuarial, investment, life insurance or benefits consultant fields
 - The members and their immediate family members cannot be members or beneficiaries of any California government pension plan or retirement system
 - The Director of the Department of Finance shall serve as a voting member of the board for funds with assets in excess of \$5 billion
 - The Legislature determines the criteria and process for eligibility and selection of board members

11-0064 (Government Employee Pension Reform Act of 2012 – Version 2) Pending a Title and Summary from the Attorney General:

The purpose of this ballot initiative is identical to the purpose of the previous initiative, 11-0063.

Specifically, this initiative seeks to:

- Allow the legislature to enact a hybrid plan for employees hired on or after July 1, 2013

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- For safety members after 30 years of service retiring at age 58 or later, and for general members after 35 years of service retiring at age 67 or later, the defined benefit, defined contribution and Social Security benefits combined shall equal not more than 75% of the base wages
- The defined benefit plan shall calculate final average salary based on three years of base wages
- The defined benefit is limited to 25% of pensionable pay after 35 years of service for general members and 30 years of service for safety members if the members participate in Social Security. If not, it is limited to 50% of pensionable pay
- The defined benefit portion shall not exceed \$100,000 per year, adjusted for inflation
- The employer and employee will equally share in the cost of the defined benefit plan
- Employees will be allowed to retire up to five years prior to full retirement age with an actuarially reduced benefit
- Requires board members to adopt accounting and actuarial standards to ensure the cost of the defined benefits are fully paid in the year earned and not deferred to future employers and employees
- Requires establishment of a defined contribution plan with an administrator that has a range of appropriate investment options and minimized investment costs with the ability to convert the benefits to an annuity underwritten by regulated financial institutions meeting prudent capital and financial standards established by the Legislature
- Death and disability benefits shall be provided outside the retirement system
- For employees hired before July 1, 2013, the provisions are the same as set forth in ballot initiative 11-0063 above

PROCESS:

For ballot initiatives, once approved for signature gathering, the proponents need to gather 807,615 signatures if amending the California Constitution, and 504,760 if proposing a statutory change, to qualify for the ballot. The next possible ballot is the November 2012 election. The Secretary of State imposes deadlines by which all signatures must be gathered. Those deadlines fluctuate.