



City Council Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2018-01398

October 16, 2018

Discussion Item 10

Title: (Pass for Publication) Ordinance Authorizing Amendment to the Contract between the City and the California Public Employees' Retirement System and Resolution of Intention to Amend Contract

Location: Citywide

Recommendation: 1) Pass a Resolution of Intention to amend the contract between the City of Sacramento and the Board of Administration of the California Public Employee's Retirement System to reflect the agreed upon cost share for members of the following unions: Stationary Engineers, Local 39; Auto, Marine, and Special Painters (Local 1176); and Western Council of Engineers; 2) review an Ordinance amending the contract between the City of Sacramento and the Board of Administration of the California Public Employees' Retirement System; and 3) pass for publication the ordinance title as required by Sacramento City Charter Section 32(c) for consideration on November 27, 2018.

Contact: Samantha Wallace, Human Resources Manager, (916) 808-7657; Donna Azar, Administrative Analyst, (916) 808-1029, Department of Human Resources

Presenter: Samantha Wallace (916) 808-7657, Human Resources Manager, Department of Human Resources

Attachments:

- 1-Description/Analysis
- 2-Resolution of Intent
- 3-Exhibit A (PERS Resolution)
- 4-Exhibit B (PERS Amendment)
- 5-Ordinance

Description/Analysis

Issue Detail: The Public Employees' Pension Reform Act (PEPRA) of 2013 and related changes to the Public Employees Retirement Law (PERL) allow employers to negotiate various levels of "cost-sharing" with their employee unions whereby the employees agree to share in the cost of the employer contribution. These cost-share amounts are paid in addition to the member contribution rate. The cost share allows for the entire amount contributed by the employee to be credited to the employee's account. The collective bargaining agreements specify, as required by the PERL, the exact percentage of member compensation that shall be paid toward the current service cost of the benefits by members. The member contributions shall be contributions over and above normal contributions otherwise required but shall be treated as normal contributions.

The City of Sacramento entered into agreements with all three bargaining units represented by Stationary Engineers, Local 39 (Local 39); the Auto, Marine, and Special Painters (Local 1176), and the Western Council of Engineers (WCE) establishing a California Public Employees' Retirement System (PERS) cost share for PERS classic members. Consistent with these agreements, affected members began paying the following percentage of the employer's contribution to PERS retirement on the specified dates:

- Effective November 15, 2014, Local 39, Miscellaneous employees pay one (1) percent
- Effective November 15, 2014, Local 39, Plant Operators employees pay one (1) percent
- Effective November 15, 2014, Local 39, General Supervisors employees pay one (1) percent
- Effective September 5, 2015, WCE employees pay one (1) percent
- Effective December 24, 2016, Local 1176 employees pay one (1) percent

The City's contract with PERS must be amended to reflect the cost share agreements between the City and Local 39, Local 1176, and WCE. To do so, PERS regulations require that the City first approve a resolution giving notice of its intention to amend its contract with PERS, and then separately enact an ordinance authorizing amendment to the PERS contract as required by the California Government Code. In addition, after City Council passes the Resolution of Intention, but before adoption of the ordinance, the Government Code requires affected members to approve the cost share agreement.

Policy Considerations: Adoption of the resolution of intention initiates the process required to amend the PERS contract and the City's legal requirement to implement the Cost Share program outlined in Local 39, Local 1176, and WCE labor agreements.

Economic Impacts: None.

Environmental Considerations: None.

Sustainability: None.

Commission/Committee Action: None

Rationale for Recommendation: Pursuant to the California Government Code, the Resolution of Intention is required to amend the PERS contract, which is a requirement of the Local 39, Local 1176, and WCE labor agreements.

Financial Considerations: The City of Sacramento entered into agreements with Local 39, Local 1176, and WCE establishing a PERS cost share for classic members. The savings from the cost share were included as an offset to the other provisions of the approved contracts.

Local Business Enterprise (LBE): Not applicable.

RESOLUTION NO.

Adopted by the Sacramento City Council

Resolution of Intention to Amend the
California Public Employees' Retirement System Contract

BACKGROUND

- A. Pursuant to the Memorandums of Understanding between the City of Sacramento and: (1) all three bargaining units represented by the Stationary Engineers, Local 39; (2) the Auto, Marine, and Specialty Painters (Local 1176; and the Western Council of Engineers, all PERS Classic Miscellaneous members thereby represented shall pay one percentage point of the City's contribution to PERS.
- B. Pursuant to Public Employees' Retirement Law, the City of Sacramento must approve a Resolution of Intent to amend the PERS contract.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:

- Section 1. Pass a Resolution of Intention (Exhibit A) providing notice of the City's intent to approve an amendment to the contract between the City of Sacramento and the Board of Administration of the California Public Employees' Retirement System (Exhibit B).
- Section 2. Exhibits A and B are a part of this Resolution

**RESOLUTION OF INTENTION
TO APPROVE AN AMENDMENT TO CONTRACT
BETWEEN THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
CITY COUNCIL
CITY OF SACRAMENTO**

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20516 (Employees Sharing Additional Cost) of 1% for classic local miscellaneous members in Local 1176, Local 39 Plant Operators, Local 39 Miscellaneous, Local 39 General Supervisory and Western Council of Engineers.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: _____
Presiding Officer

Title

Date adopted and approved



EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Sacramento

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective January 29, 1977, and witnessed January 25, 1977, and as amended effective June 1, 1978, March 17, 1988, December 30, 1989, June 26, 1991, February 21, 1992, May 29, 1996, November 20, 1996, December 19, 1997, July 1, 2000, June 30, 2001, September 22, 2001, June 29, 2002, November 26, 2005, April 29, 2006, May 9, 2009, December 29, 2012, July 11, 2015, May 13, 2017 and November 25, 2017 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 20 are hereby stricken from said contract as executed effective November 25, 2017, and hereby replaced by the following paragraphs numbered 1 through 20 inclusive:
 - 1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members, age 62 for new local miscellaneous members, age 55 for classic local fire members, age 50 for classic local police members and age 57 for new local safety members.

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2. Public Agency shall participate in the Public Employees' Retirement System from and after January 29, 1977 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **ALL MISCELLANEOUS EMPLOYEES WHO WERE IN EMPLOYMENT PRIOR TO JANUARY 29, 1977; AND**

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- b. **ALL PERSONS WHO ARE PARTICIPANTS (AS THAT TERM IS DEFINED IN THE ACT HEREINAFTER REFERRED TO AND ANY REGULATIONS PROMULGATED THEREUNDER) UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973, AS AMENDED.**
6. Assets heretofore accumulated with respect to members in the local retirement system who entered membership in this system on December 30, 1989 have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
7. This contract shall be a continuation of the fire function of the Pacific Fire Protection District, hereinafter referred to as "Former Agency". The accumulated contributions, assets and liability for prior and current service under the Former Agency's contract with respect to the fire function shall be merged pursuant to Section 20508 of the Government Code. Such merger occurred December 28, 1991.
- a. All benefits provided under this contract shall apply to all past service for former employees of the Pacific Fire Protection District.
8. The percentage of final compensation to be provided for classic local miscellaneous members for each year of credited prior service is 0% and the percentage of final compensation to be provided for each year of credited current service is 100%, and determined in accordance with Section 21354, subject to the reduction provided therein for service on or after January 29, 1977, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Supplemental to Federal Social Security).
10. The percentage of final compensation to be provided for classic local police members who entered membership in this System on or after January 29, 1977 and prior to December 30, 1989 for each year of credited prior service is 0% and the percentage of final compensation to be provided for each year of credited current service is 100% and for those classic local police members who entered membership after December 30, 1989 for each year of credited current service is 100% and determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).

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11. The percentage of final compensation to be provided for classic local fire members who entered membership in this System on or after January 29, 1977 and prior to December 30, 1989 for each year of credited prior service is 0% and the percentage of final compensation to be provided for each year of credited current service is 100% and for those classic local fire members who entered membership after December 30, 1989 for each year of credited current service is 100% and determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
12. The percentage of final compensation to be provided for each year of credited prior and current service for classic local police members who transferred from the local system and entered membership in this System on December 30, 1989 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
13. The percentage of final compensation to be provided for each year of credited prior and current service for classic local fire members who transferred from the local system and entered membership in this System on December 30, 1989 shall be determined in accordance with Section 21363.1 (3% at age 55 Full).
14. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
15. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Sections 21624 and 21626 (Post-Retirement Survivor Allowance).
 - b. Section 21151 (Industrial Disability Retirement For Local Miscellaneous Members).
 - c. Section 21022 (Public Service Credit for Periods of Lay-Off) for local fire members only.
 - d. Section 21335 (3% Cost-of-Living Allowance, limited pursuant to Section 21252.023 (a) for local safety members who transferred from the local system, entered membership in this System on December 30, 1989 and retired after that date. Legislation repealed said Section effective June 30, 1991.
 - e. Section 21037 (Cancellation of Payment for Optional Service Credit Upon Retirement for Industrial Disability) limited pursuant to Section 21038 for local safety members who transferred from the local system and entered membership in this System on December 30, 1989.
 - f. Section 21536 (Local System Service Credit Included in Basic Death Benefit) for local safety members who transferred from the local system and entered membership in this System on December 30, 1989.
 - g. Section 20042 (One-Year Final Compensation) for classic members only

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- h. Section 21024 (Military Service Credit as Public Service).
- i. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service) for local miscellaneous members and local fire members only.
- j. Section 20965 (Credit for Unused Sick Leave).
- k. Section 20434 ("Local Fire Fighter" shall include any officer or employee of a fire department employed to perform firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation services as described in Government Code Section 20434).
- l. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local police members only.
- m. Section 21548 (Pre-Retirement Option 2W Death Benefit) for local police members only.
- n. Section 20516 (Employee Sharing Cost of Additional Benefits):

From and after December 29, 2012 and until May 13, 2017, Section 20042 (One-Year Final Compensation) effective June 26, 1991, Section 21363.1 (3% @ 55 Full formula) effective September 22, 2001, and Section 20965 (Credit for Unused Sick Leave) effective April 29, 2006 for local fire members.

The employee cost sharing contributions are not to exceed 7.713%. The maximum employee cost sharing contribution is the normal cost plus the increase in the accrued liability due to the benefit improvement amortized over 20 years. In no event shall the employee cost sharing contribution attributable to the unfunded liability remain in effect beyond April 29, 2026. Therefore, between September 22, 2021 and April 29, 2026, the maximum employee cost sharing contribution cannot exceed 3.002%; and after April 29, 2026, in any given contribution year, the maximum employee cost sharing contribution cannot exceed 2.707% of payroll.

- o. Section 20516 (Employees Sharing Additional Cost):

From and after July 11, 2015, 1% for classic local miscellaneous members in the Sacramento Police Officers Association and the Plumbers and Pipefitters Local 447.

From and after July 11, 2015, 3% for classic local police members in the Sacramento Police Officers Association.

From and after May 13, 2017, 12% for classic local fire members in the Sacramento Area Firefighters Local 522.

From and after November 25, 2017, 1% for classic local miscellaneous members in the Sacramento City Exempt Employees Association.

From and after November 25, 2017, 3% for classic local police members in the Sacramento City Exempt Employees Association.

From and after November 25, 2017, 12% for classic local fire November 25, 2017 members in the Sacramento City Exempt Employees Association.

From and after the effective date of this amendment to contract, 1% for classic local miscellaneous members in Local 1176, Local 39 Plant Operators, Local 39 Miscellaneous, Local 39 General Supervisory and Western Council of Engineers.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

16. Public Agency, in accordance with Government Code Section 20834, shall not be considered an "employer" for purposes of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Government Code Section 20834, and such contributions hereafter made shall be held by the Board as provided in Government Code Section 20834.
17. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
18. Public Agency shall also contribute to said Retirement System as follows:
 - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574.5 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local police members.
 - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

19. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
20. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF SACRAMENTO

BY _____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN
THE CITY OF SACRAMENTO AND THE CALIFORNIA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO

SECTION 1.

An amendment to the contract between the City Council of the City of Sacramento and the Board of Administration of the California Public Employees' Retirement System is authorized. A copy of the amendment is attached to this ordinance as Exhibit A.

SECTION 2.

The Mayor of the City of Sacramento is authorized, empowered, and directed to execute the amendment for and on behalf of the City of Sacramento.