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Pension reform: Easier said than done

By **Ed Mendel** | 08/29/11 12:00 AM PST

A bill for a public pension reform advocated by Gov. Brown, and a commission appointed by former Gov. Schwarzenegger, has a labor sponsor, no formal opposition and therefore smooth sailing in the Legislature, right?

Not exactly.

The bill preventing CalPERS and county systems from lowering employer contributions when investment earnings are booming, and instead put excess money in a "rainy-day" reserve, shows how reform can be technically and politically complex.

Much pension reform legislation this year is scandal driven, responding to big salaries in the city of Bell, pay-to-play investment corruption at CalPERS and the boosting or "spiking" of pensions, notably by two Contra Costa fire chiefs.

Some of the bills are being watered down or delayed until next year — among them an anti-spiking measure, SB 27, that the California State Teachers Retirement System **wants to change.**

One of the few bills dealing with the big issue, pension funding, is the limit or ban on employer contribution "holidays" sponsored by the California Professional Firefighters, **AB 1320 by** Assemblyman Michael Allen, D-Santa Rosa.

"AB 1320 will ultimately safeguard against any sudden increases in employer contribution rates, thereby providing budget stability and sustainability," said the firefighter group.

The bill is an expression of faith that the pension funds, now often only 60 to 70 percent funded, will one day return to financial health, despite dire predictions from reform advocates who urge major restructuring.

A provision in the original version of the bill also is a nod to the labor sponsors. The "rainy-day" reserve, if times were really flush, could be used to lower the pension contributions of employees.

The goal is a reserve to help government employers pay higher pension contributions when investment earnings falter, avoiding rate shock. CalPERS dropped employer rates to zero or thereabouts in the late 1990s during a stock market boom.

A state CalPERS payment that had been $1.2 billion dropped to about $150 million (as CalPERS sponsored a 50 percent pension increase, SB 400 in 1999). By 2005 the state rate had soared to $2.5 billion.

Schwarzenegger cited the dramatic five-year increase as he briefly backed a proposal in 2005 to switch new state and local government employees to a 401(k)-style individual investment plan.

An extreme example is the University of California Retirement Plan. The UC system, not included in the firefighters' bill, went without contributions for two decades, getting by on investment earnings before payments resumed last year.

A UC staff report said the system, now planning to phase in a major contribution increase for employers and employees, would have been about 120 percent funded last year if normal contributions had continued since 1990.

The firefighters' bill moved through the Assembly and the pension committee in the Senate with no opposition, other than "no" votes from minority Republicans in a Legislature bitterly polarized along party lines.

Then the board of the California Public Employees Retirement System voted this month to oppose AB 1320 unless amended.

CalPERS considered a rainy-day reserve in 2005. But as Schwarzenegger was backing a switch to 401(k)-style plans, CalPERS decided to spread investment gains and losses over 15 years, a rate "smoothing" period well beyond the usual three to five years.

Three bills that would have created "rainy-day" funds failed in the Legislature in 2005. But CalPERS left the door open to reconsidering a reserve after seeing how the extended smoothing period works.

A CalPERS **analysis said** AB 1320 should be changed to create the reserve outside of the main CalPERS investment fund, which is managed exclusively for the benefit of members. The reserve might have other uses and need different investment strategy.

The analysis said the bill could require about 122 of the more than 2,000 CalPERS plans to increase their annual payments by a total of about $2.9 million. The plans are overfunded and paying less than the normal cost now.

Tracking a reserve for each CalPERS plan could interfere with the launch of the first phase of a new statewide CalPERS computer system on Sept. 19. The analysis said the start date for AB 1320 should be delayed from Jan. 31, 2013, to July 1, 2014.

Amendments sought by CalPERS reportedly were added to AB 1320 late last week as the bill was kept alive by the Senate Appropriations Committee on a 6-to-3 party-line vote.

At the CalPERS board meeting, the bill was blasted as a state power grab of what should be under local control by Tony Oliveira, a former California State Association of Counties president and a local government representative on the board since 2005.

"I strongly oppose this probably more than anything that has ever come in front of us since I have been here," Oliveira said. He added later: "If we think it's necessary that you use Gestapo tactics," the reserves should be in funds operated by local government.

Asked why the bill had moved through the Assembly and the Senate policy committee without opposition from local government groups, Oliveira said the measure may not be "hitting the radar screen" because their pensions are underfunded.

"I'll say I suppose," said George Diehr, the CalPERS committee chairman, "they are mute because for 95 percent of them it's moot, hardly likely to become unmoot. It's irrelevant for many years."

Some advocates of pension reform are getting a professional analysis of complex initiative proposals from the nonpartisan Legislative Analyst's Office. Democratic legislators want to raise the $200 initiative filing fee, unchanged since World War II.

Ted Costa of People's Advocate said an initiative he filed with Robert Matteoli probably will be modified after a review by the LAO. An LAO review of three initiatives filed by a Santa Barbara organization helped them make a decision.

“We will probably go forward with the proposal to end public sector collective bargaining,” said Lanny Ebenstein, president of the California Center for Public Policy. The other two would extend retirement ages and tax pensions above $100,000 a year.

Ebenstein said the group is looking for funding to gather the voter signatures needed to place an initiative on the ballot. A Sacramento group, also looking for funding, has not yet filed its initiative.

“Things are getting closer,” Dan Pellissier, president of California Pension Reform said last week. “We will likely file in the month of September.”

Four Senate Republican legislators, who tried to get a deal with Brown on pension reform and other things in exchange for tax votes, introduced legislation in June for a pension reform ballot measure, SCA 13.

The measure, which has not been heard in the Legislature, is not expected to be filed as an initiative. Senate Republicans are pushing a referendum on new Senate districts, which could give Democrats the 27 votes needed to raise taxes.

When Brown broke off talks with the Republicans in March, he issued a 12-point pension reform plan, including a ban on contribution holidays. A **news release said** he “intends to introduce these pension reforms with or without Republican support.”

Five of the points were said to be “under development.” Among the complex proposals, yet to be revealed, is an option for a “hybrid” plan combining a lower pension with a 401(k)-style plan.
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Ed's Note: Reporter Ed Mendel covered the Capitol in Sacramento for nearly three decades, most recently for the San Diego Union-Tribune. More stories are at http://calpensions.com.