Constitutional Amendment Proposed To Curb Public Pensions And Health Benefits

SCA 13 Would Affect Retirement Benefits For Future And Current Employees

By William F. Kay

In a mostly overlooked post-budget action, four Republican State Senators recently introduced Senate Constitutional Amendment (SCA) 13, which if implemented would institute substantial public pension and retiree medical reform. SCA 13 would affect both current and future state, school, university, and local agency employees.

Although passage of SCA 13 would require a 2/3 vote in both legislative houses before facing a majority vote of the electorate – both substantial hurdles – the importance of SCA 13 cannot be underestimated. It could be placed on the ballot through the initiative process, or it could be used in future legislative deliberations as long as pension/OPEB issues remain front and center.

As local labor relations practitioners, you need to know what public options are being considered as an alternative to what your agency is proposing to the unions. Below are the highlights of SCA 13. (link to official SCA 13)

Pension Reform For Current Employees

The following would apply to all public employees:

- The employee contribution would be a “reasonable” percentage of the normal cost of the plan (and can be no less than the current rate on January 1, 2012), and starting 30 days after enactment of SCA 13, the employee contribution rate would be increased by 5% of salary until the pension plan is 90% funded.
The employer cannot pay employee contributions.

Retired members receiving pension benefits cannot work for a public employer after July 1, 2012, either as an employee or a contractor.

Benefit changes cannot be applied retroactively.

No “air time” could be purchased for service credit other than military or other public service.

Employer contribution “holidays” would be severely restricted.

At least two-thirds of a pension board would be required to have expertise in financial, legal, accounting, or health care fields, and board members would be prohibited from having immediate family in the system.

Selection procedure would be required for independent actuaries for pension systems, and pension boards would be required to adopt actuary’s recommendation regarding rates and related items.

**Pension Reform For Future Employees**

The following would apply to new employees hired after enactment:

- Employers could make pension changes prospectively (no vesting of future pension benefits).
- Pension benefits could not exceed the amount defined by federal Social Security tax (currently about $107,000).
- Any defined benefit plan must be part of a hybrid plan (401K type) designed to pay 75% of pay including Social Security that includes:
  - Employees would pay one-half of the plan costs (contributions).
  - Safety retirement eligible at age 57 for 30 years service, and age 65 for 35 years of service for others.
  - Final compensation for pension calculation would be based on last five consecutive years and would exclude overtime, leave, and other special compensation.

**Medical Insurance Reform For Current And Future Employees**

- Current employees would be required to increase payment for health benefits, with the contribution based on years of service and pay rate.
• For employees hired after enactment that are members of a retirement system that provides postemployment health benefits:
  • Would be required to contribute to postemployment benefits based on years of service and pay rate.
  • Would require eligibility only upon reaching 25 years of service.
  • Would not allow employer to pay employee’s required contributions.

Observations And Comments

• These pension reforms basically avoid a direct assault on the issue of “vested pension benefits,” focusing instead on shifting the costs, not changing the core pension benefits. This means that most items on the list could be instituted without a full legal assault on the issue of vested pension benefits.

• SCA 13 is likely to contain many of the benchmarks for future pension and OPEB reforms. Whether pension/OPEB reform will remain a burning issue will depend in large part on whether public employers can realistically sustain the promised benefits. And “sustainability” has two driving factors – projected increased revenues and projected pension/OPEB costs.

• The Republican representatives raised many of these issues with the Governor in the ill-fated negotiations over closing the state budget gap. This means that these issues will continue to be brought forward for as long as state agencies have significant budget deficits and significant employment cost increases.

Be sure to attend CALPELRA’s Great Pension Debate: Pension And OPEB, on Friday of CALPELRA’s Annual Conference this year. The specter of SCA 13 will undoubtedly be a topic of discussion.