MCERA DENSION NOTES

ALERT: NEW PENSION LEGISLATION AFFECTS YOU

Please read the following information carefully as this will affect your retirement pension.

Assembly Bill 340, the California Public Employees' Pension Reform Act of 2013 ("PEPRA") and Assembly Bill 197 (AB 197) have both been signed into law and take effect January 1, 2013. MCERA staff, Retirement Board counsel and retained legal counsel, specializing in retirement law, have reviewed the provisions of PEPRA and AB 197 and have concluded that the new legislation will have a significant impact on MCERA members.

AB 197 amends Government Code Section 31461 and changes the definition of "compensation earnable" as it applies to MCERA and other systems governed by the County Employees' Retirement Law of 1937. The provisions of AB 197 apply to current active, deferred and reciprocal MCERA members.

Specifically:

- As of January 1, 2013, MCERA will exclude from compensation earnable, the 160 hours of terminal vacation pay off provided in the Merced Ventura Settlement agreement in calculating pension allowances for all members who retire on or after January 1, 2013.
- 2. MCERA will continue to include vacation and sick leave cash outs that are paid or are payable during the 25th pay period for all members who retire on or after January 1, 2013 <u>unless</u> the employee is a "new member" as defined by the legislation or the Retirement Board determines that the cash outs for unused time off or other items of compensation have been paid to enhance a member's retirement

benefit.

 With certain exceptions, members may not return to work for an MCERA employer after January 1, 2013 while still drawing a pension. These restrictions are more severe for retirees who propose to return to work within 180 days after retirement.

For example: You are a current MCERA member and you are eligible to sell back 40 hours of sick leave and 40 hours of vacation pay in the 25th pay period. If you retire on or after January 1, 2013, MCERA will include in your calculation for a pension allowance the 40 hours of vacation sell back and the 40 hours of sick leave which was paid or payable in the 25th pay period. MCERA will not include any terminal vacation pay outs.

In other words, current members retiring after January 1, 2013 will no longer benefit from the Merced County Ventura Settlement which provided up to 160 hours of vacation terminal pay, in addition to the 25th pay period sell backs to be included in the calculation for pension allowances.

MCERA will continue to include both the 25th pay period sell backs and up to 160 hours of terminal vacation pay in the calculation Mcera Pension Notes Page 2

NEW LEGISLATION CONT.

of a retirement allowance only for those current members (including deferred and reciprocal members) who retire before January 1, 2013.

The legal analysis further determined that for "new" members, MCERA may not include the 25th pay period sell backs or the terminal pay outs of up to 160 hours of vacation.

"New" members do not include current active members, deferred members, reciprocal members or those who join MCERA in the future and are eligible for reciprocity with other public retirement systems that they joined prior to January 1, 2013. The exception to this rule is an active member who terminates employment with an MCERA employer, defers or retires and returns to active service after more than six months to a different MCERA employer (i.e. Merced County employee returns to work for the Merced County courts), in such a case, that member would be considered a new employee and would be subject to the provisions of PEPRA.

FAQ's

I am a current member, will I still get paid for all my unused vacation time when I retire?

Yes, whether you retire before or after January 1, 2013, you will get paid for unused vacation up to the eligible limits. However if you retire after January 1, 2013, only the amount paid or payable in the 25th pay period will be included in the calculation for your pension allowance.

I am a current member, I have always expected to include up to 160 hours of

my vacation pay outs in my pension calculation, don't I have a constitutional right to this?

The answer to this question is not clear. However, it is clear that MCERA may not make this determination and must comply with the language of the new legislation until a Court directs MCERA to do otherwise.

I am a current member, what if I am eligible to sell back 40 hours of vacation in the 25th pay period but only sell back 15 hours, will those additional hours still be included in my retirement calculation when I retire?

Yes, since the 40 hours were earned and payable in the final compensation period, MCERA will include the additional 25 hours in your retirement calculation provided you have not used them.

IMPORTANT: It is strongly advised that you request retirement estimates from MCERA before making a decision to retire due to AB197. The difference in pension allowance received before and after 1/1/2013 may or may not be as significant as you anticipate due to the other factors that determine your benefit amount (salary, age and years of service). Only by receiving estimates from MCERA, will you be able to make a fully informed decision on when to retire and achieve your maximum benefit.

MCERA and the County expect to hold educational meetings to answer questions on the new legislation. In addition, the detailed legal analysis from Board counsel and retained outside counsel are available to the public and address several other issues not discussed here.

MCERA 725-3636