

IN PERSON & VIRTUAL BOARD MEETING

*The Committee meeting will be held prior to the Board of Retirement meeting scheduled prior.



TO VIEW VIA WEB



TO PROVIDE PUBLIC COMMENT

Members of the public may address the Committee orally and in writing. To provide Public Comment, you should visit the above link and complete the request form by selecting whether you will provide oral or written comment from the options located under Options next to the Committee meeting.

Attention: If you have any questions, you may email PublicComment@lacera.com. If you would like to make a public comment during the committee meeting, review the [Public Comment instructions](#).

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION
300 N. LAKE AVENUE, SUITE 650, PASADENA, CA

AGENDA

A REGULAR MEETING OF THE INSURANCE, BENEFITS & LEGISLATIVE

COMMITTEE AND BOARD OF RETIREMENT*

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 N. LAKE AVENUE, SUITE 810, PASADENA, CA 91101

8:30 A.M., WEDNESDAY, JUNE 5, 2024

This meeting will be conducted by the Insurance, Benefits and Legislative Committee and Board of Retirement both in person and by teleconference under California Government Code Sections 54953(b), (f).

Any person may view the meeting in person at LACERA's offices or online at <https://LACERA.com/leadership/board-meetings>.

The Committee may take action on any item on the agenda, and agenda items may be taken out of order.

*Teleconference Locations for Trustees and the Public under California Government Code Section 54953(b)
3733 Ostrom Ave., Long Beach, CA 90808
6527 Whitworth Drive, Los Angeles, CA 90035*

COMMITTEE TRUSTEES:

Les Robbins, Chair
Vivian H. Gray, Vice Chair
Shawn R. Kehoe, Trustee
Ronald Okum, Trustee
David Ryu, Alternate Trustee

- I. CALL TO ORDER
- II. PROCEDURE FOR TELECONFERENCE MEETING ATTENDANCE UNDER AB 2449, California Government Code Section 54953(f)
 - A. Just Cause
 - B. Action on Emergency Circumstance Requests
 - C. Statement of Persons Present at AB 2449 Teleconference Locations

III. APPROVAL OF MINUTES

- A. Approval of the Minutes of the Regular Meeting of May 1, 2024

IV. PUBLIC COMMENT

(Members of the public may address the Committee orally and in writing. To provide Public Comment, you should visit <https://LACERA.com/leadership/board-meetings> and complete the request form by selecting whether you will provide oral or written comment from the options located under Options next to the Committee meeting.

If you select oral comment, we will contact you via email with information and instruction as to how to access the meeting as a speaker. You will have up to 3 minutes to address the Committee. Oral comment request will be accepted up to the close of the Public Comment item on the agenda.

If you select written comment, please input your written public comment or documentation on the above link as soon as possible and up to the close of the meeting. Written comment will be made part of the official record of the meeting. If you would like to remain anonymous at the meeting without stating your name, please leave the name field blank in the request form. If you have any questions, you may email PublicComment@lacera.com.)

V. NON-CONSENT ITEMS

A. **Assembly Bill 2284 – Compensation**

Recommendation as submitted by Barry W. Lew, Legislative Affairs Officer: That the Committee recommend the Board of Retirement adopt an “Oppose” position on Assembly Bill 2284, which would authorize a retirement system to define “grade” for the purposes of determining compensation earnable. (Memo dated May 22, 2024)

B. **Assembly Bill 3025 – Disallowed Compensation**

Recommendation as submitted by Barry W. Lew, Legislative Affairs Officer: That the Committee recommend the Board of Retirement adopt a “Neutral” position on Assembly Bill 3025, which would provide adjustments to retirement allowances based on disallowed compensation. (Memo dated May 17, 2024)

V. NON-CONSENT ITEMS (Continued)

C. **Taxpayer Protection and Government Accountability Act**

Recommendation as submitted by Barry W. Lew, Legislative Affairs Officer: That the Committee recommend the Board of Retirement adopt a “Watch” position on The Taxpayer Protection and Government Accountability Act, a ballot initiative that would amend the California Constitution to define all state and local levies, charges, and fees as taxes and propose new voting requirements to approve such taxes. (Memo dated May 17, 2024)

VI. REPORTS

A. **Engagement Report for May 2024**

Barry W. Lew, Legislative Affairs Officer
(For Information Only)

B. **Staff Activities Report for May 2024**

Cassandra Smith, Director, Retiree Healthcare
(For Information Only)

C. **LACERA Claims Experience**

Michael Szeto, Segal Consulting
(Presentation)

D. **Federal Legislation**

Stephen Murphy, Segal Consulting
(For Information Only)

VII. ITEMS FOR STAFF REVIEW

(This item summarizes requests and suggestions by individual trustees during the meeting for consideration by staff. These requests and suggestions do not constitute approval or formal action by the Board, which can only be made separately by motion on an agenda item at a future meeting.)

VIII. ITEMS FOR FUTURE AGENDAS

(This item provides an opportunity for trustees to identify items to be included on a future agenda as permitted under the Board’s Regulations.)

IX. GOOD OF THE ORDER

(For Information Purposes Only)

X. ADJOURNMENT

***The Board of Retirement has adopted a policy permitting any member of the Board to attend a standing committee meeting open to the public. In the event five or more members of the Board of Retirement (including members appointed to the Committee) are in attendance, the meeting shall constitute a joint meeting of the Committee and the Board of Retirement. Members of the Board of Retirement who are not members of the Committee may attend and participate in a meeting of a Board Committee but may not vote on any matter discussed at the meeting. The only action the Committee may take at the meeting is approval of a recommendation to take further action at a subsequent meeting of the Board.**

Any documents subject to public disclosure that relate to an agenda item for an open session of the Committee, that are distributed to members of the Committee less than 72 hours prior to the meeting, will be available for public inspection at the time they are distributed to a majority of the Committee, at LACERA's offices at 300 North Lake Avenue, Suite 820, Pasadena, California during normal business hours from 9:00 a.m. to 5:00 p.m. Monday through Friday and will also be posted on lacera.com at the same time, [Board Meetings | LACERA](#).

Requests for reasonable modification or accommodation of the telephone public access and Public Comments procedures stated in this agenda from individuals with disabilities, consistent with the Americans with Disabilities Act of 1990, may call the Board Offices at (626) 564-6000, Ext. 4401/4402 from 8:30 a.m. to 5:00 p.m. Monday through Friday or email PublicComment@lacera.com, but no later than 48 hours prior to the time the meeting is to commence.

MINUTES OF THE REGULAR MEETING OF THE INSURANCE, BENEFITS &
LEGISLATIVE COMMITTEE AND BOARD OF RETIREMENT*

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 N. LAKE AVENUE, SUITE 810, PASADENA, CA 91101

8:31 A.M. – 8:53 A.M., WEDNESDAY, MAY 1, 2024

This meeting was conducted by the Insurance, Benefits & Legislative
Committee both in person and by teleconference under California
Government Code Section 54953(f)

COMMITTEE TRUSTEES

PRESENT: Les Robbins, Chair
(Teleconference under CA Govt. Code Section 54953(f))

Shawn R. Kehoe, Trustee

Vivian H. Gray, Vice Chair (*joined at 8:37 a.m.*)

Ronald Okum, Trustee

ABSENT: David Ryu, Alternate Trustee

OTHER BOARD OF RETIREMENT TRUSTEES

Elizabeth Ginsberg, Trustee

JP Harris, Trustee

Wayne Moore, Trustee
(Teleconference under CA Govt. Code Section 54953(f))

Antonio Sanchez, Trustee

STAFF, ADVISORS AND PARTICIPANTS

Cassandra Smith, Director, Retiree Healthcare

Santos H. Kreimann, Chief Executive Officer

Luis Lugo, Deputy Chief Executive Officer

JJ Popowich, Assistant Executive Officer

Laura Guglielmo, Assistant Executive Officer

Steven P. Rice, Chief Counsel

Barry W. Lew, Legislative Affairs Officer

Segal Consulting

Stephen Murphy, Sr. Vice President

Michael Szeto, Sr. Actuarial Associate

Debbie Donaldson, Sr. Vice President

I. CALL TO ORDER

This meeting was called to order by Chair Robbins at 8:31 a.m.

II. PROCEDURE FOR TELECONFERENCE MEETING ATTENDANCE UNDER AB 2449, California Government Code Section 54953(f)

A. Just Cause

B. Action on Emergency Circumstance Requests

C. Statement of Persons Present at AB 2449 Teleconference Locations

A physical quorum of the Committee was not present at the noticed meeting location until 8:37 a.m., after the meeting had started. However, a physical quorum of the Board of Retirement was present. There was one request received from Trustee Robbins, and one request from Trustee Moore, as a member of the Board of Retirement only, related to Just Cause (A). Trustees Robbins and Moore confirmed there were no individuals 18 years or older present at the teleconference location. No requests were received for Emergency Circumstances (B).

(A vote was taken on Item III-A after a physical quorum of the Committee became present at the noticed location at 8:37 a.m.)

III. APPROVAL OF MINUTES

A. Approval of the Minutes of the Regular Meeting of April 3, 2024

Trustee Okum made a motion, Trustee Kehoe seconded, to approve the minutes of the regular meeting of April 3, 2024. The motion passed by the following roll call vote:

Yes: Gray, Kehoe, Okum, Robbins

No: None

IV. PUBLIC COMMENT

There were no requests from the public to speak

V. REPORTS

A. **State Engagement: Visit with California State Legislature**

Barry W. Lew, Legislative Affairs Officer

(For Information Only) (Memo dated April 16, 2024)

The visit with the California State Legislature was discussed. This item was received and filed.

B. **Engagement Report for April 2024**

Barry W. Lew, Legislative Affairs Officer

(For Information Only)

The engagement report was discussed. This item was received and filed.

V. REPORTS (Continued)

C. **Staff Activities Report for April 2024**

Cassandra Smith, Director, Retiree Healthcare
(For Information Only)

The staff activities report was discussed. This item was received and filed.

D. **LACERA Claims Experience**

Michael Szeto, Segal Consulting
(Presentation)

The LACERA Claims Experience reports through March were discussed. This item was received and filed.

E. **Federal Legislation**

Stephen Murphy, Segal Consulting
(For Information Only)

Segal Consulting gave an update on federal legislation. This item was received and filed.

VI. ITEMS FOR STAFF REVIEW

(This item summarizes requests and suggestions by individual trustees during the meeting for consideration by staff. These requests and suggestions do not constitute approval or formal action by the Board, which can only be made separately by motion on an agenda item at a future meeting.)

There was nothing to report.

VII. ITEMS FOR FUTURE AGENDAS

(This item provides an opportunity for trustees to identify items to be included on a future agenda as permitted under the Board's Regulations.)

Trustee Gray requested that a discussion of the Taxpayer Protection and Government Accountability Act initiative be agendaized at the next Committee meeting.

VIII. GOOD OF THE ORDER
(For Information Purposes Only)

There was nothing to report.

IX. ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 8:53 a.m.



***The Board of Retirement has adopted a policy permitting any member of the Board to attend a standing committee meeting open to the public. In the event five or more members of the Board of Retirement (including members appointed to the Committee) are in attendance, the meeting shall constitute a joint meeting of the Committee and the Board of Retirement. Members of the Board of Retirement who are not members of the Committee may attend and participate in a meeting of a Board Committee but may not vote on any matter discussed at the meeting. The only action the Committee may take at the meeting is approval of a recommendation to take further action at a subsequent meeting of the Board.**



May 22, 2024

TO: Insurance, Benefits and Legislative Committee
Les Robbins, Chair
Vivian H. Gray, Vice Chair
Shawn R. Kehoe
Ronald Okum
David Ryu, Alternate

FROM: Barry W. Lew 
Legislative Affairs Officer

FOR: June 5, 2024 Insurance, Benefits and Legislative Committee Meeting

SUBJECT: **Assembly Bill 2284—Compensation**

*Author: Grayson [D]
Sponsor: California Professional Firefighters
Amended: May 20, 2024
Introduced: February 8, 2024
Status: Read second time and amended. Ordered to third reading.
(05/20/2024)*

Staff Recommendation: Oppose

RECOMMENDATION

That the Insurance, Benefits and Legislative Committee recommend that the Board of Retirement adopt an “Oppose” position on Assembly Bill 2284, which would authorize a retirement system to define “grade” for the purposes of determining compensation earnable.

LEGISLATIVE POLICY STANDARD

The Board of Retirement’s Legislative Policy is to oppose proposals that would infringe on its plenary authority or fiduciary responsibility and create unreasonable costs or complexity in the administration of retirement benefits (Legislative Policy, page 6).

SUMMARY

AB 2284 would authorize a county retirement system, to the extent it has not defined “grade,” to define “grade” to mean a number of employees considered together because they share similarities in job duties, schedules, unit recruitment requirements, work location, collective bargaining unit, or other logical work-related group or class. A single employee shall not constitute a group or class.

ANALYSIS

Existing Law

Government Code Section 31460 provides the definition of “compensation,” which is cash

remuneration, and Section 31461 provides the definition of “compensation earnable,” which is the average compensation as determined by the retirement board for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period and at the same rate of pay.

A member’s retirement allowance is based on compensation earnable, service credit, and an age factor. Generally, the higher each of these components are, the higher the retirement benefit. A member receives base salary as compensation and may be receiving additional pay items of compensation such as bonuses and buybacks. To the extent that compensation is compensation earnable, it is used in the benefit formula to calculate a retirement allowance.

Beginning in 1997 (due to litigation initiated by an employee organization in the County of Ventura), compensation earnable has expanded to include many pay items in addition to base salary, although the *Ventura Decision*¹ also excluded items such as termination pay. In the wake of the *Ventura Decision*, several lawsuits were filed statewide by county employees and retirees as to whether the *Ventura Decision* should be applied retroactively. Those lawsuits were consolidated into a single proceeding² for those retirement systems that did not enter into settlement agreements. Until 2013, the *Ventura Decision* and *In re Ret. Cases* guided the treatment of compensation earnable in the retirement systems operating under the County Employees Retirement Law of 1937 (CERL).

PEPRA was enacted to implement then-Governor Jerry Brown’s *Twelve Point Pension Reform Plan*. PEPRA generally applies to new employees on or after January 1, 2013 and introduced the definition of “pensionable compensation” for the purposes of calculating a retirement allowance for PEPRA members.

However, the bill (AB 340, Chapter 296, Statutes of 2012) that added PEPRA to the Government Code also amended Section 31461, which provides the definition of “compensation earnable” for legacy members (i.e., those who are not PEPRA members), to specifically exclude certain items of pay from the definition compensation earnable.

Employee organizations in the Counties of Alameda, Contra Costa, and Merced initiated litigation on this change, which culminated in the California Supreme Court’s *Alameda Decision*³ on June 30, 2020. The California Supreme Court affirmed that the amendment to the definition of compensation earnable was constitutionally permissible and that CERL retirement systems must comply with the amendment.

1 *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483

2 *In re Ret. Cases. Eight Coordinated Cases* (2003) 110 Cal.App.4th 426

3 *Alameda County Deputy Sheriff's Assn. v. Alameda County Employees' Retirement Assn.* (2020) 9 Cal.5th 1032

This Bill

AB 2284 authorizes a county retirement system, to the extent it has not defined “grade,” to define “grade” to mean a number of employees considered together because they share similarities in job duties, schedules, unit recruitment requirements, work location, collective bargaining unit, or other logical work-related group or class. A single employee shall not constitute a group or class.

AB 2284 would enable a county retirement system to define “grade” in a manner that may be in conflict with existing memoranda of understanding (MOUs) that provide for grades and classes of positions and conceivably create new classifications for the purposes of finding items of pay that would otherwise not constitute compensation earnable, to be compensation earnable for a particular grade. Such an expansion of the retirement board’s plenary authority into matters outside of the scope of plan administration into defining grades of employees of other employers may have the unintended consequence of eroding the board’s plenary authority by blurring the line between plan design and plan administration. As noted in the *Alameda* Decision, “the task of a county retirement board is not to design the county’s pension plan but to implement the design enacted by the Legislature through CERL.” *Alameda*, at p. 1066. The retirement board’s plenary authority and fiduciary responsibility lie in *administration* of the system. California Constitution, art. XVI, sec. 17. Although the retirement system—as an *employer* responsible for administration of the system—may engage in defining the grades of its own employees for purposes of determining and categorizing their classifications and compensation, in contrast, as a *plan administrator*, it is determining compensation earnable for purposes of final compensation in the calculation of a retirement allowance.

Moreover, AB 2284 makes the defining of the term “grade” optional among the 20 county retirement systems operating under CERL. As such, this would, instead of providing clarity, conceivably increase the variation among the 20 retirement systems in administering the determination of compensation earnable and create inconsistencies and uncertainty in the interpretation and application of CERL, particularly with members who have reciprocity in terms of final compensation.

Operational Impact

AB 2284 may result in more pay items being designated as compensation earnable by a retirement system and thereby increase the final compensation used in the calculation of a retirement allowance. Consequently, members may receive higher retirement allowances, which may increase the costs to provide those benefits.

IT IS THEREFORE RECOMMENDED THAT THE COMMITTEE recommend that the Board of Retirement adopt an “Oppose” position on Assembly Bill 2284, which would authorize a retirement system to define “grade” for the purposes of determining compensation earnable.

Reviewed and Approved:

A handwritten signature in blue ink that reads "Luis Lugo". The signature is written in a cursive style with a large initial "L".

Luis Lugo, Deputy Chief Executive Officer

Attachments

Attachment 1—Board Positions Adopted on Related Legislation
Attachment 2—Support and Opposition
AB 2284 (Grayson) as amended on May 20, 2024

cc: Santos H. Kreimann
Luis Lugo
JJ Popowich
Laura Guglielmo
Steven P. Rice
Jean Kim
Naomi Padron, MKP Government Relations

BOARD POSITIONS ADOPTED ON RELATED LEGISLATION

AB 2493 (Chen, 2022) would provide that adjustments be made to contributions for active members and to contributions and benefits for retired members based on disallowed compensation. The Board of Retirement adopted a “Neutral” position.

AB 826 (Irwin, 2021) would provide that compensation and compensation earnable include flexible benefits plan allowances paid by the county on behalf of its employees as part of a cafeteria plan, if certain requirements are met. The Board of Retirement adopted a “Watch” position.

AB 197 (Chapter 297, Statutes of 2012) enacted technical clarifications to the definition of compensation earnable that was amended by AB 340. The Board of Retirement did not adopt a position.

AB 340 (Chapter 296, Statutes of 2012) enacted the California Public Employees’ Pension Reform Act of 2013, amended the County Employees Retirement Law of 1937’s (CERL) provisions on compensation earnable, and added new provisions to CERL on the assessment, reporting, and audit of compensation items. The Board of Retirement adopted a “Watch” position.

SUPPORT

California Professional Firefighters (Sponsor)
Association of Orange County Deputy Sheriffs
California Fraternal Order of Police
Long Beach Police Officers Association
Sacramento County Deputy Sheriffs' Association
San Bernardino County Sheriff's Employees' Benefit Association

OPPOSITION

None on file.

AMENDED IN ASSEMBLY MAY 20, 2024

AMENDED IN ASSEMBLY APRIL 18, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2284

Introduced by Assembly Member Grayson

February 8, 2024

An act to amend Section 31461 of the Government Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2284, as amended, Grayson. County employees' retirement: compensation.

Existing law, the California Public Employees' Pension Reform Act of 2013 (PEPRA), generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act. PEPRA, among other things, establishes new defined benefit formulas and caps on pensionable compensation.

The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to their employees. CERL generally vests management of each retirement system in a board of retirement.

CERL defines "compensation earnable" by a member, for the purpose of calculating benefits, to mean the average compensation, as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and the same rate of pay, subject to certain exceptions.

This bill would authorize a retirement system, to the extent it has not defined “grade” in the above-described circumstances, to define “grade” to mean a number of employees considered together because they share similarities in job duties, schedules, unit recruitment requirements, work location, collective bargaining unit, or other logical work-related group or class, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31461 of the Government Code is
2 amended to read:
3 31461. (a) (1) “Compensation earnable” by a member means
4 the average compensation as determined by the board, for the
5 period under consideration upon the basis of the average number
6 of days ordinarily worked by persons in the same grade or class
7 of positions during the period, and at the same rate of pay. The
8 computation for any absence shall be based on the compensation
9 of the position held by the member at the beginning of the absence.
10 Compensation, as defined in Section 31460, that has been deferred
11 shall be deemed “compensation earnable” when earned, rather
12 than when paid.
13 (2) To the extent a retirement system has not defined “grade,”
14 it may define “grade,” as described in paragraph (1), to mean a
15 number of employees considered together because they share
16 similarities in job duties, schedules, unit recruitment requirements,
17 work location, collective bargaining unit, or other logical
18 work-related group or class. A single employee shall not constitute
19 a group or class.
20 (b) “Compensation earnable” does not include, in any case, the
21 following:
22 (1) Any compensation determined by the board to have been
23 paid to enhance a member’s retirement benefit under that system.
24 That compensation may include:
25 (A) Compensation that had previously been provided in kind
26 to the member by the employer or paid directly by the employer
27 to a third party other than the retirement system for the benefit of
28 the member, and which was converted to and received by the

1 member in the form of a cash payment in the final average salary
2 period.

3 (B) Any one-time or ad hoc payment made to a member, but
4 not to all similarly situated members in the member's grade or
5 class.

6 (C) Any payment that is made solely due to the termination of
7 the member's employment, but is received by the member while
8 employed, except those payments that do not exceed what is earned
9 and payable in each 12-month period during the final average
10 salary period regardless of when reported or paid.

11 (2) Payments for unused vacation, annual leave, personal leave,
12 sick leave, or compensatory time off, however denominated,
13 whether paid in a lump sum or otherwise, in an amount that exceeds
14 that which may be earned and payable in each 12-month period
15 during the final average salary period, regardless of when reported
16 or paid.

17 (3) Payments for additional services rendered outside of normal
18 working hours, whether paid in a lump sum or otherwise.

19 (4) Payments made at the termination of employment, except
20 those payments that do not exceed what is earned and payable in
21 each 12-month period during the final average salary period,
22 regardless of when reported or paid.

23 (c) The terms of subdivision (b) are intended to be consistent
24 with and not in conflict with the holdings in *Salus v. San Diego*
25 *County Employees Retirement Association* (2004) 117 Cal.App.4th
26 734 and *In re Retirement Cases* (2003) 110 (2003) 110 Cal.App.4th
27 426.

28 (d) *This section is intended to be consistent with and not in*
29 *conflict with the holding in Alameda County Deputy Sheriff's*
30 *Association v. Alameda County Employees' Retirement Association*
31 *(2020) 9 Cal.5th 1032.*



May 17, 2024

TO: Insurance, Benefits and Legislative Committee
Les Robbins, Chair
Vivian H. Gray, Vice Chair
Shawn R. Kehoe
Ronald Okum
David Ryu, Alternate

FROM: Barry W. Lew 
Legislative Affairs Officer

FOR: June 5, 2024 Insurance, Benefits and Legislative Committee Meeting

SUBJECT: **Assembly Bill 3025—Disallowed Compensation**

*Author: Valencia [D]
Sponsor: California Professional Firefighters
Amended: May 2, 2024
Introduced: February 13, 2024
Status: Read second time. Ordered to third reading. (05/06/2024)*

Staff Recommendation: Neutral

RECOMMENDATION

That the Insurance, Benefits and Legislative Committee recommend that the Board of Retirement adopt a “Neutral” position on Assembly Bill 3025, which would provide adjustments to retirement allowances based on disallowed compensation.

LEGISLATIVE POLICY STANDARD

AB 3025 is not consistent with any of the Board of Retirement’s (BOR) legislative policy standards that would entail support or opposition. A “Neutral” position indicates that the proposal affects LACERA and its stakeholders, but the Board neither supports nor opposes it.

SUMMARY

AB 3025 would authorize a county retirement system to require an employer to discontinue reporting disallowed compensation and to adjust retirement allowances based on disallowed compensation:

- Define “disallowed compensation” as nonpensionable compensation that the retirement system determines is not in compliance with the California Public

Employees' Pension Reform Act of 2013 (PEPRA), the *Alameda* Decision¹, or the retirement system's administrative regulations or policies.

- Require the employer to discontinue reporting the disallowed compensation as determined by the retirement system.
- Provide that for active members, employer contributions on the disallowed compensation must be credited to the employer against future contributions, and member contributions on the disallowed compensation must be returned to the member.
- Provide that for retired members and survivors whose final compensation was based on disallowed compensation, the retirement system shall credit the employer contributions on the disallowed compensation to the employer for future contributions, return any member contributions paid by the member directly to the member, and permanently adjust the benefit to reflect the exclusion of the disallowed compensation.
- Provide a written notice to the employer and to the affected retired member, survivor, beneficiary that includes at a minimum the following:
 - The amount of the member's overpaid benefit that the employer shall pay as a direct payment to the retirement system or as a recognition in the actuarial accrued liability.
 - The amount that is 20 percent of the present value of the overpaid benefit that would have continued to be paid throughout the life of the member that the employer shall pay to the retired member, survivor, or beneficiary.
 - Written disclosure of the employer's obligations to the retired member, survivor, or beneficiary, as specified.
- Provide that a retirement system that has initiated a process prior to January 1, 2024, to recalculate compensation earnable and adjust retirement benefits based on the exclusion of disallowed compensation may continue to use that process to ensure compliance with PEPRA and the *Alameda* Decision.
- Provide that an employer or authorized employee representative may submit to the retirement system for review compensation items proposed for inclusion in a memorandum of understanding or collective bargaining agreement that are intended for pension benefit calculations. The retirement system would review the compensation item for consistency with PEPRA, the *Alameda* Decision, or its administrative regulations.

ANALYSIS

Existing Law

¹ *Alameda County Deputy Sheriff's Assn. v. Alameda County Employees' Retirement Assn.* (2020) 9 Cal.5th 1032

Government Code Section 31460 provides the definition of “compensation,” which is cash remuneration, and Section 31461 provides the definition of “compensation earnable,” which is the pay rate of those compensation items. A member’s retirement allowance is based on compensation earnable, service credit, and an age factor. Generally, the higher each of these components are, the higher the retirement benefit. A member receives base salary as compensation and may be receiving additional pay items of compensation such as bonuses and buybacks. To the extent that compensation is compensation earnable, it is used in the benefit formula to calculate a retirement allowance.

Beginning in 1997 (due to litigation initiated by an employee organization in the County of Ventura), compensation earnable has expanded to include many pay items in addition to base salary, although the *Ventura Decision*² also excluded items such as termination pay. In the wake of the *Ventura Decision*, several lawsuits were filed statewide by county employees and retirees as to whether the *Ventura Decision* should be applied retroactively. Those lawsuits were consolidated into a single proceeding³ for those retirement systems that did not enter into settlement agreements. Until 2013, the *Ventura Decision* and *In re Ret. Cases* guided the treatment of compensation earnable in the retirement systems operating under the County Employees Retirement Law of 1937 (CERL).

PEPRA was enacted to implement then-Governor Jerry Brown’s *Twelve Point Pension Reform Plan*. PEPRA generally applies to new employees on or after January 1, 2013 and introduced the definition of “pensionable compensation” for the purposes of calculating a retirement allowance for PEPRA members.

However, the bill (AB 340, Chapter 296, Statutes of 2012) that added PEPRA to the Government Code also amended Section 31461, which provides the definition of “compensation earnable” for legacy members (i.e., those who are not PEPRA members), to exclude certain items of compensation from compensation earnable.

Employee organizations in the Counties of Alameda, Contra Costa, and Merced initiated litigation on this change, which culminated in the California Supreme Court’s *Alameda Decision* on June 30, 2020. The California Supreme Court affirmed that the amendment to the definition of compensation earnable was constitutionally permissible and that CERL retirement systems must comply with the amendment.

This Bill

AB 3025 requires that a county employer discontinue reporting compensation that has been determined by the retirement system to be disallowed compensation. For both active and retired members, the bill requires that overpaid contributions on the disallowed compensation be credited to the employer and credited or refunded to the member, depending on if they are active or retired.

2 *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483

3 *In re Ret. Cases. Eight Coordinated Cases* (2003) 110 Cal.App.4th 426

For retired members, the bill requires that the employer who reported the disallowed compensation that was the basis for the overpayment to reimburse the retirement system for the overpayment and to pay to retired members a lump sum based on the present value of the overpaid benefit that would have continued to be paid throughout the life of the member.

However, AB 3025 would not apply to LACERA's current process of making adjustments for active and retired members who received Standby Pay since that process was initiated before January 1, 2024. On March 3, 2021, the BOR determined that Standby Pay, a legacy pay item, was included in the calculation of final compensation and must be excluded as a result of the *Alameda* Decision. As reported in the monthly Operations Briefing to the Operations Oversight Committee, LACERA is in the midst of a project to make adjustments for active and retired members who received Standby Pay.

AB 3025 would apply to *existing* pay items that have been determined to constitute compensation earnable and then are subsequently determined to be disallowed as compensation earnable, if a correction process is initiated after January 1, 2024. For *new* pay items that are to be included in a proposed agreement on or after January 1, 2025, and are intended to be considered compensation earnable, the BOR will engage in a determination process as specified in AB 3025.

Operational Impact

Benefit overpayments that meet the requirements of AB 3025 would be reimbursed to LACERA by our plan sponsor, the County of Los Angeles, instead of by the member. Therefore, there would be no impact to LACERA in this regard, since either way LACERA would receive a reimbursement. The plan sponsor would also pay to the member 20 percent of the present value of the overpaid benefit that would have continued to be paid throughout the life of the member. LACERA would be made whole with respect to the overpaid benefits but would incur compliance costs in calculating the present value of the overpaid benefits. However, these compliance costs are anticipated to be absorbable. Therefore, overall the operational impact is likely to be minimal.

Other Background

The Legislative Committee of the State Association of County Retirement Systems did not recommend any position on the bill but has engaged with the author of the bill and submitted amendments to make the bill more administratively efficient. Those amendments are reflected in the current May 2, 2024, version of the bill.

IT IS THEREFORE RECOMMENDED THAT THE COMMITTEE recommend that the Board of Retirement adopt a "Neutral" position on Assembly Bill 3025, which would provide adjustments to retirement allowances based on disallowed compensation.

Reviewed and Approved:

A handwritten signature in blue ink that reads "Luis Lugo". The signature is written in a cursive style with a large initial "L".

Luis Lugo, Deputy Chief Executive Officer

Attachments

Attachment 1—Board Positions Adopted on Related Legislation

Attachment 2—Support and Opposition

AB 3025 (Valencia) as amended on May 2, 2024

cc: Santos H. Kreimann

Luis Lugo

JJ Popowich

Laura Guglielmo

Steven P. Rice

Jean Kim

Naomi Padron, MKP Government Relations

BOARD POSITIONS ADOPTED ON RELATED LEGISLATION

AB 2493 (Chen, 2022) would provide that adjustments be made to contributions for active members and to contributions and benefits for retired members based on disallowed compensation. The Board of Retirement adopted a “Neutral” position.

AB 826 (Irwin, 2021) would provide that compensation and compensation earnable include flexible benefits plan allowances paid by the county on behalf of its employees as part of a cafeteria plan, if certain requirements are met. The Board of Retirement adopted a “Watch” position.

AB 197 (Chapter 297, Statutes of 2012) enacted technical clarifications to the definition of compensation earnable that was amended by AB 340. The Board of Retirement did not adopt a position.

AB 340 (Chapter 296, Statutes of 2012) enacted the California Public Employees’ Pension Reform Act of 2013, amended the County Employees Retirement Law of 1937’s (CERL) provisions on compensation earnable, and added new provisions to CERL on the assessment, reporting, and audit of compensation items. The Board of Retirement adopted a “Watch” position.

SUPPORT

California Professional Firefighters (Sponsor)
American Federation of State, County and Municipal Employees, AFL-CIO
Association of Orange County Deputy Sheriffs
California Fraternal Order of Police
California Labor Federation, AFL-CIO
California Teachers Association
Contra Costa County Professional Firefighters Local 1230
Kern County Firefighters Local 1301 Union
Long Beach Police Officers Association
Los Angeles County Firefighters Local 1014
Marin Professional Firefighters Local 1775
Orange County Employees Association
Orange County Professional Firefighters Association, Local 3631
Sacramento Area Firefighters Local 522
Sacramento County Deputy Sheriff's Association
San Bernardino County Firefighters Local 935
San Bernardino County Sheriff's Employees' Benefit Association
Ventura County Professional Firefighters Association Local 1364

OPPOSITION

None on file.

AMENDED IN ASSEMBLY MAY 2, 2024

AMENDED IN ASSEMBLY MARCH 18, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 3025

Introduced by Assembly Member Valencia
(Coauthors: Assembly Members Chen and Lackey)

February 16, 2024

An act to add Section 31541.2 to the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 3025, as amended, Valencia. County employees' retirement: disallowed compensation: benefit adjustments.

(1) Existing law, the California Public Employees' Pension Reform Act of 2013 (PEPRA), generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act. PEPRA, among other things, establishes new defined benefit formulas and caps on pensionable compensation.

The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to their employees. CERL generally vests management of each retirement system in a board of retirement. CERL authorizes a board of retirement to correct errors in the calculation of a retired member's monthly allowances or other benefits under CERL in certain circumstances, including if the member caused their final compensation to be improperly increased or otherwise overstated at the time of retirement, and the system applied that overstated amount as

the basis for calculating the member's monthly retirement allowance or benefits under CERL, subject to certain limitations.

The Public Employees' Retirement Law (PERL) also authorizes its board of administration to adjust retirement payments due to errors or omissions, including for cases in which the retirement systems that the benefits of a member or annuitant are, or would be, based on disallowed compensation that conflicts with PEPRA and other specified laws and is thus impermissible.

This bill would require a retirement system established under CERL, upon determining that the compensation reported for a member is disallowed compensation, to require the employer, as defined, to discontinue reporting the disallowed compensation. The bill would require, for an active member, the retirement system to credit all *employer* contributions made on the disallowed compensation against future contributions to the benefit of the employer that reported the disallowed compensation, and return any *member* contribution paid by, or on behalf of, that member, to the member ~~by~~ *directly or indirectly through* the employer that reported the disallowed compensation, except in certain circumstances in which a system has already initiated a process, as defined, to recalculate compensation. The bill would require the system, for a retired member, survivor, or beneficiary whose final compensation was predicated upon the disallowed compensation, to credit the *employer* contributions made on the disallowed compensation against future contributions, to the benefit of the employer that reported the disallowed compensation, *to return any member contributions paid by, or on behalf of, that member, to the member directly*, and to permanently adjust the benefit of the affected retired member, survivor, or beneficiary to reflect the exclusion of the disallowed compensation. The bill would establish other conditions required to be satisfied with respect to a retired member, survivor, or beneficiary when final compensation was predicated upon disallowed compensation, including, among others, requiring a specified payment to be made by the employer that reported contributions on the disallowed compensation to the retired member, survivor, or beneficiary, as appropriate. The bill would authorize a retirement system that has initiated a process prior to January 1, 2024, to permanently adjust the benefit of the affected retired member, survivor, or beneficiary to reflect the exclusion of the disallowed compensation to use that system in lieu of specified provisions that the bill would enact. The bill would also require certain information

regarding the relevant retired member, survivor, or beneficiary needed for purposes of these provisions to be kept confidential by the recipient.

This bill would authorize an employer to submit to a retirement system for review a compensation item proposed to be included in an agreement, as specified, on and after January 1, 2025, that is intended to form the basis of a pension benefit calculation and would require the system to provide guidance on the matter. The bill would prescribe a process in this regard. The bill would specify that it does not affect or otherwise alter a party’s right to appeal any determination regarding disallowed compensation made by the system after July 30, 2020.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31541.2 is added to the Government
2 Code, to read:

3 ~~31541.2. (a) The board of retirement or board of supervisors,~~
4 ~~as authorized pursuant to this chapter, may enter into any~~
5 ~~agreements as may be necessary and appropriate to carry out the~~
6 ~~provisions of this section.~~

7 ~~(b) For~~

8 31541.2. (a) For purposes of this section, the following
9 definitions apply:

10 (1) “Agreement” means a memorandum of understanding or
11 collective bargaining ~~agreement.~~ *agreement between the employer*
12 *and an exclusive representative pursuant to the*
13 *Meyers-Milias-Brown Act (Chapter 10 (commencing with Section*
14 *3500) of Division 4 of Title 1).*

15 (2) “Alameda” means the Supreme Court case of Alameda
16 County Deputy Sheriff’s Association v. Alameda County
17 Employees’ Retirement Association (2020) 9 Cal.5th 1032 ~~or~~ *and*
18 *its holding.*

1 (3) “Disallowed compensation” means *nonpensionable*
 2 *compensation reported for a member of the retirement system,*
 3 *consistent with the agreement covering that employee, system that*
 4 *the system subsequently determines is not in compliance with*
 5 *PEPRA, Alameda, Section 31461, the holding in Alameda, other*
 6 *provisions of this part, or the system’s administrative regulations,*
 7 *regulations or policies through no fault of the member.*

8 *For purposes of this paragraph, “disallowed compensation”*
 9 *also includes nonpensionable compensation that was previously*
 10 *included in an agreement.*

11 (4) “Employer” means the appropriate applicable county, county
 12 agency, or *special district standing in relationship between the*
 13 *employee and the system.*

14 (5) “Initiated a process” means a system has ~~begun collecting~~
 15 ~~any portion of an overpayment from any affected retired member,~~
 16 ~~survivor, or beneficiary or adjusted the retirement allowance of~~
 17 ~~any affected retired member, survivor, or beneficiary due to a~~
 18 ~~determination of disallowed compensation.~~ *formally adopted a*
 19 *resolution for a correction process on identified disallowed*
 20 *compensation that has required or will require collecting any*
 21 *portion of an overpayment from, or refunding member*
 22 *contributions to, any affected active member, retired member,*
 23 *survivor, or beneficiary, or adjusting the retirement allowance of*
 24 *any affected retired member, survivor, or beneficiary due to the*
 25 *determination of disallowed compensation by the system, including*
 26 *a determination by the system that is consistent with PEPRA, the*
 27 *holding in Alameda, and other provisions of this part.*

28 (6) “PEPRA” means the California Public Employees’ Pension
 29 Reform Act of 2013 (Article 4 (commencing with Section 7522)
 30 of Chapter 21 of Division 7 of Title 1).

31 (7) “System” means a retirement association or system
 32 ~~established by this act.~~ *pursuant to the County Employees*
 33 *Retirement Law of 1937 (commencing with Section 31450).*

34 (e)

35 (b) If the system determines that the compensation reported for
 36 a member is disallowed compensation, it shall require the employer
 37 to discontinue reporting the disallowed compensation.

38 (1) (A) In the case of an active member, the system shall credit
 39 all *employer* contributions made on the disallowed compensation
 40 against future contributions to the benefit of the employer that

1 reported the disallowed compensation, and shall return any *member*
2 contribution paid by, or on behalf of, that member, to the member
3 ~~by directly or indirectly through~~ the employer that reported the
4 disallowed compensation, except as provided by subparagraph
5 (B).

6 (B) A system that has initiated a process prior to January 1,
7 2024, to recalculate an active member's ~~reportable compensation~~
8 *compensation earnable pursuant to Section 31461* to exclude
9 disallowed compensation and return contributions, either directly
10 to the member or indirectly through the employer, may continue
11 to use that process ~~provided that it is consistent with PEPRA as it~~
12 ~~read on January 1, 2024, and with Alameda.~~ *to ensure compliance*
13 *with PEPRA, and that is consistent with, and pursuant to, the*
14 *holding in Alameda.*

15 (2) In the case of a retired member, survivor, or beneficiary
16 whose final compensation at the time of retirement was predicated
17 upon the disallowed compensation, the system shall credit the
18 *employer* contributions made on the disallowed compensation
19 against future contributions, to the benefit of the employer that
20 reported the disallowed compensation, *shall return any member*
21 *contributions paid by, or on behalf of, that member, to the member*
22 *directly*, and the system shall permanently adjust the benefit of the
23 affected retired member, survivor, or beneficiary to reflect the
24 exclusion of the disallowed compensation.

25 (3) (A) In the case of a retired member, survivor, or beneficiary
26 whose final compensation at the time of retirement was predicated
27 upon the disallowed compensation as described in paragraph (2),
28 the repayment and notice requirements described in this paragraph
29 and paragraph (4) shall apply only if all of the following conditions
30 are met:

31 (i) The employer reported the compensation to the system and
32 made contributions on that compensation while the member was
33 actively employed.

34 (ii) The system determined after the date of retirement that the
35 compensation was disallowed.

36 (iii) The member was not aware that the compensation was
37 disallowed at the time the employer reported it.

38 (B) If the disallowed compensation meets the conditions of
39 subparagraph (A), the employer that reported contributions on it
40 shall do all of the following:

1 (i) Pay to the system, as a direct payment, *or through recognition*
 2 *in the actuarial accrued liability, as determined by the system*, the
 3 full cost of any overpayment of the prior paid benefit made to an
 4 affected retired member, survivor, or beneficiary resulting from
 5 the disallowed compensation.

6 (ii) Pay to the affected retired member, survivor, or beneficiary,
 7 as appropriate, *an amount that is 20 percent* of the amount
 8 calculated by the system representing the actuarial equivalent
 9 present value of the difference between the monthly allowance
 10 that was predicated on the disallowed compensation and the
 11 adjusted monthly allowance calculated pursuant to paragraph (2)
 12 for the duration the system projects to pay that allowance to the
 13 retired member, survivor, or beneficiary. The employer shall begin
 14 payment within six months of notice from the system as prescribed
 15 in paragraph (4) and may have up to four years to complete the
 16 payment. *The system may charge the employer the actual costs of*
 17 *actuarial services provided under this paragraph.*

18 (4) The system shall provide a written notice to the employer
 19 that reported contributions on the disallowed compensation and
 20 to the affected retired member, survivor, or beneficiary, including,
 21 at a minimum, all of the following:

22 (A) The overpayment amount that the employer shall pay to the
 23 system as described in subparagraph (B) of paragraph (3).

24 (B) The actuarial equivalent present value that the employer
 25 owes to the retired member, survivor, or beneficiary as described
 26 in clause (ii) of subparagraph (B) of paragraph (3), if applicable.

27 (C) Written disclosure of the employer’s obligations to the
 28 retired member, survivor, or beneficiary pursuant to this section.

29 (5) In lieu of the process described in paragraphs (3) and (4), a
 30 system that has initiated a process prior to January 1, 2024, to
 31 permanently adjust the benefit of the affected retired member,
 32 survivor, or beneficiary to reflect the exclusion of the disallowed
 33 compensation pursuant to paragraph (2) may continue to use that
 34 process provided that it is consistent with ~~PEPRA as it read on~~
 35 ~~January 1, 2024, and with Alameda. PEPRA, and with the holding~~
 36 ~~in Alameda.~~

37 (6) Upon the employer’s request, the system shall provide the
 38 employer with contact information data in its possession of a
 39 relevant retired member, survivor, or beneficiary in order for the
 40 employer or agency to fulfill their obligations to that retired

1 member, survivor, or beneficiary pursuant to this section. The
2 recipient of this contact information data shall keep it ~~confidential~~.
3 *confidential and shall use such contact data only to the extent*
4 *necessary to carry out its duties under this section.*

5 ~~(d)~~

6 (c) (1) An employer or authorized employee representative
7 may submit to the system for review an additional compensation
8 item that a party to a proposed agreement requests be included,
9 contained, adopted, or entered into that agreement, on and after
10 January 1, 2025, that is intended to form the basis of a pension
11 benefit calculation, in order for the system to review consistency
12 of the proposal with PEPRRA, *the holding in Alameda*, Section
13 31461, *other provisions in the part*, and the system's administrative
14 ~~regulations~~; *regulations or policies*.

15 (2) A submission to the system for review under paragraph (1)
16 shall include all supporting documents or requirements the system
17 deems necessary to complete its review.

18 (3) The system shall provide guidance regarding the submission
19 within 90 days of the receipt of all information required to make
20 a review.

21 ~~(e)~~

22 (d) The system may periodically publish a notice of the proposed
23 compensation language submitted to the system pursuant to this
24 section for review and the guidance it provided.

25 ~~(f)~~

26 (e) This section does not alter or abrogate an employer's
27 responsibility to meet and confer in good faith with the employee
28 organization regarding the impact of the disallowed compensation
29 or the effect of any disallowed compensation on the rights of the
30 employees and the obligations of the employer to its employees,
31 including any employees who, due to the passage of time and
32 promotion, may have become exempt from inclusion in a
33 bargaining unit, but whose benefit was the product of collective
34 bargaining.

35 ~~(g)~~

36 (f) This section does not affect or otherwise alter a party's right
37 to appeal any determination regarding disallowed compensation
38 made by the system after July 30, 2020.

39 (g) *The board of retirement or board of supervisors, as*
40 *authorized pursuant to this chapter, may enter into any contracts*

1 *for administrative purposes or as may be necessary and*
2 *appropriate to carry out the provisions of this section.*

3 *(h) (1) It is the intent of the Legislature in enacting this section*
4 *to fully comply with the provisions of the Internal Revenue Code,*
5 *the Internal Revenue Service Employee Plans Compliance*
6 *Resolution System (EPCRS), and any successor to such Internal*
7 *Revenue Service program, that apply to public retirement systems*
8 *in order to maintain and ensure the federal income tax exempt*
9 *status of the county employees' retirement systems.*

10 *(2) Systems that have initiated a process under this section that*
11 *was or is intended to comply with the Internal Revenue Code and*
12 *EPCRS requirements may revise the process as necessary to the*
13 *extent required to comply with the Internal Revenue Code and*
14 *EPCRS in order to maintain the tax exempt status of the system.*

15 SEC. 2. The Legislature finds and declares that Section 1 of
16 this act, which adds Section 31541.2 to the Government Code,
17 imposes a limitation on the public's right of access to the meetings
18 of public bodies or the writings of public officials and agencies
19 within the meaning of Section 3 of Article I of the California
20 Constitution. Pursuant to that constitutional provision, the
21 Legislature makes the following findings to demonstrate the interest
22 protected by this limitation and the need for protecting that interest:

23 In order to appropriately maintain the current confidentiality of
24 personal contact information held by a county retirement system
25 regarding retired members of the system, and their survivors and
26 beneficiaries, it is necessary to limit access to this information if
27 it is provided to other public entities for purposes of Section
28 31541.2 of the Government Code.

O



May 17, 2024

TO: Insurance, Benefits and Legislative Committee
Les Robbins, Chair
Vivian H. Gray, Vice Chair
Shawn R. Kehoe
Ronald Okum
David Ryu, Alternate

FROM: Barry W. Lew 
Legislative Affairs Officer

FOR: June 5, 2024 Insurance, Benefits and Legislative Committee Meeting

SUBJECT: **Taxpayer Protection and Government Accountability Act (21-0042A1)**

RECOMMENDATION

That the Insurance, Benefits and Legislative Committee recommend that the Board of Retirement adopt a “Watch” position on The Taxpayer Protection and Government Accountability Act, a ballot initiative that would amend the California Constitution to define all state and local levies, charges, and fees as taxes and propose new voting requirements to approve such taxes.

LEGISLATIVE POLICY STANDARD

Government Code Section 54964 provides that a local agency may not expend or authorize the expenditure of any of the local agency’s funds to support or oppose the approval or rejection of a ballot measure, or the election or defeat of a candidate, by the voters. A local agency cannot campaign for or against a ballot measure but may provide information to the public about the possible effects of the ballot measure on the operations, activities, or policies of the local agency, including taking a position on the ballot measure in a meeting open to the public where all perspectives can be shared (Legislative Policy, page 15).

On the expenditure of public funds by public officials, the *Stanson* Decision¹ distinguishes between legislative lobbying and election campaigning activities. Although public agencies may publish a “fair presentation of facts” relevant to an election matter, the propriety or impropriety of such an expenditure depends on a careful consideration of the style, tenor, and timing of the publication, and no hard and fast rule governs every case. *Stanson*, at p. 222.

SUMMARY

The Taxpayer Protection and Government Accountability Act is a citizen-initiated amendment to the California Constitution that was submitted to the Office of the Attorney

¹ *Stanson v. Mott*. (1976) 17 Cal.3d 206

General (OAG) on January 4, 2022. On February 3, 2022, the OAG released a title and summary of the initiative for the signature-gathering process. On February 1, 2023, the California Secretary of State determined that the initiative filed a valid number of signatures and was eligible for the general election on November 5, 2024. On June 27, 2024, the Secretary will certify that the initiative as qualified for the November general election unless the proponents withdraw the measure by that date.

The Act would amend the California Constitution to expand the definition of tax, increase requirements for voter approval of state and local taxes, and require state and local tax measures to identify the type, amount, and duration of the tax.

ANALYSIS

Existing Law

The California Constitution provides that state tax increases require approval by two-thirds of the Legislature or a majority vote of the statewide electorate. The Legislature can reduce taxes by a majority vote. The Legislature can delegate authority to administrative agencies to increase or change fees and other charges within certain limits. Local boards may increase taxes through a two-thirds vote of the governing body and a majority vote of local voters for general taxes but a two-thirds vote for special taxes. Recent case law has suggested that local citizen-initiated tax increases may be approved by majority vote rather than two-thirds vote.

This Initiative

The following table summarizes the current and proposed vote requirements by the Act for different types of tax increases.

Action	Current Vote Requirement	Proposed Vote Requirement
State tax increase by state legislature	Two-thirds legislative vote	Two-thirds legislative vote <u>and</u> majority vote of voters
State tax decrease by state legislature	Majority legislative vote	No change
State tax increase by citizen initiative	Majority vote of voters	No change
Local general tax increase by local board	Two-thirds vote by local board and majority vote of voters	No change
Local special tax increase by local board	Two-thirds vote by local board and two-thirds vote by voters	No change

Action	Current Vote Requirement	Proposed Vote Requirement
Local special tax increase by citizen initiative	Majority vote of voters	Two-thirds vote of voters

State and Local Government Taxes

- Expands the definition of tax to include what are currently fees and other charges and thereby subject more revenue proposals to the higher voter requirements.
- Requires majority voter approval for legislatively proposed state tax increases. However, tax increases not requiring legislative action would still be approved by majority vote of voters. State taxes approved between January 1, 2022, and the effective date of the Act would be nullified unless they meet this requirement.
- Requirements for local taxes remain the same except for local special tax increases by citizen initiative.
- State and local tax measures must specify the type, amount, and duration of the tax. They must general tax measures can be used for general purposes.

State and Local Government Fees

- Requires fees to be imposed by the Legislature or local governing bodies by majority vote rather than by administrative agencies. Any fees approved between January 1, 2022, and the effective date of the Act would be nullified unless they meet this requirement.
- Requires certain fees to be reasonable and to reflect the actual costs to state and local governments in providing the service. Requires state and local governments to provide clear and convincing evidence that the fee meets the threshold if challenged by a taxpayer and that a levy is a fee and not a tax under the Act’s new definition.

Legislative Analyst’s Office Analysis

The Legislative Analyst’s Office (LAO) is required by law to provide a fiscal analysis of the ballot initiative. The LAO estimates that there would be lower state and local tax and fee revenue due to the Act expanding the definition of tax, increasing vote requirements for approval, and restricting administrative changes to fees. Due to the uncertainty of factors, such as future decisions by the Legislature, local governing bodies, and voters, the LAO cannot estimate the amount of reduced tax revenue but estimates it could be substantial.

Other Background

The California Supreme Court is currently hearing a challenge by Governor Gavin Newsom and the California Legislature on the legality of the Act. The Governor and the

Legislature contend that the Act *revises* rather than *amends* the California Constitution and thus can only be placed on the ballot through ratification at a Constitutional Convention or by a two-thirds vote of the Legislature. The court is expected to rule on the challenge before the June 27, 2024, deadline for the Secretary of State to certify the Act as qualified for the November ballot.

Supporters and Opponents

Californians for Taxpayer Protection and Government Accountability is the proponent of the ballot initiative. Other supporters include the California Business Roundtable, California NAIOP, Howard Jarvis Taxpayer Association, and Los Angeles Taxpayers Association.

Opponents include Governor Gavin Newsom; the California Democratic Party; unions such as AFSCME California, California Professional Firefighters, SEIU California State Council; and organizations such as California Contract Cities Association, California Special Districts Association, California State Association of Counties, and the League of California Cities.

Effect on California Pension Plans

The Act is not a pension reform measure that seeks to change benefit structures or membership eligibility. The Act affects the ability of the state and local governments to raise tax revenues. The Act does not change the current provisions of the County Employees Retirement Law of 1937 (CERL) regarding the power of retirement associations such as LACERA to determine employer and employee contributions and the mandatory obligation of LACERA's participating employers to pay those contributions to the pension system when due.

IT IS THEREFORE RECOMMENDED THAT THE COMMITTEE recommend that the Board of Retirement adopt a "Watch" position on The Taxpayer Protection and Government Accountability Act, a ballot initiative that would amend the California Constitution to define all state and local levies, charges, and fees as taxes and propose new voting requirements to approve such taxes.

Reviewed and Approved:



Luis Lugo, Deputy Chief Executive Officer

Attachments

The Taxpayer Protection and Government Accountability Act: Initiative Text
Title and Summary
Legislative Analyst's Office: Fiscal Analysis

cc: Santos H. Kreimann
Luis Lugo
JJ Popowich
Laura Guglielmo
Steven P. Rice
Jon Grabel
Naomi Padron, MKP Government Relations

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21-0042 Amdt. # 1

January 4, 2022

RECEIVED

JAN 04 2022

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Anabel Renteria
Initiative Coordinator
Office of the Attorney General
State of California
PO Box 994255
Sacramento, CA 94244-25550

Re: Initiative 21-0042 - Amendment Number One

Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find Amendment #1 to Initiative No. 21-0042 "The Taxpayer Protection and Government Accountability Act." The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed.

I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language.

Thank you for your time and attention processing my request.

Sincerely,



Thomas W. Hiltachk

The Taxpayer Protection and Government Accountability Act

[Deleted codified text is denoted in ~~strikeout~~. Added codified text is denoted by *italics and underline*.]

Section 1. Title

This Act shall be known, and may be cited as, the Taxpayer Protection and Government Accountability Act.

Section 2. Findings and Declarations

(a) Californians are overtaxed. We pay the nation's highest state income tax, sales tax, and gasoline tax. According to the U.S. Census Bureau, California's combined state and local tax burden is the highest in the nation. Despite this, and despite two consecutive years of obscene revenue surpluses, state politicians in 2021 alone introduced legislation to raise more than \$234 *billion* in new and higher taxes and fees.

(b) Taxes are only part of the reason for California's rising cost-of-living crisis. Californians pay billions more in hidden "fees" passed through to consumers in the price they pay for products, services, food, fuel, utilities and housing. Since 2010, government revenue from state and local "fees" has more than doubled.

(c) California's high cost of living not only contributes to the state's skyrocketing rates of poverty and homelessness, they are the pushing working families and job-providing businesses out of the state. The most recent Census showed that California's population dropped for the first time in history, costing us a seat in Congress. In the past four years, nearly 300 major corporations relocated to other states, not counting thousands more small businesses that were forced to move, sell or close.

(d) California voters have tried repeatedly, at great expense, to assert control over whether and how taxes and fees are raised. We have enacted a series of measures to make taxes more predictable, to limit what passes as a "fee," to require voter approval, and to guarantee transparency and accountability. These measures include Proposition 13 (1978), Proposition 62 (1986), Proposition 218 (1996), and Proposition 26 (2010).

(e) Contrary to the voters' intent, these measures that were designed to control taxes, spending and accountability, have been weakened and hamstrung by the Legislature, government lawyers, and the courts, making it necessary to pass yet another initiative to close loopholes and reverse hostile court decisions.

Section 3. Statement of Purpose

(a) In enacting this measure, the voters reassert their right to a voice and a vote on new and higher taxes by requiring any new or higher tax to be put before voters for approval. Voters also intend that all fees and other charges are passed or rejected by the voters themselves or a governing body elected by voters and not unelected and unaccountable bureaucrats.

(b) Furthermore, the purpose and intent of the voters in enacting this measure is to increase transparency and accountability over higher taxes and charges by requiring any tax measure placed on the ballot—

either at the state or local level—to clearly state the type and rate of any tax, how long it will be in effect, and the use of the revenue generated by the tax.

(c) Furthermore, the purpose and intent of the voters in enacting this measure is to clarify that any new or increased form of state government revenue, by any name or manner of extraction paid directly or indirectly by Californians, shall be authorized only by a vote of the Legislature and signature of the Governor to ensure that the purposes for such charges are broadly supported and transparently debated.

(d) Furthermore, the purpose and intent of the voters in enacting this measure is also to ensure that taxpayers have the right and ability to effectively balance new or increased taxes and other charges with the rapidly increasing costs Californians are already paying for housing, food, childcare, gasoline, energy, healthcare, education, and other basic costs of living, and to further protect the existing constitutional limit on property taxes and ensure that the revenue from such taxes remains local, without changing or superseding existing constitutional provisions contained in Section 1(c) of Article XIII A.

(e) In enacting this measure, the voters also additionally intend to reverse loopholes in the legislative two-thirds vote and voter approval requirements for government revenue increases created by the courts including, but not limited to, *Cannabis Coalition v. City of Upland*, *Chamber of Commerce v. Air Resources Board*, *Schmeer v. Los Angeles County*, *Johnson v. County of Mendocino*, *Citizens Assn. of Sunset Beach v. Orange County Local Agency Formation Commission*, and *Wilde v. City of Dunsmuir*.

Section 4. Section 3 of Article XIII A of the California Constitution is amended to read:

Sec. 3(a) Every levy, charge, or exaction of any kind imposed by state law is either a tax or an exempt charge.

(b)(1) (a) Any change in state statute law which results in any taxpayer paying a new or higher tax must be imposed by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, and submitted to the electorate and approved by a majority vote, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property, may be imposed. Each Act shall include:

(A) A specific duration of time that the tax will be imposed and an estimate of the annual amount expected to be derived from the tax.

(B) A specific and legally binding and enforceable limitation on how the revenue from the tax can be spent. If the revenue from the tax can be spent for unrestricted general revenue purposes, then a statement that the tax revenue can be spent for “unrestricted general revenue purposes” shall be included in a separate, stand-alone section. Any proposed change to the use of the revenue from the tax shall be adopted by a separate act that is passed by not less than two-thirds of all members elected to each of the two houses of the Legislature and submitted to the electorate and approved by a majority vote.

(2) The title and summary and ballot label or question required for a measure pursuant to the Elections Code shall, for each measure providing for the imposition of a tax, including a measure proposed by an elector pursuant to Article II, include:

(A) The type and amount or rate of the tax;

(B) The duration of the tax; and

(C) The use of the revenue derived from the tax.

(c) Any change in state law which results in any taxpayer paying a new or higher exempt charge must be imposed by an act passed by each of the two houses of the Legislature. Each act shall specify the type of exempt charge as provided in subdivision (e), and the amount or rate of the exempt charge to be imposed.

(d) ~~(b)~~ As used in this section and in Section 9 of Article II, "tax" means every ~~any~~ levy, charge, or exaction of any kind imposed by the State state law that is not an exempt charge, except the following:

(e) As used in this section, "exempt charge" means only the following:

~~(1) a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.~~

(1) ~~(2)~~ A reasonable charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the State of providing the service or product to the payor.

(2) ~~(3)~~ A charge imposed for the reasonable regulatory costs to the State incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(3) A levy, charge, or exaction collected from local units of government, health care providers or health care service plans that is primarily used by the State of California for the purposes of increasing reimbursement rates or payments under the Medi-Cal program, and the revenues of which are primarily used to finance the non-federal portion of Medi-Cal medical assistance expenditures.

(4) A reasonable charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.

(5) A fine, or penalty, ~~or other monetary charge~~ including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or the State, as a result of a state administrative enforcement agency pursuant to adjudicatory due process, to punish a violation of law.

(6) A levy, charge, assessment, or exaction collected for the promotion of California tourism pursuant to Chapter 1 (commencing with Section 13995) of Part 4.7 of Division 3 of Title 2 of the Government Code.

(f) ~~(e)~~ Any tax or exempt charge adopted after January 1, ~~2010~~ 2022, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(g) ~~(1) ~~(d)~~~~ The State bears the burden of proving by a preponderance of the clear and convincing evidence that a levy, charge, or other exaction is an exempt charge and not a tax. The State bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor, ~~that the amount is no more than necessary to cover the reasonable costs of the governmental activity and~~

that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by state law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind as being voluntary, or paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be a factor in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(h) As used in this section:

(1) "Actual cost" of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(2) "Extend" includes, but is not limited to, doing any of the following with respect to a tax or exempt charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

(3) "Impose" means adopt, enact, reenact, create, establish, collect, increase or extend.

(4) "State law" includes, but is not limited to, any state statute, state regulation, state executive order, state resolution, state ruling, state opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by the legislative or executive branches of state government. "State law" does not include actions taken by the Regents of the University of California, Trustees of the California State University, or the Board of Governors of the California Community Colleges.

Section 5. Section 1 of Article XIII C of the California Constitution is amended, to read:

Sec. 1. Definitions. As used in this article:

(a) "Actual cost" of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(b) "Extend" includes, but is not limited to, doing any of the following with respect to a tax, exempt charge, or Article XIII D assessment, fee, or charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

~~(c) (a)~~ "General tax" means any tax imposed for general governmental purposes.

~~(d)~~ "Impose" means adopt, enact, reenact, create, establish, collect, increase, or extend.

~~(e) (b)~~ "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity, or an elector pursuant to Article II or the initiative power provided by a charter or statute.

~~(f)~~ "Local law" includes, but is not limited to, any ordinance, resolution, regulation, ruling, opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by a local government.

~~(g) (c)~~ "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

~~(h) (d)~~ "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

~~(i) (e)~~ As used in this article, and in Section 9 of Article II, "tax" means every any-levy, charge, or exaction of any kind, imposed by a local government law that is not an exempt charge., except the following:

~~(i)~~ As used in this section, "exempt charge" means only the following:

~~(1)~~ A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

~~(1) (2)~~ A reasonable charge imposed for a specific local government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the local government of providing the service or product.

~~(2) (3)~~ A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

~~(3) (4)~~ A reasonable charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

~~(4) (5)~~ A fine, or penalty, or other monetary charge including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or a local government administrative enforcement agency pursuant to adjudicatory due process, as a result of to punish a violation of law.

~~(5) (6)~~ A charge imposed as a condition of property development. No levy, charge, or exaction regulating or related to vehicle miles traveled may be imposed as a condition of property development or occupancy.

~~(6) (7)~~ An Assessments and property related fees assessment, fee, or charge imposed in accordance with the provisions of subject to Article XIII D, or an assessment imposed upon a business in a tourism marketing district, a parking and business improvement area, or a property and business improvement district.

(7) A charge imposed for a specific health care service provided directly to the payor and that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the health care service. As used in this paragraph, a "health care service" means a service licensed or exempt from licensure by the state pursuant to Chapters 1, 1.3, or 2 of Division 2 of the Health and Safety Code.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

Section 6. Section 2 of Article XIII C of the California Constitution is amended to read:

Sec. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) Every levy, charge, or exaction of any kind imposed by local law is either a tax or an exempt charge. All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local law government, whether proposed by the governing body or by an elector, may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) ~~Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).~~ (d) No local law government, whether proposed by the governing body or by an elector, may impose, ~~extend, or increase~~ any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

(d) The title and summary and ballot label or question required for a measure pursuant to the Elections Code shall, for each measure providing for the imposition of a tax, include:

(1) The type and amount or rate of the tax;

(2) the duration of the tax; and

(3) The use of the revenue derived from the tax. If the proposed tax is a general tax, the phrase "for general government use" shall be required, and no advisory measure may appear on the same ballot that would indicate that the revenue from the general tax will, could, or should be used for a specific purpose.

(e) Only the governing body of a local government, other than an elector pursuant to Article II or the initiative power provided by a charter or statute, shall have the authority to impose any exempt charge. The governing body shall impose an exempt charge by an ordinance specifying the type of exempt charge

as provided in Section 1(j) and the amount or rate of the exempt charge to be imposed, and passed by the governing body. This subdivision shall not apply to charges specified in paragraph (7) of subdivision (i) of Section 1.

(f) No amendment to a Charter which provides for the imposition, extension, or increase of a tax or exempt charge shall be submitted to or approved by the electors, nor shall any such amendment to a Charter hereafter submitted to or approved by the electors become effective for any purpose.

(g) Any tax or exempt charge adopted after January 1, 2022, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted in compliance with the requirements of this section.

(h)(1) The local government bears the burden of proving by clear and convincing evidence that a levy, charge or exaction is an exempt charge and not a tax. The local government bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor.

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by a local law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind imposed by a local law as being paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be factors in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

Section 7. Section 3 of Article XIII D of the California Constitution is amended, to read:

Sec. 3. Property Taxes, Assessments, Fees and Charges Limited

(a) No tax, assessment, fee, ~~or~~ charge, or surcharge, including a surcharge based on the value of property, shall be assessed ~~by any agency~~ upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax ~~imposed pursuant to~~ described in Section 1(a) of Article XIII and Section 1(a) of Article XIII A, and described and enacted pursuant to the voter approval requirement in Section 1(b) of Article XIII A.

(2) Any special non-ad valorem tax receiving a two-thirds vote of qualified electors pursuant to Section 4 of Article XIII A, or after receiving a two-thirds vote of those authorized to vote in a community facilities district by the Legislature pursuant to statute as it existed on December 31, 2021.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

Section 8. Sections 1 and 14 of Article XIII are amended to read:

Sec. 1 Unless otherwise provided by this Constitution or the laws of the United States:

(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

(b) All property so assessed shall be taxed in proportion to its full value.

(c) All proceeds from the taxation of property shall be apportioned according to law to the districts within the counties.

Sec. 14. All property taxed by state or local government shall be assessed in the county, city, and district in which it is situated. Notwithstanding any other provision of law, such state or local property taxes shall be apportioned according to law to the districts within the counties.

Section 9. General Provisions

A. This Act shall be liberally construed in order to effectuate its purposes.

B. (1) In the event that this initiative measure and another initiative measure or measures relating to state or local requirements for the imposition, adoption, creation, or establishment of taxes, charges, and other revenue measures shall appear on the same statewide election ballot, the other initiative measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(2) In furtherance of this provision, the voters hereby declare that this measure conflicts with the provisions of the "Housing Affordability and Tax Cut Act of 2022" and "The Tax Cut and Housing Affordability Act," both of which would impose a new state property tax (called a "surcharge") on certain real property, and where the revenue derived from the tax is provided to the State, rather than retained in the county in which the property is situated and for the use of the county and cities and districts within the county, in direct violation of the provisions of this initiative.

(3) If this initiative measure is approved by the voters, but superseded in whole or in part by any other conflicting initiative measure approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

C. The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not

declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

D. If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of state or federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(1) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(2) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(3) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(4) Nothing in this section shall prohibit the proponents of this Act, or a bona fide taxpayers association, from intervening to defend this Act.

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**LIMITS ABILITY OF VOTERS AND STATE AND LOCAL GOVERNMENTS TO
RAISE REVENUES FOR GOVERNMENT SERVICES. INITIATIVE**

CONSTITUTIONAL AMENDMENT. For new or increased state taxes currently enacted by two-thirds vote of Legislature, also requires statewide election and majority voter approval. Limits voters' ability to pass voter-proposed local special taxes by raising vote requirement to two-thirds. Eliminates voters' ability to advise how to spend revenues from proposed general tax on same ballot as the proposed tax. Expands definition of "taxes" to include certain regulatory fees, broadening application of tax approval requirements. Requires Legislature or local governing body set certain other fees. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: **Lower annual state and local revenues, potentially substantially lower, depending on future actions of the Legislature, local governing bodies, voters, and the courts.** (21-0042A1.)



January 19, 2022

21-0042 Amdt. 1

Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

RECEIVED

Jan 19 2022

Attention: Ms. Anabel Renteria
Initiative Coordinator

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional Taxpayer Protection and Government Accountability Act initiative (A.G. File No. 21-0042, Amendment #1).

Background

State Government

Taxes and Fees. This year's state budget spends over \$255 billion in state funds. Over 90 percent of the state budget is funded with revenues from taxes. These include, for example, sales taxes paid on goods and income taxes paid on wages and other sources of income. Much of the rest of the state budget is funded by fees and other charges. Examples include: (1) charges relating to regulatory activities; (2) charges for specific government services or products, like fees charged to drivers to improve roads; (3) charges for entering state property, such as a state park; and (4) judicial fines, penalties, and other charges. The State Constitution requires the state to set fees at a reasonable level, generally reflecting the costs of the services or benefits provided. The state uses revenue from taxes and fees to fund a variety of programs and services, including education, health care, transportation, and housing and homelessness services.

Current Requirements to Approve Taxes and Fees. Under the State Constitution, state tax increases require approval by two-thirds of each house of the Legislature or a majority vote of the statewide electorate. The Legislature can reduce taxes with a majority vote of each house, provided the change does not result in an increase in taxes paid by any single taxpayer. In many cases, the Legislature has enacted statutes that delegate its authority to adjust fees and other


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charges to administrative entities, like state departments. In these cases, these charges can be increased or changed by the department within certain limits.

Local Government

Taxes and Fees. The largest local government tax is the property tax, which raises roughly \$75 billion annually. Other local taxes include sales taxes, utility taxes, and hotel taxes. In addition to these taxes, local governments levy a variety of fees and other charges. Examples include parking meter fees, building permit fees, regulatory fees, and judicial fines and penalties. In order to be considered a fee, the charge cannot exceed the reasonable costs to the local government of providing the associated product or service. Local governments use revenues from taxes and fees to fund a variety of services, like fire and police, public works, and parks.

Current Requirements to Approve Taxes and Fees. State law requires increases in local taxes to receive approval of the local governing body—for example, a city council or county board of supervisors—as well as approval of voters in that local jurisdiction. Most proposed taxes require a two-thirds vote of the local governing board before being presented to the voters. Special taxes (those used for a specific purpose) require a two-thirds vote of the electorate while other types of taxes require a majority vote of the electorate. The majority-vote general taxes can be used for any purpose. Recent case law suggests that citizen initiative special taxes may be approved by majority vote, rather than a two-thirds vote. Currently, local governing bodies have the ability to delegate their authority to adjust fees and other charges to administrative entities, like city departments. In these cases, these charges can be increased or changed by the department within certain limits.

Proposal

This measure amends the State Constitution to change the rules for how the state and local governments can impose taxes, fees, and other charges.

State and Local Government Taxes

Expands Definition of Tax. The measure amends the State Constitution to expand the definition of taxes to include some charges that state and local governments currently treat as fees and other charges. For example, certain charges imposed for a benefit or privilege granted to a payer but not granted to those not charged would no longer be considered fees. As a result, the measure could increase the number of revenue proposals subject to the higher state and local vote requirements for taxes discussed below.

Requires Voter Approval for State Taxes. The measure increases the vote requirements for increasing state taxes. Specifically, the measure requires that legislatively proposed tax increases receive approval by two-thirds of each house *and* a majority vote of the statewide electorate. Voters would still be able to increase taxes by majority vote of the electorate without legislative action, however. Any state tax approved between January 1, 2022 and the effective date of this measure would be nullified unless it fulfills the requirements of the measure.

Requirements for Approving Local Taxes. Whether sought by the local governing body or the electorate, the measure establishes the same approval requirements for increasing local

special taxes. Any local tax approved between January 1, 2022 and the effective date of this measure would be nullified unless it fulfills the requirements of the measure.

Allowable Uses and Duration of State and Local Tax Revenues Must Be Specified. The measure requires state and local tax measures to identify the type and amount (or rate) of the tax and the duration of the tax. State and local government general tax measures must state that the revenue can be used for general purposes.

State and Local Government Fees

Requires the Legislature and Local Government Bodies to Impose State and Local Fees. Fees would have to be imposed by a majority vote of both houses of the Legislature or local governing bodies. The measure would restrict the ability of state and local governments to delegate fee changes to administrative entities. The extent of these restrictions would depend on future court decisions. Any fee approved between January 1, 2022 and the effective date of this measure would be nullified unless it fulfills the requirements of the measure.

Some New State and Local Fees Could Not Exceed Actual Costs. For some categories of fees, if the Legislature or a local governing body wished to impose a new fee or make changes to an existing fee, the measure generally would require that the charge be both reasonable and reflect the actual costs to the state or local government of providing the service. The measure also specifies that actual cost should not exceed “the minimum amount necessary.” In many cases, existing fees already reflect the government’s actual costs. In other cases, some fees would have to more closely approximate the payer’s actual costs in order to remain fees. If a fee payer challenged the charge, the state or local government would need to provide clear and convincing evidence that the fee meets this threshold. State and local governments also would bear the burden of providing clear and convincing evidence that the levy is a fee—which is not subject to a vote by the electorate—and not a tax under the new definition.

Fiscal Effects

Lower State Tax and Fee Revenue. By expanding the definition of a tax, increasing the vote requirements for approving taxes, and restricting administrative changes to fees, the measure makes it harder for the Legislature to increase nearly all types of state revenues. The extent to which revenues would be lower under the measure would depend on various factors, most notably future decisions made by the Legislature and voters. For example, requirements for legislative approval of fee increases currently set administratively could result in lower fee revenues, depending on future votes of the Legislature. That lower revenue could be particularly notable for some state programs largely funded by fees. Due to the uncertainty of these factors, we cannot estimate the amount of reduced state revenue, but it could be substantial.

Lower Local Government Tax and Fee Revenue. Compared to the state, local governments generally face greater restrictions to raising revenue. By expanding the definition of taxes and restricting administrative changes to fees, the measure would make it somewhat harder for local governments to raise revenue. Consequently, future local tax and fee revenue could be lower than they would be otherwise. The extent to which revenues would be lower is unknown, but

fees could be more impacted. The actual impact on local government revenue would depend on various factors, including future decisions by the courts, local governing bodies, and voters.

Possible Increased State and Local Administrative Costs to Change Some Fee Levels. In some cases, state and local departments would need to develop methods for setting fees to reflect actual costs if the Legislature or local governing bodies wanted to change those fees in the future. Estimating actual costs by program and fee source could involve some added workload for those state and local departments, which likely would be supported by fee revenue. The extent of these administrative costs would depend on (1) whether the state and local governments determine a fee increase is needed in order to maintain their current level of programs and services funded through fee revenue and (2) future court decisions.

Summary of Fiscal Effects. We estimate that this measure would have the following major fiscal effects:

- Lower annual state and local revenues, potentially substantially lower, depending on future actions of the Legislature, local governing bodies, voters, and the courts.

Sincerely,



for Gabriel Petek
Legislative Analyst



for Keely Martin Bosler
Director of Finance

INSURANCE, BENEFITS & LEGISLATIVE COMMITTEE
ENGAGEMENT REPORT
MAY 2024
FOR INFORMATION ONLY

Alaska Pension Bill

In Alaska, lawmakers are pushing to reinstate a guaranteed public pension system, abandoned in 2006, to address recruitment and retention issues among its public employees. The current defined contribution plan, like a 401(k), is seen as less attractive than the previous defined benefit system, leading many workers to leave for states with better benefits. Senate Bill 88 proposes a new model of defined benefits, aiming to mitigate past underfunding issues by sharing risk between the state and employees.

Supporters argue the new pension system is essential for improving employee retention and recruitment, crucial for maintaining public services. A protest by more than 50 police officers, firefighters, and others in support of the bill was held in front of the Alaska Capitol in April. Opposition, including Governor Mike Dunleavy and groups such as the Reason Foundation and Americans for Prosperity Alaska, suggest alternatives like annual bonuses and higher wages. They also express concerns about potential long-term costs, although advocates counter that the revamped plan includes safeguards against financial instability, unlike the earlier version of the plan that existed until 2006.

However, with the legislative session ending in May, according to the Senate President, the bill will not advance this year and is now expected to become law no sooner than next year. [\(Source\)](#) [\(Source\)](#) [\(Source\)](#)

401(k) Creator Ted Benna Talks About His Legacy

Ted Benna has been called the “father of the 401(k)” after he reinterpreted a 1978 tax law and implemented the plan within his own company. However, he expresses concern over its evolution. Initially, employers were to cover administrative fees, but now these costs often fall on employees. Benna also regrets facilitating investment advice that led to added fees, as firms saw profit opportunities.

Benna didn't foresee the 401(k) replacing pensions, but acknowledges pensions were already declining due to regulatory and accounting changes. He suggests that for many small business owners making less than \$150,000, IRA-based plans like SEP and Simple IRAs might be better than 401(k)s, as they are easier and cheaper to manage.

Addressing retirement preparedness, Benna highlights ongoing economic tensions between retirees and workers in terms of the costs that workers will have to bear for retirees. Despite these issues, he values the 401(k) for transforming many spenders into savers, enabling them to retire. [\(Source\)](#) [\(Source\)](#)

Was the 401(k) a Mistake?

The New York Times Magazine's May issue was devoted to the topic of retirement. One article focuses on the role of the 401(k) plan in transforming the retirement landscape. The shift from pensions to 401(k)s has left many Americans uncertain about their retirement prospects. Pensions, offering guaranteed benefits, have largely been replaced by 401(k)s, which depend on individual contributions and market performance. This transition has created financial instability for many, especially during economic downturns like the 2008 financial crisis.

Economist Teresa Ghilarducci has long criticized 401(k)s, arguing they fail to provide adequate retirement security for most Americans. She advocates for guaranteed retirement accounts to replace 401(k)s, ensuring a steady income post-retirement. Despite initial conservative backlash, her views are gaining bipartisan support, highlighting widespread concerns about the current retirement system's efficacy.

Some experts, including 401(k) pioneer Ted Benna, acknowledge the system's shortcomings but argue that pensions were unsustainable regardless. They propose reforms such as mandatory employer contributions and more inclusive retirement plans, similar to Australia's successful Superannuation Guarantee.

Efforts to address these issues include bipartisan legislative proposals, like the Retirement Savings for Americans Act, which suggests expanding federal retirement plans to include matching contributions for all workers. Additionally, some economists propose ending 401(k) tax benefits and redirecting funds to bolster Social Security, emphasizing the need for a more equitable and secure retirement system.

Overall, the 401(k) system has benefited higher-income individuals significantly but has left many lower- and middle-income Americans struggling to secure their financial futures, prompting calls for systemic reforms to ensure dignified retirements for all. ([Source](#))

Policy Ideas for Boosting Pensions in the Private Sector

In response to a request for information from the U.S. Senate Health, Education, Labor, and Pensions (HELP) Committee, the National Institute on Retirement Security has submitted a brief to the Committee, proposing six policy ideas to expand defined benefit (DB) pension coverage for private-sector employees. The brief emphasizes the need for future policies to ensure retirement adequacy for all Americans, regardless of demographics and income, and to make pension plans affordable and sustainable for employers. These recommendations aim to create workable solutions for expanding pension coverage in the private sector.

- Lowering the per-person rate of Pension Benefit Guaranty Corporation (PBGC) premiums for single-employer plans. The cost is a barrier to entry and causes plan sponsors to engage in pension risk transfer solutions such as annuity purchases.

- Reducing the variable rate PBGC premium. This is similar to the concerns with the per-person rate.
- Formally acknowledging risk-sharing plans in statute. Risk sharing may reduce PBGC payouts and premiums, and codifying risk sharing may avoid future regulatory risk issues.
- Permitting greater flexibility in use of funding surpluses in DB plans. This would avoid funding volatility and ensure employers have funding obligations that are stable and predictable.
- Allowing pretax employee contributions in private-sector DB plans, similar to public-sector pension plans. Currently, a private sector employee transitioning to a DB plan from a DC plan would lose the tax deduction on retirement contributions, or the employer would pick up more of the cost of funding if employees do not contribute to the DB plan.
- Formally acknowledging in statute that retirement benefits should be fungible for each individual and that transfers between DC and DB plans should be allowed. The transferability of assets would enable workers to purchase additional lifetime income via an annuity in the DB plan.

[\(Source\)](#) [\(Source\)](#)

Women Express Concern about Retirement and Long-Term Care

A survey by Greenwald Research and the National Institute on Retirement Security (NIRS) reveals that 80% of women view the U.S. retirement situation as a crisis, with many advocating for increased employer contributions to retirement plans. Women face unique challenges in retirement savings due to lower average earnings, time away from work for caregiving, and longer life expectancies. The following are key findings from the survey:

- U.S. women are worried about retirement. About 80 percent say there is a retirement crisis, and 81 percent say employers should increase contributions to workers' retirement plans. Three-fourths say retirement is getting harder (76 percent) based on the following factors: inflation (77 percent), rising healthcare costs (77 percent), debt (58 percent), and fewer pensions (58 percent).
- Women express strong support for pensions. Eighty-two percent say all workers should have pensions for retirement security, and 75 percent say the disappearance of pensions has made it harder to achieve the American Dream. Seventy-three percent have a favorable view of pensions.
- Women want action now to safeguard Social Security. Almost all survey participants (89 percent) say it is important for Congress to develop a Social

Security funding solution. Eighty-seven percent say the program must remain a priority regardless of federal budget deficits, and 86 percent say Congress should act now rather than wait 10 years for a solution.

- Working-age women are worried about long-term care costs in retirement. Eighty-one percent are worried about long-term care costs, and only 38 percent are confident they can pay for needed long-term care costs. Eighty-six percent agree the government should do more to help people get access to quality long-term care.

[\(Source\)](#) [\(Source\)](#)

**INSURANCE, BENEFITS & LEGISLATIVE COMMITTEE
RETIREE HEALTHCARE BENEFITS PROGRAM
STAFF ACTIVITIES REPORT
MAY 2024
FOR INFORMATION ONLY**

2024-2025 Retiree Healthcare Annual Letter Packet and Rate Booklet Mailing

On May 24, 2024, staff completed the Retiree Healthcare Annual Letter packet mass mailing mailed to all members/survivors currently enrolled in a LACERA-administered healthcare plan (59,000). In the packet are the following information:

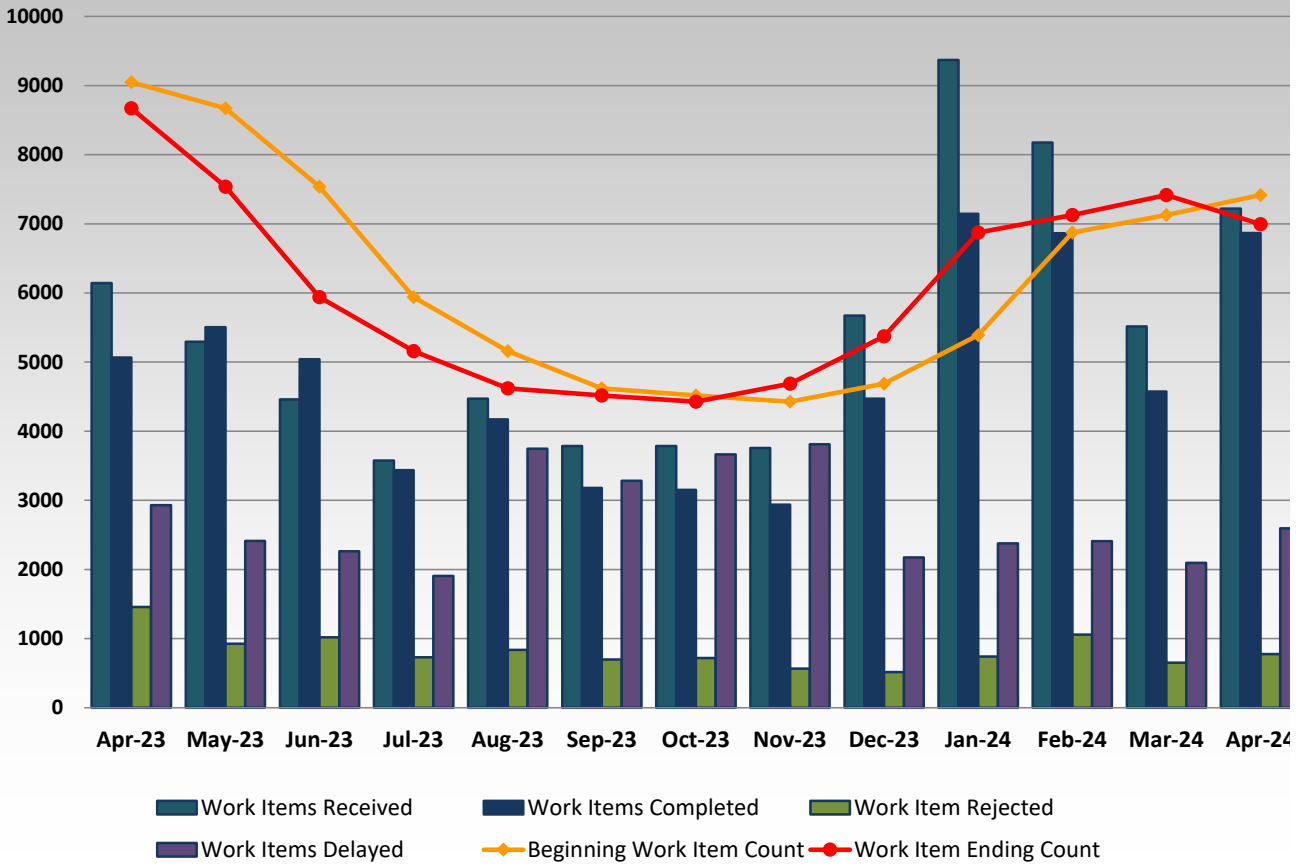
- Cover Letter
- Benefits Update
- Benefits Guide
- Monthly Premium Rates Booklet (CA), Effective July 1, 2024

The purpose of this annual mailing is to communicate to our members the monthly premium rates and any mandated benefit changes for the applicable healthcare plans, as approved by the Board of Supervisors.

Kudos to RHC staff, Segal, Systems Division and Communications Division for their assistance with this annual project.

Retiree Healthcare Division Trend Report

APRIL 2023 - APRIL 2024
Updated 5/17/2024

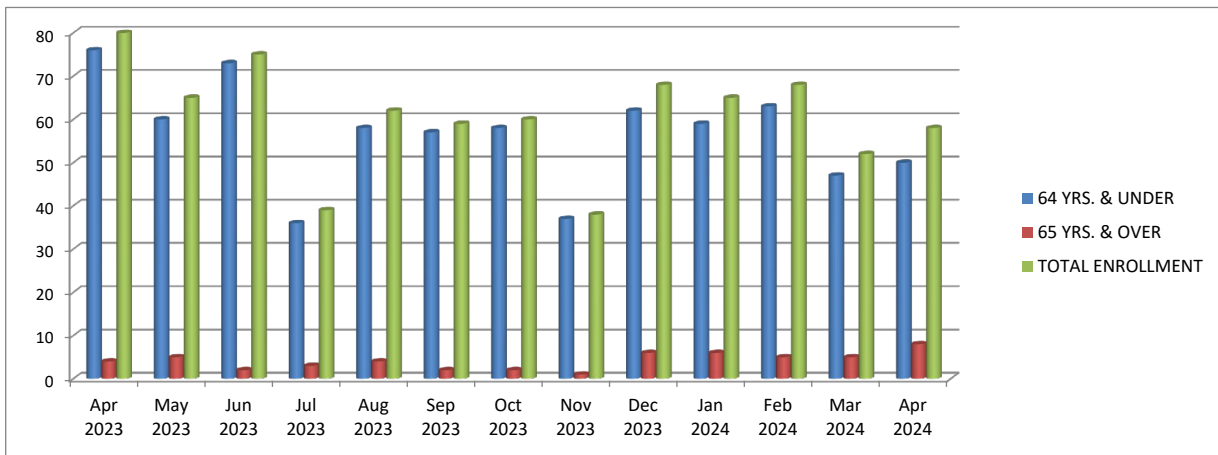


	Beginning Work Item Count	Work Items Received	Work Items Completed	Work Item Rejected	Work Items Delayed	Work Item Ending Count
Apr-23	9049	6144	5065	1458	2930	8670
May-23	8670	5294	5503	926	2412	7535
Jun-23	7535	4458	5039	1018	2263	5939
Jul-23	5939	3576	3438	730	1908	5157
Aug-23	5157	4471	4172	836	3746	4620
Sep-23	4620	3787	3181	698	3282	4515
Oct-23	4515	3784	3151	721	3665	4427
Nov-23	4427	3757	2936	565	3812	4689
Dec-23	4689	5672	4471	516	2175	5374
Jan-24	5390	9371	7145	742	2377	6874
Feb-24	6874	8174	6862	1059	2411	7127
Mar-24	7127	5516	4573	653	2097	7417
Apr-24	7417	7221	6865	775	2593	6994

Retirees Monthly Age Breakdown APRIL 2023 - APRIL 2024

Disability Retirement

MONTH	64 YRS. & UNDER	65 YRS. & OVER	TOTAL ENROLLMENT
Apr 2023	76	4	80
May 2023	60	5	65
Jun 2023	73	2	75
Jul 2023	36	3	39
Aug 2023	58	4	62
Sep 2023	57	2	59
Oct 2023	58	2	60
Nov 2023	37	1	38
Dec 2023	62	6	68
Jan 2024	59	6	65
Feb 2024	63	5	68
Mar 2024	47	5	52
Apr 2024	50	8	58



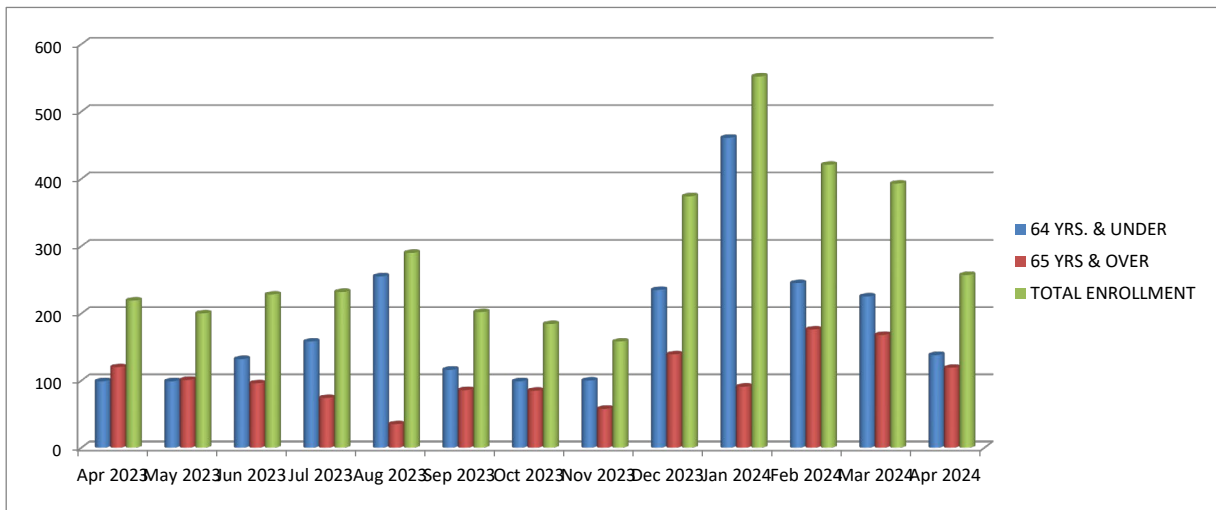
PLEASE NOTE:

- Next Report will include the following dates: May 1, 2023 - May 31, 2024

Retirees Monthly Age Breakdown APRIL 2023 - APRIL 2024

Service Retirement

MONTH	64 YRS. & UNDER	65 YRS & OVER	TOTAL ENROLLMENT
Apr 2023	99	120	219
May 2023	99	101	200
Jun 2023	132	96	228
Jul 2023	158	74	232
Aug 2023	255	35	290
Sep 2023	116	86	202
Oct 2023	99	85	184
Nov 2023	100	58	158
Dec 2023	235	139	374
Jan 2024	461	91	552
Feb 2024	245	176	421
Mar 2024	225	168	393
Apr 2024	138	119	257



PLEASE NOTE:

- Next Report will include the following dates: May 1, 2023, through May 31, 2024.

Medicare Part B Reimbursement and Penalty Report
PAY PERIOD 5/31/2024

Deduction Code	No. of Members	Reimbursement Amount	No. of Penalties	Penalty Amount
ANTHEM BC III				
240	7597	\$1,216,541.14	1	\$10.50
241	135	\$20,973.10	0	\$0.00
242	945	\$158,605.30	0	\$0.00
243	4550	\$1,494,451.66	0	\$0.00
244	14	\$2,170.90	0	\$0.00
245	56	\$9,278.80	0	\$0.00
246	15	\$2,545.50	0	\$0.00
247	164	\$28,727.50	0	\$0.00
248	14	\$4,227.40	0	\$0.00
249	65	\$20,920.60	0	\$0.00
250	17	\$5,487.30	0	\$0.00
Plan Total:	13,572	\$2,963,929.20	1	\$10.50
CIGNA - PREFERRED with RX				
321	36	\$5,445.30	0	\$0.00
322	7	\$1,027.00	0	\$0.00
324	20	\$6,380.90	0	\$0.00
327	1	\$104.90	0	\$0.00
Plan Total:	64	\$12,958.10	0	\$0.00
KAISER SR. ADVANTAGE				
394	21	\$3,403.90	0	\$0.00
397	3	\$494.00	0	\$0.00
398	8	\$2,795.20	0	\$0.00
403	12047	\$1,894,472.62	0	\$0.00
413	1555	\$252,990.84	0	\$0.00
418	6322	\$2,054,161.05	0	\$0.00
419	219	\$31,386.00	0	\$0.00
426	257	\$41,743.10	0	\$0.00
445	2	\$349.40	0	\$0.00
446	1	\$145.10	0	\$0.00
451	37	\$5,949.50	0	\$0.00
455	9	\$1,572.30	0	\$0.00
457	15	\$5,063.80	0	\$0.00
459	1	\$349.40	0	\$0.00
462	85	\$13,715.60	0	\$0.00
465	1	\$174.70	0	\$0.00
466	28	\$9,059.50	0	\$0.00
472	27	\$4,411.50	0	\$0.00
476	3	\$433.70	0	\$0.00
478	15	\$4,985.10	0	\$0.00
479	1	\$144.60	0	\$0.00
482	85	\$13,467.10	0	\$0.00
486	1	\$174.70	0	\$0.00
488	35	\$11,714.20	0	\$0.00
491	1	\$148.50	0	\$0.00
Plan Total:	20,779	\$4,353,305.41	0	\$0.00

Medicare Part B Reimbursement and Penalty Report

PAY PERIOD 5/31/2024

Deduction Code	No. of Members	Reimbursement Amount	No. of Penalties	Penalty Amount
SCAN				
611	279	\$45,227.40	0	\$0.00
613	100	\$32,817.90	0	\$0.00
620	7	\$1,151.10	0	\$0.00
622	11	\$1,968.20	0	\$0.00
623	2	\$559.20	0	\$0.00
Plan Total:	399	81,724	0	0
UNITED HEALTHCARE GROUP MEDICARE ADV. HMO				
701	2109	\$342,363.00	0	\$0.00
702	397	\$67,324.10	0	\$0.00
703	1362	\$451,579.70	0	\$0.00
704	106	\$19,430.40	0	\$0.00
705	49	\$16,402.30	0	\$0.00
Plan Total:	4,023	\$897,099.50	0	\$0.00
Grand Total:	38,837	\$8,309,016.01	1	\$10.50

Medicare Part B Reimbursement and Penalty Report
PAY PERIOD 5/31/2024

Deduction Code	No. of Members	Reimbursement Amount	No. of Penalties	Penalty Amount
ANTHEM BC III				
240	7597	\$1,216,541.14	1	\$10.50
241	135	\$20,973.10	0	\$0.00
242	945	\$158,605.30	0	\$0.00
243	4550	\$1,494,451.66	0	\$0.00
244	14	\$2,170.90	0	\$0.00
245	56	\$9,278.80	0	\$0.00
246	15	\$2,545.50	0	\$0.00
247	164	\$28,727.50	0	\$0.00
248	14	\$4,227.40	0	\$0.00
249	65	\$20,920.60	0	\$0.00
250	17	\$5,487.30	0	\$0.00
Plan Total:	13,572	\$2,963,929.20	1	\$10.50
CIGNA - PREFERRED with RX				
321	36	\$5,445.30	0	\$0.00
322	7	\$1,027.00	0	\$0.00
324	20	\$6,380.90	0	\$0.00
327	1	\$104.90	0	\$0.00
Plan Total:	64	\$12,958.10	0	\$0.00
KAISER SR. ADVANTAGE				
394	21	\$3,403.90	0	\$0.00
397	3	\$494.00	0	\$0.00
398	8	\$2,795.20	0	\$0.00
403	12047	\$1,894,472.62	0	\$0.00
413	1555	\$252,990.84	0	\$0.00
418	6322	\$2,054,161.05	0	\$0.00
419	219	\$31,386.00	0	\$0.00
426	257	\$41,743.10	0	\$0.00
445	2	\$349.40	0	\$0.00
446	1	\$145.10	0	\$0.00
451	37	\$5,949.50	0	\$0.00
455	9	\$1,572.30	0	\$0.00
457	15	\$5,063.80	0	\$0.00
459	1	\$349.40	0	\$0.00
462	85	\$13,715.60	0	\$0.00
465	1	\$174.70	0	\$0.00
466	28	\$9,059.50	0	\$0.00
472	27	\$4,411.50	0	\$0.00
476	3	\$433.70	0	\$0.00
478	15	\$4,985.10	0	\$0.00
479	1	\$144.60	0	\$0.00
482	85	\$13,467.10	0	\$0.00
486	1	\$174.70	0	\$0.00
488	35	\$11,714.20	0	\$0.00
491	1	\$148.50	0	\$0.00
Plan Total:	20,779	\$4,353,305.41	0	\$0.00

Medicare Part B Reimbursement and Penalty Report

PAY PERIOD 5/31/2024

Deduction Code	No. of Members	Reimbursement Amount	No. of Penalties	Penalty Amount
SCAN				
611	279	\$45,227.40	0	\$0.00
613	100	\$32,817.90	0	\$0.00
620	7	\$1,151.10	0	\$0.00
622	11	\$1,968.20	0	\$0.00
623	2	\$559.20	0	\$0.00
Plan Total:	399	81,724	0	0
UNITED HEALTHCARE GROUP MEDICARE ADV. HMO				
701	2109	\$342,363.00	0	\$0.00
702	397	\$67,324.10	0	\$0.00
703	1362	\$451,579.70	0	\$0.00
704	106	\$19,430.40	0	\$0.00
705	49	\$16,402.30	0	\$0.00
Plan Total:	4,023	\$897,099.50	0	\$0.00
LOCAL 1014				
804	192	\$43,674.50	0	\$0.00
805	227	\$45,142.50	0	\$0.00
806	716	\$274,628.80	0	\$0.00
807	56	\$10,936.20	0	\$0.00
808	21	\$8,455.40	0	\$0.00
812	251	\$48,252.10	0	\$0.00
813	1	\$174.70	0	\$0.00
Plan Total:	1,464	\$431,264.20	0	\$0.00
Grand Total:	40,301	\$8,740,280.21	1	\$10.50

Medical and Dental Vision Insurance Premiums June 2024

Carrier Codes	Member Count	Premium Amount	Member Amount	County Subsidy Amount	Total	Adjustments	Total Paid
Medical Plan							
Anthem Blue Cross Prudent Buyer Plan							
201	442	\$420,677.92	\$63,729.59	\$359,803.61	\$423,533.20	\$0.00	\$423,533.20
202	232	\$438,029.28	\$35,341.83	\$400,815.53	\$436,157.36	(\$1,871.92)	\$434,285.44
203	79	\$171,110.88	\$26,490.49	\$138,282.95	\$164,773.44	\$0.00	\$164,773.44
204	31	\$37,915.17	\$9,319.76	\$28,595.41	\$37,915.17	\$0.00	\$37,915.17
SUBTOTAL	784	\$1,067,733.25	\$134,881.67	\$927,497.50	\$1,062,379.17	(\$1,871.92)	\$1,060,507.25
Anthem Blue Cross I							
211	535	\$736,796.32	\$48,908.74	\$694,760.68	\$743,669.42	(\$9,622.34)	\$734,047.08
212	231	\$574,900.64	\$27,852.84	\$564,393.94	\$592,246.78	\$0.00	\$592,246.78
213	71	\$210,454.56	\$24,494.58	\$185,959.98	\$210,454.56	\$0.00	\$210,454.56
214	21	\$38,191.65	\$3,273.56	\$34,918.09	\$38,191.65	\$0.00	\$38,191.65
215	1	\$464.72	\$130.12	\$334.60	\$464.72	\$0.00	\$464.72
SUBTOTAL	859	\$1,560,807.89	\$104,659.84	\$1,480,367.29	\$1,585,027.13	(\$9,622.34)	\$1,575,404.79
Anthem Blue Cross II							
221	2,395	\$3,307,335.72	\$178,507.49	\$3,130,202.85	\$3,308,710.34	(\$4,123.86)	\$3,304,586.48
222	2,051	\$5,122,067.34	\$115,425.95	\$4,897,608.51	\$5,013,034.46	\$0.00	\$5,013,034.46
223	957	\$2,806,060.80	\$110,021.09	\$2,735,499.24	\$2,845,520.33	\$0.00	\$2,845,520.33
224	248	\$451,025.20	\$42,556.38	\$417,562.07	\$460,118.45	\$0.00	\$460,118.45
SUBTOTAL	5,651	\$11,686,489.06	\$446,510.91	\$11,180,872.67	\$11,627,383.58	(\$4,123.86)	\$11,623,259.72

Medical and Dental Vision Insurance Premiums June 2024

Carrier Codes	Member Count	Premium Amount	Member Amount	County Subsidy Amount	Total	Adjustments	Total Paid
Anthem Blue Cross III							
240	7,637	\$4,279,290.74	\$560,294.58	\$3,739,715.05	\$4,300,009.63	(\$17,917.04)	\$4,282,092.59
241	134	\$243,385.60	\$24,052.18	\$213,964.62	\$238,016.80	(\$1,789.60)	\$236,227.20
242	947	\$1,707,278.40	\$103,653.59	\$1,598,256.01	\$1,701,909.60	(\$1,789.60)	\$1,700,120.00
243	4,555	\$5,090,779.80	\$535,863.59	\$4,546,002.61	\$5,081,866.20	(\$7,799.40)	\$5,074,066.80
244	14	\$14,033.88	\$1,664.01	\$12,369.87	\$14,033.88	\$0.00	\$14,033.88
245	57	\$57,137.94	\$5,493.27	\$51,644.67	\$57,137.94	(\$1,002.42)	\$56,135.52
246	15	\$33,478.65	\$2,231.91	\$33,478.65	\$35,710.56	\$0.00	\$35,710.56
247	169	\$379,424.70	\$19,953.28	\$359,471.42	\$379,424.70	\$0.00	\$379,424.70
248	14	\$21,790.02	\$1,992.22	\$19,797.80	\$21,790.02	\$0.00	\$21,790.02
249	66	\$104,280.81	\$4,451.39	\$95,160.13	\$99,611.52	\$0.00	\$99,611.52
250	17	\$29,652.25	\$2,267.52	\$27,384.73	\$29,652.25	\$0.00	\$29,652.25
SUBTOTAL	13,625	\$11,960,532.79	\$1,261,917.54	\$10,697,245.56	\$11,959,163.10	(\$30,298.06)	\$11,928,865.04
CIGNA Network Model Plan							
301	228	\$407,568.24	\$107,104.34	\$302,251.48	\$409,355.82	\$0.00	\$409,355.82
302	56	\$183,966.36	\$45,092.06	\$135,646.82	\$180,738.88	\$0.00	\$180,738.88
303	9	\$38,109.90	\$7,922.52	\$22,565.40	\$30,487.92	\$0.00	\$30,487.92
304	13	\$30,834.57	\$12,167.56	\$16,295.12	\$28,462.68	\$0.00	\$28,462.68
SUBTOTAL	306	\$660,479.07	\$172,286.48	\$476,758.82	\$649,045.30	\$0.00	\$649,045.30
CIGNA Preferred w/ Rx - Phoenix, AZ							
321	36	\$12,486.96	\$1,595.57	\$11,238.25	\$12,833.82	\$0.00	\$12,833.82
322	7	\$12,507.32	\$714.70	\$11,792.62	\$12,507.32	\$0.00	\$12,507.32
324	20	\$13,714.40	\$1,398.88	\$12,315.52	\$13,714.40	\$0.00	\$13,714.40
327	1	\$2,370.95	\$474.19	\$1,896.76	\$2,370.95	\$0.00	\$2,370.95
SUBTOTAL	64	\$41,079.63	\$4,183.34	\$37,243.15	\$41,426.49	\$0.00	\$41,426.49

Medical and Dental Vision Insurance Premiums June 2024

Carrier Codes	Member Count	Premium Amount	Member Amount	County Subsidy Amount	Total	Adjustments	Total Paid
Kaiser/Senior Advantage							
401	1,584	\$2,037,954.10	\$143,305.82	\$1,878,192.75	\$2,021,498.57	\$1,265.81	\$2,022,764.38
403	12,042	\$3,027,637.16	\$269,990.42	\$2,761,704.07	\$3,031,694.49	(\$6,757.83)	\$3,024,936.66
404	472	\$560,075.20	\$10,252.22	\$556,942.58	\$567,194.80	(\$4,746.40)	\$562,448.40
405	1,398	\$1,777,084.44	\$17,047.92	\$1,758,768.08	\$1,775,816.00	(\$2,536.88)	\$1,773,279.12
411	1,946	\$4,966,484.16	\$208,420.49	\$4,797,455.67	\$5,005,876.16	\$0.00	\$5,005,876.16
413	1,532	\$2,369,209.39	\$108,914.07	\$2,169,809.92	\$2,278,723.99	(\$1,508.09)	\$2,277,215.90
414	49	\$122,220.50	\$782.21	\$114,105.06	\$114,887.27	\$0.00	\$114,887.27
418	6,287	\$3,114,949.44	\$225,197.41	\$2,881,871.07	\$3,107,068.48	(\$4,433.04)	\$3,102,635.44
419	218	\$317,211.36	\$3,600.84	\$296,463.96	\$300,064.80	\$0.00	\$300,064.80
420	102	\$243,615.60	\$1,135.30	\$237,749.90	\$238,885.20	\$0.00	\$238,885.20
421	8	\$10,126.48	\$1,164.54	\$8,961.94	\$10,126.48	(\$1,265.81)	\$8,860.67
422	264	\$669,456.25	\$2,122.05	\$667,334.20	\$669,456.25	\$0.00	\$669,456.25
426	258	\$389,765.76	\$3,021.46	\$388,255.02	\$391,276.48	\$0.00	\$391,276.48
428	43	\$105,222.72	\$489.40	\$104,733.32	\$105,222.72	\$0.00	\$105,222.72
430	148	\$374,274.24	\$3,388.73	\$370,885.51	\$374,274.24	\$0.00	\$374,274.24
SUBTOTAL	26,351	\$20,085,286.80	\$998,832.88	\$18,993,233.05	\$19,992,065.93	(\$19,982.24)	\$19,972,083.69

Medical and Dental Vision Insurance Premiums June 2024

Carrier Codes	Member Count	Premium Amount	Member Amount	County Subsidy Amount	Total	Adjustments	Total Paid
Kaiser - Colorado							
450	2	\$2,206.50	\$441.30	\$1,765.20	\$2,206.50	\$0.00	\$2,206.50
451	38	\$11,320.20	\$1,626.52	\$9,693.68	\$11,320.20	\$0.00	\$11,320.20
453	8	\$19,516.48	\$0.00	\$19,516.48	\$19,516.48	\$0.00	\$19,516.48
454	1	\$3,293.85	\$721.63	\$2,572.22	\$3,293.85	\$0.00	\$3,293.85
455	9	\$12,538.35	\$55.73	\$12,482.62	\$12,538.35	\$0.00	\$12,538.35
457	15	\$8,817.00	\$940.48	\$7,876.52	\$8,817.00	\$0.00	\$8,817.00
459	1	\$1,683.05	\$67.32	\$1,615.73	\$1,683.05	\$0.00	\$1,683.05
SUBTOTAL	74	\$59,375.43	\$3,852.98	\$55,522.45	\$59,375.43	\$0.00	\$59,375.43
Kaiser - Georgia							
441	4	\$5,182.00	\$0.00	\$5,182.00	\$5,182.00	\$0.00	\$5,182.00
442	7	\$9,068.50	\$0.00	\$9,068.50	\$9,068.50	\$0.00	\$9,068.50
445	2	\$3,363.78	\$0.00	\$3,363.78	\$3,363.78	\$0.00	\$3,363.78
446	1	\$1,681.89	\$0.00	\$1,681.89	\$1,681.89	\$0.00	\$1,681.89
461	14	\$18,137.00	\$2,306.01	\$17,126.51	\$19,432.52	\$0.00	\$19,432.52
462	86	\$33,917.54	\$4,866.73	\$29,050.81	\$33,917.54	\$0.00	\$33,917.54
463	4	\$10,331.96	\$1,658.89	\$8,673.07	\$10,331.96	\$0.00	\$10,331.96
465	1	\$1,681.89	\$0.00	\$1,681.89	\$1,681.89	\$0.00	\$1,681.89
466	28	\$21,861.84	\$1,639.63	\$20,222.21	\$21,861.84	\$0.00	\$21,861.84
SUBTOTAL	147	\$105,226.40	\$10,471.26	\$96,050.66	\$106,521.92	\$0.00	\$106,521.92

Medical and Dental Vision Insurance Premiums June 2024

Carrier Codes	Member Count	Premium Amount	Member Amount	County Subsidy Amount	Total	Adjustments	Total Paid
Kaiser - Hawaii							
471	5	\$4,773.20	\$267.30	\$4,505.90	\$4,773.20	\$0.00	\$4,773.20
472	27	\$11,750.40	\$1,549.29	\$10,201.11	\$11,750.40	\$0.00	\$11,750.40
473	2	\$3,965.12	\$1,215.88	\$2,749.24	\$3,965.12	\$0.00	\$3,965.12
474	4	\$7,605.12	\$0.00	\$7,605.12	\$7,605.12	\$0.00	\$7,605.12
475	3	\$8,543.76	\$0.00	\$8,543.76	\$8,543.76	\$0.00	\$8,543.76
476	3	\$4,145.52	\$1,216.02	\$2,929.50	\$4,145.52	\$0.00	\$4,145.52
478	15	\$12,936.00	\$1,448.83	\$11,487.17	\$12,936.00	\$0.00	\$12,936.00
479	1	\$2,409.76	\$0.00	\$2,409.76	\$2,409.76	\$0.00	\$2,409.76
SUBTOTAL	60	\$56,128.88	\$5,697.32	\$50,431.56	\$56,128.88	\$0.00	\$56,128.88
Kaiser - Oregon							
481	2	\$2,336.86	\$584.21	\$1,752.65	\$2,336.86	\$0.00	\$2,336.86
482	85	\$42,826.28	\$6,174.97	\$35,655.35	\$41,830.32	(\$995.96)	\$40,834.36
483	3	\$4,371.48	\$577.53	\$3,793.95	\$4,371.48	\$0.00	\$4,371.48
484	7	\$16,302.02	\$0.00	\$16,302.02	\$16,302.02	\$0.00	\$16,302.02
486	1	\$1,658.41	\$0.00	\$1,658.41	\$1,658.41	\$0.00	\$1,658.41
488	35	\$34,578.60	\$5,315.24	\$29,263.36	\$34,578.60	\$0.00	\$34,578.60
491	1	\$1,682.42	\$0.00	\$1,682.42	\$1,682.42	\$0.00	\$1,682.42
498	1	\$2,617.59	\$139.57	\$2,478.02	\$2,617.59	\$0.00	\$2,617.59
SUBTOTAL	135	\$106,373.66	\$12,791.52	\$92,586.18	\$105,377.70	(\$995.96)	\$104,381.74
SCAN Health Plan							
611	281	\$69,853.79	\$14,865.64	\$54,988.15	\$69,853.79	(\$496.18)	\$69,357.61
613	100	\$48,918.00	\$10,223.86	\$39,183.32	\$49,407.18	\$0.00	\$49,407.18
SUBTOTAL	381	\$118,771.79	\$25,089.50	\$94,171.47	\$119,260.97	(\$496.18)	\$118,764.79

Medical and Dental Vision Insurance Premiums June 2024

Carrier Codes	Member Count	Premium Amount	Member Amount	County Subsidy Amount	Total	Adjustments	Total Paid
SCAN Health Plan, AZ							
620	7	\$1,740.13	\$452.43	\$1,287.70	\$1,740.13	\$0.00	\$1,740.13
SUBTOTAL	7	\$1,740.13	\$452.43	\$1,287.70	\$1,740.13	\$0.00	\$1,740.13
SCAN Health Plan, NV							
622	12	\$2,983.08	\$397.74	\$2,833.93	\$3,231.67	\$0.00	\$3,231.67
623	2	\$978.36	\$0.00	\$978.36	\$978.36	\$0.00	\$978.36
SUBTOTAL	14	\$3,961.44	\$397.74	\$3,812.29	\$4,210.03	\$0.00	\$4,210.03
UHC Medicare Adv.							
701	2,101	\$682,507.41	\$77,516.28	\$606,284.37	\$683,800.65	(\$1,293.24)	\$682,507.41
702	393	\$685,511.24	\$37,940.61	\$615,331.24	\$653,271.85	\$1,696.81	\$654,968.66
703	1,354	\$870,439.06	\$83,635.75	\$788,080.55	\$871,716.30	\$0.00	\$871,716.30
704	109	\$210,742.78	\$10,479.13	\$213,797.59	\$224,276.72	\$0.00	\$224,276.72
705	49	\$42,886.27	\$2,135.59	\$40,750.68	\$42,886.27	\$0.00	\$42,886.27
706	2	\$789.74	\$47.38	\$742.36	\$789.74	\$0.00	\$789.74
SUBTOTAL	4,008	\$2,492,876.50	\$211,754.74	\$2,264,986.79	\$2,476,741.53	\$403.57	\$2,477,145.10
United Healthcare							
707	577	\$810,940.50	\$67,868.87	\$735,739.33	\$803,608.20	(\$1,381.50)	\$802,226.70
708	485	\$1,246,406.46	\$62,214.53	\$1,156,437.94	\$1,218,652.47	\$0.00	\$1,218,652.47
709	408	\$1,238,526.54	\$83,131.07	\$1,158,387.08	\$1,241,518.15	\$0.00	\$1,241,518.15
SUBTOTAL	1,470	\$3,295,873.50	\$213,214.47	\$3,050,564.35	\$3,263,778.82	(\$1,381.50)	\$3,262,397.32

Medical and Dental Vision Insurance Premiums June 2024

Carrier Codes	Member Count	Premium Amount	Member Amount	County Subsidy Amount	Total	Adjustments	Total Paid
Local 1014 Firefighters							
801	82	\$109,445.40	\$3,790.57	\$102,985.43	\$106,776.00	\$0.00	\$106,776.00
802	349	\$839,889.44	\$28,397.39	\$811,492.05	\$839,889.44	\$0.00	\$839,889.44
803	402	\$1,141,185.54	\$32,305.13	\$1,130,966.06	\$1,163,271.19	\$8,516.31	\$1,171,787.50
804	197	\$262,935.90	\$8,141.66	\$254,794.24	\$262,935.90	(\$43,674.50)	\$219,261.40
805	230	\$553,508.80	\$16,854.70	\$534,247.54	\$551,102.24	(\$45,142.50)	\$505,959.74
806	716	\$1,723,096.96	\$36,242.75	\$1,686,854.21	\$1,723,096.96	(\$281,655.96)	\$1,441,441.00
807	57	\$161,809.89	\$3,917.49	\$157,892.40	\$161,809.89	(\$10,936.20)	\$150,873.69
808	21	\$59,614.17	\$227.10	\$59,387.07	\$59,614.17	(\$8,455.40)	\$51,158.77
809	16	\$21,355.20	\$2,242.30	\$19,112.90	\$21,355.20	\$0.00	\$21,355.20
810	9	\$21,659.04	\$2,839.73	\$18,819.31	\$21,659.04	\$0.00	\$21,659.04
811	3	\$8,516.31	\$2,043.92	\$6,472.39	\$8,516.31	\$0.00	\$8,516.31
812	252	\$336,344.40	\$21,275.13	\$324,465.57	\$345,740.70	(\$50,921.50)	\$294,819.20
813	1	\$2,406.56	\$0.00	\$2,406.56	\$2,406.56	(\$174.70)	\$2,231.86
SUBTOTAL	2,335	\$5,241,767.61	\$158,277.87	\$5,109,895.73	\$5,268,173.60	(\$432,444.45)	\$4,835,729.15
Kaiser - Washington							
393	5	\$8,202.05	\$1,328.95	\$6,873.10	\$8,202.05	\$0.00	\$8,202.05
394	21	\$9,397.92	\$1,691.62	\$7,706.30	\$9,397.92	\$0.00	\$9,397.92
395	4	\$12,225.48	\$1,735.05	\$7,434.06	\$9,169.11	\$0.00	\$9,169.11
397	3	\$5,590.44	\$670.85	\$4,919.59	\$5,590.44	\$0.00	\$5,590.44
398	8	\$7,096.32	\$958.00	\$6,138.32	\$7,096.32	\$0.00	\$7,096.32
SUBTOTAL	41	\$42,512.21	\$6,384.47	\$33,071.37	\$39,455.84	\$0.00	\$39,455.84
Medical Plan Total	56,312	\$58,587,016.04	\$3,771,656.96	\$54,645,598.59	\$58,417,255.55	(\$500,812.94)	\$57,916,442.61

Medical and Dental Vision Insurance Premiums June 2024

Carrier Codes	Member Count	Premium Amount	Member Amount	County Subsidy Amount	Total	Adjustments	Total Paid
Dental/Vision Plan							
CIGNA Indemnity Dental/Vision							
501	26,559	\$1,399,391.52	\$142,605.98	\$1,267,953.70	\$1,410,559.68	(\$3,476.88)	\$1,407,082.80
502	24,572	\$2,700,337.71	\$203,748.93	\$2,520,188.06	\$2,723,936.99	(\$2,166.20)	\$2,721,770.79
503	8	\$518.56	\$33.71	\$484.85	\$518.56	(\$64.82)	\$453.74
SUBTOTAL	51,139	\$4,100,247.79	\$346,388.62	\$3,788,626.61	\$4,135,015.23	(\$5,707.90)	\$4,129,307.33
CIGNA Dental HMO/Vision							
901	4,184	\$195,104.88	\$20,824.48	\$175,953.21	\$196,777.69	(\$511.72)	\$196,265.97
902	3,138	\$300,322.56	\$21,735.55	\$280,589.60	\$302,325.15	(\$92.28)	\$302,232.87
903	3	\$141.33	\$37.69	\$103.64	\$141.33	\$0.00	\$141.33
SUBTOTAL	7,325	\$495,568.77	\$42,597.72	\$456,646.45	\$499,244.17	(\$604.00)	\$498,640.17
Dental/Vision Plan Total	58,464	\$4,595,816.56	\$388,986.34	\$4,245,273.06	\$4,634,259.40	(\$6,311.90)	\$4,627,947.50
GRAND TOTALS	114,776	\$63,182,832.60	\$4,160,643.30	\$58,890,871.65	\$63,051,514.95	(\$507,124.84)	\$62,544,390.11

CARRIER DEDUCTION PREMIUMS*	CODES	DEDUCTION CODE DEFINITIONS
<u>Anthem Blue Cross Prudent Buyer Plan</u>		
\$630.26	201	Retiree Only
\$1,239.88	202	Retiree and Spouse/Domestic Partner
\$1,399.26	203	Retiree, Spouse/Domestic Partner and Children
\$810.01	204	Retiree and Children
\$172.06	205	Survivor Children Only Rates
<u>Anthem Blue Cross Plan I</u>		
\$904.25	211	Retiree Only
\$1,630.31	212	Retiree and Spouse/Domestic Partner
\$1,923.10	213	Retiree, Spouse/Domestic Partner and Children
\$1,196.44	214	Retiree and Children
\$299.58	215	Survivor Children Only Rates
<u>Anthem Blue Cross Plan II</u>		
\$904.25	221	Retiree Only
\$1,630.31	222	Retiree and Spouse/Domestic Partner
\$1,923.10	223	Retiree, Spouse/Domestic Partner and Children
\$1,196.44	224	Retiree and Children
\$299.58	225	Survivor Children Only Rates
<u>Anthem Blue Cross Plan III</u>		
\$365.20	240	Retiree Only with Medicare
\$1,167.61	241	Retiree and Spouse/Domestic Partner - One with Medicare (Non-Medicare has Anthem Blue Cross I)
\$1,167.61	242	Retiree and Spouse/Domestic Partner - One with Medicare (Non-Medicare has Anthem Blue Cross II)
\$726.87	243	Retiree and Spouse/Domestic Partner - Both with Medicare
\$653.93	244	Retiree and Children (Retiree has Medicare; Children have Anthem Blue Cross I)
\$653.93	245	Retiree and Children (Retiree has Medicare; Children have Anthem Blue Cross II)
\$1,456.25	246	Retiree, Spouse/Domestic Partner and Children - One with Medicare (Non-Medicare has Anthem Blue Cross I)
\$1,456.25	247	Retiree, Spouse/Domestic Partner and Children - One with Medicare (Non-Medicare has Anthem Blue Cross II)
\$1,015.45	248	Retiree, Spouse/Domestic Partner and Children - Two with Medicare (Children have Anthem Blue Cross I)
\$1,015.45	249	Retiree, Spouse/Domestic Partner and Children - Two with Medicare (Children have Anthem Blue Cross II)
\$1,138.02	250	Member, Spouse/Domestic Partner, Child (3 with Medicare)

*Benchmark premiums are bolded.

CARRIER DEDUCTION PREMIUMS*	CODES	DEDUCTION CODE DEFINITIONS
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CIGNA Network Model Plan

\$1,143.49	301	Retiree Only
\$2,064.71	302	Retiree and Spouse/Domestic Partner
\$2,438.35	303	Retiree, Spouse/Domestic Partner and Children
\$1,517.57	304	Retiree and Children
\$378.87	305	Survivor Children Only Rates

CIGNA Medicare Select Plus Rx (Available in the Phoenix, AZ area only)

\$328.00	321	Retiree Only with Medicare
\$1,249.22	322	Retiree and Spouse/Domestic Partner/Domestic Partner - One with Medicare
\$651.00	324	Retiree and Spouse/Domestic Partner -Both with Medicare
\$702.09	325	Retiree and Children
\$1,622.87	327	Retiree, Spouse/Domestic Partner and Children - One with Medicare
\$1,025.09	329	Retiree, Spouse/Domestic Partner and Children - Two with Medicare

Kaiser

\$774.10	401	Retiree Only ("Basic")
N/A	402	Retiree Only ("Supplement")
\$235.64	403	Retiree Only ("Senior Advantage")
\$894.95	404	Retiree Only ("Excess I")
\$795.39	405	Retiree Only - ("Excess II")
\$1,408.39	406	Retiree Only ("Excess III")
\$1,543.20	411	Retiree and Family (All family members are "Basic")
N/A	412	Retiree and Family (One family member is "Supplement"; others are "Basic")
\$1,004.74	413	Retiree and Family (One family member is "Senior Advantage"; others are "Basic")
\$1,664.05	414	Retiree and Family (One family member is "Excess I"; others are "Basic")
N/A	415	Retiree and Family (Two or more family members are "Supplement")
N/A	416	Retiree and Family (One family member is "Senior Advantage"; others are "Supplement")
N/A	417	Retiree and Family (One family member is "Excess I"; others are "Supplement")
\$466.28	418	Retiree and Family (Two or more family members are "Senior Advantage")
\$1,125.59	419	Retiree and Family (One family member is "Excess I"; others are "Senior Advantage")
\$1,784.90	420	Retiree and Family (Two or more family members are "Excess I")
N/A	421	Survivor Children Only Rates
\$1,564.49	422	Retiree and Family (One family member is "Excess II"; others are "Basic")
\$2,177.49	423	Retiree and Family (One family member is "Excess III"; others are "Basic")

*Benchmark premiums are bolded.

CARRIER DEDUCTION PREMIUMS*	CODES	DEDUCTION CODE DEFINITIONS
<u>Kaiser (continued)</u>		
N/A	424	Retiree and Family (One family member is "Supplement"; others are "Excess II")
N/A	425	Retiree and Family (One family member is "Supplement"; others are "Excess III")
\$1,026.03	426	Retiree and Family (One family member is "Senior Advantage"; others are "Excess II")
\$1,639.03	427	Retiree and Family (One family member is "Senior Advantage"; others are "Excess III")
\$1,685.34	428	Retiree and Family (One family member is "Excess I"; others are "Excess II")
\$2,298.34	429	Retiree and Family One family member is "Excess I"; others are "Excess III")
\$1,585.78	430	Retiree and Family (Two or more family members are "Excess II")
\$2,198.78	431	Retiree and Family (One family member is "Excess II"; others are "Excess III")
\$2,811.78	432	Retiree and Family (Two or more family members are "Excess III")
<u>Kaiser Colorado</u>		
\$793.06	450	Retiree Only ("Basic" under age 65)
\$327.27	451	Retiree Only ("Senior Advantage")
\$1,754.57	453	Retiree and Family (Two family members are "Basic")
\$2,369.25	454	Retiree and Family (Three or more family members are "Basic")
\$1,115.33	455	Retiree and Family (One family member is "Senior Advantage"; one family member is "Basic")
\$649.55	457	Retiree and Family (Two family members are "Senior Advantage")
\$1,857.56	458	Retiree and Family (One family member is "Senior Advantage"; two or more are "Basic")
\$1,437.60	459	Retiree and Family (Two family members are "Senior Advantage"; one or more are "Basic")
<u>Kaiser Georgia</u>		
\$847.24	440	Retiree Only ("Basic" over age 65 with Medicare Part B only)
\$847.24	441	Retiree Only ("Basic over age 65 with Medicare Part A only)
\$847.24	442	Retiree Only ("Basic over age 65 without Medicare Part A or Medicare Part B)
\$361.11	443	Retiree Only ("Basic" over age 65 - Medicare eligible who is classified as having renal failure)
\$1,203.35	444	Retiree and Family (One family member is "Senior Advantage"; one family member is "Basic" over age 65 with Medicare Part B only)
\$1,203.35	445	Retiree and Family (One family member is "Senior Advantage"; one family member is "Basic" over age 65 with Medicare Part A only)
\$1,203.35	446	Retiree and Family (One family member is "Senior Advantage"; one family member is "Basic" over age 65 without Medicare Part A and B)
\$847.24	461	Retiree Only ("Basic" under age 65)
\$361.11	462	Retiree Only ("Senior Advantage")

*Benchmark premiums are bolded.

CARRIER DEDUCTION PREMIUMS*	CODES	DEDUCTION CODE DEFINITIONS
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Kaiser Georgia (continued)

\$1,689.48	463	Retiree and Family (Two family members are "Basic")
\$2,531.72	464	Retiree and Family (Three or more family members are "Basic")
\$1,203.35	465	Retiree and Family (One family member is "Senior Advantage"; one is "Basic")
\$717.22	466	Retiree and Family (Two family members are "Senior Advantage")
\$2,045.59	467	Retiree and Family (One family member is "Senior Advantage"; two or more are "Basic")
\$1,559.46	468	Retiree and Family (Two family members are "Senior Advantage"; one is "Basic")
\$1,915.57	469	Retiree and Family (Three or more family members are "Senior Advantage"; one is "Basic")
\$2,045.59	470	Retiree and Family (Three or more family members are "Basic"; one is "Senior Advantage")

Kaiser Hawaii

\$795.16	471	Retiree Only ("Basic" under age 65)
\$346.45	472	Retiree Only ("Senior Advantage")
\$1,381.42	473	Retiree Only (Over age 65 without Medicare Part A or Medicare Part B)
\$1,585.31	474	Retiree and Family (Two family members are "Basic")
\$2,375.47	475	Retiree and Family (Three or more family members are "Basic")
\$1,136.61	476	Retiree and Family (One family member is "Senior Advantage"; one is "Basic")
\$2,171.58	477	Retiree and Family (One family member is "Basic" under age 65; one is over age 65 without Medicare Part A or Medicare Part B)
\$687.90	478	Retiree and Family (Two family members are "Senior Advantage")
\$1,722.87	479	Retiree and Family (One family member is "Senior Advantage"; one is over age 65 without Medicare Part A or Medicare Part B)

Kaiser Oregon

\$806.67	481	Retiree Only ("Basic" under age 65)
\$465.92	482	Retiree Only ("Senior Advantage")
\$1,205.27	483	Retiree Only (Over age 65 without Medicare Part A or Medicare Part B)
\$1,608.34	484	Retiree and Family (Two family members are "Basic")
\$2,410.01	485	Retiree and Family (Three or more family members are "Basic")
\$1,267.59	486	Retiree and Family (One family member is "Senior Advantage"; one is "Basic")
N/A	487	Retiree Only (Medicare Cost "Supplement" program)
\$926.84	488	Retiree and Family (Two family members are "Senior Advantage")
\$1,110.84	489	Retiree Only (Over age 65 with Medicare Part A only)
\$1,205.27	490	Retiree Only (Over age 65 with Medicare Part B only)

*Benchmark premiums are bolded.

PREMIUMS*	CARRIER DEDUCTION CODES	DEDUCTION CODE DEFINITIONS
<u>Kaiser Oregon (continued)</u>		
\$1,571.76	491	Retiree and Family (One family member is "Senior Advantage"; one is over age 65 with Medicare Par A only)
\$1,666.19	492	Retiree and Family (One family member is "Senior Advantage"; one is over age 65 without Medicare Part A or Medicare Part B)
\$2,069.26	493	Retiree and Family (One family member is "Senior Advantage"; two or more are "Basic")
\$1,728.51	494	Retiree and Family (Two family members are "Senior Advantage"; one is "Basic")
\$2,405.54	495	Retiree and Family (Two family members are over age 65 without Medicare Part A or Medicare Part B)
\$2,216.68	496	Retiree and Family (Two family members are over age 65 with Medicare Part A only)
\$2,216.68	497	Retiree and Family (One family member is "Basic"; one is over age 65 with Medicare Part A only)
\$2,006.94	498	Retiree and Family (One family member is "Basic"; one is over age 65 without Medicare Part A or Medicare Part B)

Kaiser Rate Category Definitions

"Basic" - includes those who are under age 65

Medicare Cost ("Supplement")

- Includes people who have both Part A and Part B of Medicare, who were enrolled in Kaiser's Medicare supplement ("M" coverage) before July 1, 1987, and who chose to stay in that Kaiser arrangement.
- It is not open to new enrollments.
- People who have left it cannot return to it.

"Senior Advantage"

- Includes participants who are age 65 or older and who have assigned both Medicare Part A and Part B to Kaiser.

"Excess I"

- Is for participants who have Medicare Part A only.

"Excess II"

- Is for participants in the Excess Plan who either have Medicare Part B only or are not eligible for Medicare.

"Excess III"

- Is for participants in the Excess Plan who either have Medicare Parts A and B and have not assigned their Medicare benefits to Kaiser or have not provided their Medicare status to LACERA. Premium is above the Anthem Blue Cross I and II Benchmark rate and II Benchmark.

PREMIUMS*	CARRIER DEDUCTION CODES	DEDUCTION CODE DEFINITIONS
<u>SCAN Health Plan</u>		
\$304.00	611	Retiree Only with SCAN
\$603.00	613	Retiree and 1 Dependent - Both with SCAN (Retiree and 1 Dependent = Retiree and Spouse/Domestic Partner OR Retiree and 1 Child. Both Retiree and Dependent must have Medicare.)
<u>United Healthcare Medicare Advantage (UHCMA)</u>		
(For both members and dependents who are enrolled in UHCMA, or a family combination of UHCMA/UHC)		
\$293.62	701	Retiree Only with Secure Horizons
\$1,203.81	702	Retiree and 1 Dependent - One with Secure Horizons (Retiree and 1 Dependent = Retiree and Spouse/Domestic Partner OR Retiree and 1 Child)
\$582.24	703	Retiree and 1 Dependent - Both with Secure Horizons (Retiree and 1 Dependent = Retiree and Spouse/Domestic Partner OR Retiree and 1 Child)
\$1,360.59	704	Retiree and 2 or More Dependents - One with Secure Horizons (Retiree and 2 or More Dependents = Retiree, Spouse/Domestic Partner and 1 or More Children OR Retiree and 2 or More Children)
\$739.02	705	Retiree and 2 or More Dependents - Two with Secure Horizons (Retiree and 2 or More Dependents = Retiree, Spouse/Domestic Partner and 1 or More Children OR Retiree and 2 or More Children)
\$261.24	706	Survivor Children Only Rates
<u>United Healthcare (UHC)</u>		
(For members and dependents under age 65 [no Medicare])		
\$915.18	707	Retiree Only
\$1,671.68	708	Retiree and 1 Dependent
\$1,982.16	709	Retiree and 2 Or More Dependents
<u>Local 1014 Firefighters</u>		
\$914.03	801	Member Under 65
\$1,648.06	802	Member + 1 Under 65
\$1,944.04	803	Member + 2 Under 65
\$914.03	804	Member with Medicare
\$1,648.06	805	Member + 1; 1 Medicare
\$1,648.06	806	Member + 1; 2 Medicare
\$1,944.04	807	Member + 2; 1 Medicare
\$1,944.04	808	Member + 2; 2 Medicare

*Benchmark premiums are bolded.

PREMIUMS*	CARRIER DEDUCTION CODES	DEDUCTION CODE DEFINITIONS
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Local 1014 Firefighters (continued)

\$914.03	809	Surviving Spouse Under 65
\$1,648.06	810	Surviving Spouse + 1; Under 65
\$1,944.04	811	Surviving Spouse + 2 Under 65
\$914.03	812	Surviving Spouse with Medicare
\$1,648.06	813	Surviving Spouse + 1; 1 Medicare
\$1,944.04	814	Spouse + 1; 1 Medicare
\$1,648.06	815	Surviving Spouse + 1; 2 Medicare

CIGNA Indemnity - Dental/Vision

\$46.55	501	Retiree Only
\$99.61	502	Retiree and Dependent(s)
\$57.81	503	Survivor Children Only Rates

CIGNA HMO - Dental/Vision

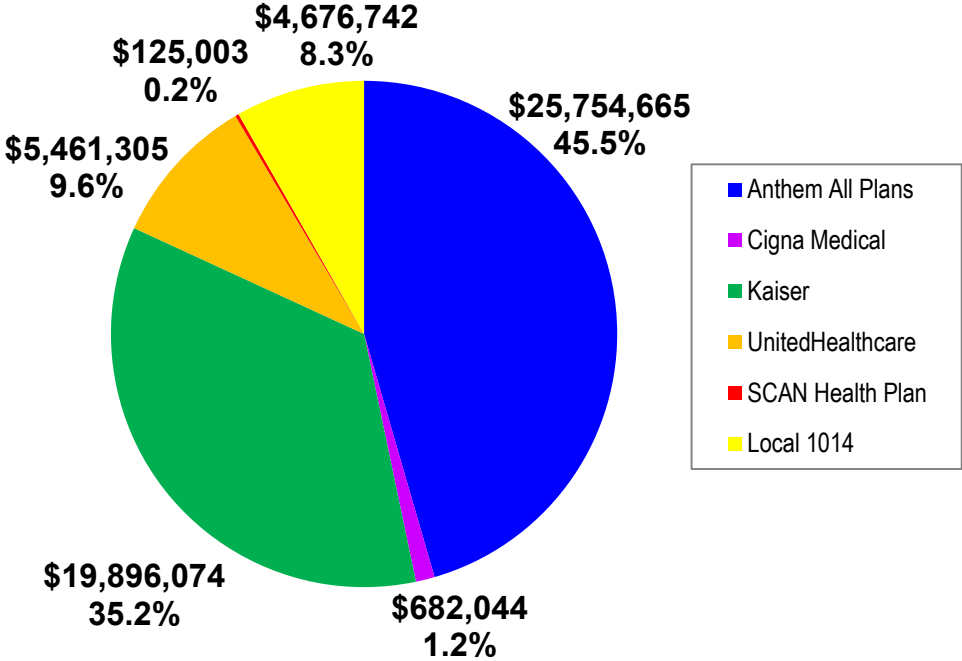
\$39.02	901	Retiree Only
\$81.07	902	Retiree and Dependent(s)
\$39.56	903	Survivor Children Only Rates

Los Angeles County Employees Retirement Association
Premium & Enrollment
Coverage Month Ending April 2024

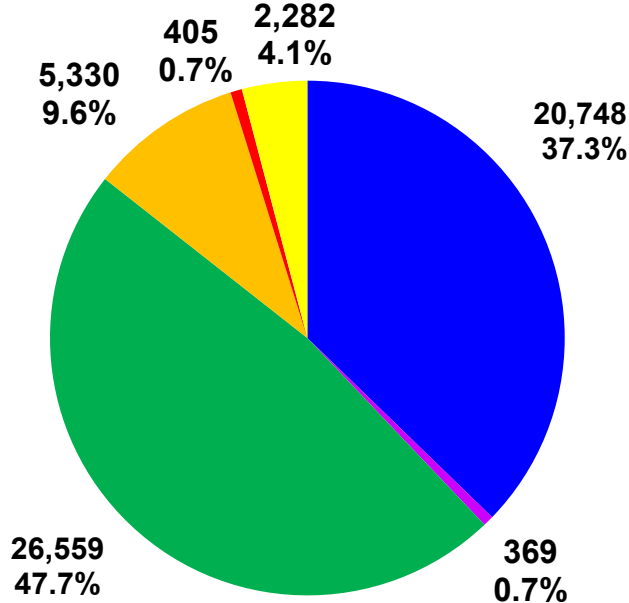
Carrier / Plan	Monthly Premium	Percent of Total	Retirees	Percent of Total
Anthem All Plans	\$25,754,665	45.5%	20,748	37.2%
Cigna Medical	\$682,044	1.2%	369	0.7%
Kaiser	\$19,896,074	35.2%	26,559	47.7%
UnitedHealthcare	\$5,461,305	9.6%	5,330	9.6%
SCAN Health Plan	\$125,003	0.2%	405	0.7%
Local 1014	\$4,676,742	8.3%	2,282	4.1%
Combined Medical	\$56,595,832	100.0%	55,693	100.0%

Cigna Dental & Vision (PPO and HMO)	\$4,531,476	57,791
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Monthly Premium

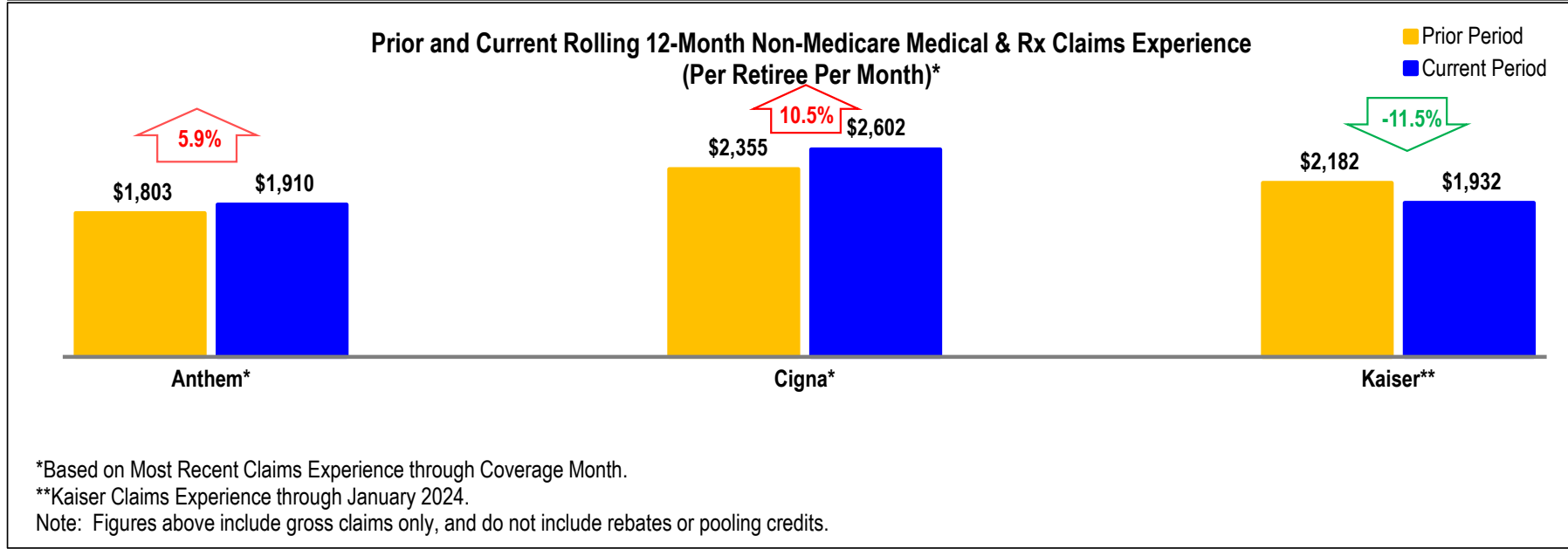
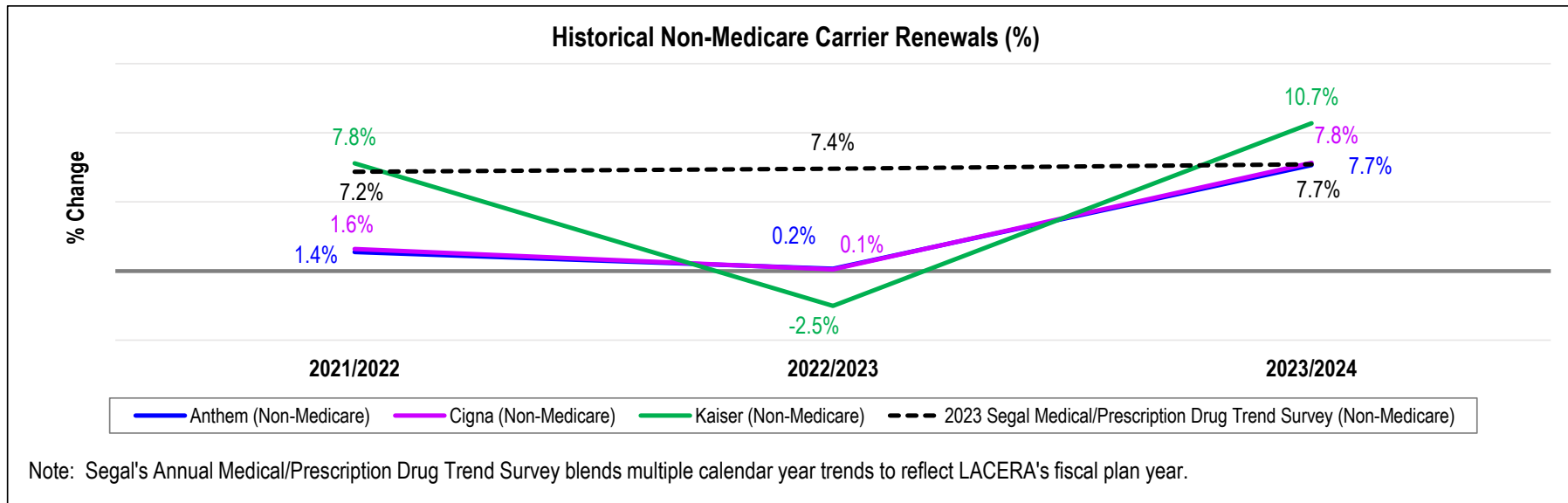


Retirees

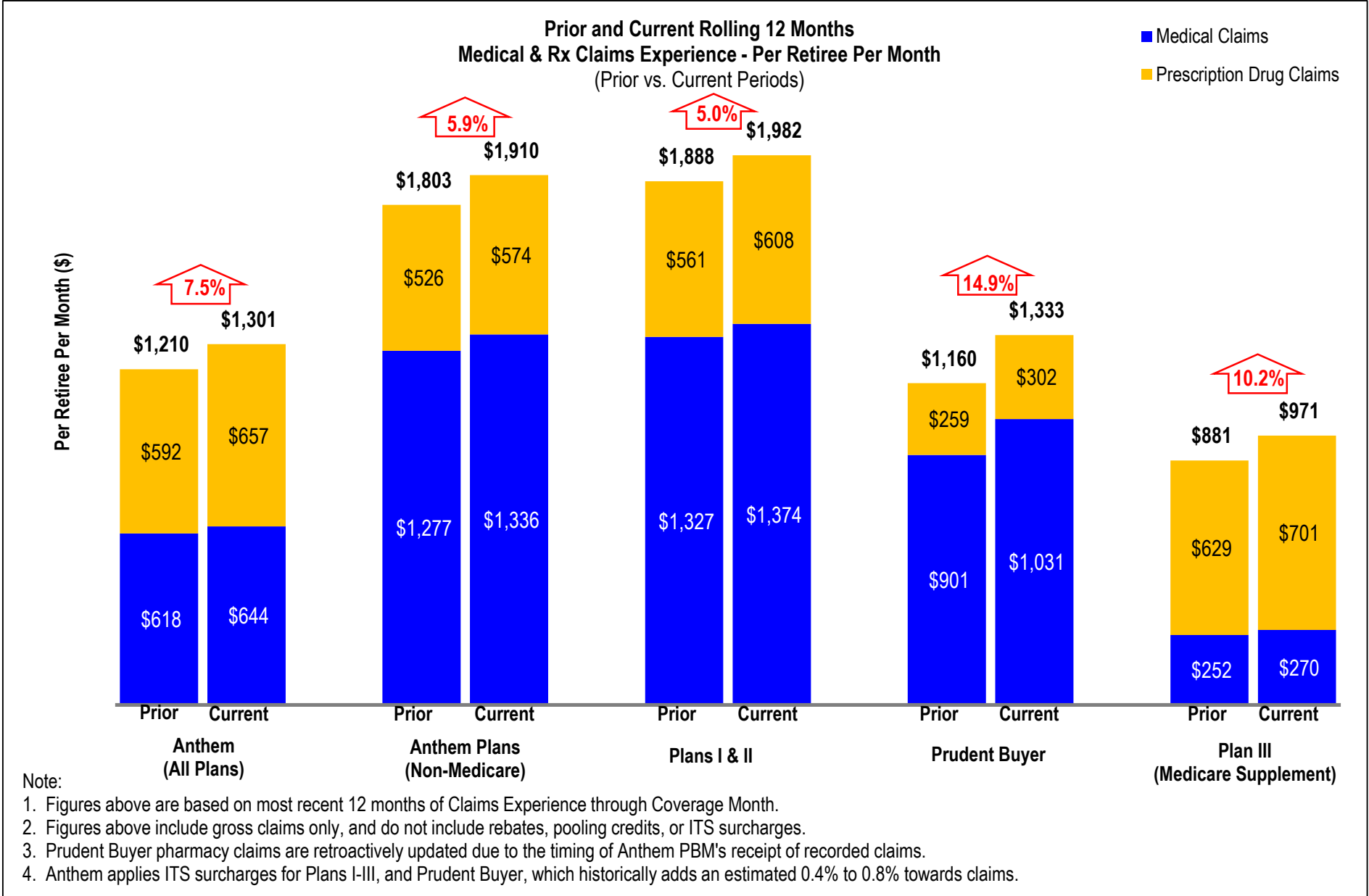


Note: Premiums include LACERA's Administrative Fee of \$8.00 per member, per plan, per month.

Los Angeles County Employees Retirement Association
Claims Experience by Carrier
Coverage Month Ending April 2024



Los Angeles County Employees Retirement Association
Anthem Claims Experience By Plan
Coverage Month Ending April 2024



Los Angeles County Employees Retirement Association

Kaiser Utilization

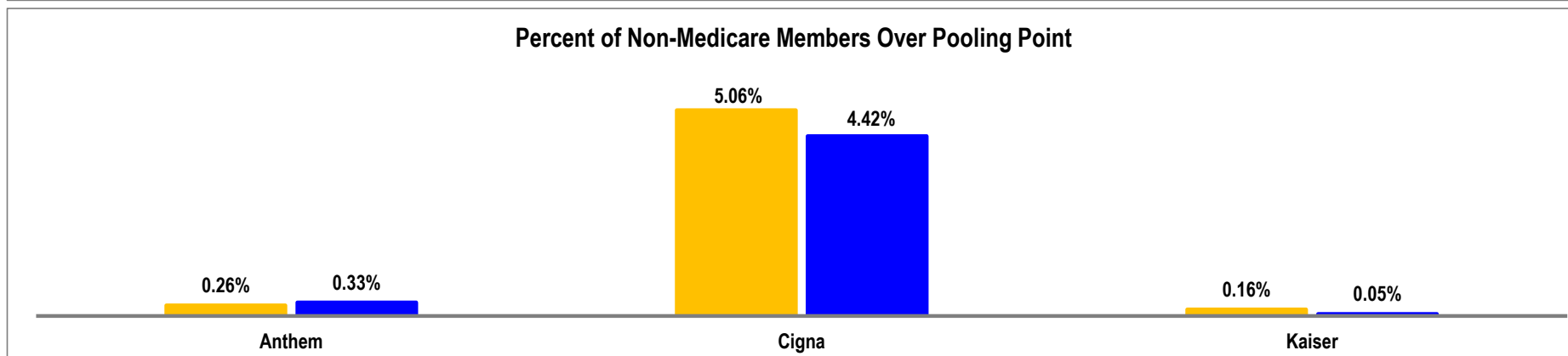
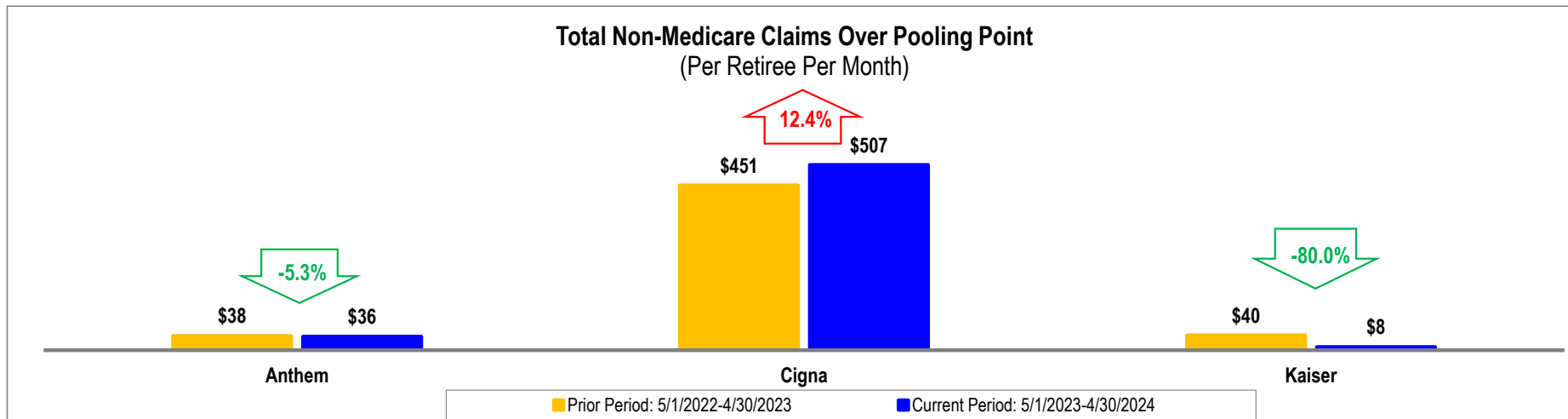
Coverage Month Ending April 2024

- Kaiser insures approximately 26,000 LACERA retirees with the majority enrolled in Medicare Advantage plans.
- Kaiser's Periodic Utilization Report (PUR) monitors utilization patterns of LACERA's non-Medicare population in Southern California.

Category	Current Period 2/1/2023 - 1/31/2024	Prior Period 2/1/2022 - 1/31/2023	Change
Average Contract Size	2.35	2.36	-0.42%
Average Members	8,884	8,968	-0.94%
Inpatient Claims Per Member Per Month	\$183.60	\$305.22	-39.85%
Outpatient Claims Per Member Per Month	\$371.59	\$354.09	4.94%
Pharmacy Per Member Per Month	\$137.92	\$127.57	8.11%
Other Per Member Per Month	\$134.12	\$141.50	-5.22%
Total Claims Per Member Per Month	\$827.23	\$928.38	-10.90%
Total Paid Claims	\$88,184,686	\$99,912,252	-11.74%
Large Claims over \$550,000 Pooling Point ¹			
Number of Claims over Pooling Point	2	6	
Amount over Pooling Point	\$348,703	\$1,844,627	-81.10%
% of Total Paid Claims	0.40%	1.85%	
Inpatient Days / 1000	354.5	473.7	-25.16%
Inpatient Admits / 1000	51.1	58.7	-12.95%
Outpatient Visits / 1000	14,306.4	14,607.6	-2.06%
Pharmacy Scripts Per Member Per Year	10.7	10.4	2.88%

¹ The pooling threshold is \$525,000 for the plan year beginning 7/1/2023 through 6/30/2024 .

Los Angeles County Employees Retirement Association
 High Cost Claimants (Anthem, Cigna, & Kaiser)
 Coverage Month Ending April 2024



Stop-Loss & Pooling Points Overview:

Plan sponsors mitigate the financial risk associated with individual large claimants through reinsurance. Claims exceeding the specified individual pooling threshold are deducted from the carrier's renewal calculation. The pooling credit is offset by the carrier's pooling expense, which is applied to all policyholders.

Anthem and Cigna figures are based on the most recent Claims Experience through Coverage Month. Kaiser's figures are based on Claims Experience period between February through January.

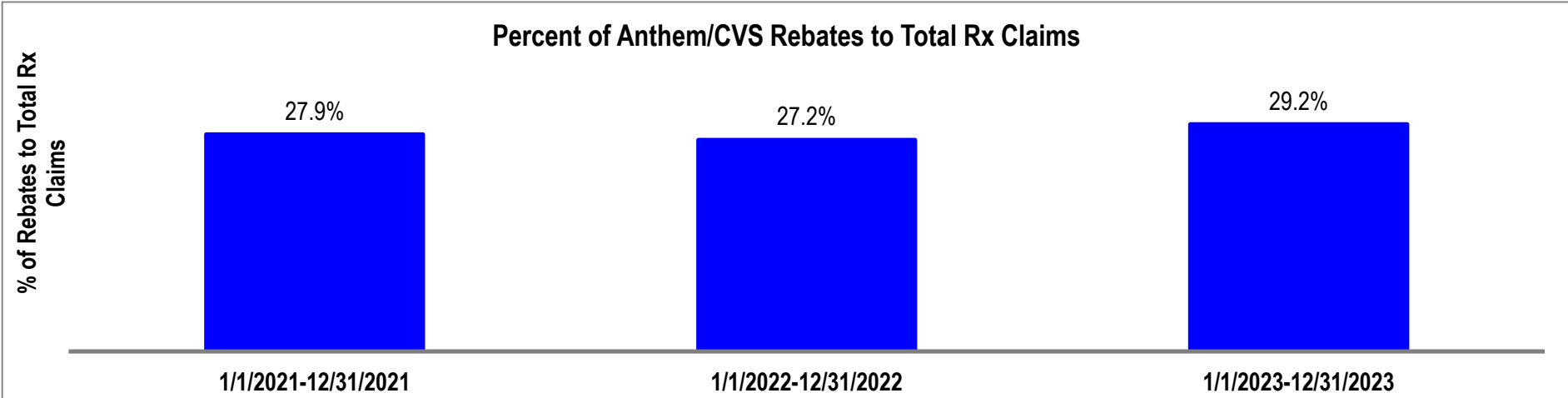
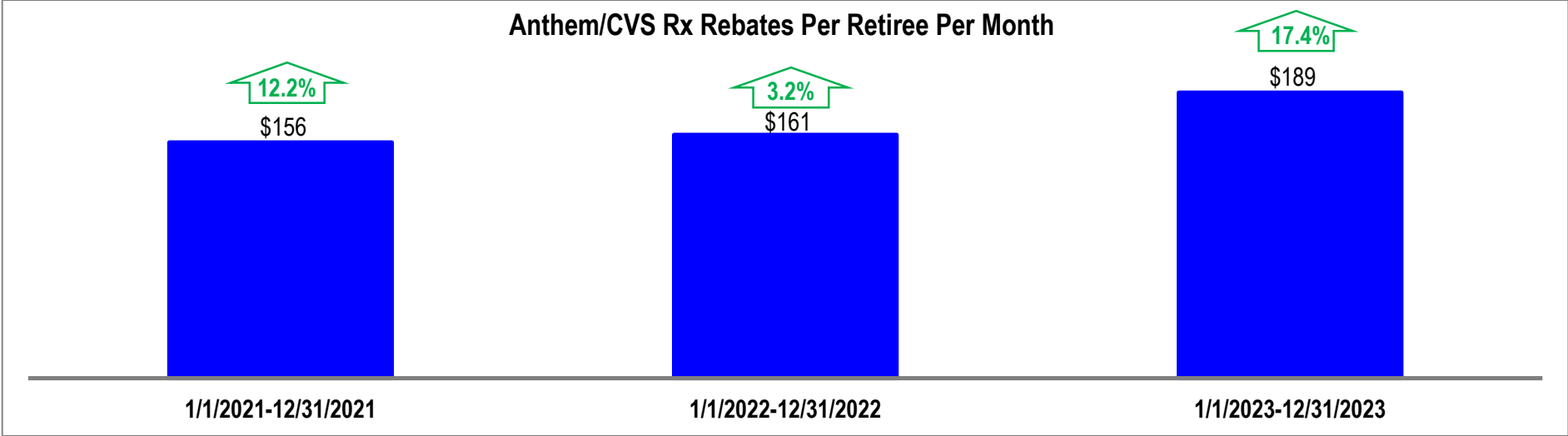
Pooling Points by Carrier:

1. Anthem's pooling points are \$350,000 for Plans I & II, and \$300,000 for Prudent Buyer.
2. Cigna's pooling point is \$100,000.
3. Kaiser's pooling point is \$550,000.

Los Angeles County Employees Retirement Association

Prescription Drug Rebates (Anthem)

Coverage Month Ending April 2024



Rebates Overview:

Pharmacy Benefit Managers negotiate volume-based rebates with drug manufacturers of brand medications. Manufacturer rebates are passed on to plan sponsors and are used to offset pharmaceutical claims expenses.

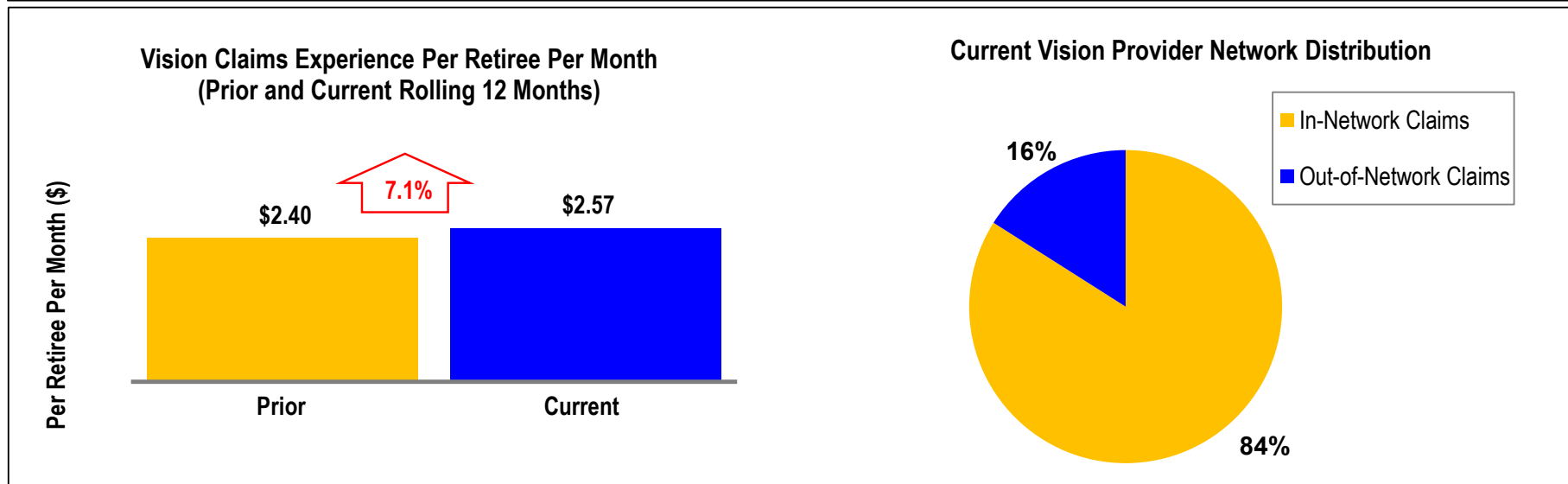
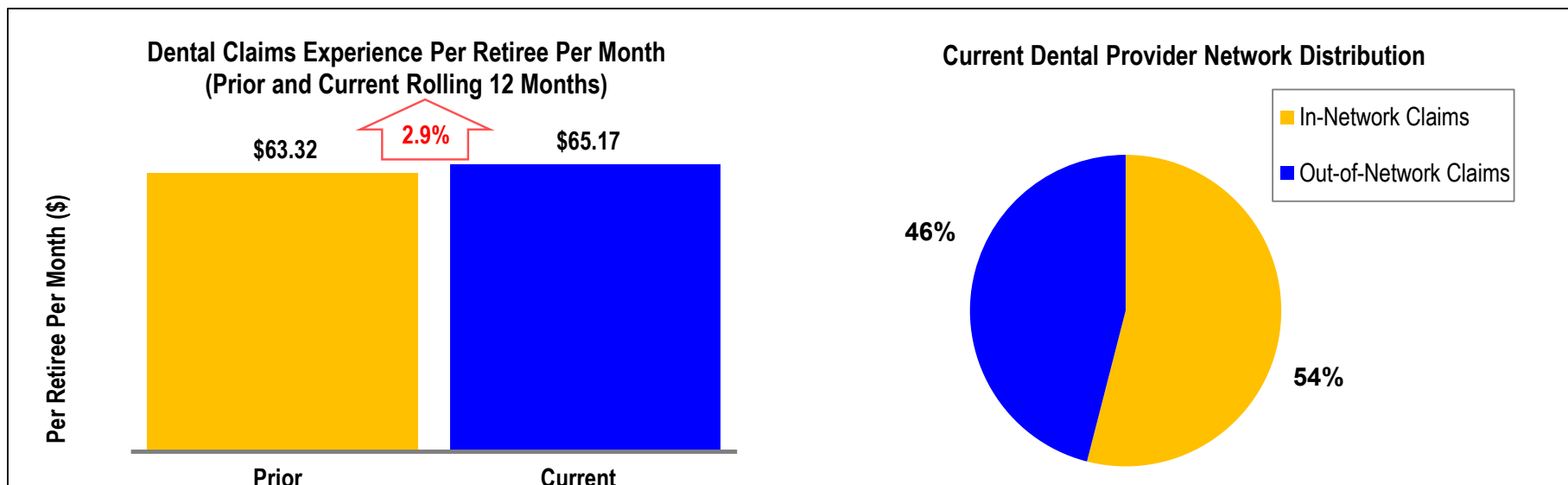
Note:

- 1. Prescription Claims and Rebates Data were provided by CVS.
- 2. Anthem Prudent Buyer prescription drugs are provided by CarelonRx and are not included in the charts above.

Los Angeles County Employees Retirement Association

Cigna Dental & Vision Claims Experience

Coverage Month Ending April 2024



Notes:

1. Figures above are based on most recent 12 months of Claims Experience through Coverage Month.
2. Dental Claims Experience reflects passive use of Cigna's PPO Dental Network.

Guidance Clarifies RDS and Creditable Coverage Calculation

The Inflation Reduction Act made significant changes to the Medicare Part D prescription drug benefit, most of which will take effect in 2025 and will have implications for sponsors of retiree health plans, including standalone Medicare prescription drug plans, Medicare Advantage plans with prescription drug coverage and Employer Group Waiver Plans (EGWPs). The Centers for Medicare & Medicaid Services (CMS) has issued final guidance on how those changes will work.



This insight summarizes key aspects of the guidance that differ from the draft guidance CMS issued earlier this year. We also discuss the implications for retiree health plans.

What's changing in 2025?

In 2025, the annual out-of-pocket amount payable by retirees who have Part D coverage will be reduced to \$2,000. The coverage gap phase of the benefit will be eliminated, reducing the number of phases from four to three: the deductible phase, the initial coverage phase and the catastrophic phase.

Sponsors of EGWPs will be able to design benefits as they feel is appropriate for their group within the deductible and initial coverage phases but must maintain the same catastrophic phase as commercial Part D plans.

The Inflation Reduction Act also repealed the existing coverage gap discount program and established a new manufacturer discount program. Under the new discount program, participating manufacturers are required to provide discounts on certain drugs (e.g., brand drugs, biologics and biosimilars) both in the initial coverage phase and in the catastrophic coverage phase of the Part D benefit. Certain discounts will be given during a multi-year phase-in period.

Additionally, the Inflation Reduction Act changed the amount that Medicare beneficiaries, plan sponsors, manufacturers and the federal government pay throughout the benefit. Payments in the catastrophic phase by the federal government to Part D plans (federal reinsurance) will decrease, with plans picking up a larger share of the costs during the period after which an individual has met their out-of-pocket costs.

Further affecting plan sponsor and beneficiary costs, the Medicare Prescription Payment Plan will begin in 2025. Under this new program, Part D sponsors must give enrollees the option to pay out-of-pocket costs monthly. Finally, the Inflation Reduction Act expanded income eligibility for benefits under the Medicare Part D Low-Income Subsidy Program.

For more information about the Inflation Reduction Act changes to Medicare Part D, refer to our [chart summarizing them](#). For information on prior guidance, see our [February 20, 2024 insight](#) and our [March 19, 2024 webinar](#).

The final guidance

Plans that receive money from the federal government under the Retiree Drug Subsidy (RDS) program are required to annually attest that the actuarial value of prescription drug coverage under the plan is at least equal to the actuarial value of the standard Part D benefit. The [final guidance](#), which was published on April 1, 2024, clarifies that when determining actuarial value for the attestation plan sponsors may:

- Include federal reinsurance when calculating actuarial value
- Exclude manufacturer discounts when calculating actuarial value

The final guidance also clarifies that the “simplified determination methodology” can still be used for a 2025 creditable coverage determination.

Determining actuarial value

The final guidance confirms that actuarial value of the standard Part D benefit and a plan sponsor’s plan is based on the plan paid amount, which does include the federal reinsurance subsidy in the catastrophic phase. (CMS notes that draft guidance incorrectly stated the federal reinsurance subsidy in the catastrophic phase is not included.)

The final guidance also states that the determination of actuarial value does **not** take into account the value of discounts paid by manufacturers under the discount program.

While the guidance clarifies how the RDS actuarial determination is made, current plans should make sure to test their plan as soon as possible, because the changes in the Part D benefit mean that some plans who are currently eligible for the RDS may not pass the test for 2025.

The simplified determination methodology

In the final guidance, CMS clarifies that plans that cover active employees may continue to use the “simplified determination methodology” for determining creditable coverage for 2025. (The draft guidance suggested that methodology would no longer be available.) CMS noted in its guidance that it realized that changing the methodology for creditable coverage determination at this late date for the 2025 plan year could cause substantial disruption for both plan sponsors and participants.

Future guidance will indicate whether the creditable coverage simplified determination methodology can be used for 2026.

Implications for plan sponsors

The final guidance provides some relief for plan sponsors with active plans and helpful clarification for those who take advantage of the RDS program. Plan sponsors that offer retiree health benefits will need to take a close look at that coverage this year to ensure that it reflects new changes coming in 2025.

Plans that test for creditable coverage for active employees will be able to continue to use the current testing methodology for 2025, which means it is less likely that plans would be found to not be creditable coverage. Consequently, it is unlikely that participants could be forced to enroll in Medicare to avoid paying a late enrollment penalty.

Plan sponsors that offer an EGWP program will have several challenges for 2025, including monitoring Part D reimbursements and premium changes. Plan sponsors should begin working with their actuarial advisors on these changes. In addition, plan sponsors that offer an EGWP program should work with their PBMs, legal counsel and plan experts to ensure compliant implementation of the Medicare Prescription Payment Plan by January 1, 2025. This includes timely dissemination of communication materials notifying individuals of their rights.

Plan sponsors that participate in the RDS program must provide a benefit is equal to or better than the standard Part D benefit, which is improving under the Inflation Reduction Act. Plan sponsors in danger of losing the RDS may wish to either increase benefits or consider switching to an EGWP. They should work with their actuaries to understand the impact of the new law on their retiree health plan.

Plan sponsors also may wish to consider whether a Medicare Advantage program might be the right solution for their retirees.