

ISSUE 13  
FALL 2012

# FUNDamentals

## Reform Topics in This Issue:

— Current Members  
— New Members  
— Retired Members

Working After Retirement.....	3
Retroactive Benefit Enhancements.....	3
Service Purchases.....	3
Pay Types Included in Final Average Compensation .....	4
Contribution Rates .....	5
Felony Convictions.....	5
Cap on Pensionable Compensation .....	6
3-Year Final Average Compensation Period .....	6
New Benefit Formulas .....	6

## Pension Reform Act Signed Into Law

The California Public Employees' Pension Reform Act of 2013 was signed into law in September, changing public employee retirement plans starting January 1, 2013.

Many of the changes in the law apply only to "new members" who first enter MCERA membership or re-enter membership without reciprocity on or after January 1, 2013 (see page 2 for the complete definition of "new member" as well as more information on reciprocity). However, there are provisions that apply to current members and retirees. This issue of *FUNDamentals* summarizes the impact of what we understand to be the most important provisions for current and future members and beneficiaries.

We encourage current members to read all sections of this newsletter, including the provisions that apply only to new members. For example, if you leave MCERA-covered employment, withdraw your MCERA contributions and do not redeposit them with interest upon returning to an MCERA plan sponsor, you would be considered a new member upon your return.

Please understand that we are among the many retirement systems that are continuing to analyze the Act and refine our understanding of its implications. Some provisions of the Act may be the subject of additional "clean-up" legislation before the end of this year. Additional legislation may result in changing some of the information in this newsletter, but we expect that most of the Act will remain as currently written.

Color coded tags indicate which member groups the provisions apply to within each topic: **green** for current members, **orange** for new members, and **red** for retired members.

Please contact our office if you have questions about how the Reform Act may affect you. California Assembly Bills (AB) 340 and 197 contain the complete revisions to the law. Both bills are available on our website, [www.mcera.org](http://www.mcera.org).

We developed this newsletter to communicate what we understand to be the most important implications of the Public Employees' Pension Reform Act.

Every effort has been made to describe the new law accurately; however, the information may be updated as we continue to analyze the legislation.

If there is any discrepancy between what is contained in this newsletter and the law, the law shall govern.



# Retirement Board Members

**Bernadette Bolger**

Chair  
Appointed by Board of Supervisors

**Greg Brenk**

Vice Chair  
Appointed by Board of Supervisors

**Chris Cooper**

Elected by Safety Members

**Roy Given**

Ex-Officio Member  
County of Marin Director of Finance

**Maya Gladstern**

Elected by General Members

**Howard McFarland**

Elected by General Members

**Alan Piombo**

Alternate  
Elected by Safety Members

**Gerald Richardson**

Appointed by Board of Supervisors

**Michael Smith**

Elected by Retiree Members

**Kim Stevens**

Appointed by Board of Supervisors

**Sean Webb**

Alternate  
Elected by Retiree Members

## Executive Staff

**Jeff Wickman**

Retirement Administrator

**Michelle Hardesty**

Assistant Retirement Administrator

## Editorial Staff

**Sydney Fowler**

Communications Associate

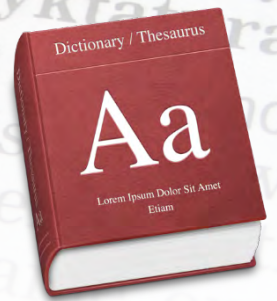
FUNDamentals is published quarterly for members of the Marin County Employees' Retirement Association (MCERA). It is written and designed by MCERA's Communications Associate unless noted otherwise.

Member comments and suggestions should be directed to:

Email: [sfowler@marincounty.org](mailto:sfowler@marincounty.org)  
Phone: (415) 473-6147

# FUNDamentals Defined

*Key terms you'll see in this issue*



## New Member

In terms of the Reform Act, a **new member** of a retirement system is defined as an employee who first becomes a member of a public retirement system subject to the Act on or after January 1, 2013 and who was not a member of any public retirement system in California prior to that date, or who was a member but either is ineligible for reciprocity or returned to a different employer in the same retirement system after more than six months of inactive membership. Any person who is a new member, as defined, of a retirement system on or after January 1, 2013, including elected and appointed employees, may only be offered the new pension benefit plan specified in AB 340. The benefit formulas for new General and Safety members are described on page 6.

Members who terminate employment, leave their contributions on deposit with MCERA and subsequently return to MCERA-covered employment with the same employer, or members who redeposit their previously withdrawn contributions and return to the same employer, are not considered new members in terms of the Reform Act. However, if a member returns more than six months later to a *different* MCERA plan sponsor from the one they last worked for, they will be considered a new member under AB 340 for the new period of employment.

## Impasse

A bargaining **impasse** occurs when the two sides negotiating an agreement are unable to reach an agreement and become deadlocked. State law establishes the rules under which impasse may be declared and the consequences of reaching impasse.

## Reciprocity

**Reciprocity** may be established between California public employee retirement systems when a member terminates employment from one system, leaves their contributions on deposit, and within 180 days enters membership with another reciprocal retirement system. You cannot transfer any contributions between your current and previous employer, but you may be able to link your previous service to your current service and obtain additional benefits.

If you terminate your MCERA-covered employment and enter into another public employer's retirement plan with reciprocity, or vice versa, you will not be considered a "new member" for the purposes of the AB 340 and will enter into the tier that was in place for your employment position as of December 31, 2012.

## Normal Cost

**Normal cost** is the annual percentage of total payroll that must be contributed to fund the promised benefit attributable to the current year of service. MCERA's actuary calculates the normal cost separately for each unique tier. Normal cost does not include the unfunded actuarial accrued liability.

## Unfunded Actuarial Accrued Liability (UAAL)

**UAAL** is the amount of the actuarial accrued liability that exceeds the actuarial value of assets. The UAAL can derive from experience losses (such as differences between actuarial assumptions and actual experience), and changes to the level of benefits promised.



# Working After Retirement

## Impacts:

Current

New

Retired

AB 340 states that any person receiving a pension from a public retirement system who returns to work for a public employer under the same retirement system will cease receiving his or her retirement benefit and will be reinstated into active membership, with the exceptions described below. The changes to the law apply to anyone receiving a pension from MCERA who returns to work for an MCERA employer for the first time on or after January 1, 2013, including current retired members, and members who will retire on or after that date.

Retired members who return to work before January 1, 2013 are not required to take a 180-day break as described below and can continue working until they reach the maximum 960 hours for the fiscal year.

### 180-Day Break in Service

To be able to continue receiving a monthly retirement allowance, General members must have a 180-day break in service following retirement before returning to work for an employer within the same retirement system. A General member can return to work before the end of 180 days only if their appointment is necessary to prevent work stoppage in an emergency and approved by the employer's governing body, such as the County Board of Supervisors, in a public meeting (not on the consent calendar).

Safety employees are generally exempt from the 180-day separation requirement.

Any employee, General or Safety, who accepts a golden handshake or other incentives to retire must have a 180-day break, in order to receive their retirement allowance while working, regardless of their membership classification.

### 960 Hour Limit

Retirees may continue to receive their retirement allowance if their work is limited to 960 total hours of work in one or more appointed positions for all employers within a retirement system during a fiscal year (July 1 to June 30). Work beyond 960 hours will result in the suspension of your monthly benefit. This is the same as current law.

### Unemployment Insurance

If a retiree obtains unemployment insurance benefits for the loss of a job as a retired annuitant, they may not be employed in any public employment capacity for a period of 12 months after the unemployment benefits cease. Employers must require retirees to certify in writing that they did not receive unemployment insurance benefits during the preceding 12 months due to the loss of a job as a retired annuitant.

### Normal Retirement Age

Anyone who retires younger than normal retirement age (59 for General, 50 for Safety) is required to take a minimum break in service of 90-days before returning to work as a retiree, even to prevent stoppage of work in an emergency.

## Retroactive Benefit Enhancements

### Impacts:

Current

New

AB 340 prohibits an employer from adopting any benefit enhancement on or after January 1, 2013 that applies retroactively to service already rendered.

Cost of living adjustments provided within statutory guidelines are not considered a retirement benefit enhancement subject to this provision.

## Service Purchases

### Impacts:

Current

New

Under existing law, some public retirement systems may offer members the opportunity to purchase up to 5 years of additional service credit, commonly called "air time." The Reform Act prohibits a retirement system from accepting applications for the purchase of air time service credit on or after January 1, 2013.

MCERA's plan sponsors have not adopted the provision of the 1937 Act that allows members to make air time purchases, so this should not result in a change for our retirement system

# Pay Types Included in Final Average Compensation

## Impacts:

Current

New

### Changes Specific to Current Members

#### Compensation Earnable

The term used in the 1937 Act to describe the various pay types that may be included in final average compensation is “compensation earnable”. AB 197 applies to all 1937 Act systems and clarifies what is excluded from compensation earnable for current members. Current members shouldn’t notice significant changes because MCERA already excludes from final average compensation the pay types that the bill requires to be excluded. However, the bill states that the Retirement Board “may” exclude the following pay types for current members in the future:

- Compensation previously paid by the employer in kind or directly to a third party, even if converted to cash (like a flexible benefit payment).
- Any one-time or ad hoc payments made to a member but not to all similarly situated members of the member’s grade or class.
- Payments that are solely due to the termination of a member’s employment, but are received by the member while employed, except for unused leave that does not exceed what you could earn and be paid for in a 12-month period.

AB 197 also states that compensation earnable does not include, in any case, any compensation determined by the Retirement Board to have been paid to increase a member’s retirement benefit under that system.

### Changes Specific to New Members

#### Pensionable Compensation

AB 340 uses “pensionable compensation” to describe the types of pay that may be included in final average compensation for new members. Pensionable compensation is defined in AB 340 as a member’s “base pay”, defined as the “normal monthly rate of pay paid in cash to similarly situated members in the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.” It does not include any compensation determined by the Retirement Board to be paid solely to enhance a member’s retirement benefit.

The Retirement Board continues to analyze the new definition of “pensionable compensation.”

In December, the Board will adopt a list of items that are included in, and excluded from, compensation earnable for current members and pensionable compensation for new members under AB 340.

Payments that will not be considered pensionable compensation for new members as of January 1, 2013 include, but are not limited to:

- Employer provided allowances like housing, auto or uniform.
- Any payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, regardless of when it was reported or paid to you.
- Separation payments paid in connection with termination from employment.
- Payment for services rendered outside of normal working hours, including compensation for overtime, other than FLSA for employees in fire protection activities or law enforcement.
- Employer contributions to deferred compensation or defined contribution plans, such as a 457(b) plan.
- One time or ad hoc payments.
- Bonuses paid in addition to base pay.
- In kind benefits being converted to cash payments during the member’s final average compensation period.
- Any other compensation the Retirement Board determines should not be pensionable compensation.

This new definition of pensionable compensation eliminates from retirement benefit calculations some of the items of compensation that were previously required to be included in compensation earnable under the California Supreme Court’s “Ventura” decision for current members, such as allowances and in-service leave cashouts.

# Contribution Rates

## Impacts:

Current

New

### Changes Specific to Current Members

#### 50/50 Cost Sharing by 2018

AB 340 states that, beginning January 1, 2018, the Board of Supervisors (or the governing body of a district) may require that existing members pay at least 50% of the contributions required to fund the normal cost of their benefits (see page 2 for the definition of normal cost). Before a county or a district can implement this change, they must complete the good faith bargaining process as required by law, including any impasse procedures requiring mediation and fact finding. Impasse can only be used to implement this provision on or after January 1, 2018 (see page 2 for the definition of impasse).

### Changes Specific to New Members

#### 50/50 Cost Sharing

AB 340 states that equal sharing of normal costs between public employers and public employees shall be the standard, which means that new retirement system members will pay at least 50% of the normal cost and that employers will not pay any part of the required employee contributions (commonly called “pick-up,” “subvention” or “offset”). Employees can agree through collective bargaining to pay more than 50% of the normal cost, but an employer cannot impose a contribution rate higher than 50% of the normal cost in the absence of a mutually agreed upon memorandum of understanding (MOU).

#### MOU Savings Clause

If new employees enter into retirement system membership under an existing MOU (or other contract) with a cost sharing allocation that would be impaired by the provision for 50/50 normal cost sharing without employer pick-up, AB 340 allows the impaired provision(s) of the MOU to remain in effect until the MOU expires. However, any renewal, amendment, or other extension of the contract will be subject to the requirements of 50/50 cost sharing and those new retirement system members must pay at least 50% of the normal cost without any employer pick-up.

### Changes That Could Apply to Both Current and New Members

#### Additional Cost Sharing

Another provision of AB 340 states that the employer’s governing body may require that members pay all or part of the contributions of the member or employer, or both. This provision allows a county or district to negotiate with employees to pay part of the employer contribution,

which could include a portion of the unfunded actuarial accrued liability (see page 2 for the definition of UAAL). All contributions paid by the employee will continue to be designated as “employee contributions,” and available for withdrawal upon termination of retirement system membership.

#### Limitations

The additional cost sharing provision cannot be put into place through impasse and must be approved in an MOU. Contribution payments negotiated under this provision also must be uniform with respect to all members of a bargaining unit, or uniform within various classifications, such as all General members. This means that each bargaining unit can negotiate separate cost sharing agreements within the limitations of the law.

# Felony Convictions

## Impacts:

Current

New

Existing law requires public officials in California who were first elected on or after January 1, 2006 to forfeit their public retirement benefits if convicted of a felony involving giving or accepting a bribe, the embezzlement or theft of public money, perjury, or conspiracy to commit any of these crimes, directly arising out of his or her official duties as an elected public officer.

AB 340 expands the existing felony forfeiture law to all public employees, including all elected and appointed public officials. The new law requires individuals to forfeit their pension and related benefits if they are convicted of a felony in carrying out official duties, in seeking an elected office or appointment, or in connection with obtaining salary or pension benefits. An individual convicted of such a felony would forfeit all of the retirement benefits earned from the earliest date of the commission of the felony. Any employee contributions paid after that date would be returned to them without interest.

# Cap on Pensionable Compensation

Impacts: New

For new members as defined in AB 340, there will be a cap on earnings included in pensionable compensation. For those who participate in Social Security, the cap is 100% of the Social Security wage index limit, which is currently \$110,100. For members who are excluded from Social Security, the cap is 120% of the Social Security limit, which is currently \$132,120. The dollar amount of the cap is adjusted each year on January 1 to reflect changes in the Urban Consumer Price Index.

During active employment of such new members, MCERA contributions will only be taken on compensation up to the cap. When calculating retirement allowances for new members, MCERA will only use their pensionable compensation up to the applicable cap.

# 3-Year Final Average Compensation Period

Impacts: New

When calculating a member’s pension benefit, all new members will have a 3-year final compensation period, meaning the average of the highest consecutive 3 years of pensionable compensation.

# New Benefit Formulas

Impacts: New

AB 340 creates a reduced tier of benefits for new members. Benefit formulas for current members do not change. The new formulas are standard for all new members across retirement systems and trump other provisions of the 1937 Act that conflict with them.

## New General Members

Formula:	2% at 62 (1% at 52 minimum, 2.5% at 67 maximum)
Minimum Retirement Age:	52
Minimum Years of Service:	5

General members can no longer retire younger than age 52 regardless of their years of service.

## New Safety Members

Formula:	2.7% at 57 (2% at 50 minimum)
Minimum Retirement Age:	50
Minimum Years of Service:	5

An employer and its employees may agree through a memorandum of understanding (MOU) to place new Safety members hired after the date of the MOU in a lower tier of benefits, but a downgrade in benefits cannot be imposed through impasse procedures. The other Safety benefit formulas specified in AB 340 that may be negotiated are 2% at age 57 and 2.5% at age 57.

Safety members can no longer retire younger than age 50 regardless of their years of service.

# Mark Your Calendar...

## Office Closures:

November 12	Veterans Day
November 22	Thanksgiving
November 23	Thanksgiving
December 24	Christmas Eve (half day)
December 25	Christmas Day
December 31	New Year’s Eve (half day)
January 1	New Year’s Day

## Retirement Board Meetings:

November 7	Retirement Board
November 8	Investment Committee
December 12	Retirement Board
December 18	Retirement Board (Special)
January 9	Retirement Board
January 10	Investment Committee

## Retiree Pay Dates:

November 30	January 31
December 31	February 28





# Board Meeting Highlights

## Key Actions from July through October 2012

### Election and Appointment of Trustees

Former Marin County Treasurer Michael Smith won the election for the Retired Member seat on the Retirement Board and Sean Webb was appointed to continue serving as the Alternate Retired Member. The new term of office for Mr. Smith and Mr. Webb began November 1, 2012 and will continue through October 31, 2015.

The terms of the 2nd General Member and the 7th Safety and 7th Safety Alternate Members will expire October 31, 2013. Elections for these three seats on the Retirement Board will be held in July 2013. The terms of the 4th Member and 6th Member, who are both appointed by the Board of Supervisors, also end October 31, 2013.

### Policies Revised/Adopted

The following policies were revised or adopted this quarter:

- Timing of Employer Payment of Required Contributions to MCERA Policy
- Trustee Education Policy

### Selection of Auditor for Actuarial Studies

In June, MCERA issued a request for proposal for actuarial audit services. In August, the Retirement Board selected Milliman to perform an actuarial audit of the triennial experience study and annual actuarial valuation for the period ending June 30, 2012. The audit seeks to validate methods, assumptions and results of MCERA's consulting actuary. Milliman will present its findings and recommendations in a final report to the Retirement Board at a future meeting.

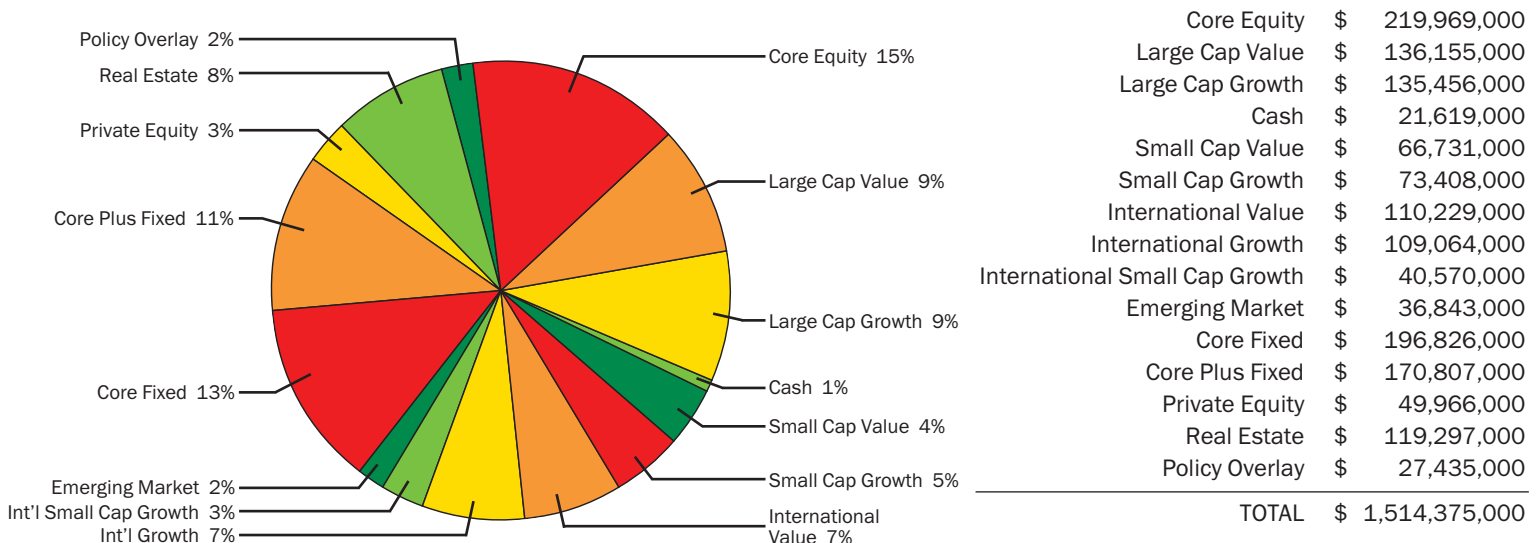
### Audited Financial Statements Accepted

In October, the Board reviewed and accepted the auditor's report of financial condition. The audited financial statements for the fiscal year ending June 30, 2012 received an unqualified (clean) opinion.

### Semi-Annual Strategic Workshop

The Board convened for a two-day strategic workshop in October. Trustees reviewed the Public Employees' Pension Reform Act, the economic and capital markets over the last ten years, projections of market returns, and factors that may affect the global economy in the coming decade.

## Portfolio Pie as of June 30, 2012





Marin County Employees' Retirement Association  
One McInnis Parkway, Suite 100  
San Rafael, CA 94903-2764

Presorted  
Standard  
U.S. Postage  
**PAID**  
StrahmCom

## Participating Employers:

City of San Rafael  
County of Marin  
LAFCO  
Marin City Community  
Services District  
Marin/Sonoma Mosquito  
Abatement District  
Marin Superior Court  
Novato Fire  
Protection District  
Southern Marin Fire  
Protection District  
Tamalpais Community  
Services District

# FUNDamentals

## **in this issue:** California Pension Reform

The law changes January 1, 2013.  
Learn how the statewide legislation  
impacts MCERA members.

## **MCERA Office Hours:**

Monday—Friday  
8am—5pm

## **Contact Us:**

Call: (415) 473-6147  
Fax: (415) 473-3612  
Web: [www.mcera.org](http://www.mcera.org)

### **Important Disclaimer**

This newsletter was drafted by MCERA staff in order to help members understand issues surrounding many aspects of their retirement benefits. Every effort has been made to ensure the accuracy of the information offered. However, you should not rely solely on the information contained herein. In the event of any discrepancy between the information contained in this newsletter and State and Federal law, the State and Federal law will govern. MCERA staff is unable to address specific legal or tax-related questions. If you have legal or tax-related questions about your retirement, please consult competent legal or IRS counsel.