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## LEGAL UPDATE

August 26, 2020

**To:** Superintendents/Presidents/Chancellors, Member Community  
College Districts

**From:** Steven P. Reiner, Associate General Counsel 

**Subject:** California Supreme Court Ruling on Pension Reform  
Memo No. 27-2020(CC)

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The California Supreme Court unanimously upheld a pension reform law that prevented certain county employees from artificially increasing their final year of wages to obtain higher pension payments, also known as “pension spiking.” In reaching its decision, the court stated that reforms which reduced pension benefits in one form while not providing an equal increase in another did not violate employees’ constitutional right because the intent of the law was for a “permissive purpose,” which was to close loopholes that allowed for abusive practices.

*In Alameda County Deputy Sheriffs’ Association et al. v. Alameda County Employees’ Retirement Association et al.*<sup>1</sup> (*Alameda*) at issue was the application of the Californian Public Employees’ Pension Reform Act of 2013 (PEPRA), which substantially revised laws governing county pension plans. The nearly 100 page court opinion gave an in depth review of past cases concerning pension benefits.

Ultimately, the court addressed two main questions. The first question was whether employees had contractual or equitable rights to the benefits contained in settlement agreements or promises previously agreed to by county pension boards that allowed for compensation formulas that later conflicted with the law after the enactment of PEPRA. The court held that settlement agreements or promises that conflicted with PEPRA were void.

The second question was whether PEPRA’s amendments to county pensions violated the rights of county employees under the Contract Clause of the California Constitution by modifying the calculation of pension benefits. The court upheld and clarified use of a two-part test called the “California Rule” in

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<sup>1</sup> (2020) \_\_ P.3d.\_\_ (WL 4360051) (S247095)



determining violations of Contract Clause protections to a public employee's right to ongoing benefits with the same or more favorable terms during the course of their employment as when they first began employment. Under the California Rule, the court first determines if the amendments reduce benefits of affected employees relative to the preexisting plan and, if so, whether there are comparable increases in benefits to offset the reductions. Second, if there are decreases in benefits with no comparable increases, the court then determines if the legislative intent was constitutionally sufficient to justify an impairment of pension benefits.

In *Alameda*, the court first found there were decreases to benefits with no comparable increases and, second, the legislative intent was justified "by closing loopholes and proscribing potentially abusive practices." Thus, the court found the changes were permissible under the Contract Clause.

Significant in the court's ruling was clarification to the California Rule that when a change in the law results in reductions to pension benefits, new comparable advantages are not *always* required if the change is sufficiently limited and for a "permissible purpose."

The court did, however, limit what constitutes a "permissible purpose," stating that political reasons such as taxpayer objections and rising pension costs are insufficient to pass constitutional scrutiny. Further, the ruling "does not grant carte blanche to the Legislature" to decrease benefits without preserving a net level of benefits in all cases, but allows the Legislature to "close loopholes and foreclose opportunities for abuse" without having to extend the life of those loopholes with comparable advantages.

*Alameda* reaffirms the use of the California Rule analysis with respect to future changes to public retirement systems and gives a narrow path for the Legislature to lawfully eliminate pension provisions that close "loopholes" or abuses without providing alternative equalizing benefits in limited circumstances.

Please contact our office with questions regarding this Legal Update or any other legal matter.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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