

**Public Employees' Retirement System  
Board of Administration  
2023-2024 Legislative Session  
State and Federal Update  
Status as of May 25, 2023**

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**Sponsored Bills**

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**SB 885 (Committee on Labor, Public Employment and Retirement)** Amended: 4/17/2023

CalPERS Position: Co-Sponsor

**2023 Retirement Policy Omnibus Bill.** Among other provisions, authorizes the State Controller's Office to execute fund to fund transfers between the CEPPT Fund and PERF, caps the interest assessed on delinquent contracting agencies at ten percent on certain conditions, and authorizes a JRS II judge to designate a beneficiary when electing the return of remaining contributions (Option 1) post-retirement optional settlement when there is no surviving spouse.

*Action Taken: Communicated co-sponsorship to legislative committees, discussions with legislative staff*

*Location: 5/18/2023-Assembly Public Employment and Retirement Committee*

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## Active State Bills

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**AB 658 (Fong, Mike)** Amended: 4/13/2023

CalPERS Position: N/A

**Postemployment Health Benefits for the City of San Gabriel.** Authorizes the City of San Gabriel (city) to provide employer contributions for postretirement health care coverage pursuant to a collectively bargained memorandum of understanding, rather than using existing schedules in the PEMHCA. This authority would only apply to specified employees hired by the city on or after January 1, 2023. Also requires the city to provide specified information to CalPERS and notice of the agreement with any additional information necessary to implement these benefits.

*Action Taken: Engaged with author's staff and providing technical amendments*

*Location: 5/17/2023-Senate Labor, Public Employment and Retirement Committee*

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**AB 1092 (Wood)** Amended: 3/30/2023

CalPERS Position: N/A

**Consolidation of Health Care Service Plans.** Among other things, requires a health care service plan that intends to acquire or obtain control of an entity, as specified, to give notice to and secure prior approval from the Director of the Department of Managed Health Care. Authorizes the Director to disapprove a transaction or agreement if it would substantially lessen competition in the health system or among a particular category of health care providers and require the Director to provide information related to competition to the Attorney General. Revises the Director's authority to conditionally approve a transaction or agreement that is relevant to any of the parties to the transaction and prohibits the Director from waiving or delaying implementation of certain requirements under statute.

*Action Taken: Monitoring*

*Location: 5/18/2023-Assembly Floor*

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**AB 1246 (Nguyen, Stephanie)** Amended: 3/16/2023

CalPERS Position: N/A

**Postretirement Optional Settlements.** Allows a retired member, who divorces after retirement and does not retain 100% of their retirement benefit, to designate their new spouse as the beneficiary of their postdivorce retirement settlement.

*Action Taken: Engaged with sponsor and author's staff and providing technical amendments*

*Location: 5/24/2023- Senate Labor, Public Employment and Retirement Committee*

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**SB 252 (Gonzalez)** Amended: 5/18/2023

CalPERS Position: Oppose

**Divestment from Fossil Fuel Companies.** Prohibits the CalPERS and CalSTRS boards from making new investments in fossil fuel companies, as defined, and requires both systems to divest existing fossil fuel company investments on or before July 1, 2031, if consistent with its fiduciary duty. Beginning on February 1, 2025, and annually thereafter, this bill requires each board to submit a report to the Governor and Legislature regarding any fossil fuel company holdings and divestments. Also, makes other conforming changes to cross-references relating to indemnification.

*Action Taken: Communicated opposition to legislative committees and staff, engaged with broad range of stakeholders*

*Location: 5/22/2023-Senate Floor*

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**SB 300 (Seyarto)** Amended: 5/3/2023

CalPERS Position: N/A

**Public employees' retirement: fiscal impact: LAO.** Requires the Legislative Analyst's Office to provide a fiscal impact analysis on any bill that requires divestment by a public retirement system, introduced on or after January 1, 2024, that is referred to the Senate Labor, Public Employment and Retirement Committee.

*Action Taken: Monitoring*

*Location: 5/15/2023-Senate Appropriations Committee, held under submission*

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**SB 548 (Niello)** Amended: 4/24/2023

CalPERS Position: N/A

**County and Trial Court Retirement Contracts** Allows a county and a trial court located within that county to jointly voluntarily elect to separate the joint retirement contract into individual contracts. The bill prohibits the contract separation from modifying the retirement benefit levels that the employees had under the joint contract. Makes other technical, non-substantive changes.

*Action Taken: Engaged with committee staff*

*Location: 5/23/2023-Senate Floor*

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**SB 598 (Skinner)** Amended: 4/17/2023

CalPERS Position: N/A

**Prior Authorization.** Among other things, prohibits a health care service plan or health insurer, on or after January 1, 2025, from requiring a contracted health professional to obtain prior authorization for any covered health care service if the plan or insurer would have approved not less than 90 percent of their prior authorization requests that they submitted in the most recent one year-contracted timeframe. Also requires a health care service plan or health insurer 1) to provide an electronic prior authorization process that a health professional agrees to use to be considered eligible for the prior authorization exemption and 2) to have a process to annually monitor prior authorization approval, modification, appeal, and denial rates and discontinue prior authorization on services, items, supplies, and drugs for those that had 95 percent approval.

*Action Taken: Monitoring*

*Location: 5/24/2023-Assembly Desk*

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**SB 729 (Menjivar)** Amended: 5/18/2023

CalPERS Position: N/A

**Health Care Coverage: Infertility and Fertility Treatment.** Among other things, requires a health care service plan contract or health insurance policy that is issued, amended, or renewed on or after January 1, 2024, to provide coverage for the diagnosis and treatment of infertility and fertility services. Revises the definition of infertility and removes the exclusion of in vitro from coverage. Prohibits a health care service plan or health insurer from placing different conditions or coverage limitations on fertility medications or services, or the diagnosis and treatment of infertility and fertility services, than would apply to other conditions, as specified.

*Action Taken: Monitoring*

*Location: 5/24/2023-Assembly Desk*

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**SB 839 (Bradford)** Amended: 5/10/2023

CalPERS Position: N/A

**Obesity Treatment Parity Act.** Requires a health care service plan or health insurer policy issued, amended, renewed on or after January 1, 2025, to include comprehensive coverage for the treatment of obesity in the same manner as other illnesses, conditions, or disorders for purposes of copayment and coinsurance factors.

*Action Taken: Monitoring*

*Location: 5/10/2023-Senate Health Committee*

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**SB 873 (Bradford)** Introduced: 2/17/2023

CalPERS Position: N/A

**Prescription Drug Cost Sharing.** Among other things, starting no later than January 1, 2025, requires an enrollee's or insured's defined cost sharing for each prescription drug to be calculated at the point of sale based on a price that is reduced by an amount equal to 90 percent of all rebates received or to be received in connection with the dispensing or administration of the drugs. Requires a health care service plan or health insurer to (1) provide each enrollee or insured a good faith estimate of their decrease of cost sharing at the point of sale as well as an end-of-calendar year reconciliation for any cost-sharing reductions owed that were not passed on at the point of sale and (2) calculate an enrollee's or insured's defined cost sharing and provide such information to the dispensing pharmacy.

*Action Taken: Monitoring*

*Location: 5/18/2023-Senate Floor*

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## Inactive State Bills/Two Year Bills

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**AB 739 (Lackey)** Introduced: 2/13/2023

CalPERS Position: N/A

**Suspension of Required Contributions-PEPRA.** Revises one of the three conditions for suspending required contributions to a public retirement system defined benefit plan under the Public Employees Pension Reform Act (PEPRA) by increasing the minimum funded status to 130% from 120%. Under existing law, the other two conditions necessary for suspension are: 1) a determination by the system actuary that excess earnings may result in disqualification of federal tax status, and 2) a determination by the retirement board that additional contributions conflict with its fiduciary duty.

*Location: 4/28/2023-Assembly Two Year Bill*

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**AB 874 (Weber)** Introduced: 2/14/2023

CalPERS Position: N/A

**Health Care Coverage: Out of Pocket Expenses.** Among other things, requires a health care service plan, health insurance policy issued, amended, delivered, or renewed on or after January 1, 2024, as well as other health coverage carrier, or pharmacy benefit manager that administers pharmacy benefits, to apply any amounts paid by the insured through copay assistance or other specified sources to the enrollee or insured's deductible or out of pocket maximum.

*Location: 4/28/2023-Assembly Two Year Bill*

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**AB 1091 (Wood)** Introduced: 2/15/2023

CalPERS Position: N/A

**Health Care Consolidation and Contracting Fairness Act of 2023.** Among other things, creates the Health Care Consolidation and Contracting Fairness Act that prohibits a contract issued, amended, or renewed on or after January 1, 2024, between a health care service plan or health insurer and a health care provider or health facility from containing terms that restrict the plan or insurer from steering an enrollee or insured to another provider or facility or require the plan or insurer to contract with other affiliated providers and facilities. Authorizes the appropriate regulating department to refer a plan or insurer's contract to the Attorney General (AG) or state entity charged with reviewing health care market competition to review a health care practitioner or health facility's entrance into contract containing specified terms. Medical groups, hospital or hospital systems, specified health facilities, health care service plans, health insurer, and pharmacy benefit manager would (1) be required to provide written notice to, and obtain the written consent of the Attorney General, at the same time as another state or federal agency is notified or otherwise and at least 90 days before entering an agreement or transaction that makes a specified material change with a value of \$15 million or more, (2) authorize the Attorney General to consent to, give conditional consent to, or not consent to this agreement and notify the entity of the decision within 90 days, which may be extended by one 45 day period under specified conditions, and (3) authorize the entities, within 10 calendar days of the AG's notification, to apply for reconsideration under specified circumstances. Prohibits an entity from entering into an agreement without the AG's written consent.

*Location: 4/28/2023-Assembly Two Year Bill*

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**SB 637 (Min)** Amended: 3/22/2023

CalPERS Position: N/A

**State Agency Ban on Financial Institutions the Conduct Business with Firearm and Ammunition Manufacturers.**

Prohibits a state agency from entering into a contract with, depositing state funds with, or receiving a loan from a financial institution that invests or makes loans to a company that manufactures firearms or ammunition. A state agency or the Treasurer is not required to comply if complying would impair their constitutional responsibilities or fiduciary duties.

*Location: 4/28/2023-Senate Two Year Bill*

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**SB 660 (Alvarado-Gil)** Amended: 3/21/2023

CalPERS Position: N/A

**California Public Retirement System Agency Cost and Liability Panel.** Establishes the California Public Retirement System Agency Cost and Liability Panel (Panel) to provide information on the pension costs and liability assumed by employers that participate in a public retirement system. The Panel shall have its first meeting no later than March 31, 2024 and shall meet quarterly beginning on April 1, 2024. The Panel shall submit a report of its findings and recommendations to the Legislature no later than December 31, 2024 regarding the financial impacts on participating employers when an employee transfers from one employer within one retirement system to another employer within the same retirement system and when an employee transfers to an employer within a reciprocal retirement system and concurrently retires under two or more systems.

*Location: 5/19/2023-Senate Two Year Bill*

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## Federal Bills

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**H.R. 82 Rep. Graves, Garret [R-LA-6]** Introduced: 1/9/2023

CalPERS Position: N/A

**Social Security Fairness Act of 2023.** Eliminates the windfall elimination provision, which in some instances reduces Social Security benefits for individuals who also receive a pension or disability benefit from an employer that did not withhold Social Security taxes. It also eliminates the government pension offset, which in various instances reduces Social Security benefits for spouses, widows, and widowers who also receive government pensions of their own. These changes are effective for benefits payable after December 2023.

*Action Taken: Monitoring*

*Status: 1/9/2023 - Referred to the House Committee on Ways and Means.*

*Note: S. 597 (Brown D-OH) is companion legislation that was introduced on March 1, 2023. Staff is monitoring this companion legislation.*

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**H.R. 1156 Rep. Spanberger, Abigail Davis [D-VA-7]** Introduced: 2/24/2023

CalPERS Position: N/A

**China Financial Threat Mitigation Act of 2023.** Requires the Department of the Treasury to report on the exposure of the United States to the financial sector of China. The report must include the effects the reforms to China's financial sector have on U.S. and global financial systems, a description of the policies the United States is adopting to protect U.S. interests, a description and analysis of any risks presented by China to the financial stability of the United States and the global economy, and recommendations for additional actions to strengthen international cooperation to mitigate risks and protect U.S. interests.

*Action Taken: Monitoring*

*Status: 5/22/2023 - Passed the House.*

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**H.R. 2795 Rep. Meeks, Gregory W. [D-NY-5]** Introduced: 4/24/2023

CalPERS Position: N/A

**Enhancing Multi-Class Share Disclosures Act.** Requires public companies with a multi-class stock structure to disclose, with respect to directors, executives, and owners of 5% of voting power, the number of shares they own (as a percent of all shares) and the voting power they hold (as a percent of all voting power).

*Action Taken: Monitoring*

*Status: 4/26/2023 - Passed the House Committee on Financial Services.*

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**H.R. 3561 Rep. McMorris Rodgers, Cathy [R-WA-5]** Introduced: 5/22/2023

CalPERS Position: N/A

**Promoting Access to Treatments and Increasing Extremely Needed Transparency Act of 2023 or the PATIENT Act of 2023.** Among other things, the bill codifies existing regulations that require hospitals to post their prices online and expands and standardizes health plan cost and coverage reporting to the Department of Health and Human Services (HHS). It establishes deductible and cost-sharing limits on drugs that Pharmacy Benefit Managers (PBMs) receive high rebates for and requires them to disclose negotiated prices for Part D drugs, as well as remuneration received and payments to pharmacies. In addition, it increases price transparency of clinical diagnostic laboratory tests under Medicare, establishes site-neutral payment policies in Medicare for administration of drug infusion and other hospital outpatient services performed off-campus, and requires Medicare Advantage (MA) plans to annually report to HHS details on payments, enrollee risk scores, items and services, prior authorizations and health risk assessments. It also requires disclosure of ownership interests in specified providers, and bans spread pricing for prescription drugs and related practices in Medicaid.

*Action Taken: Monitoring*

*Status: 5/24/2023 - Passed the House Committee on Energy and Commerce.*

*Note: The May 24, 2023 House Energy & Commerce markup added provisions of H.R. 3285.*

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**H.J.Res. 30 Rep. Barr, Andy [R-KY-6]** Vetoed by the President: 3/20/2023

CalPERS Position: N/A

**Congressional Review Act Resolution.** Rescinds the recently finalized Department of Labor rule "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights" which, among other things, allows ERISA plan fiduciaries to select investments and investment courses of action based on an evaluation of the economic effects of climate change and other sustainable investing factors.

*Action Taken: N/A*

*Status: 3/20/2023 - Vetoed by the President.*

*Note: From the President's veto message: "There is extensive evidence showing that environmental, social, and governance factors can have a material impact on markets, industries, and businesses.... Retirement plan fiduciaries should be able to consider any factor that maximizes financial returns for retirees across the country. That is not controversial — that is common sense."*

*House consideration of the veto message failed on March 23, 2023.*

*S.J.Res. 8 (Braun R-IN) is companion legislation that was introduced on February 7, 2023.*

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**S. 113 Sen. Grassley, Chuck [R-IA]** Introduced: 1/26/2023

CalPERS Position: N/A

**Prescription Pricing for the People Act of 2023.** Requires the Federal Trade Commission (FTC) to report about anticompetitive practices and other trends within the pharmaceutical supply chain that may impact the cost of prescription drugs. The FTC also must provide recommendations to increase transparency in the supply chain and prevent anticompetitive practices.

*Action Taken: Monitoring*

*Status: 3/1/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 19.*

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**S. 127 Sen. Cantwell, Maria [D-WA]** Introduced: 1/26/2023

CalPERS Position: N/A

**Pharmacy Benefit Manager Transparency Act.** Prohibits certain PBM practices including spread pricing, in which a PBM charges a health insurance plan more than it reimburses the pharmacy for a drug. It allows exceptions for PBMs that pass all drug discounts, known as rebates, to health plans and disclose information such as certain costs, discounts, fees and payments they receive for their services. It also grants the FTC the authority to ensure compliance with these measures.

*Action Taken: Monitoring*

*Status: 3/22/2023 - Committee on Commerce, Science, and Transportation. Ordered to be reported with an amendment in the nature of a substitute favorably.*

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**S. 142 Sen. Klobuchar, Amy [D-MN]** Introduced: 1/30/2023

CalPERS Position: N/A

**Preserve Access to Affordable Generics and Biosimilars Act.** Authorizes the FTC to initiate proceedings against drug companies that are parties to any agreement resolving or settling a patent infringement claim in connection with the sale of a drug or biological product (also known as “pay-for-delay” agreements).

*Action Taken: Monitoring*

*Status: 3/1/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 20.*

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**S. 148 Sen. Klobuchar, Amy [D-MN]** Introduced: 1/30/2023

CalPERS Position: N/A

**Stop STALLING Act.** Enables the FTC to deter filing of sham citizen petitions to cover an attempt to interfere with approval of a competing generic drug or biosimilar and facilitates the efficient review of petitions filed in good faith that raise legitimate public health concerns. It also enables the FTC to levy fines or sue manufacturers in court.

*Action Taken: Monitoring*

*Status: 3/1/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 21.*

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**S. 150 Sen. Cornyn, John [R-TX]** Introduced: 1/30/2023

CalPERS Position: N/A

**Affordable Prescriptions for Patients Act of 2023.** Empowers the FTC to curtail drug “product hopping,” a practice where brand name drug manufacturers seek to extend their market exclusivity on an expiring patented drug by developing a slightly modified version of the drug.

*Action Taken: Monitoring*

*Status: 3/1/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 22.*

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**S. 1067 Sen. Shaheen, Jeanne [D-NH]** Introduced: 3/29/2023

CalPERS Position: N/A

**Ensuring Timely Access to Generics Act of 2023.** Specifies factors the Food and Drug Administration (FDA) may use to identify and deny citizen petitions that have been submitted for the primary purpose of delaying the approval of new generic drugs and biosimilars, and requires it to establish procedures for referring such petitions to the FTC.

*Action Taken: Monitoring*

*Status: 5/11/2023 - Committee on Health, Education, Labor, and Pensions. Ordered to be reported with an amendment in the nature of a substitute favorably.*

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**S. 1114 Sen. Smith, Tina [D-MN]** Introduced: 3/30/2023

CalPERS Position: N/A

**Expanding Access to Low-Cost Generics Act of 2023.** Requires the first manufacturer that files a generic drug application with the FDA to begin commercialization of the drug, as specified, in order to receive 180-day market exclusivity.

*Action Taken: Monitoring*

*Status: 5/11/2023 - Committee on Health, Education, Labor, and Pensions. Ordered to be reported with an amendment in the nature of a substitute favorably.*

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**S. 1214 Sen. Baldwin, Tammy [D-WI]** Introduced: 4/19/2023

CalPERS Position: N/A

**Retaining Access and Restoring Exclusivity Act or the RARE Act.** Codifies the FDA’s longstanding interpretation of the Orphan Drug Act to clarify the scope of the orphan drug exclusivity applies only to the same approved use or indication within such rare disease or condition. It also allows the FDA to approve the same drug from different manufacturers if intended to serve different patient populations.

*Action Taken: Monitoring*

*Status: 5/11/2023 - Committee on Health, Education, Labor, and Pensions. Ordered to be reported without amendment favorably.*

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**S. 1339 Sen. Sanders, Bernard [I-VT]** Introduced: 4/27/2023

CalPERS Position: N/A

**Pharmacy Benefit Manager Reform Act.** Prohibits PBMs from practicing spread pricing, whereby they charge health plans more for a drug than they pay to the dispensing pharmacy. It also requires PBMs to pass through all rebates and discounts negotiated with a drug manufacturer to the health plan within 90 days of receiving payment. In addition, it requires PBMs to report to plan sponsors, among other things: information on copayment assistance dollars applied/funded by the drug manufacturer with respect to plan participants; a list of drugs billed/covered by the plan or PBM, including cost and claim information, dosage, and participant out-of-pocket spending; a list of therapeutic class of drugs dispensed, costs before rebates/discounts, formulary tier information; the total net spending by the health plan on prescription drugs, and the amounts of various rebates and fees received from their business referrals to health plans. It also creates an exemption process for step therapy requirements, requires health plans to offer claims, costs, coverage and network data to enrollees via application programming interfaces for use in mobile apps, requires drug companies to publicly justify price increases and disclose underlying costs, and allows the FDA to divulge specific ingredient ratios of brand name drugs to generic drug manufacturers.

*Action Taken: Monitoring*

*Status: 5/11/2023 - Committee on Health, Education, Labor, and Pensions (HELP). Ordered to be reported with an amendment in the nature of a substitute favorably.*

*Note: The May 11, 2023 Senate HELP markup added provisions of several bills including S. 775 and S. 935.*

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