



STANISLAUS COUNTY  
EMPLOYEES' RETIREMENT ASSOCIATION  
832 12<sup>th</sup> Street, Suite 600  
Modesto, CA 95354  
P.O. Box 3150, Modesto, CA 95353-3150

Phone (209) 525-6393  
Fax (209) 558-4976  
www.stancera.org  
e-mail: retirement@stancera.org

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**Subject: Implementation of California Public Employees' Pension Reform Act, AB 340 and AB 197 – "Current Members"**

**Summary: In September 2012, Governor Brown signed AB 340 and AB 197 which changes the way pension benefits are calculated for new members and modifies some elements of pay and contributions requirements for both new and current members. This memorandum describes certain procedures and rules that apply to current members. Should you have any questions, you are encouraged to contact StanCERA staff at 209-525-6393.**

### **Current Members hired on or before December 31, 2012**

#### 1. Payroll reporting (31542)

As of January 1, 2013, AB 340 requires all plan sponsors within the StanCERA System to identify the pay period in which compensation was earned, regardless of when it was reported or paid. This requirement is meant to facilitate implementation and monitoring of all aspects of the new legislation, including the determination of pay elements used to enhance a member's retirement benefit (see below for those pay elements that are reportable and allowed to be used in determining compensation earnable).

#### 2. Commission of a felony (7522.72)

If a public employee first employed by a public employer is convicted of a felony arising out of the performance of his or her official duties, then that employee will forfeit any benefit earned on and after the date of the commission of the felony. The monitoring of this requirement of AB 340 will ultimately be the responsibility of the plan sponsor and should be reported to StanCERA as soon as possible.

#### 3. Reciprocity (7522.02)

All aspects of retirement reciprocity that are in force today remain, with one notable exception. For those members that leave their member contributions on deposit at StanCERA, terminate from a StanCERA covered employer and then return after a break in service of more than six months to a *different* StanCERA employer without establishing reciprocity, will be considered a new member and be required to enroll in the new Tier established by AB 340.

StanCERA will be working with our employers to help determine which tier a member should be placed in. StanCERA staff has also put together a flow chart that should aid our employers in this determination.

#### 4. Benefits

Accrued benefits and future service accruals will not change. All formulas and benefit factors remain in place. All salary elements except bonuses (see below) will continue to be allowed in the determination of compensation earnable used to calculate one's pension benefit.

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5. Service redeposit

The ability to purchase past service under current rules is still allowed. Note that StanCERA already does not allow Air Time Purchases and AB 340 has reaffirmed the inability to include this form of service purchase as well.

6. Compensation Earnable (31461)

With one notable exception, compensation earnable (compensation which may be used in the calculation of a member's retirement benefit) will not change. This means all "special" pay elements (bi-lingual, uniform allowance, for example) that have been included in the past will remain.

AB 340 does make specific reference to vacation cash outs being limited to that which can be accrued or earned in the 12 month period used to calculate pensionable compensation, however, StanCERA already enforces this limitation.

Be aware that most 1937 Act Retirement System Boards are still trying to determine how specifically to interpret Section 31461. There are some non-recurring items which some may consider to be "one time", "ad hoc" or "outside normal working hours". These types of pay are expressly prohibited by the new legislation.

AB 340 gives the Board of Retirement the ability to determine whether any element of compensation was paid to enhance a member's retirement benefit. Consequently, StanCERA staff will defer to the Board, should any questions about the use of pay elements arise in the future.

On November 27<sup>th</sup>, the StanCERA Board made the following determinations:

- a. **Bonuses** – Bonuses of any type, regardless of when paid, are no longer allowed in the calculation of compensation earnable. AB 340 does allow a member to challenge this decision
- b. **6% pay recapture for those members retiring within a year (County only)** – The Board affirmed the ability of a member to include this recapture in the calculation of compensation earnable
- c. **"On call" pay** – The Board affirmed the ability of a member to include this pay item in the calculation of compensation earnable

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7. Sick Leave conversion to service credit

AB 340 deals strictly with elements of pay that may be used in the calculation of one's retirement benefit and does not address elements related to service. As a result, sick leave conversion to service credit will continue to be allowed.

8. Employee contributions (31631, 31631.5)

AB 340 does not require any immediate change to employee contributions. It does set a standard that members pay at least 50% of the total normal cost of the plan, but does not require it. However, after January 1, 2018 the new legislation gives governing bodies the ability to impose the 50% standard on all members.

All current StanCERA members pay different contribution rates that are determined by the age at which the member is hired. Currently, StanCERA does not publish the total normal cost for either the plan in the aggregate or on an individual basis. Should this information become necessary in the future, we would begin doing so.

Through the collective bargaining process, AB 340 also allows member cost sharing of any or all of the total cost of the plan. In addition to the ongoing (normal) cost of the plan, this includes the unfunded liability portion.

9. Disability benefits

There are no changes to the disability benefit structure required by AB 340.

10. Vesting

There are no changes in the vesting standards required by AB 340.