


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: August 20, 2013

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Gerry F. Miller 
Chief Legislative Analyst

Council File No.: 13-0002-S111
Assignment No.: 13-08-0721

SUBJECT: Resolution (Parks-O'Farrell) to support AB 160 (Alejo), which would exempt from the California Public Employees' Pension Reform Act of 2013 (PEPRA) certain retirement plans for public employees whose collective bargaining rights are protected by a specified provision of federal law.

CLA RECOMMENDATION: Adopt Resolution (Parks-O'Farrell) to include in the City's 2013-14 State Legislative Program SUPPORT for AB 160 (Alejo) that would exempt from the California Public Employees' Pension Reform Act of 2013 (PEPRA) to ensure that the Los Angeles County Metropolitan Transportation Authority (Metro) continues to receive federal transportation funds. This recommendation does not suggest that the City believes that pension revisions for new employees requires meet-and-confer.

SUMMARY

On August 13, 2013, a Resolution (Parks-O'Farrell) was introduced to support AB 160 (Alejo), legislation that would exempt from the PEPRA certain retirement plans for public employees whose collective bargaining rights are protected by a specified provision of federal law. The Resolution states that after the recent passage of PEPRA, several public transit unions objected that this change is inconsistent with a section of the Federal Transit Act that protects transit workers.

The Federal Transit Act states that affected labor unions may challenge Federal transit funding for a state upon a finding by the United States Department of Labor (DOL). Since the passage of PEPRA, numerous objections have been filed with the DOL, which must approve all protective arrangements before releasing Federal transit funds. Consequently, the Department has refused to release any transit funds. Failure to exempt from PEPRA any public employees who have Federal Transit Act section 13(c) rights could result in a loss of over \$1 billion in annual transit funding in the State of California. In the Los Angeles region, \$268 million earmarked for operating costs for Metro is being held up by the dispute; if the matter is not resolved, as much as \$3.6 billion of federal funding could be at risk.

On August 1, 2013, United States Secretary of Labor Perez transmitted a letter to Governor Brown informing him that the Department of Labor will wait until August 16, 2013 to begin informing transit agencies that they are decertified from receiving federal transit funds and urges the Governor to enact legislation to correct the pension conflict issue.

On August 15, 2013, Moody's Investors Service placed the credit ratings of 15 California transit agencies on review for downgrade due to the disagreement between the federal and state government over the pension overhaul legislation. The agencies with credits on review are: Los Angeles County Metropolitan Transportation Authority; Alameda-Contra Costa Transit District; Culver City Transit Enterprise; North County Transit District; Riverside Transit Agency; San Joaquin Regional Rail

Commission; Victor Valley Transit Authority; Western Contra Costa Transportation Authority; San Francisco Bay Area Rapid Transit District; Peninsula Corridor Joint Powers Board; Sacramento Regional Transit District; Santa Clara Valley Transportation Authority; San Diego Metropolitan Transit System; and San Mateo County Transit District.

The City's position relative to pension reform for new employees is that such reform is not subject to meet-and-confer. There are elements of PEPRA that may apply to existing employees in certain circumstances. As a result, the questions surrounding the meet-and-confer process relative to PEPRA are unclear. That notwithstanding, the DOL has opined that it violates the bargaining rights of transit employees covered by specific sections of federal law. The City's support of AB 160 is based solely on the need to secure transit funding and in no way suggests that the City concurs with the DOL's findings.

BACKGROUND

The California Public Employees' Pension Reform Act of 2013 (PEPRA) was signed into law by Governor Brown on September 12, 2012, and it took effect on January 1, 2013. PEPRA applies to new employees hired in 2013 and later, but may also apply to current employees in certain circumstances. PEPRA includes a new maximum benefit, a lower-cost pension formula for safety and non-safety employees with requirements to work longer in order to reach full retirement age and a cap on the amount used to calculate a pension. A union representing transportation employees lodged a complaint with the U.S. Department of Labor on the grounds that the California Public Employees' Pension Reform Act of 2013 violates a 1964 federal law that protects the collective bargaining rights of transportation employees.

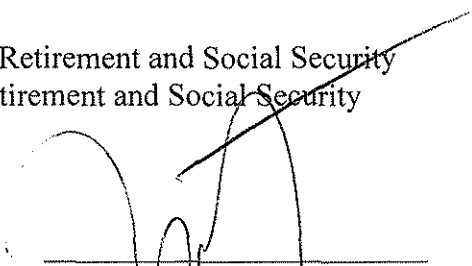
On January 22, 2013, Assemblymember Alejo introduced AB 160 that would provide an exception from the definition of public retirement system, certain multi-employer plans authorized under federal law and retirement plans for public employees whose collective bargaining rights are protected by a specified provision of federal law if a federal agency determines there is a conflict with federal law.

DEPARTMENTS NOTIFIED

Department of Transportation

BILL STATUS

5/29/13	Re-referred to Committee on Appropriations.
5/8/13	Referred to Committee on Appropriations.
4/15/13	Re-referred to Committee on Public Employees, Retirement and Social Security
1/31/13	Referred to Committee on Public Employees, Retirement and Social Security
1/22/2013	Read first time. To print.



Maria Souza-Rountree
Analyst

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, after the recent passage of the California Public Employees' Pension Reform Act of 2013 (PEPRA), several public transit unions objected that this change is inconsistent with Section 5333(b) of the Federal Transit Act that protects transit workers; and

WHEREAS, the United States Department of Labor has indicated that PEPRA impairs collectively bargained pension benefits, which jeopardizes all federal transit funding for such projects as the Purple Line Extension and the Regional Connector and if left unresolved will cost California billions of dollars in federal transit funding assistance; and

WHEREAS, on August 1, 2013, the United States Secretary of Labor Perez transmitted a letter to Governor Brown informing him that the Department of Labor will wait until August 16, 2013 to begin informing transit agencies that they are decertified from receiving federal transit funds and urges the Governor to enact legislation to correct the pension conflict issue; and

WHEREAS, on January 22, 2013, Assemblymember Alejo introduced AB 160 that would provide an exception from the definition of public retirement system, certain multi-employer plans authorized under federal law and retirement plans for public employees whose collective bargaining rights are protected by a specified provision of federal law if a federal agency determines there is a conflict with federal law; and

WHEREAS, the State legislative session is scheduled to conclude on September 13, 2013, which is the last date to pass legislation that could resolve this issue before it seriously impacts Metro's transit capital projects;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-14 State Legislative Program SUPPORT for AB 160 (Alejo) that would exempt from the California Public Employees' Pension Reform Act of 2013 (PEPRA) certain retirement plans for public employees whose collective bargaining rights are protected by a specified provision of federal law.

PRESENTED BY: Bernard C. Parks
 BERNARD C. PARKS
 Councilmember, 8th District

AUG 13 2013

SECONDED BY: Mitch O'Connell