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CalPERS Background

The California Public Employees' Retirement System, commonly referred to as CalPERS, is the largest public employee pension fund in U.S., with assets of approximately $182 billion. We administer retirement and health benefits for more than 1.6 million active and retired California public employees and their families. Our membership is divided approximately into thirds among employees of the State of California, public schools, and contracting local public agencies such as cities, counties and special districts.

CalPERS is a defined benefit retirement plan, often referred to as a traditional pension plan. Benefits are based on a member's years of service, age, and highest average compensation. We also provide disability retirement and death benefits, with payments in some cases going to survivors and beneficiaries of eligible members. As of June 30, 2008, we were paying more than $10 billion annually in benefits to 476,000 retirees and beneficiaries.

CalPERS also administers a health benefits program that covers nearly 1.3 million members, the employees and retirees of the State of California and contracting local public agencies. Our health benefits program offers three health maintenance organizations (HMOs), three preferred provider organizations (PPOs), and three special PPOs for members belonging to specific employee associations. We are the second largest public purchaser of employee health benefits in the nation after the federal government. We are the largest purchaser of employee health benefits in California.

Domestic Partner Benefits

In 2000, a new state law (AB 26) went into effect that established a domestic partner registry at the California Secretary of State's Office. Under the law, partners of the opposite sex if one of whom is over age 62 and partners of the same sex may register for a domestic partnership. Registration as domestic partners does not confer any rights upon the partners unless specifically provided by law.

AB 26 also amended California's Public Employee' Medical and Hospital Care Act (PEMHCA), which is administered by CalPERS, to allow PEMHCA-covered employers to offer health benefits to domestic partners of its employees and retirees as an option. The State of California began offering health benefits to domestic partners in January 2000. We know that some contracting public agencies began offering health benefits to domestic partners after AB 26 became law but we do not know how many because it's a local decision that is not required to be reported to us.

In 2005, AB 205, the California Domestic Partners Rights and Responsibilities Act, became law. The law, which was supported by the CalPERS Board of Administration, confers spousal rights on domestic partners, giving them statutory rights to certain employee benefits as well as entitlement to continued health insurance coverage after the death of a CalPERS member. In essence, AB 205 put domestic partners on equal legal footing with spouses relative to employee benefits under California law.

AB 205 mandated the provision of health insurance coverage for domestic partners in the same manner as provided to spouses, removing the issue from the collective bargaining process at the state level and eliminating local agency discretion.

Of note is that the CalPERS long-term care insurance program was exempt from AB 205 because the program is governed by the U.S. Internal Revenue Code as a tax-exempt governmental plan and the federal government does not recognized domestic partnerships. Allowing domestic partners to enroll in the long-term-care plan would in effect be enrolling persons who are not eligible under federal tax law and therefore threaten the tax-exempt status of the plan.

In a related issue, the premiums for eligible domestic partners who enroll in the regular CalPERS health benefits program, i.e., HMOs and PPOs, must be treated as taxable income for federal income tax purposes, again, due to the federal government not recognizing domestic partnerships for government programs. Premiums of spouses are tax deductible.

Under AB 205, CalPERS treats domestic partners just like spouses with respect to eligibility for CalPERS retirement benefits. The most significant change relative to retirement benefits is that surviving registered domestic partners of deceased CalPERS members and retirees are now entitled to the same death benefit allowances that were previously only available to surviving spouses. AB 205 also gives a domestic partner entitlement to the community property interest of a CalPERS member's benefits upon dissolution of a domestic partnership.

Implementation of AB 205

In the fall of 2004, when AB 205 was signed into law, CalPERS established an interdivisional domestic partners implementation committee with representation from all relevant program areas to analyze and implement the new law. The committee's work included:

- Conducting an impact analysis on CalPERS program areas
- Conducting a legal review to clarify statutory language for implementation purposes
- Developing an implementation plan

- Identifying required changes to internal and external procedures
- Making information technology changes to properly capture and document members' domestic partners for benefit administration purposes
- Developing a communications plan to educate affected stakeholders
- Making necessary changes to CalPERS member publications and forms
- Adding domestic partner eligibility and enrollment information to the CalPERS Web site

Implementation Challenges

The most significant implementation question related to what types of domestic partners are eligible for benefits under AB 205. In California, a legal domestic partnership is one that is formally registered in the domestic partner registry administered by the California Secretary of State's Office.

But the issue of domestic partnerships formed outside of California was less clear. AB 205 provides that certain legal unions validly formed in "another jurisdiction" that are "substantially equivalent" to California's domestic partnerships are recognized as valid in California. The State of California does not have an official list of such jurisdictions and the statute does not provide a formula or a clear definition for making such determinations. After studying the question, the CalPERS Legal Office decided that these types of determinations would be handled on a case-by-case basis.

Participation and Cost

As of July 1, 2009, CalPERS covers 3,449 members who have 3,620 domestic partners and dependents enrolled in our health benefits program. The 3,620 domestic partners and dependents comprise 0.28 percent of the nearly 1.3 million covered lives in the CalPERS health benefits program. The domestic partners covered include both same-sex and opposite-sex partners.

For 2009, the total premiums for covered domestic partners is estimated to be $19.5 million, which represents 0.33 percent of the total $5.8 billion in premiums expected to be paid in 2009.

Unfortunately, we cannot provide similar statistics for our retirement benefit program at this time due to changes we are making to our retirement program database, although the order of magnitude is expected to be similarly small. Currently, about four to five pre-retirement and post-retirement death cases out of a total of more than 2,000 per month have a surviving domestic partner.

Given the participation levels, it is reasonable to conclude that the cost of providing retirement and health benefits to domestic partners of CalPERS members is relatively minor. Implementation of AB 205 was done by existing staff within existing budgets.

Overall, we do not believe providing retirement and health benefits to domestic partners of CalPERS members produced significant burdens on staff workload or our administrative budget.

I hope this information provides you with a better understanding of our experience incorporating domestic partner benefits into our retirement and health benefits programs.

I am happy to answer any questions.