
California Supreme Court Affirms, for the First Time, a Reduction of Public Pension Benefits without an Off-Set

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The California Supreme Court recently upheld, for the first time, unilateral state reductions to pension calculations without a corresponding off-set for employees, despite the “California Rule.” The “California Rule” generally prohibits public employers from making detrimental changes to a public retirement plan unless the employer provides the plan members some off-set that keeps the retirement benefits, more or less, unchanged. Obviously, the California Rule is a major protection for public employees’ retirement benefits, but it can also be an impediment to pension system reforms.

In 2013, the California Legislature passed, and the Governor signed, the Public Employees’ Pension Reform Act (PEPRA) into law. PEPRA was intended to broadly shore-up the various government retirement systems, including California Public Employees’ Retirement System (CalPERS), California State Teachers’ Retirement System (CalSTRS), and the 20-county¹ retirement plans formed under the County Employees Retirement Law of 1937 (the ’37 Act). Specifically, PEPRA amended the ’37 Act, requiring counties to exclude certain definitions of compensation in benefit calculations.

In *Alameda County Deputy Sheriff’s Association v. Alameda County Employees’ Retirement Association* (2020) 9 Cal.5th 1032 (ACDSA), the California Supreme Court addressed how PEPRA affected ’37 Act county plans.

The tension between PEPRA and the county employees arose from several agreements between the counties and their various employees. The PEPRA amendment directly contradicted these county agreements. Generally, when a county and its employees enter into agreements, both parties may rely upon the terms of those agreements, yet PEPRA required the counties to unilaterally change the terms of those agreements.

The county employees sought a ruling from the courts requiring the counties to ignore the PEPRA amendment and, instead, honor the county agreements. In addition, the county employees argued the Contracts Clause of the California Constitution rendered the retroactive changes to the ’37 Act unconstitutional under the “California Rule.”

¹ These 20 counties represent approximately 80% of California’s total population.

In all previous cases where the California Supreme Court reviewed a reduction in employee retirement benefits under the California Rule, the court had never upheld a reduction without an accompanying off-set for employees.

The Supreme Court's Decision

First, the California Supreme Court ruled county governments are statutorily required to apply the terms of the '37 Act, including the PEPRA amendments. The court concluded counties could apply the PEPRA amendments because the amendments did not constitute a breach of contract of the county agreements.

Second, the California Supreme Court analyzed the PEPRA amendments under the California Rule and determined PEPRA did not violate the California Constitution. In 1955, the California Supreme Court announced the California Rule. Years later, in 1983, the court ostensibly modified the rule, specifically requiring that the government plan-sponsor **must** provide employees with some offset of the reduction in order to not violate the Contracts Clause of the California Constitution. In the *ACDSA* case, however, the Supreme Court went into lengthy detail to explain that it did not mean to "require" offsetting, but that government sponsors "should" offset reductions in pension benefits. This distinction led to the first time the California Supreme Court considered whether the reduction of pension benefits, not off-set by some other benefits, violated the Contracts Clause. After a thorough analysis of the "clarified" California Rule, the court determined that PEPRA did not violate the Contracts Clause because providing an off-set would "undermine the constitutionally permissible purpose of the PEPRA amendment."

Importantly, the court and the parties limited their analysis to current employees hired prior to the enactment of PEPRA (2013), meaning this decision does not affect the pension benefits of retirees or county employees hired after 2013.

Takeaways

The *ACDSA* case offers two lessons. First, county agreements must comply with state law. Second, the once-impervious retirement benefit protections afforded under the California Rule need reevaluation. The California Supreme Court reiterated its support of the "California Rule," but, when applying the facts of the case, the court modified its prior precedence and to allow the reduction of retirement benefits without an accompanying offset. California government employers should consult with legal counsel to best understand their abilities to negotiate changes to retirement systems in California.

If you have any questions about the *ACDSA* opinion, PEPRA, or California government-sponsored retirement plans generally, please contact one of the authors of this Client New Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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