EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: November 1, 2012

MEMO TO: All Employees

FROM: Delores Turner, Manager of Human Resources Delores Turner

SUBJECT: Pension Changes Under AB 340

On September 12, 2012, Governor Jerry Brown signed AB 340, the California Public Employee Pension Reform Act (PEPRA), into law. Many District employees have been inquiring about the impact of the PEPRA on the District's retirement benefits, particularly its effect on the sick leave service extension benefit. As new legislation, it may yet undergo further changes and the District's analysis of the requirements of the bill is preliminary. Nonetheless, it appears that under the PEPRA, the vested rights of current members of the Retirement System largely remain unchanged. The pension reforms under the PEPRA primarily impact the pension benefits of new employees. The PEPRA takes effect on January 1, 2013.

Current Employees

For the most part, the PEPRA does not change benefits for current members or those who become members of the Retirement System prior to January 1, 2013. The PEPRA does not appear to affect rights pertaining to reciprocity arrangements with other public retirement systems. However, the PEPRA affects current employees with respect to: (1) prohibiting retroactive application of pension benefit enhancements; (2) limitations on rehiring retirees; (3) forfeiture of pension upon conviction of a felony arising from public employment; and (4) prohibiting the purchase of nonqualified service, otherwise known as "air time."

New Employees

Some of the changes for those hired on or after January 1, 2013 include but are not limited to: (1) the requirement to pay 50% of the normal cost of the pension benefit; (2) a salary cap upon which the pension allowance will be based; (3) a new formula wherein the maximum benefit formula is 2.5% at age 67; (4) the requirement that the pension allowance will be based on the highest average compensation over a 36-month period; and (5) closure of the District's Replacement Benefit Plan to new employees; the Plan provides for payment of pension benefits in excess of the IRS limit.

Important Information on Sick Leave Service Extension Credit and the Cash Out Option

The PEPRA does not permit the option to cash out accrued sick leave at the time of retirement in lieu of using sick leave for service extension credit. Providing the choice to cash out or extend service credit gives the appearance that an employee can elect to purchase "air-time," which is prohibited. Therefore, the option to cash out accrued sick leave upon retirement will not be available after December 31, 2012. Accordingly, the District intends to amend Procedure 225 to eliminate the cash out option. However, the District intends to continue to apply accrued sick leave towards service extension credit as provided for in the Retirement Ordinance. The District has concluded that eliminating the cash out option is a reasonable and prudent measure to avoid the possibility of compromising the use of sick leave for service extension credit. The District is currently working with the unions to try to make similar changes to the MOUs. However, the unions have informed the District and their members that the unions are interpreting the PEPRA to allow the cash out option in lieu of service extension. The unions and District management are meeting to try to resolve this difference of opinion.

As an aside, many employees have been asking whether the PEPRA impacts the use of sick leave for service extension credit. Based on the information we have so far, the District believes that the PEPRA does not impact the use of sick leave for service extension credit, provided that the cash out option is eliminated.

There may be clean-up legislation and potential legal challenges regarding interpretation and application of the PEPRA, and the current laws may be subject to further changes. The District will keep employees informed of changes that may affect you.