# MEMO

**Date:** September 20, 2012

**To:** CCCERA Employers

**From:** Kurt Schneider, Retirement Deputy Chief Executive Officer 10

October 10, 2012
Agenda Item 10

**Subject:** Internal Revenue Code §415 Replacement Benefit Plans and AB 340

---

Please be advised that recent State legislation, AB 340, impacts employers' Internal Revenue Code (IRC) §415 replacement benefit plans. The IRC establishes annual limits on retirement plan benefits under IRC §415(b). The annual benefit payments from Contra Costa County Employees' Retirement Association (CCCERA) are subject to the dollar limits imposed by IRC §415. Once this annual limit is reached, CCCERA stops paying benefits to the retiree for the remainder of that year.

As currently allowed under the IRC, some employers participating in CCCERA have established nonqualified replacement benefit plans independent from CCCERA. Under these replacement benefit plans, additional benefits are paid to retirees after their annual benefits from CCCERA have ceased due to the §415 limits. The legislation signed by the Governor on September 12, 2012 (AB 340) places restrictions on these replacement benefit plans.

Effective January 1, 2013, AB 340 added Government Code §7522.43, which provides:

> *7522.43. (a) A public employer shall not offer a plan of replacement benefits for members and any survivors or beneficiaries whose retirement benefits are limited by Section 415 of Title 26 of the United States Code. This section shall apply to new employees.*
> *(b) A public retirement system may continue to administer a plan of replacement benefits for employees first hired prior to January 1, 2013.*
> *(c) A public employer that does not offer a plan of replacement benefits prior to January 1, 2013, shall not offer such a plan for any employee on or after January 1, 2013.*
> *(d) A public employer that offers a plan of replacement benefits prior to January 1, 2013, shall not offer such a plan to any additional employee group to which the plan was not provided prior to January 1, 2013.*

Pursuant to the legislation, public employers may not offer a §415 replacement benefit plan to employees hired after January 1, 2013, but may continue to administer a §415 replacement benefit plan for employees first hired prior to January 1, 2013. Beginning January 1, 2013, public employers will be prohibited from creating or expanding a §415 replacement benefit plan.

Please contact me with any questions regarding this topic.

contra costa county
Employees' Retirement Association
1355 willow way suite 221 concord ca 94520
925.521.3960 fax 925.646.5747

CONTRA RECEIVED COSTA
OCT - 2 2012
LOCAL AGENCY FORMATION COMMISSION

October 1, 2012

To All Interested Parties:

CCCERA's Board of Trustees meeting on October 10, 2012 will include an educational presentation regarding the California Public Employees' Pension Reform Act of 2013 (PEPRA). This subject will be of interest to all employers of the Association.

Please join us for this educational presentation regarding the implications of PEPRA for new employees hired after January 1, 2013, including new tiers and pension formulas, caps on benefits, and final compensation period for new employees.

Please note that we do not anticipate any action regarding this matter at the October 10, 2012 meeting. This meeting is for educational purposes only.

The Retirement Board administers the fund for the benefit of all member groups. Trustees must weigh the merits of all policies, plus assess the effect these mandates may have on active, retired and employer members. A balanced outlook is imperative; all members are vitally important to system sustainability.

We invite you to attend this meeting, ask questions and learn more about this critical subject.

Sincerely,

Marilyn Leedom
Chief Executive Officer

MEL