



Metro

Board Report

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File #: 2016-0490, File Type: Federal Legislation / State Legislation (Position)

Agenda Number: 46

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**EXECUTIVE MANAGEMENT COMMITTEE  
JUNE 16, 2016**

**SUBJECT: STATE LEGISLATION**

**ACTION: ADOPT STAFF RECOMMENDED POSITIONS**

**RECOMMENDATION**

ADOPT staff recommended positions:

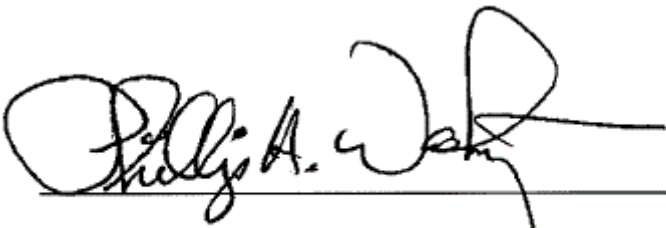
A. **AB 1640 (Stone) - Retirement: Public Employees WORK WITH AUTHOR**

**ATTACHMENTS**

Attachment A - AB 1640 (Stone) Legislative Analysis

Prepared by: Michael Turner, DEO, Government Relations, (213) 922-2122  
Desarae Jones, Government Relations Administrator, (213) 922-2230

Reviewed by: Pauletta Tonilas, Chief Communications Officer, (213) 922-3777



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Phillip A. Washington  
Chief Executive Officer

**BILL:** ASSEMBLY BILL 1640

**AUTHOR:** ASSEMBLYMEMBER MARK STONE  
(D-SCOTTS VALLEY)

**SUBJECT:** RETIREMENT: PUBLIC EMPLOYEES

**STATUS:** PENDING REFERRAL TO SENATE

**ACTION:** WORK WITH AUTHOR

**RECOMMENDATION**

Staff recommends that the Board adopt a Work with Author position on Assembly Bill 1640 (Stone).

**ISSUE**

Assemblymember Mark Stone has introduced AB 1640, a bill that would extend indefinitely a specified exemption under the Public Employees' Pension Reform Act of 2013 (PEPRA) for those public employees, whose collective bargaining rights are subject to specified provisions of federal law and who became a member of a state or local public retirement system prior to December 30, 2014.

AB 1640 would:

- Permanently exempt certain public transit workers, who first became members of a public retirement system between January 1, 2013 and December 29, 2014 from the requirements of PEPRA.
- Deletes provisions related to specified federal district court rulings regarding the certification of federal transit funding.

**DISCUSSION**

Existing law enacted by AB 1222 (Bloom and Dickenson), Chapter 527, Statutes of 2013, makes an exemption to PEPRA for employees who are covered by 13(c) arrangements until either a federal district court rules that the United States Secretary of Labor (or his or her designee) erred in determining that application of PEPRA precludes certification of federal transit funding or January 1, 2015, whichever is sooner.

A recent decision in the State of California v. United States Department of Labor ended the exemption provided to transit employees by AB 1222. Transit districts are currently appealing the federal court decision, and AB 1640 (Stone) would clarify that workers hired during the exemption between January 1, 2013 and December 29, 2014 should continue to receive classic employee retirement benefits instead of PEPRA employee retirement benefits.

According to information provided to the Assembly Public Employment, Retirement and Social Security Committee by CalPERS, 1,431 members from 36 different CalPERS covered employers were reclassified back into PEPRA membership after the December 30, 2014 ruling.

Staff finds that the primary cost to Metro relates to paying the employee' contributions to the CalPERS plan: \$2.0 million through calendar year 2015 plus approximately \$2.7 million annually (in 2016 dollars) going forward before adjusting for wage escalation. The provisions outlined in AB 1640 would affect 395 current Metro employees and would increase costs to Metro while increasing benefits for employees.

The bill is supported by the Teamsters and Amalgamated Transit Union which represent Metro employees.

Staff is recommending that the Board of Directors adopt a Work with Author position on AB 1640 (Stone).

### **DETERMINATION OF SAFETY IMPACT**

Staff has determined that there is no direct impact to safety as a result of this proposal.

### **FINANCIAL IMPACT**

Staff has estimated that there could be an annual fiscal impact of \$2.7 million annually for future costs before wage escalation related to an increased share of Metro CalPERS contributions on behalf of affected employees to the agency as the result of the provisions outlined in this bill.

### **ALTERNATIVES CONSIDERED**

Alternatives to the Work with Author position will be considered with respect to our agency's past positions on legislation related to exempting public transit employees from the provisions of PEPRA.

### **NEXT STEPS**

Should the Board decide to adopt a Work with Author position on AB 1640 (Stone), staff will communicate the Board's position to the author and work to address any concerns that the agency has with respect to potential fiscal impacts and employee retirement plans. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.