

**Public Employees' Retirement System
Board of Administration
2023-2024 Legislative Session
State and Federal Update
Status as of October 18, 2023**

Sponsored Bills

SB 885 (Committee on Labor, Public Employment and Retirement) Chaptered: 9/1/2023

CalPERS Position: Co-Sponsor

2023 Retirement Policy Omnibus Bill. Among other provisions, authorizes the State Controller's Office to execute fund to fund transfers between the California Employers' Pension Prefunding Trust Fund and Public Employees' Retirement Fund (PERF), caps the interest assessed on delinquent contracting agencies at ten percent on certain conditions, and authorizes a JRS II judge to designate a beneficiary when electing the return of remaining contributions (Option 1) post-retirement optional settlement when there is no surviving spouse.

Location: Chaptered by Secretary of State – Chapter 159, Statutes of 2023

Chaptered State Bills

AB 130 (Committee on Budget) Chaptered: 7/10/2023

CalPERS Position: N/A

Employment Trailer Bill. As it pertains to CalPERS, provides the Department of Human Resources the flexibility to adjust retirement rates for excluded employees and appropriates \$1,657,000,000 from the General Fund to supplement the state's appropriation to the PERF.

Location: Chaptered by Secretary of State – Chapter 39, Statutes of 2023

AB 658 (Fong, Mike) Chaptered: 10/8/2023

CalPERS Position: N/A

Postemployment Health Benefits for the City of San Gabriel. Authorizes the City of San Gabriel (city) to provide employer contributions for postretirement health care coverage pursuant to a collectively bargain a memorandum of understanding (MOU), rather than using existing schedules in the Public Employees' Medical and Hospital Care Act. This authority only applies to specified employees hired by the city on or after January 1, 2023. Requires the city to provide specified information to CalPERS and notice of the agreement with any additional information necessary to implement these benefits. Also, makes a technical change to clarify that judges who take a deferred retirement are still eligible for cost-of-living adjustments provided under existing law but only after they begin receiving their retirement allowance, not during the deferral period.

Location: Chaptered by Secretary of State – Chapter 538, Statutes of 2023

SB 142 (Committee on Budget and Fiscal Review) Chaptered: 9/13/2023

CalPERS Position: N/A

High Education Trailer Bill. As it pertains to CalPERS, allows community college districts that contract for health benefits with CalPERS to extend health care eligibility to faculty who have an appointment of at least one semester and that have a teaching assignment with one or more community college districts of two courses or 40% of the cumulative equivalent of a minimum full-time teaching assignment.

Location: Chaptered by Secretary of State – Chapter 195, Statutes of 2023

SB 253 (Wiener) Chaptered: 10/7/2023

CalPERS Position: N/A

Disclosure of Greenhouse Gas Emissions. Among other things, requires the State Air Resources Board (ARB) to develop and adopt regulations that requires partnerships, corporations, limited liability companies and other business entities, as specified, to obtain an assurance engagement, as specified, and publicly disclose their scope 1, 2, and 3 greenhouse gas emissions, as defined, for the year prior beginning in 2026 or by a date to be determined by the ARB and annually thereafter. Also, allows the ARB to survey, assess, and adopt greenhouse gas accounting and reporting standards and to assess a fee to cover the costs of administering and implementing this bill.

Location: Chaptered by Secretary of State – Chapter 382, Statutes of 2023

SB 261 (Stern) Chaptered: 10/7/2023

CalPERS Position: N/A

Climate-Related Financial Risk Report. Requires a corporation, partnership, limited liability company, or other business entity, as specified, to submit and make available, on or before January 1, 2026 and biennially thereafter, on its website a climate-related financial risk report that discloses the entity's climate-related financial risk, as specified, and the measures it has adopted to reduce and adapt to the climate-related financial risk it has disclosed. Requires the climate reporting organization to collect and review these reports and to prepare a public report, as specified, and regularly convene representatives, as specified, to offer input on current best practices for climate-related financial risk disclosure, as specified, and monitor federal regulatory actions and nonindependent regulators, as specified. Also, allows the ARB to assess a fee to cover the costs of administering and implementing this bill.

Location: Chaptered by Secretary of State – Chapter 383, Statutes of 2023

SB 548 (Niello) Chaptered: 10/4/2023

CalPERS Position: N/A

County and Trial Court Retirement Contracts. Allows, on and after January 1, 2024, a county and a trial court located within that county to jointly and voluntarily elect to separate the joint retirement contract into individual contracts. The bill prohibits the contract separation from modifying the retirement benefit levels that the employees had under the joint contract until the expiration of the existing MOU or a period of 24 months, whichever is longer, unless the parties mutually agree to the modification. Makes other technical, non-substantive changes.

Location: Chaptered by Secretary of State – Chapter 307, Statutes of 2023

Inactive State Bills/Two-Year Bills

AB 739 (Lackey) Introduced: 2/13/2023

CalPERS Position: N/A

Suspension of Required Contributions-PEPRA. Revises one of the three conditions for suspending required contributions to a public retirement system defined benefit plan under the Public Employees Pension Reform Act (PEPRA) by increasing the minimum funded status to 130% from 120%. Under existing law, the other two conditions necessary for suspension are: 1) a determination by the system actuary that excess earnings may result in disqualification of federal tax status, and 2) a determination by the retirement board that additional contributions conflict with its fiduciary duty.

Location: 4/28/2023- Two-Year Bill

AB 874 (Weber) Introduced: 2/14/2023

CalPERS Position: N/A

Health Care Coverage: Out of Pocket Expenses. Among other things, requires a health care service plan, health insurance policy issued, amended, delivered, or renewed on or after January 1, 2024, as well as other health coverage carrier, or pharmacy benefit manager that administers pharmacy benefits, to apply any amounts paid by the insured through copay assistance or other specified sources to the enrollee or insured's deductible or out of pocket maximum.

Location: 4/28/2023- Two-Year Bill

AB 1091 (Wood) Introduced: 2/15/2023

CalPERS Position: N/A

Health Care Consolidation and Contracting Fairness Act of 2023. Among other things, creates the Health Care Consolidation and Contracting Fairness Act that prohibits a contract issued, amended, or renewed on or after January 1, 2024, between a health care service plan or health insurer and a health care provider or health facility from containing terms that restrict the plan or insurer from steering an enrollee or insured to another provider or facility or require the plan or insurer to contract with other affiliated providers and facilities. Authorizes the appropriate regulating department to refer a plan or insurer's contract to the Attorney General or state entity charged with reviewing health care market competition to review a health care practitioner or health facility's entrance into contract containing specified terms. Medical groups, hospital or hospital systems, specified health facilities, health care service plans, health insurer, and pharmacy benefit manager would (1) be required to provide written notice to, and obtain the written consent of the Attorney General, at the same time as another state or federal agency is notified or otherwise and at least 90 days before entering an agreement or transaction that makes a specified material change with a value of \$15 million or more, (2) authorize the Attorney General to consent to, give conditional consent to, or not consent to this agreement and notify the entity of the decision within 90 days, which may be extended by one 45 day period under specified conditions, and (3) authorize the entities, within 10 calendar days of the Attorney General's notification, to apply for reconsideration under specified circumstances. Prohibits an entity from entering into an agreement without the Attorney General's written consent.

Location: 4/28/2023- Two-Year Bill

AB 1092 (Wood) Amended: 6/28/2023

CalPERS Position: N/A

Consolidation of Health Care Service Plans. Among other things, requires a health care service plan that intends to acquire or obtain control of an entity, as specified, to give notice to and secure prior approval from the Director of the Department of Managed Health Care. Authorizes the Director to disapprove a transaction or agreement if it would substantially lessen competition in the health system or among a particular category of health care providers and require the Director to provide information related to competition to the Attorney General. Revises the Director's authority to conditionally approve a transaction or agreement that is relevant to any of the parties to the transaction and prohibits the Director from waiving or delaying implementation of certain requirements under statute.

Location: 9/1/2023- Two-Year Bill

AB 1246 (Nguyen, Stephanie) Amended: 9/1/2023

CalPERS Position: N/A

Postretirement Optional Settlements. Allows a retired member, who divorces after retirement and does not retain 100% of their retirement benefit, to designate their new spouse as the beneficiary of their postdivorce retirement settlement.

Location: 9/14/2023- Two-Year Bill

SB 252 (Gonzalez) Amended: 5/18/2023

CalPERS Position: Oppose

Divestment from Fossil Fuel Companies. Prohibits the CalPERS and California State Teachers' Retirement boards from making new investments in fossil fuel companies, as defined, and requires both systems to divest existing fossil fuel company investments on or before July 1, 2031, if consistent with its fiduciary duty. Beginning on February 1, 2025, and annually thereafter, this bill requires each board to submit a report to the Governor and Legislature regarding any fossil fuel company holdings and divestments. Also, makes other conforming changes to cross-references relating to indemnification.

Location: 7/14/2023- Two-Year Bill

SB 300 (Seyarto) Amended: 5/3/2023

CalPERS Position: N/A

Public employees' retirement: fiscal impact: LAO. Requires the Legislative Analyst's Office to provide a fiscal impact analysis on any bill that requires divestment by a public retirement system, introduced on or after January 1, 2024, that is referred to the Senate Labor, Public Employment and Retirement Committee.

Location: 6/2/2023- Two-Year Bill

SB 598 (Skinner) Amended: 8/14/2023

CalPERS Position: N/A

Prior Authorization. Among other things, prohibits a health care service plan or health insurer, on or after January 1, 2026, from requiring a contracted health professional to obtain prior authorization for any covered health care service if the plan or insurer would have approved not less than 90% of their prior authorization requests that they submitted in the most recent completed one year contracted timeframe. Also requires a health care service plan or health insurer 1) to provide an electronic prior authorization process that a health professional agrees to use to be considered eligible for the prior authorization exemption and 2) to have a process to annually monitor prior authorization approval, modification, appeal, and denial rates and discontinue prior authorization on services, items, supplies, and drugs for those that had 95% approval.

Location: 9/1/2023- Two-Year Bill

SB 637 (Min) Amended: 9/13/2023

CalPERS Position: N/A

State Agency Ban on Financial Institutions the Conduct Business with Firearm and Ammunition Manufacturers. Prohibits a state agency from entering into a contract with, depositing state funds with, or receiving a loan from a financial institution that invests or makes loans to a company that manufactures firearms or ammunition. A state agency or the Treasurer is not required to comply if complying would impair their constitutional responsibilities or fiduciary duties.

Action Taken: Per the 9/13/2023 amendment, this bill no longer affects CalPERS and will be removed from the legislative state program update.

Location: 9/14/2023-Senate Rules Committee

SB 660 (Alvarado-Gil) Amended: 3/21/2023

CalPERS Position: N/A

California Public Retirement System Agency Cost and Liability Panel. Establishes the California Public Retirement System Agency Cost and Liability Panel (Panel) to provide information on the pension costs and liability assumed by employers that participate in a public retirement system. The Panel shall have its first meeting no later than March 31, 2024 and shall meet quarterly beginning on April 1, 2024. The Panel shall submit a report of its findings and recommendations to the Legislature no later than December 31, 2024 regarding the financial impacts on participating employers when an employee transfers from one employer within one retirement system to another employer within the same retirement system and when an employee transfers to an employer within a reciprocal retirement system and concurrently retires under two or more systems.

Location: 5/19/2023- Two-Year Bill

SB 729 (Menjivar) Amended: 8/14/2023

CalPERS Position: N/A

Health Care Coverage: Infertility and Fertility Treatment. Among other things, requires a large and small group health care service plan contract or health insurance policy that is issued, amended, or renewed on or after January 1, 2024, to provide coverage for the diagnosis and treatment of infertility and fertility services. Revises the definition of infertility and removes the exclusion of in vitro from coverage. Prohibits a health care service plan or health insurer from placing different conditions or coverage limitations on fertility medications or services, or the diagnosis and treatment of infertility and fertility services, than would apply to other conditions, as specified.

Location: 9/1/2023- Two-Year Bill

SB 839 (Bradford) Amended: 5/10/2023

CalPERS Position: N/A

Obesity Treatment Parity Act. Requires a health care service plan or health insurer policy issued, amended, renewed on or after January 1, 2025, to include comprehensive coverage for the treatment of obesity in the same manner as other illnesses, conditions, or disorders for purposes of copayment and coinsurance factors.

Location: 9/14/2023- Two-Year Bill

SB 873 (Bradford) Introduced: 2/17/2023

CalPERS Position: N/A

Prescription Drug Cost Sharing. Among other things, starting no later than January 1, 2025, requires an enrollee's or insured's defined cost-sharing for each prescription drug to be calculated at the point of sale based on a price that is reduced by an amount equal to 90% of all rebates received or to be received in connection with the dispensing or administration of the drugs. Requires a health care service plan or health insurer to (1) provide each enrollee or insured a good faith estimate of their decrease of cost-sharing at the point of sale as well as an end-of-calendar year reconciliation for any cost-sharing reductions owed that were not passed on at the point of sale and (2) calculate an enrollee's or insured's defined cost-sharing and provide such information to the dispensing pharmacy.

Location: 9/1/2023- Two-Year Bill

Federal Bills

H.R. 82 Graves, Garret [R-LA] Introduced: 1/9/2023

CalPERS Position: N/A

Social Security Fairness Act of 2023. Eliminates the windfall elimination provision, which in some instances reduces Social Security benefits for individuals who also receive a pension or disability benefit from an employer that did not withhold Social Security taxes. It also eliminates the government pension offset, which in various instances reduces Social Security benefits for spouses, widows, and widowers who also receive government pensions of their own. These changes are effective for benefits payable after December 2023.

Action Taken: Monitoring

Status: 1/9/2023 - Referred to the House Committee on Ways and Means.

Note: S. 597 (Brown D-OH) is companion legislation that was introduced on March 1, 2023. Staff is monitoring this companion legislation.

H.R. 82 currently has over 290 cosponsors, making it eligible under House rules to be put on the "consensus calendar," a process that allows rank-and-file members to force widely-backed legislation to the floor if the committee of jurisdiction does not take action. The House Committee on Ways and Means has not scheduled a meeting to consider the bill.

H.R. 824 Rep. Walberg, Tim [R-MI] Introduced: 2/2/2023

CalPERS Position: N/A

Telehealth Benefit Expansion for Workers Act of 2023. Adds telehealth services to the list of excepted benefits that are not subject to many of the Affordable Care Act (ACA) group health plan mandates, such as those provided under a separate policy or contract, as with worker's compensation/liability insurance, or a dental-only or vision-only plan. Employers may offer their employees telehealth services as a standalone benefit, separate from comprehensive coverage.

Action Taken: Monitoring

Status: 7/19/2023 – Passed the House Committee on Energy and Commerce.

H.R. 1156 Spanberger, Abigail Davis [D-VA] Introduced: 2/24/2023

CalPERS Position: N/A

China Financial Threat Mitigation Act of 2023. Requires the Department of the Treasury to report on the exposure of the United States to the financial sector of China. The report must include the effects the reforms to China's financial sector have on U.S. and global financial systems, a description of the policies the United States is adopting to protect U.S. interests, a description and analysis of any risks presented by China to the financial stability of the United States and the global economy, and recommendations for additional actions to strengthen international cooperation to mitigate risks and protect U.S. interests.

Action Taken: Monitoring

Status: 5/30/2023 - Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2793 Wagner, Ann [R-MO] Introduced: 4/20/2023

CalPERS Position: N/A

Encouraging Public Offerings Act of 2023. Codifies and expands to all companies an existing SEC rule that allows emerging growth companies to communicate with potential investors to ascertain interest in a contemplated securities offering, either before or after the filing of a registration statement (aka "test the waters"). It also allows companies to submit a confidential draft registration statement to the SEC for review prior to public filing or within one year after the initial public offering or registration (aka "a follow-on offering").

Action Taken: Monitoring

Status: 6/6/2023 - Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2795 Meeks, Gregory W. [D-NY] Introduced: 4/24/2023

CalPERS Position: N/A

Enhancing Multi-Class Share Disclosures Act. Requires public companies with a multi-class stock structure to disclose, with respect to directors, executives, and owners of 5% of voting power, the number of shares they own (as a percent of all shares) and the voting power they hold (as a percent of all voting power).

Action Taken: Monitoring

Status: 5/31/2023 - Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2799 McHenry, Patrick T. [R-NC] Introduced: 4/24/2023

CalPERS Position: N/A

Expanding Access to Capital Act of 2023. Capital markets package that, among other things, requires the SEC to issue rules that decrease reporting and registration requirements for companies, brokers, and advisors. It expands the definition of emerging growth company to include businesses with annual gross revenues below \$1.5 billion in the prior year (up from \$1 billion), which are allowed to make less extensive disclosures than required for larger companies. The bill also exempts companies that sell less than \$250,000 in securities in a year from registering those transactions with the SEC and narrows the definition of accredited investor to allow more individuals to purchase securities that are exempt from registration requirements. In addition, it preempts some state and local laws governing private placement brokers, people assisting issuers with raising capital in private markets, crowdfunding, funding portals, gig workers (not employees), and some secondary market transactions.

Action Taken: Monitoring

Status: 7/17/2023 - Placed on the House Union Calendar, Calendar No. 112.

H.R. 3281 McMorris Rodgers, Cathy [R-WA] Introduced: 5/15/2023

CalPERS Position: N/A

Transparent Prices Required to Inform Consumer and Employers (PRICE) Act. Among other things, strengthens and expands hospital and health insurance transparency requirements and increases penalties for noncompliance. It also requires pharmacy benefit managers (PBMs) to regularly furnish employers with detailed data on information including drugs dispensed, copay assistance, rebates and discounts, net costs and patient cost-sharing. It also requires certain specified entities to report to the HHS Secretary data on mergers, acquisitions, and changes in ownership with respect to such specified entity for the previous 1-year period, and increases transparency into the effects of vertical integration in health care.

*Action Taken: Monitoring**Status: 5/17/2023 – Passed the House Committee on Energy and Commerce’s Subcommittee on Health.*

H.R. 3561 McMorris Rodgers, Cathy [R-WA] Introduced: 5/22/2023

CalPERS Position: N/A

Promoting Access to Treatments and Increasing Extremely Needed Transparency (PATIENT) Act of 2023. Among other things, codifies existing regulations that require hospitals to post their prices online, and expands and standardizes health plan cost and coverage reporting to HHS. It establishes deductible and cost-sharing limits on drugs that PBMs receive high rebates for and requires them to disclose negotiated prices for Medicare Part D drugs, as well as remuneration received and payments to pharmacies. In addition, it increases price transparency of clinical diagnostic laboratory tests under Medicare, establishes site-neutral payment policies in Medicare for administration of drug infusion and other hospital outpatient services performed off-campus, and requires MA plans to annually report to HHS details on payments, enrollee risk scores, items and services, prior authorizations and health risk assessments. It also requires disclosure of ownership interests in specified providers, and prohibits spread pricing for prescription drugs and related practices in Medicaid.

*Action Taken: Monitoring**Status: 5/24/2023 - Passed the House Committee on Energy and Commerce.*

H.R. 4260 Neal, Richard E. [D-MA] Introduced: 6/21/2023

CalPERS Position: N/A

Public Servants Protection and Fairness Act of 2023. Creates a new, more proportional Windfall Elimination Provision (WEP) formula. For those who are first eligible to receive Social Security before 2024 – the new formula does not apply. They would receive a monthly \$150 additional payment (a “rebate”). For those who are first eligible to receive Social Security starting in 2025 – they can use the current formula or the new formula, whichever is higher.

*Action Taken: Monitoring**Status: 6/21/2023 - Referred to the House Committee on Ways and Means.*

H.R. 4507 Good, Bob [R-VA] Introduced: 7/10/2023

CalPERS Position: N/A

Transparency in Coverage Act of 2023. Among other things, requires health insurers to provide real-time access to information about cost-sharing and negotiated rates for covered services performed by specified providers. It also requires insurers to disclose how much they will pay for out-of-network services and any restrictions on volume of services. It requires PBMs to submit detailed reports to plan administrators on a quarterly basis detailing the amount of rebates, fees, and discounts received on prescription drugs. It also requires PBMs to provide information about copay assistance programs and other discounts paid for by drug manufacturers.

Action Taken: Monitoring

Status: 7/12/2023 - Passed the House Committee on Education and Workforce.

H.R. 4655 Norman, Ralph [R-SC] Introduced: 7/14/2023

CalPERS Position: N/A

Businesses Over Activists Act. Prohibits the SEC from compelling public companies to include shareholder proposals or discussion of shareholder proposals in proxy statements.

Action Taken: Monitoring

Status: 7/27/2023 - Passed the House Committee on Financial Services.

H.R. 4767 Steil, Bryan [R-WI] Introduced: 7/20/2023

CalPERS Position: N/A

Protecting Americans' Retirement Savings from Politics Act. Legislative package that, among other things, requires proxy advisory firms to register with the SEC, disclose information about their qualifications and manage conflicts of interest. It requires that institutional investment managers who engage a proxy advisory firm to file a report with the SEC outlining how they voted on every shareholder proposal and the percentage of votes cast on shareholder proposals that were consistent with proxy advisory firm recommendations. Additional requirements for institutional investment managers include providing an economic analysis for every shareholder proposal that demonstrates the vote is in shareholders' best economic interest. The bill also prohibits the use of "robovoting" on votes related to proxy solicitation materials and requires investment advisors of passively managed funds to either vote proxies in accordance with the instructions of the issuer or abstain from voting.

Action Taken: Monitoring

Status: 7/27/2023 - Passed the House Committee on Financial Services.

H.R. 4790 Huizenga, Bill [R-MI] Introduced: 7/20/2023

CalPERS Position: N/A

Guiding Uniform and Responsible Disclosure Requirements and Information Limits (GUARDRAIL) Act of 2023.

Legislative package that, among other things, limits the SEC's rulemaking authority by allowing public companies to only make disclosures that they determine are material for shareholder voting or investment decisions. It also requires the SEC to analyze the impact and legal basis of European rules that require U.S. companies to make sustainability-related disclosures.

Action Taken: Monitoring

Status: 7/27/2023 - Passed the House Committee on Financial Services.

H.R. 5109 Gallagher, Mike [R-WI] Introduced: 8/1/2023

CalPERS Position: N/A

Dump Investments in Troublesome Communist Holdings (DITCH) Act. Rescinds the 401(a) federal tax qualified status of an organization if that organization holds any interest in a "disqualified Chinese company" at any time during such taxable year. A "disqualified Chinese company" means, among other things, any corporation that is incorporated in China.

Action Taken: Monitoring

Status: 8/1/2023 - Referred to the House Committee on Ways and Means and the House Committee on Foreign Affairs.

Note: S. 2750 (Hawley R-MO) is companion legislation that was introduced on September 7, 2023. Staff is monitoring this companion legislation.

H.R. 5512 Sherman, Brad [D-CA-32] Introduced: 9/14/2023

CalPERS Position: N/A

Russia and Belarus Financial Sanctions Act of 2023. Requires U.S. financial institutions to ensure entities and persons owned or controlled by the institution comply with financial sanctions on the Russian Federation and the Republic of Belarus to the same extent as the institution itself. The bill would apply to sanctions-related statutes and regulations concerning Russia or Belarus involving the conduct of transactions, the acceptance of deposits, the making, granting, transferring, holding, or brokering of loans or credits, the purchasing or selling of foreign exchange, securities, commodity futures, or options, or any other good or service provided by a U.S. financial institution.

Action Taken: Monitoring

Status: 9/20/2023 - Passed the House Committee on Financial Services.

H.J.Res. 30 Barr, Andy [R-KY] Vetoed by the President: 3/20/2023

CalPERS Position: N/A

Congressional Review Act Resolution. Rescinds the recently finalized Department of Labor rule "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights" which, among other things, allows ERISA plan fiduciaries to select investments and investment courses of action based on an evaluation of the economic effects of climate change and other sustainable investing factors.

Action Taken: Monitoring

Status: 3/20/2023 - Vetoed by the President.

Note: From the President's veto message: "There is extensive evidence showing that environmental, social, and governance factors can have a material impact on markets, industries, and businesses.... Retirement plan fiduciaries should be able to consider any factor that maximizes financial returns for retirees across the country. That is not controversial — that is common sense."

House consideration of the veto message failed on March 23, 2023.

S.J.Res. 8 (Braun R-IN) is companion legislation that was introduced on February 7, 2023. Staff is monitoring this companion legislation.

S. 113 Grassley, Chuck [R-IA] Introduced: 1/26/2023

CalPERS Position: N/A

Prescription Pricing for the People Act of 2023. Requires the Federal Trade Commission (FTC) to report about anticompetitive practices and other trends within the pharmaceutical supply chain that may impact the cost of prescription drugs. The FTC also must provide recommendations to increase transparency in the supply chain and prevent anticompetitive practices.

Action Taken: Monitoring

Status: 3/1/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 19.

S. 127 Cantwell, Maria [D-WA] Introduced: 1/26/2023

CalPERS Position: N/A

Pharmacy Benefit Manager Transparency Act. Prohibits certain Pharmacy Benefit Manager (PBM) practices including spread pricing, in which a PBM charges a health insurance plan more than it reimburses the pharmacy for a drug. It allows exceptions for PBMs that pass all drug discounts, known as rebates, to health plans and disclose information such as certain costs, discounts, fees and payments they receive for their services. It also grants the Federal Trade Commission the authority to ensure compliance with these measures.

Action Taken: Monitoring

Status: 3/22/2023 - Senate Committee on Commerce, Science, and Transportation. Ordered to be reported with an amendment in the nature of a substitute favorably.

S. 142 Klobuchar, Amy [D-MN] Introduced: 1/30/2023

CalPERS Position: N/A

Preserve Access to Affordable Generics and Biosimilars Act. Authorizes the FTC to initiate proceedings against drug companies that are parties to any agreement resolving or settling a patent infringement claim in connection with the sale of a drug or biological product (also known as “pay-for-delay” agreements).

Action Taken: Monitoring

Status: 3/1/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 20.

S. 148 Klobuchar, Amy [D-MN] Introduced: 1/30/2023

CalPERS Position: N/A

Stop STALLING Act. Enables the FTC to deter filing of sham citizen petitions to cover an attempt to interfere with approval of a competing generic drug or biosimilar and facilitates the efficient review of petitions filed in good faith that raise legitimate public health concerns. It also enables the FTC to levy fines or sue manufacturers in court.

Action Taken: Monitoring

Status: 3/1/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 21.

S. 150 Cornyn, John [R-TX] Introduced: 1/30/2023

CalPERS Position: N/A

Affordable Prescriptions for Patients Act of 2023. Empowers the FTC to curtail drug “product hopping,” a practice where brand name drug manufacturers seek to extend their market exclusivity on an expiring patented drug by developing a slightly modified version of the drug.

Action Taken: Monitoring

Status: 3/1/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 22.

S. 701 Baldwin, Tammy [D-WI] Introduced: 3/8/2023

CalPERS Position: N/A

Women’s Health Protection Act of 2023. Provides health care providers and patients the right to deliver and receive abortion care prior to viability, as defined, without medically unnecessary restrictions such as mandatory waiting periods, ultrasounds, in-person visits or biased counseling. This bill recognizes an individual's right to interstate travel, including for abortion services.

Action Taken: Monitoring

Status: 3/9/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 26.

S. 1067 Shaheen, Jeanne [D-NH] Introduced: 3/29/2023

CalPERS Position: N/A

Ensuring Timely Access to Generics Act of 2023. Increases generic drug competition through better oversight of the FDA's citizen petition process. The citizen petition process allows interested stakeholders, including drug companies, to bring concerns to the FDA's attention regarding pending applications.

Action Taken: Monitoring

Status: 6/22/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 107.

S. 1114 Smith, Tina [D-MN] Introduced: 3/30/2023

CalPERS Position: N/A

Expanding Access to Low-Cost Generics Act of 2023. Allows generic companies that are not first filers the ability to receive 180-day market exclusivity if the first filer does not come to market after a specified time-frame.

Action Taken: Monitoring

Status: 6/22/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 108.

S. 1214 Baldwin, Tammy [D-WI] Introduced: 4/19/2023

CalPERS Position: N/A

Retaining Access and Restoring Exclusivity Act (RARE) Act. Codifies the FDA's longstanding interpretation of the Orphan Drug Act to ensure that the scope of the orphan drug exclusivity in Sec. 527 of the Food, Drug and Cosmetic Act is clarified to apply only to the same approved use or indication within such rare disease or condition instead of the same disease or condition. It gives the FDA the necessary authority to approve the same drug from different manufacturers if they aim to serve different patient populations.

Action Taken: Monitoring

Status: 6/22/2023 - Placed on Senate Legislative Calendar under General Orders. Calendar No. 109.

S. 1339 Sanders, Bernard [I-VT] Introduced: 4/27/2023

CalPERS Position: N/A

Pharmacy Benefit Manager Reform Act. Prohibits PBMs from practicing spread pricing, whereby they charge health plans more for a drug than they pay to the dispensing pharmacy. It also requires PBMs to pass through all rebates and discounts negotiated with a drug manufacturer to the health plan within 90 days of receiving payment. In addition, it requires PBMs to report to plan sponsors, among other things: information on copayment assistance dollars applied/funded by the drug manufacturer with respect to plan participants; a list of drugs billed/covered by the plan or PBM, including cost and claim information, dosage, and participant out-of-pocket spending; a list of therapeutic class of drugs dispensed; costs before rebates/discounts; formulary tier information; the total net spending by the health plan on prescription drugs; and the amounts of various rebates and fees received from their business referrals to health plans. It also creates an exemption process for health plan prescription drug step therapy requirements, requires health plans to offer claims, costs, coverage and network data to enrollees via application programming interfaces for use in mobile apps, requires drug companies to publicly justify price increases and disclose underlying costs, and allows the FDA to disclose specific ingredient ratios of brand name drugs to generic drug manufacturers.

*Action Taken: Monitoring**Status: 6/22/2023 – Placed on Senate Legislative Calendar under General Orders. Calendar No. 113.*

S. 2007 Menendez, Robert [D-NJ] Introduced: 6/15/2023

CalPERS Position: Support

Improving Corporate Governance Through Diversity Act of 2023. Requires public companies to disclose the racial, ethnic and gender composition of their boards of directors and executive officers (based on voluntary self-identification), as well as the status of any of those directors and officers as a veteran. It also requires public companies disclose any plan to promote racial, ethnic, and gender diversity among these groups. In addition, it requires the SEC to establish a Diversity Advisory Group to report on strategies to increase racial, ethnic, and gender diversity among board members.

*Action Taken: Sent a letter to Sen. Menendez and Rep. Meeks expressing support for this bill on September 6, 2023.**Status: 6/15/2023 - Read twice and referred to the Senate Committee on Banking, Housing, and Urban Affairs.**Note: H.R. 4177 (Meeks D-NY) is companion legislation that was introduced on June 15, 2023. Staff is monitoring this companion legislation.*

S. 2840 Sanders, Bernard [I-VT] Introduced: 9/19/2023

CalPERS Position: N/A

Bipartisan Primary Care and Health Workforce Act. Reauthorizes funding for various programs; prohibits anti-competitive contract provisions that prevent plans from directing employees to higher-value, lower-cost providers; requires off-campus hospital outpatient departments to provide a unique identifier on all bills to help employers determine whether charges are appropriate; prevents hospitals from using anticompetitive contracting practices when they negotiate prices with commercial insurance companies; bans hospital facility fees for telehealth and for evaluation and management health care services.

Action Taken: Monitoring

Status: 9/21/2023 - Senate Committee on Health, Education, Labor, and Pensions. Ordered to be reported with amendments favorably.

S. 2973 Wyden, Ron [D-OR] Introduced: 7/24/2023

CalPERS Position: N/A

Modernizing and Ensuring PBM Accountability Act. Establishes PBM reporting requirements with respect to prescription drug plans and Medicare Part D plans, including dispensing and formulary placement information. It requires that PBMs be paid based on a "bona fide service fee" that is not linked to a drug list price, with the exception of rebates, discounts, and price concessions that result in lower net costs for covered Medicare Part D drugs. It also bans Medicaid spread pricing and directs HHS to study the impact on patient out-of-pocket costs and Medicare Part D spending when insurers, PBMs, and pharmacies own each other.

Action Taken: Monitoring

Status: 7/26/2023 - Passed the Senate Committee on Finance.
