

AMENDED IN ASSEMBLY MAY 31, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 199**

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**Introduced by Assembly Member Correa**

February 7, 2001

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An act to amend ~~Section 20751~~ *Sections 20751, 21293, and 21294* of, and to add Sections 20751.5 ~~and 20910~~, *20910, and 21251.15* to, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 199, as amended, Correa. ~~Public employees' retirement: local safety member service credit~~ *Public employees' retirement: local safety member service credit benefits of members and former spouses.*

Existing law requires that, upon legal separation or dissolution of marriage of a member of the Public Employees' Retirement System, the court shall divide the accumulated contributions and service credit attributable to periods of service during the marriage into separate accounts between the member and the spouse and shall, among other things, address the rights of the spouse to *redeposit previously withdrawn contributions and to purchase service credit for specified periods*. Following such a division of accounts, existing law *authorizes the former spouse to withdraw his or her share of accumulated contributions and thereby waive his or her rights under the system and, in turn, authorizes*—~~a~~ *the member to redeposit, for the member's account, accumulated contributions withdrawn by his or her former spouse. If the former spouse does not withdraw his or her share of accumulated contributions, existing law prescribes the method for calculating the retirement allowance of the former spouse.*

This bill would *additionally* authorize ~~certain local safety members, as defined, a member, whose former spouse has waived his or her rights under the system, to redeposit for their own account~~ the amount of ~~accumulated previously withdrawn contributions awarded to that could have been redeposited by the member's former spouse, plus interest,~~ and to elect to purchase the same amount and type of service credit that the former spouse ~~has had~~ the right to purchase, as specified. *The bill would also prescribe a method for calculating the retirement allowance of a member who retires on or after January 1, 2002, and whose former spouse is eligible to retire, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 20751 of the Government Code is  
2 amended to read:

3 20751. ~~(a)~~—If a nonmember, as defined in Section 21291,  
4 withdraws accumulated contributions in accordance with Section  
5 ~~21290~~ 21292, the member may redeposit those contributions  
6 pursuant to this article.

7 ~~(b) This section shall not apply to any local safety member  
8 subject to Section 20751.5.~~

9 SEC. 2. Section 20751.5 is added to the Government Code, to  
10 read:

11 ~~20751.5. Notwithstanding any provision of Article 2  
12 (commencing with Section 21290) of Chapter 13 of this part, a  
13 local safety member, as defined in Section 20420, whose service  
14 credit and accumulated contributions have been divided into  
15 separate accounts pursuant to Section 21290 may redeposit in the  
16 retirement fund for his or her own account the amount of  
17 accumulated contributions awarded to the nonmember, plus  
18 interest, in the manner provided in this article.~~

19 20751.5. *A member whose right to redeposit contributions  
20 has been awarded in part to a nonmember, pursuant to paragraph  
21 (3) of subdivision (c) of Section 21290, may elect to redeposit  
22 contributions for the same amount that the nonmember was  
23 entitled to redeposit, if the nonmember has permanently waived all  
24 rights in the system by effecting a refund of accumulated  
25 contributions pursuant to Section 21292. A member electing to*



1 *redeposit contributions pursuant to this section shall make the*  
2 *redeposit pursuant to Section 20750.*

3 SEC. 3. Section 20910 is added to the Government Code, to  
4 read:

5 ~~20910. A local safety member, as defined in Section 20420,~~  
6 *20910. A member whose right to elect to receive service credit*  
7 *pursuant to Article 4 (commencing with Section 20990) and*  
8 *Article 5 (commencing with Section 21020) of this chapter has*  
9 *been awarded in part to a nonmember, pursuant to paragraph (4)*  
10 *of subdivision (c) of Section 21290, may elect to receive service*  
11 *credit for the same amount and type of service credit that the*  
12 *nonmember is entitled to purchase, irrespective of whether the*  
13 ~~*nonmember makes that purchase. A if the nonmember has*~~  
14 ~~*permanently waived all rights in the system by effecting a refund*~~  
15 ~~*of accumulated contributions pursuant to Section 21292. A*~~  
16 *member electing to receive service credit pursuant to this section*  
17 *shall make the contributions required under this chapter for the*  
18 *particular amount and type of service credit.*

19 SEC. 4. Section 21251.15 is added to the Government Code,  
20 to read:

21 *21251.15. Notwithstanding any other provision of this part,*  
22 *when a member's account has been divided pursuant to Section*  
23 *21290, and the nonmember has not effected a refund of*  
24 *accumulated contributions pursuant to Section 21292 prior to the*  
25 *member's effective date of retirement, and the nonmember has*  
26 *sufficient credited service to retire for service, the retirement*  
27 *allowance payable to a member who retires on or after January 1,*  
28 *2002, shall be equal to the difference between the allowance that*  
29 *would have been payable to the member had the division of the*  
30 *account not occurred and the allowance payable to the*  
31 *nonmember when the nonmember attains the age of 50 years, for*  
32 *service subject to Section 21362.2, and the age of 55 years, for all*  
33 *other service. In no event may the member's retirement allowance*  
34 *payable under this section be less than the allowance that would*  
35 *otherwise be payable under this part.*

36 SEC. 5. Section 21293 of the Government Code is amended to  
37 read:

38 21293. (a) The nonmember who is awarded a separate  
39 account may redeposit accumulated contributions previously



1 refunded to the member in accordance with the determination of  
2 the court required by Section 21290.

3 (b) The nonmember may redeposit only those accumulated  
4 contributions that were previously refunded to the member and  
5 that the court has determined to be the community property interest  
6 of the nonmember in the accumulated contributions.

7 (c) If the nonmember elects to redeposit, he or she shall repay  
8 the accumulated contributions pursuant to Section 20750 or  
9 Section 20752.

10 (d) An election to redeposit shall be considered an election to  
11 repay all accumulated contributions previously refunded that the  
12 nonmember is entitled to redeposit.

13 (e) The right of the nonmember to redeposit is subject to the  
14 regulations of the board.

15 (f) The member has no right to redeposit the share of the  
16 nonmember in the previously refunded accumulated contributions  
17 ~~whether or not unless the nonmember elects to redeposit has~~  
18 *permanently waived all rights in the system by effecting a refund*  
19 *of accumulated contributions pursuant to Section 21292.*  
20 However, any right to redeposit previously refunded accumulated  
21 contributions not explicitly awarded to the nonmember by the  
22 judgment or court order shall be deemed the exclusive property of  
23 the member.

24 (g) ~~In the event~~ *If* the nonmember elected to redeposit upon  
25 retirement and has subsequently died, prior to completing the  
26 redeposit, the board shall file a claim against the estate of the  
27 decedent to recover benefit payments that exceeded those for  
28 which payment was made.

29 *SEC. 6. Section 21294 of the Government Code is amended to*  
30 *read:*

31 21294. (a) The nonmember shall have the right to purchase  
32 service credit pursuant to the determination of the court required  
33 by Section 21290.

34 (b) The nonmember may purchase only that service credit that  
35 the court, pursuant to Section 21290, has determined to be the  
36 community property interest of the nonmember spouse.

37 (c) If the nonmember elects to purchase service credit, he or she  
38 shall pay, prior to retirement, the contributions and interest  
39 required by Article 4 (commencing with Section 20990) and



1 Article 5 (commencing with Section 21020) of Chapter 11 and  
2 pursuant to the regulations of the board.

3 (d) The nonmember shall have no right to purchase the service  
4 credit after the effective date of a refund of the accumulated  
5 contributions in the separate account of the nonmember.

6 (e) The member has no right to purchase the community  
7 property interest of the nonmember of the service credit ~~whether~~  
8 ~~or not unless the nonmember elects to purchase the service credit~~  
9 *has permanently waived all rights in the system by effecting a*  
10 *refund of accumulated contributions pursuant to Section 21292.*  
11 However, any service credit eligible for purchase that is not  
12 explicitly awarded to the nonmember by the judgment or court  
13 order shall be deemed the exclusive property of the member.

14 (f) ~~In the event~~ *If* the nonmember elected to purchase service  
15 credits upon retirement and has subsequently died, prior to  
16 completing the purchase, the board shall file a claim against the  
17 estate of the deceased to recover benefit payments ~~which~~ *that*  
18 exceeded those for which payment was made.

