

ASSEMBLY BILL

No. 2367

Introduced by Assembly Member Correa

February 21, 2002

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2367, as introduced, Correa. Public employees' retirement: 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the member and the spouse and shall, among other things, address the rights of the spouse to redeposit previously withdrawn contributions and to purchase service credit for specified periods.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 that 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under the system and, in turn, authorizes the member to redeposit, for the member's account, accumulated contributions withdrawn by his or her former spouse.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 a member, whose former spouse has waived his or her rights under the system, to redeposit the amount of previously withdrawn contributions that could have been

redeposited by the former spouse and to purchase the same amount and type of service credit that the former spouse 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. 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 SEC. 2. Section 20751.5 is added to the Government Code, to
8 read:

9 20751.5. A member whose right to redeposit contributions
10 has been awarded in part to a nonmember, pursuant to paragraph
11 (3) of subdivision (c) of Section 21290, may elect to redeposit
12 contributions for the same amount that the nonmember was
13 entitled to redeposit, if the nonmember has permanently waived all
14 rights in the system by effecting a refund of accumulated
15 contributions pursuant to Section 21292. A member electing to
16 redeposit contributions pursuant to this section shall make the
17 redeposit pursuant to Section 20750.

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

20 20910. A member whose right to elect to receive service
21 credit pursuant to Article 4 (commencing with Section 20990) and
22 Article 5 (commencing with Section 21020) of this chapter has
23 been awarded in part to a nonmember, pursuant to paragraph (4)
24 of subdivision (c) of Section 21290, may elect to receive service
25 credit for the same amount and type of service credit that the
26 nonmember is entitled to purchase, if the nonmember has
27 permanently waived all rights in the system by effecting a refund
28 of accumulated contributions pursuant to Section 21292. A
29 member electing to receive service credit pursuant to this section



1 shall make the contributions required under this chapter for the
2 particular amount and type of service credit.

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

5 21251.15. Notwithstanding any other provision of this part,
6 when a member's account has been divided pursuant to Section
7 21290, and the nonmember has not effected a refund of
8 accumulated contributions pursuant to Section 21292 prior to the
9 member's effective date of retirement, and the nonmember has
10 sufficient credited service to retire for service, the retirement
11 allowance payable to a member who retires on or after January 1,
12 2003, shall be equal to the difference between the allowance that
13 would have been payable to the member had the division of the
14 account not occurred and the allowance payable to the nonmember
15 when the nonmember attains the age of 50 years, for service
16 subject to Section 21362.2, and the age of 55 years, for all other
17 service. In no event may the member's retirement allowance
18 payable under this section be less than the allowance that would
19 otherwise be payable under this part.

20 SEC. 5. Section 21293 of the Government Code is amended
21 to read:

22 21293. (a) The nonmember who is awarded a separate
23 account may redeposit accumulated contributions previously
24 refunded to the member in accordance with the determination of
25 the court required by Section 21290.

26 (b) The nonmember may redeposit only those accumulated
27 contributions that were previously refunded to the member and
28 that the court has determined to be the community property interest
29 of the nonmember in the accumulated contributions.

30 (c) If the nonmember elects to redeposit, he or she shall repay
31 the accumulated contributions pursuant to Section 20750 or
32 Section 20752.

33 (d) An election to redeposit shall be considered an election to
34 repay all accumulated contributions previously refunded that the
35 nonmember is entitled to redeposit.

36 (e) The right of the nonmember to redeposit is subject to the
37 regulations of the board.

38 (f) The member has no right to redeposit the share of the
39 nonmember in the previously refunded accumulated contributions
40 ~~whether or not~~ *unless* the nonmember ~~elects to redeposit~~ *has*



1 *permanently waived all rights in the system by effecting a refund*
 2 *of accumulated contributions pursuant to Section 21292.*
 3 However, any right to redeposit previously refunded accumulated
 4 contributions not explicitly awarded to the nonmember by the
 5 judgment or court order shall be deemed the exclusive property of
 6 the member.

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

12 SEC. 6. Section 21294 of the Government Code is amended
 13 to read:

14 21294. (a) The nonmember shall have the right to purchase
 15 service credit pursuant to the determination of the court required
 16 by Section 21290.

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

20 (c) If the nonmember elects to purchase service credit, he or she
 21 shall pay, prior to retirement, the contributions and interest
 22 required by Article 4 (commencing with Section 20990) and
 23 Article 5 (commencing with Section 21020) of Chapter 11 and
 24 pursuant to the regulations of the board.

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

28 (e) The member has no right to purchase the community
 29 property interest of the nonmember of the service credit ~~whether~~
 30 ~~or not unless the nonmember elects to purchase the service credit~~
 31 *has permanently waived all rights in the system by effecting a*
 32 *refund of accumulated contributions pursuant to Section 21292.*
 33 However, any service credit eligible for purchase that is not
 34 explicitly awarded to the nonmember by the judgment or court
 35 order shall be deemed the exclusive property of the member.

36 (f) ~~In the event~~ *If* the nonmember elected to purchase service
 37 credits upon retirement and has subsequently died, prior to
 38 completing the purchase, the board shall file a claim against the



1 estate of the deceased to recover benefit payments ~~which~~ *that*
2 exceeded those for which payment was made.

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