

AMENDED IN SENATE AUGUST 26, 2002

AMENDED IN SENATE MAY 30, 2002

AMENDED IN ASSEMBLY APRIL 8, 2002

AMENDED IN ASSEMBLY APRIL 1, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2367

**Introduced by Assembly Member Correa
(Coauthors: Assembly Members Calderon, Corbett, Wiggins,
and Wyland)**

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 amended, 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the member and the spouse and shall, among other things, address the rights of the spouse to redeposit previously withdrawn contributions and to purchase service credit for specified periods.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under the system and, in turn, authorizes the member to redeposit, for the member’s account, accumulated contributions withdrawn by his or her former spouse.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a member, whose former spouse has waived his or her rights under the system, to redeposit the amount of previously withdrawn contributions that could have been redeposited by the former spouse and to purchase the same amount and type of service credit that the former spouse had the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, 2003, 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 21292, the member may redeposit those contributions pursuant to
- 6 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



1 Article 5 (commencing with Section 21020) of this chapter has
2 been awarded in part to a nonmember, pursuant to paragraph (4)
3 of subdivision (c) of Section 21290, may elect to receive service
4 credit for the same amount and type of service credit that the
5 nonmember is entitled to purchase, if the nonmember has
6 permanently waived all rights in the system by effecting a refund
7 of accumulated contributions pursuant to Section 21292. A
8 member electing to receive service credit pursuant to this section
9 shall make the contributions required under this chapter for the
10 particular amount and type of service credit.

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

13 21251.15. Notwithstanding any other provision of this part,
14 when a member's account has been divided pursuant to Section
15 21290, and the nonmember has not effected a refund of
16 accumulated contributions pursuant to Section 21292 prior to the
17 member's effective date of retirement, and the nonmember has
18 sufficient credited service to retire for service, the retirement
19 allowance payable to a member who retires on or after January 1,
20 2003, shall be equal to the difference between (a) the allowance
21 that would have been payable to the member had the division of
22 the account not occurred and (b) the allowance payable to the
23 nonmember either (1) on the effective date of the nonmember's
24 retirement, or (2) if the nonmember has not retired on or before the
25 member's effective date of retirement, when the nonmember
26 attains the age of 50 years for service subject to Section 21362.2,
27 and the age of 55 years, *or the nonmember's actual age if older*
28 *than the age of 55 years on the effective date of the member's*
29 *retirement*, for all other service. In no event may the member's
30 retirement allowance payable under this section be less than the
31 allowance that would otherwise be payable under this part.

32 SEC. 5. Section 21293 of the Government Code is amended
33 to read:

34 21293. (a) The nonmember who is awarded a separate
35 account may redeposit accumulated contributions previously
36 refunded to the member in accordance with the determination of
37 the court required by Section 21290.

38 (b) The nonmember may redeposit only those accumulated
39 contributions that were previously refunded to the member and



1 that the court has determined to be the community property interest
2 of the nonmember in the accumulated contributions.

3 (c) If the nonmember elects to redeposit, he or she shall repay
4 the accumulated contributions pursuant to Section 20750 or
5 Section 20752.

6 (d) An election to redeposit shall be considered an election to
7 repay all accumulated contributions previously refunded that the
8 nonmember is entitled to redeposit.

9 (e) The right of the nonmember to redeposit is subject to the
10 regulations of the board.

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

19 (g) If the nonmember elected to redeposit upon retirement and
20 has subsequently died, prior to completing the redeposit, the board
21 shall file a claim against the estate of the decedent to recover
22 benefit payments that exceeded those for which payment was
23 made.

24 SEC. 6. Section 21294 of the Government Code is amended
25 to read:

26 21294. (a) The nonmember shall have the right to purchase
27 service credit pursuant to the determination of the court required
28 by Section 21290.

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

32 (c) If the nonmember elects to purchase service credit, he or she
33 shall pay, prior to retirement, the contributions and interest
34 required by Article 4 (commencing with Section 20990) and
35 Article 5 (commencing with Section 21020) of Chapter 11 and
36 pursuant to the regulations of the board.

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



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

9 (f) If the nonmember elected to purchase service credits upon
10 retirement and has subsequently died, prior to completing the
11 purchase, the board shall file a claim against the estate of the
12 deceased to recover benefit payments that exceeded those for
13 which payment was made.

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