

AMENDED IN SENATE AUGUST 12, 2002

AMENDED IN SENATE JUNE 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2766**

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**Introduced by Assembly Member Runner**

February 25, 2002

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An act to amend Section 45309 of, and to add Sections 31629.5, 31831.3, 45310.6, 45310.7, 53216.8, and 53217.10 to, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2766, as amended, Runner. Public employees' retirement: accumulated contributions.

Existing law provides ~~that the~~ members of certain public retirement systems, whose retirement benefits have ~~not~~ vested, with the right, upon leaving service and entering the employment of a reciprocal retirement system within a specified timeframe, ~~may~~ *to* leave accumulated contributions on deposit in the retirement fund, subject to specific limitations. Existing law also permits a former member of a public retirement system, under specified circumstances, to elect to redeposit in the retirement fund an amount equal to the accumulated contributions that he or she withdrew upon termination of employment.

This bill would expand those rights to provide a member of a county, city, or local agency retirement system, who is credited with less than the number of service years required for benefits to vest, with the right to elect to leave *his or her* accumulated contributions, *as defined*, on deposit in the retirement fund, subject to specified conditions. The bill

would additionally grant a former member of one of those retirement systems who is or was engaged in active law enforcement or ~~fire suppression~~ *firefighting and prevention* service, as specified, and who, for specified reasons, did not leave his or her accumulated contributions within the retirement fund, the right to redeposit those withdrawn contributions, if he or she is an active member of a specified reciprocal public retirement system at the time of redeposit. ~~The~~

*The bill would ~~also~~ set forth the findings and declarations of the Legislature and would make related, conforming changes.*

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

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

1 SECTION 1. *The Legislature finds and declares all of the*  
2 *following:*

3 (a) *As a matter of statewide importance, the safety and welfare*  
4 *of the people of California require that California's current and*  
5 *former local public safety officers are granted redeposit rights for*  
6 *retirement purposes to ensure that the highest quality police*  
7 *officers and firefighters are attracted to, and retained in, positions*  
8 *of public service, and in order to ensure that the administration of*  
9 *these duties is of the highest caliber and integrity.*

10 (b) *There is a public obligation to provide retirement*  
11 *compensation to public safety officers who selflessly risk their lives*  
12 *on a daily basis to ensure the safety and the well being of the public.*

13 (c) *As a matter of statewide importance, it is necessary to*  
14 *ensure that local public safety officers who are incapacitated in the*  
15 *performance of their duties or by age, be replaced by the most*  
16 *qualified public safety officers, and it is necessary to recognize that*  
17 *retirement benefits impact this endeavor.*

18 (d) *Furthermore, due to the state's compelling interest in*  
19 *ensuring that the state's public agencies recruit and retain the*  
20 *highest caliber of public employees, it is essential that employees*  
21 *who take breaks from public employment to gain valuable*  
22 *experience in the private sector or to increase their skills and*  
23 *abilities by increasing their education level are not required to*  
24 *forfeit retirement benefits to do so, but are allowed to retain the*  
25 *service credit they earn as public employees in order to encourage*



1 *them to return to public employment and continue to serve the*  
2 *public.*

3 *(e) To these ends, it is the intent of the Legislature in enacting*  
4 *this act to enable current and former local public safety officers to*  
5 *redeposit formerly withdrawn contributions for past public service*  
6 *in order to obtain a retirement benefit for that service and to ensure*  
7 *that local public employees have the ability to retain retirement*  
8 *contributions on deposit.*

9 SEC. 2. Section 31629.5 is added to the Government Code, to  
10 read:

11 31629.5. (a) Notwithstanding Sections 31628 and 31629, on  
12 or after January 1, 2003, a member who is credited with less than  
13 the number of years of service required for vesting shall have the  
14 right to elect to leave accumulated contributions on deposit in the  
15 retirement fund. Failure to make an election to withdraw  
16 accumulated contributions shall be deemed an election to leave  
17 accumulated contributions on deposit in the retirement fund.

18 (b) An election to allow accumulated contributions to remain  
19 in the retirement fund may be revoked by the member at any time  
20 except: (1) while the member is employed in county service in a  
21 position in which the member is not excluded from membership  
22 in this system with respect to that service; (2) while the member  
23 is in service as a member of a public retirement system supported,  
24 in whole or in part, by state funds; or (3) while the member is in  
25 service, entered within six months after discontinuing county  
26 service, as a member of a reciprocal retirement system. All  
27 *accumulated* contributions contributed up to the time of  
28 revocation may then be withdrawn.

29 (c) A member whose membership continues under this section  
30 is subject to the same age, *service*, and disability requirements that  
31 apply to other members for service or disability retirement. After  
32 the qualification of the member for retirement by reason of age,  
33 which shall be the lowest age applicable to any membership  
34 category in which the member has credited service, or disability,  
35 the member shall be entitled to receive a retirement allowance  
36 based upon the amount of the member's accumulated  
37 contributions and service standing to the member's credit at the  
38 time of retirement and on the employer contributions held for the  
39 member and calculated in the same manner as for other members;  
40 ~~except that the provisions in this part for minimum service and~~



1 ~~disability retirement allowances may not apply to the member~~  
2 ~~when the member retires concurrently from all retirement~~  
3 ~~systems.~~

4 (d) *Service, solely for purposes of meeting minimum service*  
5 *qualifications for service or disability retirement, shall also*  
6 *include service credited as an employee of a reciprocal system*  
7 *when the member retires concurrently from all reciprocal*  
8 *retirement systems. A member whose combined service from all*  
9 *reciprocal retirement systems does not meet the minimum service*  
10 *qualifications may not receive a service or disability retirement*  
11 *from this system.*

12 (e) *Notwithstanding Section 31467, for purposes of this*  
13 *section, “accumulated contributions” means the sum of all*  
14 *member contributions standing to the credit of a member’s*  
15 *individual account, and interest thereon.*

16 ~~SEC. 2.~~

17 SEC. 3. Section 31831.3 is added to the Government Code, to  
18 read:

19 31831.3. (a) Notwithstanding Sections 31831.1 and  
20 31831.2, any *former* member who left county or district service  
21 and became a member of a retirement system established under  
22 this chapter in another county or district, or a reciprocal retirement  
23 system, or a retirement system established under the Public  
24 Employees’ Retirement Law, and who did not elect to, or was not  
25 eligible to, leave his or her contributions on deposit pursuant to  
26 Article 9 (commencing with Section 31700), may elect to  
27 redeposit those contributions if he or she is an active member of  
28 a county retirement system, the Public Employees’ Retirement  
29 System, or another reciprocal retirement system at the time of  
30 redeposit. A *former* member may exercise this right by  
31 redepositing in the retirement fund of the county or district he or  
32 she left, the amount of accumulated contributions and interest that  
33 he or she withdrew from that retirement fund plus regular interest  
34 thereon from the date of separation.

35 (b) A *former* member who redeposits under this section shall  
36 have the same rights as a member who elected to leave his or her  
37 accumulated contributions on deposit in the fund. The deferred  
38 retirement allowance of the member shall be determined in  
39 accordance with the provisions of this chapter applicable to a



1 member retiring directly from county employment on the date of  
2 his or her retirement.

3 (c) A *former* member who redeposits under this section shall be  
4 entitled to a reduced age at entry, commencing with contributions  
5 payable the first day of the month following the date the  
6 association receives notice of the redeposit, only to the extent  
7 provided in Section 31833.

8 (d) This section does not apply to the following:

9 (1) A member *or former member* who is retired.

10 (2) A *former* member who is not in the service of an employer  
11 making him or her a member of a retirement system established  
12 under this chapter in another county or district, a retirement system  
13 established under the Public Employees' Retirement Law, or  
14 another reciprocal retirement system.

15 (e) This section shall only apply to either of the following:

16 (1) A *former* member who is in the service of an employer as  
17 an officer or employee of a law enforcement agency or fire  
18 department whose principal duties consist of active law  
19 enforcement or ~~active fire suppression~~ *firefighting and prevention*  
20 service, but excluding one whose principal duties are those of a  
21 telephone operator, clerk, stenographer, machinist, mechanic, or  
22 otherwise, and whose functions do not clearly come within the  
23 scope of active law enforcement or fire fighting and prevention  
24 service, even though the officer or employee is subject to  
25 occasional call, or is occasionally called upon, to perform duties  
26 within the scope of active law enforcement or ~~fire fighting~~  
27 *firefighting* and prevention service.

28 (2) A *former* member who is in the service of an employer and  
29 seeks to redeposit contributions for past employment as an officer  
30 or employee of a law enforcement agency or fire department in this  
31 system whose principal duties consisted of active law enforcement  
32 or ~~active fire suppression~~ *firefighting and prevention* service, but  
33 excluding one whose principal duties were those of a telephone  
34 operator, clerk, stenographer, machinist, mechanic, or otherwise,  
35 and whose functions did not clearly come within the scope of  
36 active law enforcement or fire fighting and prevention service,  
37 even though the officer or employee was subject to occasional call,  
38 or was occasionally called upon, to perform duties within the scope  
39 of active law enforcement or ~~fire fighting~~ *firefighting* and  
40 prevention service.



1 (f) For purposes of this section, a “former member” is a  
2 member who left county or district service and who did not elect  
3 to, or was not eligible to, leave his or her contributions on deposit  
4 pursuant to Article 9 (commencing with Section 31700).

5 (g) Each retirement system shall establish criteria to determine  
6 the eligibility of a former member to redeposit contributions, and  
7 the amount of contributions that may be redeposited, pursuant to  
8 this section in those cases in which the system no longer maintains  
9 complete records with respect to the former member.

10 ~~SEC. 3.~~

11 SEC. 4. Section 45309 of the Government Code is amended  
12 to read:

13 45309. Among other matters, the ordinance establishing the  
14 system shall provide for:

15 (a) The amount of benefits to be paid to any officers or  
16 employees, or their beneficiaries, and the terms and conditions  
17 upon which the benefits will be paid.

18 (b) The contribution to be paid by the officers or employees to  
19 the pension and retirement fund.

20 (c) The contribution to be paid by the city to the pension and  
21 retirement fund, which, exclusive of contributions paid on account  
22 of service rendered prior to the effective date of the ordinance,  
23 shall not exceed the total contribution paid to the pension and  
24 retirement fund by the officers and employees.

25 (d) The personnel of the retirement board, which shall consist  
26 of not less than five members, at least two of whom shall be elected  
27 by the officers and employees who are included in the retirement  
28 system.

29 (e) The adoption of regulations for the administration of the  
30 system by the retirement board.

31 (f) The refunding to any officer or employee who withdraws  
32 from the system, prior to retirement, of the amount of his *or her*  
33 contribution and the interest credited to his *or her* contribution  
34 upon the ~~officer~~ officer’s or employee’s request following  
35 withdrawal from the system.

36 ~~SEC. 4.~~

37 SEC. 5. Section 45310.6 is added to the Government Code, to  
38 read:

39 45310.6. When a city has established a reciprocal retirement  
40 system under this chapter, the following shall apply:



1 (a) Any *former* member who left service under that system and  
2 became a member of a reciprocal retirement system or a retirement  
3 system established under the Public Employees' Retirement Law,  
4 and who did not elect to, or was not eligible to, leave his or her  
5 contributions on deposit, may elect to redeposit those  
6 contributions if he or she is an active member of a reciprocal  
7 retirement system or the Public Employees' Retirement System at  
8 the time of redeposit. A *former* member may exercise this right by  
9 redepositing in the retirement fund of the city he or she left, the  
10 amount of accumulated contributions and interest that he or she  
11 withdrew from that retirement fund plus regular interest thereon  
12 from the date of separation.

13 (b) A *former* member who redeposits under this section shall  
14 have the same rights as a member who elected to leave his or her  
15 accumulated contributions on deposit in the fund. The deferred  
16 retirement allowance of the member shall be determined in  
17 accordance with provisions applicable to a member retiring  
18 directly from city employment on the date of his or her retirement.

19 (c) A *former* member who redeposits under this section shall be  
20 entitled to a reduced age at entry, commencing with contributions  
21 payable the first day of the month following the date the  
22 association receives notice of the redeposit, if applicable.

23 (d) This section does not apply to either of the following:

- 24 (1) A member *or former member* who is retired.
- 25 (2) A *former* member who is not in the service of an employer  
26 making him or her a member of a retirement system established  
27 under the Public Employees' Retirement Law or a reciprocal  
28 retirement system.

29 (e) This section shall only apply to either of the following:

- 30 (1) A *former* member who is in the service of an employer as  
31 an officer or employee of a law enforcement agency or fire  
32 department whose principal duties consist of active law  
33 enforcement or ~~active fire suppression~~ *firefighting and prevention*  
34 service, but excluding one whose principal duties are those of a  
35 telephone operator, clerk, stenographer, machinist, mechanic, or  
36 otherwise, and whose functions do not clearly come within the  
37 scope of active law enforcement or firefighting and prevention  
38 service, even though the officer or employee is subject to  
39 occasional call, or is occasionally called upon, to perform duties



1 within the scope of active law enforcement or ~~fire fighting~~  
 2 *firefighting* and prevention service.

3 (2) A *former member* who is in the service of an employer and  
 4 seeks to redeposit contributions for past employment as an officer  
 5 or employee of a law enforcement agency or fire department in ~~this~~  
 6 *the city's retirement* system whose principal duties consisted of  
 7 active law enforcement or ~~active fire suppression~~ *firefighting and*  
 8 *prevention* service, but excluding one whose principal duties were  
 9 those of a telephone operator, clerk, stenographer, machinist,  
 10 mechanic, or otherwise, and whose functions did not clearly come  
 11 within the scope of active law enforcement or fire fighting and  
 12 prevention service, even though the officer or employee was  
 13 subject to occasional call, or was occasionally called upon, to  
 14 perform duties within the scope of active law enforcement or ~~fire~~  
 15 ~~fighting~~ *firefighting* and prevention service.

16 (f) *For purposes of this section, a "former member" is a*  
 17 *member who left service under a retirement system established*  
 18 *under this chapter and who did not elect to, or was not eligible to,*  
 19 *leave his or her contributions on deposit with the system.*

20 (g) *Each city retirement system subject to this section shall*  
 21 *establish criteria to determine the eligibility of a former member*  
 22 *to redeposit contributions, and the amount of contributions that*  
 23 *may be redeposited, in those cases in which the system no longer*  
 24 *maintains complete records with respect to the former member.*

25 (h) *It is the intent of the Legislature in enacting this section to*  
 26 *recognize a statewide public obligation to all those whose duties*  
 27 *as local public safety officers expose them to more than ordinary*  
 28 *risks through their contribution to ensuring public safety and to*  
 29 *ensure that those who do serve or have served as local public safety*  
 30 *officers shall have the ability to receive pension benefits for past*  
 31 *public service in other jurisdictions within the state.*

32 ~~SEC. 5.~~

33 SEC. 6. Section 45310.7 is added to the Government Code, to  
 34 read:

35 45310.7. (a) On or after January 1, 2003, a member who is  
 36 credited with less than the number of years of service required for  
 37 vesting shall have the right to elect to leave accumulated  
 38 contributions on deposit in the retirement fund *of the city's*  
 39 *retirement system*. Failure to make an election to withdraw  
 40 accumulated contributions shall be deemed an election to leave



1 accumulated contributions on deposit in the *system's* retirement  
2 fund.

3 (b) An election to allow accumulated contributions to remain  
4 in the *system's* retirement fund may be revoked by the member at  
5 any time except: (1) while the member is employed in service in  
6 a position in which the member is not excluded from membership  
7 in ~~this~~ *the* system with respect to that service; (2) while the member  
8 is in service as a member of a public retirement system supported,  
9 in whole or in part, by state funds; or (3) while the member is in  
10 service in a reciprocal retirement system, entered within six  
11 months after discontinuing service in ~~this system~~. ~~All the city's~~  
12 *retirement system. All accumulated* contributions ~~contributed~~  
13 *made up to the time of revocation may then be withdrawn.*

14 (c) A member whose membership continues under this section  
15 is subject to the same age, *service*, and disability requirements as  
16 apply to other members for service or disability retirement. After  
17 the qualification of the member for retirement by reason of age,  
18 which shall be the lowest age applicable to any membership  
19 category in which the member has credited service, or disability,  
20 the member shall be entitled to receive a retirement allowance  
21 based upon the amount of the member's accumulated  
22 contributions and service standing to the member's credit at the  
23 time of retirement and on the employer contributions held for the  
24 member and calculated in the same manner as for other members;  
25 ~~except that the provisions in this part for minimum service and~~  
26 ~~disability retirement allowances may not apply to the member,~~  
27 ~~unless the member meets the minimum service requirements.~~

28 (d) *Service, solely for purposes of meeting minimum service*  
29 *qualifications for service or disability retirement, shall also*  
30 *include service credited as an employee of a reciprocal system*  
31 *when the member retires concurrently from all reciprocal*  
32 *retirement systems. A member whose combined service from all*  
33 *reciprocal retirement systems does not meet the minimum service*  
34 *qualifications may not receive a service or disability retirement*  
35 *from this system.*

36 (e) *For purposes of this section, "accumulated contributions"*  
37 *means the sum of all member contributions standing to the credit*  
38 *of a member's individual account, and interest thereon.*

39 (f) *It is the intent of the Legislature in enacting this section to*  
40 *recognize that the state has a compelling interest in ensuring that*



1 *its public agencies recruit and retain the highest caliber of public*  
2 *employees by allowing local public employees to retain the service*  
3 *credit that they earned through their service as local public*  
4 *employees in order to encourage them to return to public*  
5 *employment and continue to serve the public.*

6 ~~SEC. 6.~~

7 SEC. 7. Section 53216.8 is added to the Government Code, to  
8 read:

9 53216.8. (a) Any *former* member who left the service of a  
10 local agency with established reciprocity, and who became a  
11 member of a county retirement system, a retirement system  
12 established under the Public Employees' Retirement Law, or  
13 another reciprocal retirement system and who did not elect to, or  
14 was not eligible to, leave his or her contributions on deposit, may  
15 elect to redeposit those contributions if he or she is an active  
16 member of a reciprocal retirement system or the Public  
17 Employees' Retirement System at the time of redeposit. A *former*  
18 member may exercise this right by redepositing in the retirement  
19 fund of the local agency he or she left, the amount of accumulated  
20 contributions and interest that he or she withdrew from that  
21 retirement fund plus regular interest thereon from the date of  
22 separation.

23 (b) A *former* member who redeposits under this section shall  
24 have the same rights as a member who elected to leave his or her  
25 accumulated contributions on deposit in the local agency's fund.  
26 The deferred retirement allowance of the member shall be  
27 determined in accordance with provisions applicable to a member  
28 retiring directly from local agency employment on the date of his  
29 or her retirement.

30 (c) A *former* member who redeposits under this section shall be  
31 entitled to a reduced age at entry, commencing with contributions  
32 payable the first day of the month following the date the local  
33 agency receives notice of the redeposit, if applicable.

34 (d) This section does not apply to either of the following:

35 (1) A member *or former member* who is retired.

36 (2) A *former* member who is not in the service of an employer  
37 making him or her a member of a county retirement system, a  
38 retirement system established under the Public Employees'  
39 Retirement Law, or another reciprocal retirement system.

40 (e) This section shall only apply to either of the following:



1 (1) A *former* member who is in the service of an employer as  
2 an officer or employee of a law enforcement agency or fire  
3 department whose principal duties consist of active law  
4 enforcement or ~~active fire suppression~~ *firefighting and prevention*  
5 service, but excluding one whose principal duties are those of a  
6 telephone operator, clerk, stenographer, machinist, mechanic, or  
7 otherwise, and whose functions do not clearly come within the  
8 scope of active law enforcement or fire fighting and prevention  
9 service, even though the officer or employee is subject to  
10 occasional call, or is occasionally called upon, to perform duties  
11 within the scope of active law enforcement or ~~fire fighting~~  
12 *firefighting* and prevention service.

13 (2) A *former* member who is in the service of an employer and  
14 seeks to redeposit contributions for past employment as an officer  
15 or employee of a law enforcement agency or fire department in this  
16 system whose principal duties consisted of active law enforcement  
17 or ~~active fire suppression~~ *firefighting and prevention* service, but  
18 excluding one whose principal duties were those of a telephone  
19 operator, clerk, stenographer, machinist, mechanic, or otherwise,  
20 and whose functions did not clearly come within the scope of  
21 active law enforcement or fire fighting and prevention service,  
22 even though the officer or employee was subject to occasional call,  
23 or was occasionally called upon, to perform duties within the scope  
24 of active law enforcement or ~~fire fighting~~ *firefighting* and  
25 prevention service.

26 (f) *For purposes of this section, a “former member” is a*  
27 *member who left service under a retirement system established*  
28 *under this chapter and who did not elect to, or was not eligible to,*  
29 *leave his or her contributions on deposit.*

30 (g) *Each retirement system subject to this section shall*  
31 *establish criteria to determine the eligibility of a former member*  
32 *to redeposit contributions, and the amount of contributions that*  
33 *may be redeposited, in those cases in which the system no longer*  
34 *maintains complete records with respect to the former member.*

35 (h) *It is the intent of the Legislature in enacting this section to*  
36 *recognize a statewide public obligation to all those whose duties*  
37 *as local public safety officers expose them to more than ordinary*  
38 *risks through their contribution to ensuring public safety and to*  
39 *ensure that those who do serve or have served as local public safety*



1 *officers shall have the ability to receive pension benefits for past*  
2 *public service in other jurisdictions within the state.*

3 ~~SEC. 7.~~

4 *SEC. 8.* Section 53217.10 is added to the Government Code,  
5 to read:

6 53217.10. (a) On or after January 1, 2003, a member who is  
7 credited with less than the number of years of service required for  
8 vesting shall have the right to elect to leave accumulated  
9 contributions on deposit in the local agency's retirement fund.  
10 Failure to make an election to withdraw accumulated  
11 contributions shall be deemed an election to leave accumulated  
12 contributions on deposit in the retirement fund.

13 (b) An election to allow accumulated contributions to remain  
14 in the retirement fund may be revoked by the member at any time  
15 except: (1) while the member is employed in service in a position  
16 in which the member is not excluded from membership in the local  
17 system retirement fund with respect to that service; (2) while the  
18 member is in service as a member of public retirement system  
19 supported, in whole or in part, by state funds; or (3) while the  
20 member is in service, entered within six months after  
21 discontinuing county service, as a member of a reciprocal  
22 retirement system. All *accumulated* contributions contributed up  
23 to the time of revocation may then be withdrawn.

24 (c) A member whose membership continues under this section  
25 is subject to the same age, *service*, and disability requirements as  
26 apply to other members for service or disability retirement. After  
27 the qualification of the member for retirement by reason of age,  
28 which shall be the lowest age applicable to any membership  
29 category in which the member has credited service, disability, the  
30 member shall be entitled to receive a retirement allowance based  
31 upon the amount of the member's accumulated contributions and  
32 service standing to the member's credit at the time of retirement  
33 and on the employer contributions held for the member and  
34 calculated in the same manner as for other members, ~~except that~~  
35 ~~the provisions in this part for minimum service and disability~~  
36 ~~retirement allowances shall not apply to the member, unless the~~  
37 ~~member meets the minimum service requirements.~~

38 (d) *Service, solely for purposes of meeting minimum service*  
39 *qualifications for service or disability retirement, shall also*  
40 *include service credited as an employee of a reciprocal system*



1 *when the member retires concurrently from all reciprocal*  
2 *retirement systems. A member whose combined service from all*  
3 *reciprocal retirement systems does not meet the minimum service*  
4 *qualifications may not receive a service or disability retirement*  
5 *from this system.*

6 *(e) For purposes of this section, “accumulated contributions”*  
7 *means the sum of all member contributions standing to the credit*  
8 *of a member’s individual account, and interest thereon.*

9 *(f) It is the intent of the Legislature in enacting this section to*  
10 *recognize that the state has a compelling interest in ensuring that*  
11 *its public agencies recruit and retain the highest caliber of public*  
12 *employees by allowing local public employees to retain the service*  
13 *credit that they earned through their service as local public*  
14 *employees in order to encourage them to return to public*  
15 *employment and continue to serve the public.*

