

**Senate Bill No. 1603**

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Passed the Senate    May 17, 2004

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*Secretary of the Senate*

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Passed the Assembly    July 1, 2004

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2004, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Sections 20610, 21251.15, 21408, 21409, 21410, 21424, 21543, 22013.7, 75077, 75079, 75091, and 75104.4 of, to amend and renumber Section 20035.5 of, to add Sections 75031.5, 75109.1, 75506.6, and 75611.5 to, and to repeal Sections 21417, 75034.1, and 75094 of, the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1603, Committee on Public Employment and Retirement. Public Employees' Retirement System: retirement and medical benefits.

(1) Existing law requires every county superintendent of schools to enter into a contract with the Board of Administration of the Public Employees' Retirement System for inclusion of the school district's classified employees in the system.

This bill would provide that, if a charter school chooses to participate in the system, its qualified employees shall be covered under the system in the same manner as the employees of the school district that granted the charter.

(2) Existing law prescribes disability retirement benefits for state members of the Public Employees' Retirement System who are subject to second tier benefits.

This bill would provide that those benefits are applicable to a member who retires for nonindustrial disability. The bill would also provide that if the member is eligible to retire for service at the time of becoming disabled, he or she shall be paid the greater of the service retirement allowance or the disability retirement allowance.

(3) Existing law excludes state park rangers and local safety members employed as park rangers from federal social security.

This bill would additionally exclude county peace officers employed by a county parks and recreation department from federal social security.

(4) Existing law authorizes judges who are members of the Judges' Retirement System and judges who are members of the Judges' Retirement System II to make contributions and receive



service credit for specified types of service performed prior to their judicial service. Contributions under the Judges' Retirement System II are deposited in the Judges' Retirement System II Fund, a continuously appropriated fund.

This bill would authorize a judge in either of those systems to make contributions and receive service up to 4 years of credit for time, prior to January 1, 1950, during which the judge served in the United States Armed Forces or the Merchant Marine. By increasing contributions to a continuously appropriated fund, the bill would make an appropriation.

(5) The Judges' Retirement Law provides that payment of benefits to the surviving spouse of a deceased judge shall cease if the surviving spouse remarries.

This bill would delete that provision.

(6) Existing law authorizes the Judges' Retirement System and the Judges' Retirement System II to refund to a judge any contributions overpaid by the judge.

This bill would authorize those systems to dispense with a refund to a judge if the amount of the overpayment, or the remaining balance in his or her account, is \$50 or less. The bill would also authorize the system to dispense with collecting any underpayment of contributions from or recalculating or adjusting any benefits payable to a judge if the amount of the underpayment or adjustment does not exceed specified amounts.

(7) The bill would make technical changes to and delete obsolete provisions of the Public Employees' Retirement Law and the Judges' Retirement Law.

Appropriation: yes.

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

SECTION 1. Section 20035.5 of the Government Code, as added by Section 6 of Chapter 615 of the Statutes of 2003, is amended and renumbered to read:

20035.6. Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 19, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of



understanding entered during the 2003–04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5 percent reduction had not occurred. This section shall only apply if the period during which the member’s salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of “final compensation” provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

SEC. 2. Section 20610 of the Government Code is amended to read:

20610. (a) Every county superintendent of schools shall enter into a contract with the board for the inclusion in this system of (a) all of the employees of the office of county superintendent whose compensation is paid from the county school service fund other than employees electing pursuant to Section 1313 of the Education Code to continue in membership in a county system; and (b) all of the employees of school districts and community college districts existing on July 1, 1949, or thereafter formed, within his or her jurisdiction, other than school districts that are contracting agencies or that maintain a district, joint district, or other local retirement system, in respect to service rendered in a status in which they are not eligible for membership in the State Teachers’ Retirement Plan. The effective date of each contract shall be not later than July 1, 1949. For the purposes of this part those school district employees shall be considered to be employees of the county superintendent of schools having jurisdiction over the school district by which they are employed and service to the district shall be considered as service to the county superintendent of schools.

(b) If a charter school chooses to participate in the system, all employees of the charter school who qualify for membership in the system shall be covered under the system and all provisions of this part shall apply in the same manner as if the charter school were a public school in the school district that granted the charter.

SEC. 3. Section 21251.15 of the Government Code is amended to read:

21251.15. (a) Notwithstanding any other provision of this part, when a member’s account has been divided pursuant to



Section 21290, and the nonmember has not effected a refund of accumulated contributions pursuant to Section 21292 prior to the member's effective date of retirement, and the nonmember has sufficient credited service to retire for service, the retirement allowance payable to a member who retires on or after January 1, 2004, shall be equal to the difference between (1) the allowance that would have been payable to the member had the division of the account not occurred and (2) the allowance payable to the nonmember on either (A) the effective date of the nonmember's retirement, or (B) if the nonmember has not retired on or before the member's effective date of retirement, the date the nonmember would have attained the age of 50 years, for service subject to Sections 21362.2, 21363.3, 21363.4, and 21363.8, and the date the nonmember would have attained the age of 55 years, or the nonmember's actual age if older than the age of 55 years on the effective date of the member's retirement, for all other service.

(b) If the nonmember retires prior to the effective date of the member's retirement, an actuarial adjustment shall also be made to the member's allowance to account for the benefits received by the nonmember spouse prior to the member's effective date of retirement.

(c) In no event may the member's retirement allowance payable under this section be less than the allowance that would otherwise be payable under this part.

SEC. 4. Section 21408 of the Government Code is amended to read:

21408. Upon the industrial disability retirement of a state miscellaneous member subject to Section 21151, the disability allowance shall be 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance, if the allowance, after deducting the annuity, is greater.

SEC. 5. Section 21409 of the Government Code is amended to read:

21409. Upon the industrial disability retirement of a state miscellaneous member within Section 21151, or a state industrial member whose service is subject to Section 21076, the disability allowance shall be 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional



contribution, if any, or if qualified for service retirement, he or she shall receive his or her service retirement allowance, if the allowance, after deducting the annuity, is greater.

SEC. 6. Section 21410 of the Government Code is amended to read:

21410. Notwithstanding Sections 21406, 21407, 21408, 21409, and 21411, any state member who becomes subject to Section 21159 on or after January 1, 1993, and retires for industrial disability because of incapacity for the performance of duties in any employment with the state employer, as determined by the Department of Personnel Administration, shall receive a disability retirement allowance of 60 percent of the member's final compensation plus an annuity purchased with the member's accumulated additional contributions, if any, or, if qualified for service retirement, the member shall receive the service retirement allowance if the allowance, after deducting the annuity, is greater.

Benefits payable under this section are payable solely to state members employed in state bargaining units subject to Section 21159.

SEC. 7. Section 21417 of the Government Code is repealed.

SEC. 8. Section 21424 of the Government Code is amended to read:

21424. The nonindustrial disability retirement pension for state miscellaneous or state industrial service subject to Section 21076 shall be one of the following:

(a) Ninety percent of the factor applicable at the age of 65 years as set forth in Section 21076 multiplied by final compensation, multiplied by the number of years of service credited to him or her.

(b) If the nonindustrial disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of the benefit that would be payable to the member had the member continued in employment until the age of 65 years, but in that case the retirement allowance may not exceed one-third of the final compensation. This subdivision is not applicable to members who have not been credited, at the time of retirement, with at least 10 years of state service.

(c) If the nonindustrial disability retirement allowance is derived from this section and Section 21423, and would otherwise exceed the maximums provided by these sections, the pension



payable with respect to each section shall be reduced in the same proportion as the allowance bears to the total allowance computed as if there were no limit, so that the total of the pensions shall equal the maximum allowed.

(d) If qualified for service retirement, the member shall receive his or her service retirement allowance if that allowance is greater than the nonindustrial disability retirement allowance provided by this section.

SEC. 9. Section 21543 of the Government Code is amended to read:

21543. If payment of the special death benefit is stopped because of death of the surviving spouse or death, marriage, or attainment of the age of 22 years by a child before the sum of the monthly payment made, exclusive of the annuity derived from the accumulated additional contribution of the deceased, equals the basic death benefit, a lump sum equal to the difference shall be paid to the surviving children of the deceased member, share and share alike, or if there are no children, to the estate of the person last entitled to the allowance. In that event, the accumulated additional contributions of the deceased, as they were at his or her death, less the annuity paid as derived from those contributions, and plus interest credited to the accumulated additional contributions, shall be paid in the manner provided in this article for the payments of amounts due in the absence of a designated beneficiary.

SEC. 10. Section 22013.7 of the Government Code is amended to read:

22013.7. "Policeman" or "fireman," as used in this part, also includes persons employed in positions set forth in Sections 20414, 20423.5, and 20441 for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 11. Section 75031.5 is added to the Government Code, to read:

75031.5. (a) A judge may elect, in writing filed with the Judges' Retirement System, to make contributions and receive service credit in this system for active service, performed prior to entering the system, of not less than one year in the Armed Forces of the United States or not less than one year in the Merchant Marine of the United States prior to January 1, 1950, excluding any period of that active service for which the judge is receiving, or is



entitled to receive, a retirement allowance from any other retirement system supported wholly or in part by public funds. The service credit for that service may be granted on the basis of one year of credit for each year of credited service in this system, but may not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent judicial service. A judge electing to receive credit for that service shall have at least one year of judicial service credited on the date of election or the date of retirement. If the service described in this subdivision terminated with a dishonorable discharge, service credit in the system may not be granted under this section.

(b) For purposes of this section, a judge means a judge as defined in Section 75002 or a judge who has retired pursuant to Section 75025 or has elected a deferred retirement subject to Section 75033.5.

(c) The retirement allowance of a retired judge who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election.

(d) A judge who elects to receive credit for service pursuant to this section shall contribute to the Judges' Retirement Fund a sum equal to the actuarial present value of the increase in benefits due to the additional service, as determined by the chief actuary and approved by the board.

(e) An election by a judge to receive credit for service under this section shall be effective only if accompanied by a lump-sum payment or an authorization for payment, other than a lump-sum payment, in accordance with regulations adopted by the board.

SEC. 12. Section 75034.1 of the Government Code is repealed.

SEC. 13. Section 75077 of the Government Code is amended to read:

75077. The surviving spouse of a judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by this article and who dies during retirement shall receive, until death, an allowance equal to one-half of the retirement allowance that would be payable to the judge if he or she were living and receiving the benefits accorded by this article.

SEC. 14. Section 75079 of the Government Code is amended to read:



75079. (a) When a judge elects and becomes entitled to receive the benefits accorded by this article, he or she does not have the right to select an optional settlement under the provisions of Article 3.5 (commencing with Section 75070) of this chapter.

(b) When a judge becomes entitled on and after January 1, 1987, to receive the benefits accorded by this article, the judge may instead elect an actuarially reduced retirement allowance payable for life and if the judge dies before he or she receives the amount of his or her accumulated contributions at retirement, the remaining unpaid amount of his or her accumulated contributions shall be paid to his or her designated beneficiary, if he or she has so designated, and if none, to his or her estate.

The election shall be made in writing and filed with the Judges' Retirement System prior to the making of the first payment on account of any retirement allowance.

(c) The surviving spouse of a judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by Section 75076 but who elected to receive the actuarially reduced retirement allowance as provided in subdivision (b) and who dies during retirement shall receive, until death, an allowance equal to one-half of the retirement allowance that would have been payable to the judge if he or she were living and had elected to receive the benefits accorded by Section 75076.

SEC. 15. Section 75091 of the Government Code is amended to read:

75091. (a) If a judge who is credited with at least 10 years of service but less than 20 years of service under this chapter dies prior to retiring under this chapter, and while serving as a judge, his or her surviving spouse shall receive a monthly allowance, payable from the Judges' Retirement Fund, equal to 1.625 percent of the monthly salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which the deceased judge was last elected or appointed multiplied by the number of years of service of the deceased judge.

(b) If a judge who is credited with 20 years or more of service under this chapter dies prior to retiring under this chapter, and while serving as a judge, his or her surviving spouse shall receive a monthly allowance, payable from the Judges' Retirement Fund, equal to 37<sup>1</sup>/<sub>2</sub> percent of the monthly salary payable, at the time the payment of the allowance falls due, to the judge holding the



judicial office to which the deceased judge was last elected or appointed.

(c) For the purposes of this section any fraction of a year equals one year. The allowance is payable commencing upon the death of the judge and continuing until the death of the surviving spouse.

(d) If the surviving spouse is eligible for an allowance under Section 75104.4, the allowance provided for by Section 75104.4 shall be paid and no allowance shall be made under this article. If an allowance is paid under this section, no payment shall be made pursuant to Section 75104 or 75104.5.

SEC. 16. Section 75094 of the Government Code is repealed.

SEC. 17. Section 75104.4 of the Government Code is amended to read:

75104.4. (a) The surviving spouse of any judge who dies on or after January 1, 1954, but before retirement and after becoming eligible for retirement pursuant to Section 75025 or 75033 or who dies on or after January 1, 1954, while serving as judge and has served as a judge for 30 years, shall receive an allowance equal to one-half of the amount of the unmodified retirement allowance that would be payable to the judge were he or she living and retired under this chapter. The allowance is payable commencing upon the day following the date of the death of the judge and continuing until the death of the surviving spouse. If, pursuant to this section, an allowance is paid to the surviving spouse of a judge, no payment shall be made pursuant to Section 75104 or 75104.5.

(b) The Legislature hereby finds and declares that the payment of allowances to the surviving spouse of a judge pursuant to this section, as amended at the 1959 Regular Session of the Legislature, serves a public purpose in that it promotes the public welfare by encouraging experienced jurists to continue their service in the expectation that the Legislature will fairly provide for their surviving spouses under changing circumstances, as the Legislature is now doing for spouses of judges who have heretofore died. Continued service by, and increased efficiency of, judges secure in this knowledge will more than compensate the state for any increased expense for allowances to surviving spouses provided by the amendment enacted at the 1959 session of the Legislature.

SEC. 18. Section 75109.1 is added to the Government Code, to read:



75109.1. (a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars (\$250) or less.

(b) Notwithstanding Section 75109, when there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars (\$50) or less remaining posted to a member's individual account, or an overpayment of fifty dollars (\$50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars (\$250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars (\$250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars (\$5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 13943.2.

SEC. 19. Section 75506.6 is added to the Government Code, to read:

75506.6. (a) A judge may elect, in writing filed with the Judges' Retirement System II, to make contributions and receive service credit in this system for active service, performed prior to entering this system, of not less than one year in the Armed Forces of the United States or not less than one year in the Merchant Marine of the United States prior to January 1, 1950, excluding any period of that active service for which the judge is receiving, or is entitled to receive, a retirement allowance from any other retirement system supported wholly or in part by public funds. The service credit for that service shall be granted on the basis of one year of credit for each year of credited service in this system, but may not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent judicial service. A judge electing to receive credit for that service shall have at least one year of judicial service credited on the date of the



election or the date of retirement. If the service described in this subdivision terminated with a dishonorable discharge, service credit in the system may not be granted under this section.

(b) For purposes of this section, a judge means a judge as defined under Section 75502 or a judge who has retired under Section 75521 or 75522.

(c) The retirement allowance of a retired judge who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election.

(d) A judge who elects to receive credit for service pursuant to this section shall contribute to the Judges' Retirement Fund II a sum equal to the actuarial present value of the increase in benefits due to the additional service, as determined by the chief actuary and approved by the board.

(e) An election by a judge to receive credit for service under this section shall be effective only if accompanied by a lump-sum payment or an authorization for payment, other than a lump-sum payment, in accordance with regulations adopted by the board.

SEC. 20. Section 75611.5 is added to the Government Code, to read:

75611.5. (a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars (\$250) or less.

(b) Notwithstanding Section 75611, when there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars (\$50) or less remaining posted to a member's individual account, or an overpayment of fifty dollars (\$50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars (\$250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars (\$250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars



(\$5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 13943.2.



Approved \_\_\_\_\_, 2004

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*Governor*

