

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JUNE 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1028

**Introduced by Committee on Public Employees, Retirement and
Social Security (Furutani (Chair), Allen, Ma, and Wieckowski)**

February 18, 2011

An act to amend Sections 20096.5, 20636.1, 20812, 20814, 20820, 20969.1, 21130, 21221, 21224, 21228, 21229, ~~21490, 21493, 21493, 21494~~, 21506, and 21507 of, and to add Section 21533.5 to, the Government Code, relating to state employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1028, as amended, Committee on Public Employees, Retirement and Social Security. State employees' retirement.

(1) The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to its members based on age at retirement, service credit, and final compensation. PERL vests the Board of Administration of PERS with management and control of the system. PERL sets forth the membership of the board, including 6 members elected under the supervision of the board, as specified. Under PERL, candidates for or incumbents of those 6 elected seats are required to file campaign statements with the Secretary of State no later than 2 days before the beginning of the ballot period, as determined by the board for the period ending 5 days before the beginning of the ballot period, and no later than January 10, for the period ending December 31. The Political Reform Act of 1974 expressly applies to candidates for elections to the

board and to committees that are formed primarily to support or oppose those candidates. It requires those members to file semiannual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

This bill would clarify that the filing provisions under the Political Reform Act would apply.

(2) PERL defines “payrate” for school members as the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. For other members, PERL specifically includes the amount deducted from a member’s salary for participation in a deferred compensation plan, a retirement plan or money purchase pension plan under a specified provision of federal law, and participation in a flexible benefits program.

This bill would modify the definition of “payrate” for school members to include those amounts deducted from a school member’s salary.

(3) PERL permits the Board of Administration of PERS to adopt a funding period of 30 years to amortize unfunded accrued actuarial obligations for current and prior service for the purpose of determining employer contribution rates for contracting agencies and school employers. Existing law prohibits a contracting agency or a school employer from requesting a new amortization period more than once.

This bill would delete the prohibition on a contracting agency or a school employer from requesting a new amortization period more than once.

(4) PERL requires the state’s contribution to be adjusted from time to time in the annual Budget Act by requiring that the Governor’s proposed budget include the contribution rates submitted by the actuary of the liability for benefits on account of employees of the state, and requiring that the Legislature adopt the actuary’s contribution rates and authorize the appropriation in the Budget Act.

This bill would instead require the board to adopt the state contribution rates and then requiring the Legislature to adopt the board’s contribution rates and authorize the appropriation in the Budget Act. The bill would also authorize the board, in its discretion, to adopt new quarterly employer contribution rates for future contributions for the state plans to reflect changes in employee retirement contributions, benefits, or pension plan design contained in a memorandum of understanding, or similar changes for unrepresented employees, when those changes go

into effect after the board has adopted its most recent annual employer contribution rates.

(5) PERL permits surplus funds credited to the patrol member category to be used to reduce the state employer obligation to PERS and to reduce member contributions under the terms of a memorandum of understanding.

This bill would correct an obsolete cross-reference in these provisions.

(6) PERL requires that, for all retirement purposes with regard to members employed by a trial court who are subject to mandatory furloughs, credit for service and compensation earnable be based on the amounts of service earnable that would have been credited had the employee not been subject to mandatory furloughs, as defined.

This bill would specify, with regard to provisions described above, that credit for service and compensation earnable also be based on the amount of compensation earnable.

(7) PERL requires that patrol members of PERS who are subject to specified retirement formulas be retired the first day of the calendar month succeeding the month in which he or she attains the age of 60 years.

This bill would add a cross-reference to a new retirement formula for patrol members to these provisions.

(8) PERL generally prohibits any person who has been retired under PERS from being employed in any capacity unless he or she is first reinstated from retirement, except as authorized. PERL authorizes a retired person to serve without reinstatement from retirement or loss or interruption of benefits provided by PERS, upon appointment by the governing body of a contracting agency to a position deemed by the governing body to be of a limited duration and requiring specialized skills or during an emergency to prevent stoppage of public business. These appointments are prohibited from exceeding a total for all employers of 960 hours in any fiscal year.

This bill would require that the appointment be an interim appointment to a vacant position during recruitment for a permanent appointment and deemed by the governing body to require specialized skills or during an emergency to prevent stoppage of public business. The bill would prohibit the compensation for the interim appointment from exceeding the maximum published pay schedule for the vacant position. The bill would prohibit a governing body of a contracting agency from appointing a retired person under this provision more than once.

(9) PERL similarly authorizes a retired person to serve without reinstatement from retirement or loss or interruption of benefits provided by PERS upon appointment by a school employer, by the Trustees of the California State University, the appointing power of a state agency, or public agency employer either during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing work of limited duration.

This bill would clarify that those appointments would be temporary or interim and that the skills must be specialized.

(10) PERL also authorizes a person retired for disability who has not attained the mandatory age for retirement applicable to persons in the employment in which he or she will be employed, and whom the board finds not disabled for that employment, to be employed by any employer without reinstatement from retirement in a position other than that from which he or she retired or a position in the same member classification.

This bill would prohibit a person employed under that provision from being concurrently employed under other specified provisions that allow for employment after retirement.

~~(11) PERL authorizes a member at any time to designate a beneficiary to receive the benefits as may be payable to his or her beneficiary or estate under PERL, by a writing filed with the board.~~

~~This bill would authorize a writing filed with the board to include a will or trust if the document lists the retirement benefit as an asset. The bill would also authorize a will or trust to be accepted as a writing filed with the board if the will or trust disinherits one or all of either the previously designated beneficiary or closest survivors, as specified. The bill would deem a will or trust that is accepted as a writing filed with the board as designating the estate or trust as a beneficiary.~~

~~(12)~~

(11) PERL requires a death benefit to be paid to the estate of the decedent if the decedent had no effective beneficiary designation and there are no familial survivors, as specified, who are entitled to the benefit, if the estate is either probated or subject to probate. PERL also provides for the payment to a decedent's beneficiaries of any accrued and unpaid monthly allowance payable to a person, any uncashed warrant, any balance of prepaid complementary health premiums, any prepaid complementary annuitant health plan premiums, lump-sum benefit, or any uncashed lump-sum death benefit.

This bill would authorize those benefits to be paid *to a public administrator* upon receipt by PERS of ~~a court order authorizing the~~

~~Public Administrator to proceed summarily when the estate is handled by a Public Administrator or does not require probate; otherwise written certification of authority for summary administration when the estate's total value does not exceed \$30,000. If the estate does not require probate, the benefit would be paid to the decedent's trust or other familial survivors, as specified.~~

(13)

(12) The federal Heroes Earnings Assistance and Relief Tax Act of 2008 requires survivors of a member who dies while performing qualified military service to be entitled to any benefits they would have received had the member remained an active employee.

This bill would make changes to conform California law to that federal act.

The bill would also make related technical changes to the above-described provisions.

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 20096.5 of the Government Code is
2 amended to read:

3 20096.5. Candidates for board seats described in subdivision
4 (g) of Section 20090, including incumbent board members running
5 for reelection, shall file campaign statements with the Secretary
6 of State and the board pursuant to Article 2 (commencing with
7 Section 84200) of Chapter 4 of Title 9.

8 SEC. 2. Section 20636.1 of the Government Code is amended
9 to read:

10 20636.1. (a) Notwithstanding Section 20636, and Section
11 45102 of the Education Code, "compensation earnable" by a school
12 member means the payrate and special compensation of the
13 member, as defined by subdivisions (b) and (c), and as limited by
14 Section 21752.5.

15 (b) (1) "Payrate" means the normal monthly rate of pay or base
16 pay of the member paid in cash to similarly situated members of
17 the same group or class of employment for services rendered on
18 a full-time basis during normal working hours. For purposes of
19 this part, for classified members, full-time employment is 40 hours
20 per week, and payments for services rendered, not to exceed 40

1 hours per week, shall be reported as compensation earnable for all
2 months of the year in which work is performed. “Payrate,” for a
3 member who is not in a group or class, means the monthly rate of
4 pay or base pay of the member, paid in cash and pursuant to
5 publicly available pay schedules, for services rendered on a
6 full-time basis during normal working hours, subject to the
7 limitations of paragraph (2) of subdivision (e).

8 (A) “Payrate” shall include an amount deducted from a
9 member’s salary for any of the following:

10 (i) Participation in a deferred compensation plan.

11 (ii) Payment for participation in a retirement plan that meets
12 the requirements of Section 401(k) or 403(b) of Title 26 of the
13 United States Code.

14 (iii) Payment into a money purchase pension plan and trust that
15 meets the requirements of Section 401(a) of Title 26 of the United
16 States Code.

17 (iv) Participation in a flexible benefits program.

18 (B) For the purposes of this section, “classified members” shall
19 mean members who retain membership under this system while
20 employed with a school employer in positions not subject to
21 coverage under the Defined Benefit Program under the State
22 Teacher’s Retirement System.

23 (C) For the purposes of this section, and Sections 20962 and
24 20966, “certificated members” shall mean members who retain
25 membership under this system while employed in positions subject
26 to coverage under the Defined Benefit Program under the State
27 Teacher’s Retirement System.

28 (2) The computation for any leave without pay of a member
29 shall be based on the compensation earnable by him or her at the
30 beginning of the absence.

31 (3) The computation for time prior to entering state service shall
32 be based on the compensation earnable by him or her in the position
33 first held by him or her in state service.

34 (c) (1) Special compensation of a school member includes any
35 payment received for special skills, knowledge, abilities, work
36 assignment, workdays or hours, or other work conditions.

37 (2) Special compensation shall be limited to that which is
38 received by a member pursuant to a labor policy or agreement or
39 as otherwise required by state or federal law, to similarly situated
40 members of a group or class of employment that is in addition to

1 payrate. If an individual is not part of a group or class, special
2 compensation shall be limited to that which the board determines
3 is received by similarly situated members in the closest related
4 group or class that is in addition to payrate, subject to the
5 limitations of paragraph (2) of subdivision (e).

6 (3) Special compensation shall be for services rendered during
7 normal working hours and, when reported to the board, the
8 employer shall identify the pay period in which the special
9 compensation was earned.

10 (4) Special compensation may include the full monetary value
11 of normal contributions paid to the board by the employer, on
12 behalf of the member and pursuant to Section 20691, provided
13 that the employer's labor policy or agreement specifically provides
14 for the inclusion of the normal contribution payment in
15 compensation earnable.

16 (5) The monetary value of any service or noncash advantage
17 furnished by the employer to the member, except as expressly and
18 specifically provided in this part, shall not be special compensation
19 unless regulations promulgated by the board specifically determine
20 that value to be "special compensation."

21 (6) The board shall promulgate regulations that delineate more
22 specifically and exclusively what constitutes "special
23 compensation" as used in this section. A uniform allowance, the
24 monetary value of employer-provided uniforms, holiday pay, and
25 premium pay for hours worked within the normally scheduled or
26 regular working hours that are in excess of the statutory maximum
27 workweek or work period applicable to the employee under Section
28 201 et seq. of Title 29 of the United States Code shall be included
29 as special compensation and appropriately defined in those
30 regulations.

31 (7) Special compensation does not include any of the following:

32 (A) Final settlement pay.

33 (B) Payments made for additional services rendered outside of
34 normal working hours, whether paid in lump sum or otherwise.

35 (C) Any other payments the board has not affirmatively
36 determined to be special compensation.

37 (d) Notwithstanding any other provision of law, payrate and
38 special compensation schedules, ordinances, or similar documents
39 shall be public records available for public scrutiny.

1 (e) (1) As used in this part, “group or class of employment”
2 means a number of employees considered together because they
3 share similarities in job duties, work location, collective bargaining
4 unit, or other logical work-related grouping. Under no
5 circumstances shall one employee be considered a group or class.

6 (2) Increases in compensation earnable granted to any employee
7 who is not in a group or class shall be limited during the final
8 compensation period applicable to the employees, as well as the
9 two years immediately preceding the final compensation period,
10 to the average increase in compensation earnable during the same
11 period reported by the employer for all employees who are in the
12 same membership classification, except as may otherwise be
13 determined pursuant to regulations adopted by the board that
14 establish reasonable standards for granting exceptions.

15 (f) As used in this part, “final settlement pay” means any pay
16 or cash conversions of employee benefits that are in excess of
17 compensation earnable, that are granted or awarded to a member
18 in connection with or in anticipation of a separation from
19 employment. The board shall promulgate regulations that delineate
20 more specifically what constitutes final settlement pay.

21 SEC. 3. Section 20812 of the Government Code is amended
22 to read:

23 20812. Notwithstanding any other provision of this part, the
24 board may adopt a funding period of 30 years to amortize unfunded
25 accrued actuarial obligations for current and prior service for the
26 purpose of determining employer contribution rates for contracting
27 agencies and school employers. The board shall approve new
28 amortization periods based upon requests from contracting agencies
29 or school employers that can demonstrate a financial necessity.
30 The board may deny a request when the request would subject the
31 fund to an unsound financial risk. This section shall not affect the
32 current procedure for setting the school employer rate. The board
33 shall continue to treat the school category as a total experience
34 pool with no requirement to establish separate rates for a school
35 district subject to this section.

36 SEC. 4. Section 20814 of the Government Code is amended
37 to read:

38 20814. (a) Notwithstanding any other provision of law, the
39 state’s contribution under this chapter shall be adjusted from time
40 to time in the annual Budget Act. The board shall adopt the state

1 contribution rates and the Legislature shall adopt the board's
2 contribution rates and authorize the appropriation in the Budget
3 Act.

4 (b) In the event a memorandum of understanding goes into effect
5 pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing
6 with Section 3512) of Division 4 of Title 1) that was not previously
7 considered by the board in adopting its most recent annual
8 employer contribution rates and that memorandum of
9 understanding contains a change in employee retirement
10 contributions, benefits, or pension plan design, including a change
11 that alters a state employee's retirement contributions, or there is
12 a change in unrepresented employees' retirement contributions,
13 benefits, or pension plan design to be consistent with those of
14 related classifications and groups of represented employees, the
15 board may, in its discretion, adopt new quarterly employer
16 contribution rates for future contributions for the state plans to
17 reflect these changes. If the board adopts new rates for the state
18 plans to reflect a change in employee retirement contributions,
19 benefits, or pension plan design, the Director of Finance shall
20 reduce or increase the percentage levels of the state's retirement
21 contribution to reflect the new rates. Nothing in this section shall
22 require the board to take action as described herein unless the board
23 determines, in good faith, that the action described herein is
24 consistent with the fiduciary responsibilities of the board described
25 in Section 17 of Article XVI of the California Constitution.

26 (c) The employer contribution rates for all other public
27 employers under this system shall be determined on an annual
28 basis by the actuary and shall be effective on the July 1 following
29 notice of a change in rate.

30 SEC. 5. Section 20820 of the Government Code is amended
31 to read:

32 20820. Notwithstanding Section 20816, surplus funds credited
33 to the patrol member category shall be used to reduce the state
34 employer contribution to this system. Surplus funds in the patrol
35 member category may also be used to reduce the member
36 contributions required by Section 20677.8, under the terms of a
37 memorandum of understanding reached pursuant to Section 3517.5.

38 SEC. 6. Section 20969.1 of the Government Code is amended
39 to read:

1 20969.1. (a) For all retirement purposes, including benefit
2 eligibility and calculations of retirement allowances for members
3 employed by a trial court that are subject to mandatory furloughs,
4 as defined in subdivision (c), credit for service and compensation
5 earnable shall be based on the amounts of service and compensation
6 earnable that would have been credited had the employee not been
7 subject to mandatory furloughs.

8 (b) A trial court shall notify the board of the terms and
9 conditions of any mandatory furlough, including, but not limited
10 to, the amount of mandatory furlough time imposed on employees
11 during a reporting period, and the date on which the mandatory
12 furlough ends. A trial court and a county in which the trial court
13 is located that participates in this system by joint contract pursuant
14 to Section 20460.1 shall provide that additional information as the
15 board may require to implement this section.

16 (c) For the purposes of this section, “mandatory furloughs” is
17 limited to the time during which a trial court employee is directed
18 to be absent from work without pay in the 2009–10 fiscal year on
19 the day designated by the Judicial Council for closure of the courts
20 as authorized in Section 68106.

21 (d) For purposes of this section, “trial court employee” means
22 a trial court employee, as that term is defined in Section 71601,
23 whose employer has contracted for its employees to become
24 members of the California Public Employees’ Retirement System.

25 SEC. 7. Section 21130 of the Government Code is amended
26 to read:

27 21130. Every patrol member subject to Section 21362, 21362.2,
28 or 21363.1, as applicable, shall be retired on the first day of the
29 calendar month succeeding that in which he or she attains the age
30 of 60 years.

31 SEC. 8. Section 21221 of the Government Code is amended
32 to read:

33 21221. A retired person may serve without reinstatement from
34 retirement or loss or interruption of benefits provided by this
35 system, as follows:

36 (a) As a member of any board, commission, or advisory
37 committee, upon appointment by the Governor, the Speaker of the
38 Assembly, the President pro Tempore of the Senate, director of a
39 state department, or the governing board of the contracting agency.
40 However, the appointment shall not be deemed employment within

1 the meaning of Division 4 (commencing with Section 3200) and
2 Division 4.5 (commencing with Section 6100) of the Labor Code,
3 and shall not provide a basis for the payment of workers'
4 compensation to a retired state employee or to his or her
5 dependents.

6 (b) As a school crossing guard.

7 (c) As a juror or election officer.

8 (d) As an elective officer on and after September 15, 1961.

9 However, all rights and immunities which may have accrued under
10 Section 21229 as it read prior to that section's repeal during the
11 1969 Regular Session of the Legislature are hereby preserved.

12 (e) As an appointive member of the governing body of a
13 contracting agency. However, the compensation for that office
14 shall not exceed one hundred dollars (\$100) per month.

15 (f) Upon appointment by the Legislature, or either house, or a
16 legislative committee to a position deemed by the appointing power
17 to be temporary in nature.

18 (g) Upon employment by a contracting agency to a position
19 found by the governing body, by resolution, to be available because
20 of a leave of absence granted to a person on payroll status for a
21 period not to exceed one year and found by the governing body to
22 require specialized skills. The temporary employment shall be
23 terminated at the end of the leave of absence. Appointments under
24 this section shall be reported to the board and shall be accompanied
25 by the resolution adopted by the governing body.

26 (h) Upon interim appointment by the governing body of a
27 contracting agency to a vacant position during recruitment for a
28 permanent appointment and deemed by the governing body to
29 require specialized skills or during an emergency to prevent
30 stoppage of public business. These appointments, including any
31 made pursuant to Section 21224 or 21229, shall not exceed a total
32 for all employers of 960 hours in any fiscal year. The compensation
33 for the interim appointment shall not exceed the maximum
34 published pay schedule for the vacant position. When an
35 appointment is expected to, or will, exceed 960 hours in any fiscal
36 year, the governing body shall request approval from the board to
37 extend the temporary employment. The governing body shall
38 present a resolution to the board requesting action to allow or
39 disallow the employment extension. The resolution shall be
40 presented prior to the expiration of the 960-hour maximum for the

1 fiscal year. The appointment shall continue until notification of
2 the board's decision is received by the governing body. The
3 appointment shall be deemed approved if the board fails to take
4 action within 60 days of receiving the request. Appointments under
5 this subdivision may not exceed a total of 12 months. The
6 governing body of a contracting agency shall appoint a retired
7 person only once under this subdivision. The interim appointment
8 made under this subdivision shall not continue under Section 21224
9 or 21229 after the 12 months.

10 (i) Upon appointment by the Administrative Director of the
11 Courts to the position of Court Security Coordinator, a position
12 deemed temporary in nature and requiring the specialized skills
13 and experience of a retired professional peace officer.

14 SEC. 9. Section 21224 of the Government Code is amended
15 to read:

16 21224. (a) A retired person may serve without reinstatement
17 from retirement or loss or interruption of benefits provided by this
18 system upon temporary appointment by the appointing power of
19 a state agency or public agency employer either during an
20 emergency to prevent stoppage of public business or because the
21 retired employee has specialized skills needed in performing work
22 of limited duration. These appointments shall not exceed a total
23 for all employers of 960 hours in any fiscal year, and the rate of
24 pay for the employment shall not be less than the minimum, nor
25 exceed that paid by the employer to other employees performing
26 comparable duties.

27 (b) (1) This section shall not apply to any retired person
28 otherwise eligible if during the 12-month period prior to an
29 appointment described in this section the retired person received
30 any unemployment insurance compensation arising out of prior
31 employment subject to this section with the same employer.

32 (2) A retired person who accepts an appointment after receiving
33 unemployment insurance compensation as described in this
34 subdivision shall terminate that employment on the last day of the
35 current pay period and shall not be eligible for reappointment
36 subject to this section for a period of 12 months following the last
37 day of employment. The retired person shall not be subject to
38 Section 21202 or subdivision (b) of Section 21220.

39 SEC. 10. Section 21228 of the Government Code is amended
40 to read:

1 21228. A person retired for disability who has not attained the
2 mandatory age for retirement applicable to persons in the
3 employment in which he or she will be employed, and whom the
4 board finds not disabled for that employment, may be employed
5 by any employer without reinstatement from retirement in a
6 position other than that from which he or she retired or a position
7 in the same member classification. His or her disability retirement
8 pension shall be reduced during that employment to an amount
9 that, when added to the compensation received, shall equal the
10 maximum compensation earnable by a person holding the position
11 that he or she held at the time of his or her retirement. Any
12 employment shall terminate upon his or her attainment of the
13 mandatory retirement age for persons in that employment. A person
14 employed under this section shall not be concurrently employed
15 under Section 21224, 21225, 21226, 21227, or 21229, or
16 subdivision (h) of Section 21221.

17 SEC. 11. Section 21229 of the Government Code is amended
18 to read:

19 21229. (a) A retired person may serve without reinstatement
20 from retirement or loss or interruption of benefits provided by this
21 system upon temporary appointment by a school employer or by
22 the Trustees of the California State University either during an
23 emergency to prevent stoppage of public business or because the
24 retired employee has specialized skills needed in performing work
25 of limited duration, if that service does not exceed, in a fiscal year,
26 a total of 960 hours for all employers. The retired person's rate of
27 pay for this employment shall not be less than the minimum, nor
28 exceed that paid by the employer to other employees performing
29 comparable duties.

30 (b) (1) This section shall not apply to a retired person otherwise
31 eligible to serve without reinstatement from retirement, if during
32 the 12-month period prior to an appointment described in this
33 section, that retired person receives unemployment insurance
34 compensation arising out of prior employment subject to this
35 section with the same employer.

36 (2) A retired person who accepts an appointment after receiving
37 unemployment insurance compensation as described in this
38 subdivision shall terminate that employment on the last day of the
39 current pay period and shall not be eligible for reappointment
40 subject to this section for a period of 12 months following the last

1 day of employment. The retired person shall not be subject to
2 Section 21202 or subdivision (b) of Section 21220.

3 ~~SEC. 12. Section 21490 of the Government Code is amended~~
4 ~~to read:~~

5 ~~21490. (a) Except as provided in subdivision (b), a member~~
6 ~~may at any time, including, but not limited to, at any time after~~
7 ~~reaching retirement age, designate a beneficiary to receive the~~
8 ~~benefits as may be payable to his or her beneficiary or estate under~~
9 ~~this part, by a writing filed with the board. A writing filed with~~
10 ~~the board may include a will or trust if the document lists the~~
11 ~~retirement benefit as an asset. A will or trust may also be accepted~~
12 ~~as a writing filed with the board if the will or trust disinherits one~~
13 ~~or all of either the previously designated beneficiary or closest~~
14 ~~survivor as listed in Section 21493. A will or trust that is accepted~~
15 ~~as a writing filed with the board shall be deemed to designate the~~
16 ~~estate or trust as a beneficiary.~~

17 ~~(b) (1) No designation may be made in derogation of the~~
18 ~~community property share of any nonmember spouse when any~~
19 ~~benefit is derived, in whole or in part, from community property~~
20 ~~contributions or service credited during the period of marriage,~~
21 ~~unless the nonmember spouse has previously obtained an~~
22 ~~alternative order for division pursuant to Section 2610 of the~~
23 ~~Family Code.~~

24 ~~(2) No designation may be made by an unmarried member who~~
25 ~~has attained the minimum age for voluntary service retirement~~
26 ~~applicable to the member in his or her last employment preceding~~
27 ~~death if that designation is in derogation of the rights of the~~
28 ~~member's unmarried, dependent children who are under the age~~
29 ~~of 18 years at the time of the member's death.~~

30 ~~(c) The designation, subject to conditions imposed by board~~
31 ~~rule, may be by class, in which case the members of the class at~~
32 ~~the time of the member's death shall be entitled as beneficiaries.~~
33 ~~The designation shall also be subject to the board's conclusive~~
34 ~~determination, upon evidence satisfactory to it, of the existence,~~
35 ~~identity, or other facts relating to entitlement of any person~~
36 ~~designated as beneficiary, and payment made by this system in~~
37 ~~reliance on any determination made in good faith, notwithstanding~~
38 ~~that it may not have discovered a beneficiary otherwise entitled to~~
39 ~~share in the benefit, shall constitute a complete discharge and~~
40 ~~release of this system for further liability for the benefit.~~

1 ~~SEC. 13.~~

2 *SEC. 12.* Section 21493 of the Government Code is amended
3 to read:

4 21493. (a) If a person had no beneficiary designation in effect
5 on the date of death, any benefit payable shall be paid to the
6 survivors of the person in the following order:

7 (1) The decedent's spouse.

8 (2) The decedent's natural or adopted children, including a
9 natural child adopted by another who meets the following criteria:

10 (A) The natural parent and adopted child lived together at any
11 time as parent and child or the natural parent was married to or
12 was cohabiting with the other natural parent at the time the child
13 was conceived and died before the birth of the child; and

14 (B) The child was adopted by the spouse of either of the natural
15 parents or after the death of either of the natural parents or the
16 child is a natural child adopted by another as that phrase is defined
17 or construed by the Probate Code.

18 (3) The decedent's parents.

19 (4) The decedent's brothers and sisters.

20 (b) If a deceased person had no effective beneficiary designation
21 and there are no survivors in the groups specified in subdivision
22 (a) who are entitled to the benefit under this section, the benefit
23 shall be paid to the estate of the decedent, if the estate is either
24 probated or subject to probate. Any benefit payable by this system
25 may be paid either to the estate or to the duly authorized
26 representative or representatives of the estate upon receipt by this
27 system of a court order appointing an executor, administrator, or
28 ~~personal representative. If the estate is handled by a Public~~
29 ~~Administrator, the benefit may be paid upon receipt by this system~~
30 ~~of a court order authorizing the Public Administrator to proceed~~
31 ~~summarily pursuant to paragraph (1) of subdivision (a) of Section~~
32 ~~7660 of the Probate Code. *personal representative, or, in the case*~~
33 ~~*of an estate with a total value not exceeding the amount prescribed*~~
34 ~~*in paragraph (2) of subdivision (a) of Section 7660 of the Probate*~~
35 ~~*Code, to a public administrator upon receipt by this system of a*~~
36 ~~*written certification of authority for summary administration from*~~
37 ~~*that public administrator.*~~

38 (c) If there are no survivors in the groups specified in
39 subdivision (a) and the estate of the person described in subdivision

40 (b) does not require probate, irrespective of whether probate is

1 ~~filed, or is not handled by a Public Administrator pursuant to a~~
2 ~~court order authorizing the Public Administrator to proceed~~
3 ~~summarily pursuant to paragraph (1) of subdivision (a) of Section~~
4 ~~7660 of the Probate Code~~ *filed*, the benefit shall be paid directly
5 to the decedent’s trust.

6 (d) If there are no survivors in the groups specified in
7 subdivision (a) and the estate of the person described by
8 subdivision (b) does not require probate, irrespective of whether
9 probate is filed, ~~or is not handled by a Public Administrator~~
10 ~~pursuant to a court order authorizing the Public Administrator to~~
11 ~~proceed summarily pursuant to paragraph (1) of subdivision (a)~~
12 ~~of Section 7660 of the Probate Code~~ and the decedent has not
13 established a trust as described by subdivision (c), the benefit shall
14 be paid directly to the surviving next of kin in the following order:

- 15 (1) Stepchildren.
- 16 (2) Grandchildren, including stepgrandchildren.
- 17 (3) Nieces and nephews.
- 18 (4) Great grandchildren.
- 19 (5) Cousins.

20 (e) For purposes of determining the application of subdivisions
21 (b), (c), and (d), the amount of the benefit payable from this system
22 shall not be included in calculating the worth of the estate.

23 (f) For purposes of this section, the term “stepchild” shall mean
24 a person who had a regular parent-child relationship with the
25 deceased person.

26 *SEC. 13. Section 21494 of the Government Code is amended*
27 *to read:*

28 21494. If, upon the death of a person there is a valid beneficiary
29 designation on file with the board naming the decedent’s estate as
30 beneficiary, and the estate will be probated, benefits shall be paid
31 to the estate or to the duly authorized representative or
32 representatives of the estate upon receipt by this system of a court
33 order appointing an executor, administrator, or personal
34 representative, *or in the case of an estate with a total value not*
35 *exceeding the amount prescribed in paragraph (2) of subdivision*
36 *(a) of Section 7660 of the Probate Code, to a public administrator*
37 *upon receipt by this system of a written certification of authority*
38 *for summary administration from that public administrator.*

39 If the deceased person had a will, but the estate does not require
40 probate, benefits may, in the judgment of the board, be paid to the

1 beneficiary or beneficiaries, as specified in the will,
2 notwithstanding any other provision of law.

3 If the deceased person left no will but had a trust, but the estate
4 does not require probate, benefits may, in the judgment of the
5 board, be paid to the successor trustee as named in the trust.

6 If the deceased person left no will or trust and the estate does
7 not require probate, but the decedent designated his or her estate
8 as the beneficiary, the benefit shall be paid to the next of kin
9 pursuant to Section 21493.

10 SEC. 14. Section 21506 of the Government Code is amended
11 to read:

12 21506. Any monthly allowance payable to a person, that had
13 accrued and remained unpaid at the time of his or her death, or
14 any uncashed warrant issued prior to the date of death of the person
15 that has been returned to this system, or any balance of prepaid
16 complementary health premiums received pursuant to Section
17 21691 or prepaid complementary annuitant health plan premiums
18 received pursuant to Section 22802, shall be paid in the following
19 order:

20 (a) In the event of the death of a retired person, to one of the
21 following:

22 (1) The beneficiary entitled to payment in accordance with an
23 optional settlement chosen by the member.

24 (2) The survivor entitled to payment of the survivor continuance
25 benefit provided under Section 21624.

26 (3) The beneficiary entitled to receive the lump-sum death
27 benefit provided upon death of a retired person if the person had
28 not chosen an optional settlement and there was no survivor who
29 was entitled to receive the survivor continuance benefit.

30 (b) In the event of the death of a person receiving a survivor
31 benefit, that benefit shall be paid to the beneficiary designated by
32 the survivor of a member under Section 21491.

33 (c) If there is no beneficiary entitled to receive payment under
34 either subdivision (a) or (b), the benefit shall be paid to either the
35 estate of the deceased person or the duly authorized representative
36 or representatives of the estate upon receipt by this system of a
37 court order appointing an executor, administrator, personal
38 representative or Public Administrator pursuant to a court order
39 authorizing the Public Administrator to proceed summarily
40 pursuant to paragraph (1) of subdivision (a) of Section 7660 of the

1 ~~Probate Code. If the estate does not require probate or is not~~
2 ~~handled by a Public Administrator pursuant to a court order~~
3 ~~authorizing the Public Administrator to proceed summarily~~
4 ~~pursuant to paragraph (1) of subdivision (a) of Section 7660 of the~~
5 ~~Probate Code~~ *representative, or, in the case of an estate with a*
6 *total value not exceeding the amount prescribed in paragraph (2)*
7 *of subdivision (a) of Section 7660 of the Probate Code, to a public*
8 *administrator upon receipt by this system of a written certification*
9 *of authority for summary administration from that public*
10 *administrator. If the estate does not require probate and the*
11 *deceased person had a trust, benefits may, in the judgment of the*
12 *board, be paid to the successor trustee as named in the trust.*

13 (d) If there is no beneficiary entitled to receive payment of
14 benefits under subdivision (a), (b), or (c), the benefits shall be paid
15 to the surviving next of kin of the person pursuant to the order of
16 distribution specified in Section 21493.

17 SEC. 15. Section 21507 of the Government Code is amended
18 to read:

19 21507. Any lump-sum benefit, or any uncashed lump-sum
20 death benefit warrant, payable by this system to a beneficiary shall
21 be paid to the estate of the beneficiary if he or she dies prior to
22 payment of the benefit. The benefit may be paid to a representative
23 of the deceased beneficiary's estate, upon demonstration by court
24 documents that the person is authorized to act in that ~~capacity. If~~
25 ~~the estate is handled by a Public Administrator, the benefit may~~
26 ~~be paid upon receipt by this system of a court order authorizing~~
27 ~~the Public Administrator to proceed summarily pursuant to~~
28 ~~paragraph (1) of subdivision (a) of Section 7660 of the Probate~~
29 ~~Code. If the estate does not require probate or is not handled by a~~
30 ~~Public Administrator pursuant to a court order authorizing the~~
31 ~~Public Administrator to proceed summarily pursuant to paragraph~~
32 ~~(1) of subdivision (a) of Section 7660 of the Probate Code, and~~
33 ~~the deceased person capacity, or, in the case of an estate with a~~
34 *total value not exceeding the amount prescribed in paragraph (2)*
35 *of subdivision (a) of Section 7660 of the Probate Code, to a public*
36 *administrator upon receipt by this system of a written certification*
37 *of authority for summary administration from that public*
38 *administrator. If the estate does not require probate and the*
39 *deceased beneficiary was the trustor of a trust, benefits may, in*
40 *the judgment of the board, be paid to the trustee as named in the*

1 trust. If the estate is not probated, and the *deceased* beneficiary
2 was not the trustor of a trust, benefits shall be paid to the *deceased*
3 beneficiary's surviving next of kin, in the order specified in Section
4 21493.

5 SEC. 16. Section 21533.5 is added to the Government Code,
6 to read:

7 21533.5. (a) To the extent required by Section 401(a) of Title
8 26 of the United States Code, if a member dies while performing
9 qualified military services, the survivors of the member shall be
10 entitled to any additional benefits, as determined under Section
11 401(a)(37) of Title 26 of the United States Code, that would have
12 been provided under the system had the member resumed his or
13 her prior employment with an employer that maintains the system
14 and then terminated employment on account of death. Death of a
15 member while performing qualified military service shall not be
16 treated as a service-connected death or disability. Service for
17 vesting shall be credited to a member affected by this section for
18 the period of his or her qualified military service.

19 (b) "Additional benefits" under this section shall not include
20 benefit accruals relating to the period of qualified military service.