

Assembly Bill No. 1028

CHAPTER 440

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

[Approved by Governor October 3, 2011. Filed with
Secretary of State October 3, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1028, 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 PERS 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 state employees, 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 Governor, as part of the proposed budget, to include contribution rates adopted by the board for the liability for benefits on account of state employees and would require 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 contribution 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 the provisions described above, that credit for service and compensation earnable shall 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 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 written certification of authority for summary administration when the estate's total value does not exceed \$30,000.

(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.

(13) This bill would incorporate changes in Sections 20636.1 and 21221 of the Government Code, proposed by AB 344, to be operative only if AB 344 and this bill are both chaptered and become effective on or before January 1, 2012, and this bill is chaptered last.

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

SECTION 1. Section 20096.5 of the Government Code is amended to read:

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

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

20636.1. (a) Notwithstanding Section 20636, and Section 45102 of the Education Code, “compensation earnable” by a school member means the payrate and special compensation of the member, as defined by subdivisions (b) and (c), and as limited by Section 21752.5.

(b) (1) “Payrate” means 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 purposes of this part, for classified members, full-time employment is 40 hours per week, and payments for services rendered, not to exceed 40 hours per week, shall be reported as compensation earnable for all months of the year in which work is performed. “Payrate,” for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

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

(i) Participation in a deferred compensation plan.

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

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

(iv) Participation in a flexible benefits program.

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

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

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

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

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

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

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

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

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

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

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

(A) Final settlement pay.

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

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

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

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

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

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

SEC. 2.5. Section 20636.1 of the Government Code is amended to read:

20636.1. (a) Notwithstanding Section 20636, and Section 45102 of the Education Code, “compensation earnable” by a school member means the payrate and special compensation of the member, as defined by subdivisions (b) and (c), and as limited by Section 21752.5.

(b) (1) “Payrate” means 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 purposes of this part, for classified members, full-time employment is 40 hours per week, and payments for services rendered, not to exceed 40 hours per week, shall be reported as compensation earnable for all months of the year in which work is performed. “Payrate,” for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

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

(i) Participation in a deferred compensation plan.

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

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

(iv) Participation in a flexible benefits program.

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

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

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

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

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

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

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

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

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

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

included as special compensation and appropriately defined in those regulations.

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

(A) Final settlement pay.

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

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

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

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

(2) Increases in compensation earnable granted to any employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification.

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

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

20812. Notwithstanding any other provision of this part, the board may 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. The board shall approve new amortization periods based upon requests from contracting agencies or school employers that can demonstrate a financial necessity. The board may deny a request when the request would subject the fund to an unsound financial risk. This section shall not affect the current procedure for setting the school employer rate. The board shall continue to treat the school category as a total experience pool with no requirement to establish separate rates for a school district subject to this section.

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

20814. (a) Notwithstanding any other provision of law, the state’s contribution under this chapter shall be adjusted from time to time in the annual Budget Act according to the following method: as part of the proposed budget, the Governor shall include the contribution rates adopted by the board for the liability of benefits on account of employees of the

state. The Legislature shall adopt the board's contribution rates and authorize the appropriation in the Budget Act.

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

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

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

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

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

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

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

(c) For the purposes of this section, "mandatory furloughs" is limited to the time during which a trial court employee is directed to be absent from

work without pay in the 2009–10 fiscal year on the day designated by the Judicial Council for closure of the courts as authorized in Section 68106.

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

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

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

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

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

(a) As a member of any board, commission, or advisory committee, upon appointment by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a state department, or the governing board of the contracting agency. However, the appointment shall not be deemed employment within the meaning of Division 4 (commencing with Section 3200) and Division 4.5 (commencing with Section 6100) of the Labor Code, and shall not provide a basis for the payment of workers’ compensation to a retired state employee or to his or her dependents.

(b) As a school crossing guard.

(c) As a juror or election officer.

(d) As an elective officer on and after September 15, 1961. However, all rights and immunities which may have accrued under Section 21229 as it read prior to that section’s repeal during the 1969 Regular Session of the Legislature are hereby preserved.

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

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

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

(h) Upon interim appointment by the governing body of a contracting agency 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. These appointments, including any made pursuant to Section 21224 or 21229, shall not exceed a total for all employers of 960 hours in any fiscal year. The compensation for the interim appointment shall not exceed the maximum published pay

schedule for the vacant position. When an appointment is expected to, or will, exceed 960 hours in any fiscal year, the governing body shall request approval from the board to extend the temporary employment. The governing body shall present a resolution to the board requesting action to allow or disallow the employment extension. The resolution shall be presented prior to the expiration of the 960-hour maximum for the fiscal year. The appointment shall continue until notification of the board's decision is received by the governing body. The appointment shall be deemed approved if the board fails to take action within 60 days of receiving the request. Appointments under this subdivision may not exceed a total of 12 months. The governing body of a contracting agency shall appoint a retired person only once under this subdivision. The interim appointment made under this subdivision shall not continue under Section 21224 or 21229 after the 12 months.

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

SEC. 8.5. Section 21221 of the Government Code is amended to read:

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

(a) As a member of any board, commission, or advisory committee, upon appointment by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a state department, or the governing board of the contracting agency. However, the appointment shall not be deemed employment within the meaning of Division 4 (commencing with Section 3200) and Division 4.5 (commencing with Section 6100) of the Labor Code, and shall not provide a basis for the payment of workers' compensation to a retired state employee or to his or her dependents.

(b) As a school crossing guard.

(c) As a juror or election officer.

(d) As an elective officer on and after September 15, 1961. However, all rights and immunities which may have accrued under Section 21229 as it read prior to that section's repeal during the 1969 Regular Session of the Legislature are hereby preserved.

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

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

(g) Upon employment by a contracting agency to a position found by the governing body, by resolution, to be available because of a leave of absence granted to a person on payroll status for a period not to exceed one year and found by the governing body to require specialized skills. The temporary employment shall be terminated at the end of the leave of absence.

Appointments under this section shall be reported to the board and shall be accompanied by the resolution adopted by the governing body.

(h) Upon interim appointment by the governing body of a contracting agency 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. These appointments, including any made pursuant to Section 21224 or 21229, shall not exceed a total for all employers of 960 hours in any fiscal year. The compensation for the interim appointment shall not exceed the maximum published pay schedule for the vacant position. The governing body of a contracting agency shall appoint a retired person only once under this subdivision. The interim appointment made under this subdivision shall not continue under Section 21224 or 21229 after the 12 months.

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

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

21224. (a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon temporary appointment by 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 specialized skills needed in performing work of limited duration. These appointments shall not exceed a total for all employers of 960 hours in any fiscal year, and the rate of pay for the employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

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

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

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

21228. 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, may 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. His or her disability retirement pension shall be reduced during that employment to an amount that, when added to the compensation received, shall equal the maximum

compensation earnable by a person holding the position that he or she held at the time of his or her retirement. Any employment shall terminate upon his or her attainment of the mandatory retirement age for persons in that employment. A person employed under this section shall not be concurrently employed under Section 21224, 21225, 21226, 21227, or 21229, or subdivision (h) of Section 21221.

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

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

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

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

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

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

(1) The decedent's spouse.

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

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

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

(3) The decedent's parents.

(4) The decedent's brothers and sisters.

(b) If a deceased person had no effective beneficiary designation and there are no survivors in the groups specified in subdivision (a) who are

entitled to the benefit under this section, the benefit shall be paid to the estate of the decedent, if the estate is either probated or subject to probate. Any benefit payable by this system may be paid either to the estate or to the duly authorized representative or representatives of the estate upon receipt by this system of a court order appointing an executor, administrator, or personal representative, or, in the case of an estate with a total value not exceeding the amount prescribed in paragraph (2) of subdivision (a) of Section 7660 of the Probate Code, to a public administrator upon receipt by this system of a written certification of authority for summary administration from that public administrator.

(c) If there are no survivors in the groups specified in subdivision (a) and the estate of the person described in subdivision (b) does not require probate, irrespective of whether probate is filed, the benefit shall be paid directly to the decedent's trust.

(d) If there are no survivors in the groups specified in subdivision (a) and the estate of the person described by subdivision (b) does not require probate, irrespective of whether probate is filed, and the decedent has not established a trust as described by subdivision (c), the benefit shall be paid directly to the surviving next of kin in the following order:

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

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

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

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

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

If the deceased person had a will, but the estate does not require probate, benefits may, in the judgment of the board, be paid to the beneficiary or beneficiaries, as specified in the will, notwithstanding any other provision of law.

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

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

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

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

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

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

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

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

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

(c) If there is no beneficiary entitled to receive payment under either subdivision (a) or (b), the benefit shall be paid to either the estate of the deceased person or the duly authorized representative or representatives of the estate upon receipt by this system of a court order appointing an executor, administrator, personal representative, or, in the case of an estate with a total value not exceeding the amount prescribed in paragraph (2) of subdivision (a) of Section 7660 of the Probate Code, to a public administrator upon receipt by this system of a written certification of authority for summary administration from that public administrator. If the estate does not require probate and the deceased person had a trust, benefits may, in the judgment of the board, be paid to the successor trustee as named in the trust.

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

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

21507. Any lump-sum benefit, or any uncashed lump-sum death benefit warrant, payable by this system to a beneficiary shall be paid to the estate of the beneficiary if he or she dies prior to payment of the benefit. The benefit may be paid to a representative of the deceased beneficiary's estate, upon demonstration by court documents that the person is authorized to act in that capacity, or, in the case of an estate with a total value not exceeding the amount prescribed in paragraph (2) of subdivision (a) of Section 7660

of the Probate Code, to a public administrator upon receipt by this system of a written certification of authority for summary administration from that public administrator. If the estate does not require probate and the deceased beneficiary was the trustor of a trust, benefits may, in the judgment of the board, be paid to the trustee as named in the trust. If the estate is not probated, and the deceased beneficiary was not the trustor of a trust, benefits shall be paid to the deceased beneficiary's surviving next of kin, in the order specified in Section 21493.

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

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

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

SEC. 17. Section 2.5 of this bill incorporates amendments to Section 20636.1 of the Government Code proposed by both this bill and Assembly Bill 344. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 20636.1 of the Government Code, and (3) this bill is enacted after Assembly Bill 344, in which case Section 2 of this bill shall not become operative.

SEC. 18. Section 8.5 of this bill incorporates amendments to Section 21221 of the Government Code proposed by both this bill and Assembly Bill 344. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 21221 of the Government Code, and (3) this bill is enacted after Assembly Bill 344, in which case Section 8 of this bill shall not become operative.