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AMENDED IN SENATE SEPTEMBER 2, 2011
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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1320

**Introduced by Assembly Member Allen
(Coauthors: Assembly Members Furutani and Ma)**

February 18, 2011

~~An act to add Section 31453.7 to, and to add Chapter 10 (commencing with Section 20860) to Part 3 of Division 5 of Title 2 of, the Government Code, relating to public employees' retirement, and making an appropriation therefor. An act to add Section 23826.11 to the Business and Professions Code, relating to alcoholic beverages.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1320, as amended, Allen. ~~Public employees' retirement: employer contribution rates. Alcoholic beverages: licenses.~~

The Alcoholic Beverage Control Act, administered by the Department of Alcoholic Beverage Control, regulates the sale and distribution of alcoholic beverages and the granting of licenses for the manufacture, distribution, and sale of alcoholic beverages within the state. The act also provides for a limitation on the amount of on-sale general licenses that may be issued by the department based on the population of the county in which the licensed premises are located, as provided.

This bill would provide an exception to this limitation for a county of the 18th class, as specified.

The bill makes legislative findings and declarations regarding the necessity of a special statute.

~~(1) The Public Employees' Retirement Law prescribes employer rates for contribution to the retirement fund for the Public Employees' Retirement System (PERS). Existing law requires that the state's contribution rate be adjusted in the Budget Act based on rates established by the system's actuary. Existing law provides that the employer contribution rate for an employer other than the state shall be determined on an annual basis by the actuary, as specified. Existing law requires that the rate at which a public employer contributes to the system shall be based upon its experience, and not the experience of public agency employers generally. Existing law requires that all assets of an employer in the system be used to determine the employer's contribution rate.~~

~~This bill, on and after July 1, 2013, would establish for each employer a Rate Stabilization Account in the Employer Rate Stabilization Fund, which this bill would create and which would be continuously appropriated to the Board of Administration of PERS for the purpose of stabilizing employer retirement contributions. By creating a continuously appropriated fund and authorizing the expenditure of employer payments, this bill would make an appropriation. The bill would provide that the board has sole and exclusive control over the administration of the fund and would require that the investment of fund assets be according to strategies established by the board. The bill would authorize the board, in its discretion, to establish administrative terms and conditions governing the Rate Stabilization Fund. The bill would provide that the Rate Stabilization Account is an employer asset, but it would not be counted as an asset for the purpose of determining the employer's contribution rate. The bill would require employers to make payments to the account when the actuarial value of assets exceeds the accrued liability, as specified, which would be calculated based on the employer normal cost of benefits and which would be credited to each employer's Rate Stabilization Account. Payments by the state would be made in the annual Budget Act. The bill would provide that the assets of the account be drawn upon, subject to procedures adopted by the board, to pay a portion of the employer contribution when the employer contribution rate is greater than the employer normal cost of benefits, as specified. The bill would provide that the employer is not required to make that additional contribution when the employer's Rate~~

Stabilization Account exceeds an amount equal to 50% of the employer's assets, exclusive of the assets in the Rate Stabilization Account. The bill would provide that assets in an account would be invested according to investment strategies established by the Board of Administration of PERS.

~~(2) The County Employees Retirement Law of 1937 authorizes the board of retirement to determine county or district contributions on the basis of a normal contribution rate, which is computed as a level percentage of compensation which, when applied to future compensation of the average new member entering the system, together with member contributions, is sufficient to provide for the payment of all prospective benefits of a member.~~

~~This bill, on and after July 1, 2013, would establish in each county or district's retirement fund a Rate Stabilization Account. The bill would provide that the account is an employer asset, for that county or district, but it would not be counted as an asset for the purpose of determining the employer's contribution rate. The bill would require employers to make payments when the actuarial value of assets exceeds the accrued liability, as specified, which would be calculated based on the employer normal cost of benefits and which would be credited to each employer's Rate Stabilization Account. The bill would provide that the assets of the account be drawn upon to pay a portion of the employer contribution when the employer contribution rate is greater than the normal cost of benefits, as specified. The bill would provide that the employer is not required to make that additional contribution when the employer's Rate Stabilization Account exceeds an amount equal to 50% of the employer's assets, exclusive of the assets in a Rate Stabilization Account. The bill would require that assets in an account be invested according to investment strategies established by the board of retirement.~~

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

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

- 1 SECTION 1. Section 23826.11 is added to the Business and
- 2 Professions Code, to read:
- 3 23826.11. (a) Notwithstanding any other provision of this
- 4 chapter, in any county of the 18th class the department may issue
- 5 five additional new original on-sale general licenses for bona fide
- 6 public eating places per year, until January 1, 2016. To qualify

1 for a license under this section the premises upon which a bona
2 fide public eating place is operated shall have a seating capacity
3 for 50 or more diners. Not more than a total of 15 on-sale general
4 licenses shall be issued under this section.

5 (b) In issuing the licenses provided for in this section, the
6 department shall follow the procedure set forth in Section 23961.

7 (c) This chapter does not prohibit a person who currently holds
8 a valid on-sale general license for seasonal business from applying
9 for an original on-sale general license pursuant to this section.

10 (d) A license issued under this section shall not be transferred
11 from one county to another nor shall it be transferred to any
12 premises not qualifying under this section.

13 SEC. 2. The Legislature finds and declares that a special law
14 is necessary and that a general law cannot be made applicable
15 within the meaning of Section 16 of Article IV of the California
16 Constitution because of the unique circumstances of the economy
17 of a county of the 18th class specified in Section 1, that are
18 applicable only to a county of the 18th class.

19 SECTION 1. ~~Chapter 10 (commencing with Section 20860)~~
20 ~~is added to Part 3 of Division 5 of Title 2 of the Government Code,~~
21 ~~to read:~~

22

23 CHAPTER 10. EMPLOYER RATE STABILIZATION

24

25 20860. ~~For the purposes of this chapter, the following~~
26 ~~definitions apply:~~

27 (a) ~~“Employer contribution rate” means a rate for payment of~~
28 ~~the total employer contribution, as determined by the actuary~~
29 ~~pursuant to Chapter 9 (commencing with Section 20790).~~

30 (b) ~~“Employer normal cost of benefits” means a rate for payment~~
31 ~~of normal cost of benefits, as determined by the actuary according~~
32 ~~to the most recently completed valuation less the employee~~
33 ~~contribution rate.~~

34 20861. (a) There is hereby created in the State Treasury the
35 Employer Rate Stabilization Fund for the purpose of receiving
36 employer payments made pursuant to subdivision (b) of Section
37 20862 and stabilizing state and contracting agency employer
38 retirement contributions pursuant to this section. Notwithstanding
39 Section 13340, all moneys in the fund are continuously
40 appropriated without regard to fiscal years to the board for

1 expenditure pursuant to this section. The board has sole and
2 exclusive control over the administration of the fund and the
3 investment of its assets shall be according to strategies established
4 by the board. Payments by the state pursuant to subdivision (b) of
5 Section 20862 shall be made in the annual Budget Act. A separate
6 account shall be established for each employer in the fund to be
7 known as a Rate Stabilization Account.

8 (1) A Rate Stabilization Account is an employer asset, but shall
9 not be counted as part of employer assets for purposes of
10 determining the employer contribution rate.

11 (2) Deposits to a Rate Stabilization Account shall be made when
12 the actuarial value of assets exceeds the accrued liability as
13 determined by the chief actuary, according to the most recently
14 completed annual valuation and pursuant to subdivision (b) of
15 Section 20862.

16 (3) A Rate Stabilization Account shall be drawn from, subject
17 to procedures adopted by the board, to pay for that portion of the
18 employer contribution rate that exceeds the employer normal cost
19 of benefits, pursuant to subdivision (a) of Section 20862.

20 (4) The board may, in its discretion, establish administrative
21 terms and conditions governing the Rate Stabilization Fund,
22 including the method of payments to the employer's Rate
23 Stabilization Account, the method of disbursements from the
24 employer's Rate Stabilization Account, the frequency and content
25 of the reports from or to employers, the allocation of investment
26 income, and the allocation of assets upon termination of
27 participation of an employer.

28 (b) Notwithstanding subdivision (b) of Section 20862, when an
29 employer's Rate Stabilization Account exceeds an amount equal
30 to 50 percent of the employer assets, other than the assets in the
31 Rate Stabilization Account, that employer is not required to make
32 an additional contribution as specified in subdivision (b) of Section
33 20862.

34 20862. (a) If the employer contribution rate, as determined by
35 the actuary, is greater than the employer normal cost of benefits,
36 then the employer shall remit an amount, not less than the employer
37 normal cost of benefits that is sufficient, as determined by the
38 actuary, when combined with assets transferred from the Rate
39 Stabilization Account established pursuant to subdivision (c), to
40 equal the employer contribution rate.

1 ~~(b) Except as provided in subdivision (b) of Section 20861, if~~
2 ~~the employer contribution rate is less than the employer normal~~
3 ~~cost of benefits, the employer shall remit the employer contribution~~
4 ~~rate amount and make an additional contribution equal to the~~
5 ~~difference between the employer contribution rate and the employer~~
6 ~~normal cost of benefits. That additional contribution amount shall~~
7 ~~be credited to the employer's Rate Stabilization Account.~~

8 ~~20863. Nothing in this chapter shall be construed to interfere~~
9 ~~with a public retirement board's authority and fiduciary~~
10 ~~responsibility as set forth in Section 17 of Article XVI of the~~
11 ~~California Constitution. If, and to the extent that, the board of a~~
12 ~~public retirement system determines that the receipt of any~~
13 ~~additional contributions required under this section would conflict~~
14 ~~with its fiduciary responsibility set forth in Section 17 of Article~~
15 ~~XVI of the California Constitution, the board may refuse to receive~~
16 ~~those contributions.~~

17 ~~SEC. 2. Section 31453.7 is added to the Government Code, to~~
18 ~~read:~~

19 ~~31453.7. (a) For the purposes of this section, the following~~
20 ~~definitions apply:~~

21 ~~(1) "Employer" means the applicable county or district.~~

22 ~~(2) "Employer contribution rate" means a rate for payment of~~
23 ~~the total employer contribution, as determined by the system's~~
24 ~~actuary according to the most recently completed valuation of the~~
25 ~~total liability for the benefits on the account of the employees of~~
26 ~~the employer.~~

27 ~~(3) "Employer normal cost of benefits" means a rate for payment~~
28 ~~of normal cost of benefits, as determined by the system's actuary~~
29 ~~according to the most recently completed valuation, less the~~
30 ~~employee contribution.~~

31 ~~(b) Notwithstanding any other provision of law, the employer~~
32 ~~contribution rate of the county or district shall be adjusted~~
33 ~~according to the following:~~

34 ~~(1) If the employer contribution rate, as determined by the~~
35 ~~actuary, is greater than the employer normal cost of benefits, then~~
36 ~~the employer shall remit an amount, not less than the employer~~
37 ~~normal cost of benefits that is sufficient as determined by the~~
38 ~~actuary, when combined with assets transferred from the Rate~~
39 ~~Stabilization Account established pursuant to subdivision (c), to~~
40 ~~equal the employer contribution rate.~~

1 ~~(2) Except as provided in subdivision (d), if the employer~~
2 ~~contribution rate is less than the normal cost of benefits, the~~
3 ~~employer shall remit the employer contribution rate amount and~~
4 ~~make an additional contribution equal to the difference between~~
5 ~~the employer contribution rate and the employer normal cost of~~
6 ~~benefits. That additional contribution amount shall be credited to~~
7 ~~the employer's Rate Stabilization Account.~~
8 ~~(e) For the purposes of subdivision (b), a separate account shall~~
9 ~~be established for each employer in the retirement system to be~~
10 ~~known as a Rate Stabilization Account.~~
11 ~~(1) A Rate Stabilization Account is an employer asset, but shall~~
12 ~~not be counted as part of employer assets for purposes of~~
13 ~~determining the employer contribution rate.~~
14 ~~(2) Deposits to a Rate Stabilization Account shall be made when~~
15 ~~the actuarial value of assets exceeds the accrued liability as~~
16 ~~determined by the system's actuary, according to the most recently~~
17 ~~completed annual valuation.~~
18 ~~(3) A Rate Stabilization Account shall be drawn from to pay~~
19 ~~for that portion of the employer contribution rate that exceeds the~~
20 ~~employer normal cost of benefits, pursuant to paragraph (1) of~~
21 ~~subdivision (b).~~
22 ~~(4) The funds in Rate Stabilization Accounts shall be invested~~
23 ~~according to investment strategies established by the board.~~
24 ~~(d) Notwithstanding paragraph (2) of subdivision (b), when an~~
25 ~~employer's Rate Stabilization Account exceeds an amount equal~~
26 ~~to 50 percent of the employer assets, other than the assets in the~~
27 ~~Rate Stabilization Account, that employer is not required to make~~
28 ~~an additional contribution as specified in paragraph (2) of~~
29 ~~subdivision (b).~~
30 ~~(e) Nothing in this section shall be construed to interfere with~~
31 ~~a public retirement board's authority and fiduciary responsibility~~
32 ~~as set forth in Section 17 of Article XVI of the California~~
33 ~~Constitution. If, and to the extent that, the board of a public~~
34 ~~retirement system determines that the receipt of any additional~~
35 ~~contributions required under this section would conflict with its~~
36 ~~fiduciary responsibility set forth in Section 17 of Article XVI of~~
37 ~~the California Constitution, the board may refuse to receive those~~
38 ~~contributions.~~

1 ~~SEC. 3.—This act shall become operative July 1, 2013.~~

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