

AMENDED IN ASSEMBLY APRIL 24, 2012

AMENDED IN ASSEMBLY MARCH 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2664

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

February 29, 2012

An act to amend Section 31527 of, ~~and~~ to add Sections 31540 and 31541 to, *and to add Article 8.11 (commencing with Section 31699.20) to Chapter 3 of Part 3 of Division 4 of Title 3 of, the Government Code,* relating to county employees retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2664, as amended, Committee on Public Employees, Retirement and Social Security. County employees retirement: electronic signatures.

The County Employees Retirement Law of 1937 *provides a comprehensive set of benefits for county and district employees who are members of a retirement system subject to that law and establishes county retirement boards for the administration of benefits authorized under that law and authorizes each board to include specified provisions, by regulation, with respect to the administration of benefits.*

This bill would permit a county retirement board to include a provision for the use and acceptance of electronic signatures, as specified, within the regulations.

This bill would also establish the County Retirement System Dental Care Program, and would authorize a retired member of a county retirement system to enroll in a dental program offered pursuant to those provisions, subject to meeting eligibility requirements and payment

of premiums. The bill would authorize the board of retirement to contract with a 3rd-party administrator to provide dental care to the retired member, his or her survivors, and his or her eligible dependents.

The Public Employees’ Retirement Law (PERL) vests the Board of Administration of the Public Employees’ Retirement System with management and control of the system. PERL authorizes the board to adjust retirement payments due to errors or omissions, as specified.

This bill would similarly authorize a county retirement system in Los Angeles County to adjust retirement payments due to errors or omissions using the same standards and period of limitations found in PERL.

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

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

1 SECTION 1. Section 31527 of the Government Code is
2 amended to read:

3 31527. In its regulations, the board may include the following
4 provisions:

5 (a) From what warrants deductions of members’ contributions
6 shall be made.

7 (b) For a period of time longer than one year during which a
8 member may redeposit in the retirement fund an amount equal to
9 all of the accumulated normal contributions that he or she has
10 withdrawn, plus regular interest thereon from the date of return to
11 service.

12 (c) For a period of time longer than one year during which a
13 member brought within the field of membership may pay into the
14 retirement fund the amount equal to the contributions he or she
15 would have made plus interest, if he or she had been a member
16 from the date of its organization, or from the date of his or her
17 entrance into service, whichever is later.

18 (d) For a withdrawal charge against a member who withdraws
19 his or her accumulated contributions. The withdrawal charge shall
20 not exceed the interest credited to the member subsequent to the
21 effective date of the regulation.

22 (e) For the exemption or exclusion from membership as a peace
23 officer member or as a safety member or from membership
24 altogether, in the discretion of the board, of persons whose tenure

1 is temporary, seasonal, intermittent, or for part time only, or
2 persons whose compensation is fixed at a rate by the day or hour.

3 (f) For the periodic physical examination, at county expense,
4 of safety members.

5 (g) The amount of additional deductions from the salaries or
6 wages of members pursuant to Article 15.5 (commencing with
7 Section 31841) or Article 16 (commencing with Section 31861).
8 Such a provision may be adopted in anticipation of, and prior to
9 Article 15.5 (commencing with Section 31841) or Article 16
10 (commencing with Section 31861) becoming operative in the
11 particular county.

12 (h) The day upon which each person becomes a member of the
13 association if it is to be other than the first day of the calendar
14 month after his or her entrance into service. However, that day
15 shall be no later than 12 weeks after his or her entrance into service,
16 or the day upon which the member terminates service credited by
17 the association, and that the day shall be no earlier than 12 weeks
18 prior to the member's termination from employment.

19 (i) Notwithstanding any other law, for the use and acceptance
20 of a document requiring a signature that is submitted by a member
21 using an electronic signature, if the document and electronic
22 signature are submitted using technology the board deems sufficient
23 to ensure its integrity, security, and authenticity. A document
24 submitted pursuant to the regulation shall be given the same force
25 as a signed, valid original document.

26 SEC. 2. Section 31540 is added to the Government Code, to
27 read:

28 31540. (a) The obligations of the retirement system to its
29 members continue throughout their respective memberships, and
30 the obligations of the retirement system to, and in respect to, retired
31 members continue throughout the lives of the retired members,
32 and thereafter until all obligations to the members' beneficiaries
33 under optional settlements have been discharged. The obligations
34 of the county or district to the retirement system with respect to
35 members employed by them, respectively, continue throughout
36 the memberships of the members, and the obligations of the county
37 or district to the retirement system with respect to retired members
38 formerly employed by them, respectively, continue until all of the
39 obligations of the retirement system to those retired members have
40 been discharged. The obligations of any member to the retirement

1 system continue throughout his or her membership, and thereafter
2 until all of the obligations of the retirement system to that member
3 have been discharged.

4 (b) For the purposes of payments into or out of the retirement
5 fund for adjustment of errors or omissions, the period of limitation
6 of actions shall be three years, and shall be applied as follows:

7 (1) In cases in which the retirement system makes an erroneous
8 payment to a member or beneficiary, the system’s right to collect
9 shall expire three years from the date of payment.

10 (2) In cases in which the retirement system owes money to a
11 member or beneficiary, the period of limitation shall not apply.

12 (c) Notwithstanding subdivision (b), in cases in which payment
13 is erroneous because of the death of the retired member or
14 beneficiary or because of the remarriage of the beneficiary, the
15 period of limitation shall be 10 years and that period shall
16 commence with the discovery of the erroneous payment.

17 (d) Notwithstanding subdivision (b), if any payment has been
18 made as a result of fraudulent reports for compensation made, or
19 caused to be made, by a member for his or her own benefit, the
20 period of limitation shall be 10 years and that period shall
21 commence either from the date of payment or upon discovery of
22 the fraudulent reporting, whichever date is later.

23 (e) The board shall determine the applicability of the period of
24 limitation in any case, and its determination with respect to the
25 running of any period of limitation shall be conclusive and binding
26 for purposes of correcting the error or omission.

27 (f) This section shall apply only to a county of the first class as
28 described in Section 28020.

29 SEC. 3. Section 31541 is added to the Government Code, to
30 read:

31 31541. (a) Subject to subdivisions (c) and (d), the board may,
32 in its discretion and upon any terms it deems just, correct the errors
33 or omissions of any active or retired member, or any beneficiary
34 of an active or retired member, if all of the following facts exist:

35 (1) The request, claim, or demand to correct the error or
36 omission is made by the party seeking correction within a
37 reasonable time after discovery of the right to make the correction,
38 which in no case shall exceed six months after discovery of this
39 right.

1 (2) The error or omission was the result of mistake, inadvertence,
2 surprise, or excusable neglect, as each of those terms is used in
3 Section 473 of the Code of Civil Procedure.

4 (3) The correction will not provide the party seeking correction
5 with a status, right, or obligation not otherwise available under
6 this part.

7 Failure by a member or beneficiary to make the inquiry that
8 would be made by a reasonable person in like or similar
9 circumstances does not constitute an “error or omission”
10 correctable under this section.

11 (b) Subject to subdivisions (c) and (d), the board shall correct
12 all actions taken as a result of errors or omissions of the county or
13 district, or this system.

14 (c) The duty and power of the board to correct mistakes, as
15 provided in this section, shall terminate upon the expiration of
16 obligations of this system to the party seeking correction of the
17 error or omission, as those obligations are defined by Section
18 31540.

19 (d) The party seeking correction of an error or omission pursuant
20 to this section has the burden of presenting documentation or other
21 evidence to the board establishing the right to correction pursuant
22 to subdivisions (a) and (b).

23 (e) Corrections of errors or omissions pursuant to this section
24 shall be such that the status, rights, and obligations of all parties
25 described in subdivisions (a) and (b) are adjusted to be the same
26 as they would have been if the act that would have been taken, but
27 for the error or omission, was taken at the proper time. However,
28 notwithstanding any other provision of this section, corrections
29 made pursuant to this section shall adjust the status, rights, and
30 obligations of all parties described in subdivisions (a) and (b) as
31 of the time that the correction actually takes place if the board
32 finds any of the following:

33 (1) That the correction cannot be performed in a retroactive
34 manner.

35 (2) That, even if the correction can be performed in a retroactive
36 manner, the status, rights, and obligations of all of the parties
37 described in subdivisions (a) and (b) cannot be adjusted to be the
38 same, as they would have been if the error or omission had not
39 occurred.

1 (3) That the purposes of this chapter will not be effectuated if
2 the correction is performed in a retroactive manner.

3 (f) This section shall apply only to a county of the first class as
4 described in Section 28020.

5 *SEC. 4. Article 8.11 (commencing with Section 31699.20) is*
6 *added to Chapter 3 of Part 3 of Division 4 of Title 3 of the*
7 *Government Code, to read:*

8

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Article 8.11. Dental Care

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11 *31699.20. This article shall be known and may be cited as the*
12 *County Retirement System Dental Care Program.*

13 *31699.21. A retired member of a county retirement system*
14 *covered by this chapter may enroll in a dental care program*
15 *offered pursuant to this article, subject to meeting the eligibility*
16 *requirements established for the program.*

17 *31699.22. A retired member who elects to participate in the*
18 *program shall be solely responsible for the payment of premiums.*

19 *31699.23. The benefits in this article are in addition to any*
20 *other benefits provided in this chapter.*

21 *31699.24. The board of retirement may contract with a*
22 *third-party administrator to provide dental care to the retired*
23 *member, his or her survivors, and his or her eligible dependents.*