

Assembly Bill No. 2664

Passed the Assembly May 21, 2012

Chief Clerk of the Assembly

Passed the Senate June 15, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 31527 of, 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, 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 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 bill would specify that those dental benefits could be revised or discontinued at any time.

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.

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

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

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

(a) From what warrants deductions of members' contributions shall be made.

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may redeposit in the retirement fund an amount equal to all of the accumulated normal contributions that he or she has withdrawn, plus regular interest thereon from the date of return to service.

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

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

(e) For the exemption or exclusion from membership as a peace officer member or as a safety member or from membership altogether, in the discretion of the board, of persons whose tenure is temporary, seasonal, intermittent, or for part time only, or persons whose compensation is fixed at a rate by the day or hour.

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

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

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

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

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

31540. (a) The obligations of the retirement system to its members continue throughout their respective memberships, and the obligations of the retirement system to, and in respect to, retired members continue throughout the lives of the retired members, and thereafter until all obligations to the members' beneficiaries under optional settlements have been discharged. The obligations of the county or district to the retirement system with respect to members employed by them, respectively, continue throughout the memberships of the members, and the obligations of the county or district to the retirement system with respect to retired members formerly employed by them, respectively, continue until all of the obligations of the retirement system to those retired members have been discharged. The obligations of any member to the retirement system continue throughout his or her membership, and thereafter until all of the obligations of the retirement system to that member have been discharged.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 8.11. Dental Care

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

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

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

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

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

31699.25. The provision of dental benefits in accordance with this article may be revised or discontinued at any time.

Approved _____, 2012

Governor