

**Introduced by Senators De León and Steinberg**  
(Principal coauthor: Assembly Member Furutani)

February 23, 2012

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An act to add Section 20139 to, and to add Title 21 (commencing with Section 100000) to, the Government Code, relating to pensions, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1234, as introduced, De León. Pensions.

Existing federal law provides for tax-qualified retirement plans and individual retirement accounts or individual retirement annuities by which private citizens may save money for retirement.

This bill would establish the Golden State Retirement Savings Trust Act, which would create the Golden State Retirement Savings Trust that would be administered by the Golden State Retirement Savings Investment Board, which would also be established by the bill. The bill would require eligible employers, as defined, and would authorize other employers to enroll eligible employees, as defined, into an employer-sponsored retirement plan or pension plan, as specified, offered by the trust, or a personal pension in the case of a nonparticipating employer, as specified. The bill would require a specified percentage of the annual salary of an eligible employee participating in the retirement or pension plan to be deposited in the Golden State Retirement Savings Trust, which would be segregated into a program fund and an administrative fund, both of which would be continuously appropriated to the board for purposes of the act. The bill would limit expenditures from the administrative fund, as specified.

The bill would require the Employment Development Department to modify the California Employee's Withholding Allowance Certificate

to create an option for employees to elect to opt out of an employer-sponsored retirement or pension plan. The bill would require the Employment Development Department to assess a penalty on any eligible employer that fails to offer its eligible employees a retirement or pension plan option, as specified. The bill also makes a statement of legislative findings.

The bill would provide that the operational provisions of the Golden State Retirement Savings Trust Act shall be operative only if sufficient funds are made available through a nonprofit or private entity or federal funding, as specified, to allow the board to study, develop, and obtain the approvals necessary to implement the program and the board determines that the program can be self-sustaining.

Existing law establishes the Board of Administration of the Public Employees’ Retirement System and vests the board with various powers and duties.

This bill would authorize the board to administer funds in the Golden State Retirement Savings Trust, as specified.

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

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

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) California workers without access to an employer-sponsored
- 3 retirement plan need a seamless, lifelong savings system, providing
- 4 them with the opportunity to build their assets and helping them
- 5 to attain their future financial stability through a secure, portable
- 6 pension.
- 7 (b) Providing California workers with a guaranteed retirement
- 8 income to supplement social security, traditionally funded by stable
- 9 employer contributions via a defined benefit, employer-based
- 10 pension plan, is optimal to ensure that workers accumulate the
- 11 benefits they need for a secure retirement. California must pursue
- 12 guaranteed replacement income programs, including defined benefit
- 13 plans, for all working Californians. Establishing and offering a
- 14 defined benefit plan would be an important step toward ensuring
- 15 the retirement security for all working Californians.
- 16 (c) Though employer-sponsored guaranteed retirement income
- 17 programs are valuable savings tools for workers, given the
- 18 changing needs and work habits of California’s workers, they alone

1 are insufficient to afford workers a secure retirement. California  
2 workers need additional retirement savings options to ensure their  
3 retirement security.

4 (d) Private individuals have limited access to attractive financial  
5 products that allow them to convert their savings into secure,  
6 lifelong retirement income.

7 (e) In creating an additional retirement savings program for its  
8 workers, California would supplement existing savings options,  
9 thus assisting California’s working men and women to save for  
10 retirement. This program would be funded by the program’s  
11 participants.

12 (f) The Golden State Retirement Savings Trust established by  
13 this act will promote expanded retirement security for working  
14 Californians.

15 (g) The implementation and effectuation of the Golden State  
16 Retirement Savings Trust constitutes the carrying out of a valid  
17 and vital public purpose.

18 SEC. 2. Section 20139 is added to the Government Code, to  
19 read:

20 20139. The board shall have the power to administer funds in  
21 the Golden State Retirement Savings Trust pursuant to a contract  
22 with the Golden State Retirement Savings Investment Board as  
23 provided in Title 21 (commencing with Section 100000) and to  
24 help all California workers to plan and save for retirement.

25 SEC. 3. Title 21 (commencing with Section 100000) is added  
26 to the Government Code, to read:

27  
28 TITLE 21. THE GOLDEN STATE RETIREMENT SAVINGS  
29 TRUST ACT  
30

31 100000. For purposes of this title the following definitions  
32 shall apply:

33 (a) “Board” means the Golden State Retirement Savings  
34 Investment Board.

35 (b) “Eligible employee” means a person who is employed by  
36 an eligible employer.

37 (c) “Eligible employer” means a person or entity engaged in a  
38 business, industry, profession, trade, or other enterprise in the state,  
39 whether for profit or not for profit, excluding the state, any county,  
40 any municipal corporation, or any of its units or instrumentalities,

1 that has five or more employees and that satisfies the requirements  
2 to establish or participate in a payroll deposit pension arrangement.

3 (d) “Participating employer” means an eligible employer that  
4 maintains or participates in a personal pension arrangement  
5 provided for by this title for eligible employees.

6 (e) “Payroll deposit pension arrangement” means an arrangement  
7 by which an employer makes its payroll system available to  
8 employees as a conduit for transferring salary reduction  
9 contributions to a defined benefit retirement plan.

10 (f) “Personal Pension” means a defined benefit retirement plan  
11 offered by the Golden State Retirement Savings Trust.

12 (g) “Trust” means the Golden State Retirement Savings Trust  
13 established by this title.

14 100002. (a) There is hereby created the Golden State  
15 Retirement Savings Investment Board, which shall consist of the  
16 Treasurer, the Director of Finance, the Controller, an individual  
17 with retirement savings and investment expertise appointed by the  
18 Senate Committee on Rules, a small business representative and  
19 a public member each appointed by the Governor, and an employee  
20 representative appointed by the Speaker of the Assembly. The  
21 Treasurer shall serve as chair of the board.

22 (b) The board shall annually prepare and adopt a written  
23 statement of investment policy. The board shall consider the  
24 statement of investment policy and any changes in the investment  
25 policy at a public hearing.

26 (c) The board shall approve an investment management entity  
27 or entities. Not later than 30 days after the close of each month,  
28 the board shall place on file for public inspection during business  
29 hours a report with respect to investments made pursuant to this  
30 section and a report of deposits in financial institutions. The  
31 investment manager shall report the following information to the  
32 board within 20 days following the end of the each month:

33 (1) The type of investment, name of the issuer, date of maturity,  
34 and the par and dollar amount invested in each security, investment,  
35 and money within the program fund.

36 (2) The weighted average maturity of the investments within  
37 the program fund.

38 (3) Any amounts in the program fund that are under the  
39 management of private money managers.

1 (4) Any amounts in the program fund that are under the  
2 management of the Board of Administration of the Public  
3 Employees' Retirement System.

4 (5) The market value as of the date of the report and the source  
5 of this valuation for each security within the program fund.

6 (6) A description of compliance with the statement of investment  
7 policy.

8 100004. (a) There is hereby established a retirement savings  
9 trust known as the Golden State Retirement Savings Trust to be  
10 administered by the board for the purpose of promoting greater  
11 retirement savings for California private employees in a convenient,  
12 voluntary, low-cost, and portable manner. The Golden State  
13 Retirement Savings Trust, as a self-sustaining trust, shall pay all  
14 costs of administration out of earnings on moneys on deposit  
15 therein.

16 (b) The board shall segregate moneys received by the Golden  
17 State Retirement Savings Trust into two funds, which shall be  
18 identified as the program fund and the administrative fund.  
19 Notwithstanding Section 13340, moneys in the trust are hereby  
20 continuously appropriated, without regard to fiscal years, to the  
21 board for the purposes of this title.

22 (c) Moneys in the program fund may be invested or reinvested  
23 by the Treasurer or may be invested in whole or in part under  
24 contract with the Board of Administration of the Public Employees'  
25 Retirement System, or private money managers, or both, as  
26 determined by the board.

27 (d) Transfers may be made from the program fund to the  
28 administrative fund for the purpose of paying operating costs  
29 associated with administering the trust and as required by this title.  
30 On an annual basis, expenditures from the administrative fund  
31 shall not exceed more than 1 percent of the total program fund.  
32 All costs of administration of the trust shall be paid out of the  
33 administration fund.

34 100005. (a) The personal pension shall include, as determined  
35 by the board, one or more payroll deposit cash balance pension  
36 plan arrangements.

37 (b) Pursuant to the authority granted under this title, the board  
38 may establish the following:

- 39 (1) Prototype or master and prototype plans.  
40 (2) Multiple employer plans.

- 1 (3) Group administrative service arrangements that allow eligible  
2 employers to achieve economies of scale with respect to their  
3 retirement savings arrangements relating to investment, accounting,  
4 payroll processing, employee communications, and investor  
5 education.
- 6 (4) Custodial or trustee arrangements for payroll deposit  
7 programs or for other plans.
- 8 100006. (a) The board, in the capacity of trustee, shall have  
9 the power and authority to do all of the following:
  - 10 (1) Make and enter into contracts necessary for the  
11 administration of the trust.
  - 12 (2) Adopt a seal and change and amend it from time to time.
  - 13 (3) Cause moneys in the program fund to be held and invested  
14 and reinvested.
  - 15 (4) Accept any grants, gifts, legislative appropriation, and other  
16 moneys from the state, any unit of federal, state, or local  
17 government or any other person, firm, partnership, or corporation  
18 for deposit to the administrative fund or the program fund.
  - 19 (5) Appoint a program administrator and determine the duties  
20 of the program administrator and other staff as necessary and set  
21 their compensation.
  - 22 (6) Make provisions for the payment of costs of administration  
23 and operation of the trust.
  - 24 (7) Employ staff.
  - 25 (8) Retain and contract with the Board of Administration of the  
26 Public Employees' Retirement System, private financial  
27 institutions, other financial and service providers, consultants,  
28 actuaries, counsel, auditors, third-party administrators, and other  
29 professionals as necessary.
  - 30 (9) Procure insurance against any loss in connection with the  
31 property, assets, or activities of the trust.
  - 32 (10) Procure insurance indemnifying each member of the board  
33 from personal loss or liability resulting from a member's action  
34 or inaction as a member of the board.
  - 35 (11) Set minimum and maximum investment levels.
  - 36 (12) Collaborate and cooperate with the Board of Administration  
37 of the Public Employees' Retirement System, private financial  
38 institutions, service providers, and business, financial, trade,  
39 membership, and other organizations to the extent necessary or  
40 desirable for the effective and efficient design, implementation,

1 and administration of the program and to maximize outreach to  
2 eligible employers and eligible employees.

3 (13) Cause expenses incurred to initiate, implement, maintain,  
4 and administer the program to be paid from contributions to, or  
5 investment returns or assets of, the program or plans or  
6 arrangements established under the program, to the extent permitted  
7 under state and federal law.

8 (14) Facilitate compliance by the defined benefit plans or  
9 arrangements established under the program with all applicable  
10 requirements for the plans under the Internal Revenue Code of  
11 1986, including tax qualification requirements or any other  
12 applicable law and accounting requirements, including providing  
13 or arranging for assistance to plan sponsors and individuals in  
14 complying with applicable law and tax qualification requirements  
15 in a cost-effective manner.

16 (15) Carry out the duties and obligations of the Golden State  
17 Retirement Savings Trust pursuant to this title and exercise any  
18 and all other powers as may be reasonably necessary for the  
19 effectuation of the purposes, objectives, and provisions of this title  
20 pertaining to the trust.

21 (b) The board shall adopt regulations it deems necessary to  
22 implement this title consistent with the federal Internal Revenue  
23 Code and regulations issued pursuant to that code to ensure that  
24 this program meets all criteria for federal tax-deferral or tax-exempt  
25 benefits, or both.

26 100008. In addition to the powers and authority granted to the  
27 board pursuant to Section 100006, the board shall have the power  
28 and authority to do the following:

29 (a) Cause the pension plans or arrangements established under  
30 the program to be designed, established, and operated, in a manner  
31 consistent with all of the following:

32 (1) In accordance with best practices for retirement savings  
33 vehicles.

34 (2) To maximize participation, saving, and sound investment  
35 practices, and appropriate selection of default investments.

36 (3) With simplicity, ease of administration for participating  
37 employers, and portability of benefits.

38 (b) Minimize costs by assisting or facilitating the pooling of  
39 small employers and individuals in purchasing retirement plans  
40 or arrangements, and investments, and through economies of scale,

1 standardization, designation of investment types, and other  
2 measures.

3 (c) Arrange for collective, common, and pooled investment of  
4 assets of the pension arrangements, including investments in  
5 conjunction with other funds with which those assets are permitted  
6 to be collectively invested, with a view to saving costs through  
7 efficiencies and economies of scale.

8 (d) Explore and establish investment options that offer  
9 employees guaranteed returns on contributions and the conversion  
10 of pension account balances to secure retirement income.

11 (e) Disseminate educational information concerning saving and  
12 planning for retirement.

13 (f) Disseminate information concerning the tax credits available  
14 to small business owners for establishing new retirement plans  
15 and the federal saver's tax credit available to lower and  
16 moderate-income households for saving in plans or arrangements.

17 (g) Submit progress and status reports to participating employers  
18 and eligible employees.

19 (h) If necessary, determine the eligibility of an employer,  
20 employee, or other individual to participate in the program.

21 (i) Evaluate and establish the process by which an eligible  
22 employee of an eligible employer is able to contribute a portion  
23 of his or her paycheck to a personal pension for automatic deposit  
24 of those contributions and require the participating employer to  
25 forward the employee contribution and related information to the  
26 program or its agents. This may include, but is not limited to,  
27 financial services companies and third-party administrators with  
28 the capability to receive and process employee information and  
29 contributions for payroll deduction pension arrangements or other  
30 plans or arrangements authorized by this title.

31 (j) Allow participating employers to use the program to  
32 contribute to the account on their employees' behalf or match their  
33 employees' contributions.

34 (k) Evaluate and establish the process by which an individual  
35 or an employee of a nonparticipating employer may establish and  
36 make contributions to a personal pension.

37 100010. (a) (1) After the board opens the personal pension  
38 program for enrollment, any eligible employer may automatically  
39 enroll eligible employees into an employer-sponsored retirement  
40 plan or the personal pension, provide each employee with the

1 option to opt out of that retirement plan or pension, and permit  
2 employees who choose not to opt out to use their payroll system  
3 to direct a portion of their earnings to the retirement plan or  
4 personal pension.

5 (2) After the board opens the personal pension program for  
6 enrollment, any employer with four or fewer employees that  
7 otherwise meets the definition of an eligible employer, as defined  
8 in subdivision (d) of Section 100000, may elect to automatically  
9 enroll its employees into an employer-sponsored retirement plan  
10 or the personal pension, provide each employee with the option  
11 to opt out of that retirement plan or pension, and permit employees  
12 who choose not to opt out to use their payroll system to direct a  
13 portion of their earnings to the retirement plan or personal pension.

14 (b) Beginning three months after the board opens the personal  
15 pension program for enrollment, eligible employers with more  
16 than 100 eligible employees shall automatically enroll those  
17 employees into an employer-sponsored retirement plan or the  
18 personal pension, provide each employee with the option to opt  
19 out of that retirement plan or pension, and permit employees who  
20 choose not to opt out to use their payroll system to direct a portion  
21 of their earnings to the retirement plan or personal pension.

22 (c) Beginning six months after the board opens the personal  
23 pension program for enrollment, eligible employers with more  
24 than 50 eligible employees shall automatically enroll those  
25 employees into an employer-sponsored retirement plan or the  
26 personal pension, provide each employee with the option to opt  
27 out of that retirement plan or pension, and permit employees who  
28 choose not to opt out to use their payroll system to direct a portion  
29 of their earnings to the retirement plan or personal pension.

30 (d) Beginning nine months after the board opens the personal  
31 pension program for enrollment, all other eligible employers shall  
32 automatically enroll their eligible employees into an  
33 employer-sponsored retirement plan or the personal pension,  
34 provide those employees with the option to opt out of that  
35 retirement plan or pension, and permit employees who choose not  
36 to opt out to use their payroll system to direct a portion of their  
37 earnings to the retirement plan or personal pension.

38 (e) Employers shall retain the option at all times to set up any  
39 sort of retirement plan, such as a defined benefit plan or a 401(k)  
40 plan, instead of the personal pension.

1 (f) An eligible employee shall be enrolled in either an  
2 employer-sponsored retirement savings plan or the personal  
3 pension pursuant to this section unless that employee elects to not  
4 participate in that retirement plan or pension. The employee may  
5 elect to opt out of his or her retirement savings option by making  
6 a notation on the California Employee's Withholding Allowance  
7 Certificate form produced by the Employment Development  
8 Department. If the employee opts out, the employee shall, after  
9 24 months, be automatically enrolled in either an  
10 employer-sponsored retirement savings plan or the personal  
11 pension pursuant to this section unless that employee again elects  
12 to not participate in that retirement plan or pension.

13 (g) An eligible employee may also terminate his or her  
14 participation in the personal pension at any time in a manner  
15 prescribed by the board and thereafter by making a notation on  
16 the California Employee's Withholding Allowance Certificate  
17 form produced by the Employment Development Department.

18 (h) Unless otherwise specified by the employee, 3 percent of  
19 the employee's annual salary shall be the default amount  
20 contributed to the personal pension.

21 (i) By regulation, the board may adjust the default amount set  
22 in subdivision (h) to no less than 2 percent and no more than 4  
23 percent and may vary that default amount within that 2 percent to  
24 4 percent range for participating employees according to the length  
25 of time the employee has contributed to the personal pension.

26 100012. (a) The Employment Development Department shall  
27 assess an eligible employer that fails to offer all of its eligible  
28 employees an employer-sponsored retirement plan or the personal  
29 pension pursuant to Section 10010 a penalty of one thousand  
30 dollars (\$1,000) for every eligible employee not offered the  
31 retirement option.

32 (b) That penalty shall not be assessed if, within 90 days of being  
33 notified of violation of this section, the eligible employer remedies  
34 the failure by offering all of its eligible employees either an  
35 employer-sponsored retirement plan or the personal pension.

36 (c) All penalties collected by the Employment Development  
37 Department under this section shall be deposited in the State  
38 Treasury and credited to the General Fund.

39 100014. (a) The Employment Development Department shall  
40 modify the California Employee's Withholding Allowance

1 Certificate (Form DE 4) to create an option for an employee to  
2 note his or her decision to opt out of utilizing either the  
3 employer-sponsored retirement savings plan or the personal  
4 pension.

5 (b) In modifying the California Employee's Withholding  
6 Allowance Certificate to add the employee retirement savings  
7 opt-out provision pursuant to subdivision (a), the Employment  
8 Development Department shall make the opt-out notation simple  
9 and concise and in a manner it deems necessary to appropriately  
10 evidence the employee's understanding that he or she is choosing  
11 not to automatically deduct earnings to save for retirement.

12 100016. Participating employers shall not be liable for the  
13 investment decisions of employees whose assets are deposited in  
14 the personal pension.

15 100018. (a) Notwithstanding Section 10231.5, the board shall  
16 submit an annual audited financial report, prepared in accordance  
17 with generally accepted accounting principles, on the operations  
18 of the Golden State Retirement Savings Trust by August 1 to the  
19 Governor, the Controller, the State Auditor, and the Legislature.  
20 The annual audit shall be made by an independent certified public  
21 accountant and shall include, but not be limited to, direct and  
22 indirect costs attributable to the use of outside consultants,  
23 independent contractors, and any other persons who are not state  
24 employees.

25 (b) The annual audit shall be supplemented by the following  
26 information prepared by the board:

27 (1) Any studies or evaluations prepared in the preceding year.

28 (2) A summary of the benefits provided by the trust including  
29 the number of participants in the trust.

30 (3) Any other information that is relevant in order to make a  
31 full, fair, and effective disclosure of the operations of the Golden  
32 State Retirement Savings Trust.

33 100022. The board shall initially conduct a market analysis to  
34 determine whether the necessary conditions for implementation  
35 of this title can be met, including, but not limited to, likely  
36 participation rates, participants' comfort with various investment  
37 vehicles and degree of risk, contribution levels, and the rate of  
38 account closures and rollovers. The board shall conduct this  
39 analysis only if sufficient funds are made available through a  
40 nonprofit or private entity, federal funding, or an annual Budget

1 Act appropriation. The board shall forward its findings to the Chair  
2 of the Senate Public Employment and Retirement Committee and  
3 to the Chair of the Assembly Public Employees, Retirement and  
4 Social Security Committee, pursuant to Section 9795.

5 100024. With the exceptions of subdivision (a) of Section  
6 100002, and Sections 100022 and 100026, the provisions of this  
7 title shall become operative only if funds are made available  
8 through a nonprofit or private entity or federal funding, in amounts  
9 sufficient to allow the board to study, develop, and obtain the  
10 approvals necessary to implement this title and the board notifies  
11 the Director of Finance that, based on its market analysis, the  
12 provisions of this title can be self-sustaining pursuant to this title.

13 100026. This title shall be construed liberally in order to  
14 effectuate its legislative intent. The purposes of this title and all  
15 of its provisions with respect to the powers granted shall be broadly  
16 interpreted to effectuate that intent and purposes and not as to any  
17 limitation of powers.