

AMENDED IN ASSEMBLY SEPTEMBER 12, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

AMENDED IN ASSEMBLY APRIL 2, 2013

AMENDED IN ASSEMBLY MARCH 5, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 431**

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**Introduced by Assembly Member Mullin**

February 15, 2013

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~~An act to add Chapter 2.55 (commencing with Section 65087) to Division 1 of Title 7 of the Government Code, relating to regional planning. An act to amend Sections 7522.70, 7522.72, 7522.74, 31564, 31592.2, 31592.4, 31649.5, 31656, 31671, 31691, 31691.1, and 31696.3 of, and to add Sections 31485.16, 31485.17, 31485.19, 31694.6, and 31698.5 to, the Government Code, relating to county employees.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 431, as amended, Mullin. ~~Regional transportation plan: sustainable communities strategy: funding. County Employees Retirement Law of 1937: federal law compliance.~~

*Federal tax law regulates pension plans generally and regulates public pension plans specifically based on their status as governmental plans, as defined. In this regard, among other things, federal law requires that accrued member retirement benefits be nonforfeitable, as specified, establish conditions for the distribution of funds to members from a retirement system, prescribe requirements for the vesting of benefits, and limit the application of pension funds for medical benefits.*

*The County Employees Retirement Law of 1937 (CERL) permits counties and districts, as defined, to provide retirement benefits to their employees pursuant to its provisions, and vests the management of the retirement system in the board of retirement. CERL generally conditions distribution of benefits upon compliance with federal requirements. CERL requires a county to retain in its retirement fund specified excess earnings to maintain a reserve against possible future deficiencies in earnings, and to transfer certain of those excess earnings into county advance reserves for the sole purpose of paying the cost of retirement benefits, as specified. CERL authorizes the use of these reserves for the payment of health and medical benefits, as specified. In addition, excess earnings, as defined, and the Supplemental Retiree Benefits Reserve, if established by the county, may be used for payment of specified optional benefits.*

*This bill would revise various provisions of CERL to explicitly conform with federal law. In this regard, the bill would provide that a member's accrued retirement benefits are nonforfeitable, in accordance with federal law, once the member attains normal retirement age, as specified, or upon termination of, or discontinuance of contributions under, the retirement system. Upon the withdrawal of a district from a retirement system, the bill also would prohibit a refund, distribution, or transfer of contributions for other funds to an employee or district unless in compliance with prescribed federal law.*

*This bill would authorize a retirement system to apply specified earnings to designated health benefits if federal requirements are met, and would allow the board of retirement to authorize payment of those benefits with county advance reserves. The bill would specify that, if a county establishes a Post-Employment Benefits Trust Account as a part of its retirement fund, that account shall be used exclusively to provide health benefits for retired members, their spouses, and dependents.*

*This bill would revise county procedures applicable to providing service credit to a member of the retirement system for all or part of his or her military service, in accordance with federal law.*

*This bill would require a county that elects to provide optional long-term care or vision benefits, to comply with applicable federal law and regulation, including maintaining separate trust funds for those benefits. The bill also would make various technical, nonsubstantive changes to CERL.*

*The California Public Employees' Pension Reform Act of 2013 (PEPRA), on and after January 1, 2013, generally requires a public*

*retirement system, as defined, to modify its plan or plans to comply with the act, as specified. Among other things, PEPRAs requires a public employee or officer who is convicted of certain enumerated crimes to forfeit specified rights and benefits under, and membership in, any public retirement system of which he or she is a member, effective on the date of his or her final conviction.*

*This bill would revise the provisions of PEPRAs relating to forfeiture, to specify that those provisions do not apply after the retirement system is terminated or contributions under the system are completely discontinued.*

~~Existing law requires certain transportation planning activities by designated transportation planning agencies, including development of a regional transportation plan. Certain of these agencies are designated by federal law as metropolitan planning organizations. Existing law requires metropolitan planning organizations to adopt, as part of the regional transportation plan in urban areas, a sustainable communities strategy, which is to be designed to achieve certain targets established by the State Air Resources Board for the reduction of greenhouse gas emissions from automobiles and light trucks in the region.~~

~~Existing law authorizes various local governmental entities, subject to certain limitations and approval requirements, to levy a transactions and use tax for specified purposes, in accordance with the procedures and requirements set forth in the Transactions and Use Tax Law, including a requirement that the combined rate of all taxes that may be imposed under that law in the county may not exceed 2%.~~

~~This bill would authorize a transportation planning agency that is designated as a metropolitan planning organization to impose a transactions and use tax, as specified, at a rate of no more than 0.5% even if the combined rate of this tax and other specified taxes imposed in the county, exceeds, if certain requirements are met. The bill would require the ordinance to contain an expenditure plan, with not less than 25% of available net revenues to be spent on each of the 3 categories of transportation, affordable housing, and parks and open space, in conformity with the sustainable communities strategy, with the remaining net available revenues to be spent for purposes determined by the transportation planning agency to help attain the goals of the sustainable communities strategy.~~

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

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

1     *SECTION 1. Section 7522.70 of the Government Code is*  
2 *amended to read:*

3     7522.70. (a) This section shall apply to any elected public  
4 officer who takes public office, or is reelected to public office, on  
5 or after January 1, 2006.

6     (b) If an elected public officer is convicted during or after  
7 holding office of any felony involving accepting or giving, or  
8 offering to give, any bribe, the embezzlement of public money,  
9 extortion or theft of public money, perjury, or conspiracy to commit  
10 any of those crimes arising directly out of his or her official duties  
11 as an elected public officer, he or she shall forfeit all rights and  
12 benefits under, and membership in, any public retirement system  
13 in which he or she is a member, effective on the date of final  
14 conviction.

15     (c) (1) The elected public officer described in subdivision (b)  
16 shall forfeit only that portion of his or her rights and benefits that  
17 accrued on or after January 1, 2006, on account of his or her service  
18 in the elected public office held when the felony occurred.

19     (2) *The forfeiture provisions in paragraph (1) do not apply after*  
20 *termination of the retirement system or complete discontinuance*  
21 *of contributions under the system.*

22     (d) Any contributions made by the elected public officer  
23 described in subdivision (b) to the public retirement system that  
24 arose directly from or accrued solely as a result of his or her  
25 forfeited service as an elected public officer shall be returned,  
26 without interest, to the public officer.

27     (e) The public agency that employs an elected public officer  
28 described in subdivision (b) shall notify the public retirement  
29 system in which the officer is a member of the officer's conviction.

30     (f) An elected public officer shall not forfeit his or her rights  
31 and benefits pursuant to subdivision (b) if the governing body of  
32 the elected public officer's employer, including, but not limited  
33 to, the governing body of a city, county, or city and county,  
34 authorizes the public officer to receive those rights and benefits.

35     (g) For purposes of this section, "public officer" means an  
36 officer of the state, or an officer of a county, city, city and county,  
37 district, or authority, or any department, division, bureau, board,  
38 commission, agency, or instrumentality of any of these entities.

1 (h) This section applies to any person appointed to service for  
2 the period of an elected public officer's unexpired term of office.

3 (i) On and after January 1, 2013, this section shall not apply in  
4 any instance in which Section 7522.72 or 7522.74 applies.

5 *SEC. 2. Section 7522.72 of the Government Code is amended*  
6 *to read:*

7 7522.72. (a) This section shall apply to a public employee first  
8 employed by a public employer or first elected or appointed to an  
9 office before January 1, 2013, and, on and after that date, Section  
10 7522.70 shall not apply.

11 (b) (1) If a public employee is convicted by a state or federal  
12 trial court of any felony under state or federal law for conduct  
13 arising out of or in the performance of his or her official duties, in  
14 pursuit of the office or appointment, or in connection with  
15 obtaining salary, disability retirement, service retirement, or other  
16 benefits, he or she shall forfeit all accrued rights and benefits in  
17 any public retirement system in which he or she is a member to  
18 the extent provided in subdivision (c) and shall not accrue further  
19 benefits in that public retirement system, effective on the date of  
20 the conviction.

21 (2) If a public employee who has contact with children as part  
22 of her official duties is convicted of a felony that was committed  
23 within the scope of his or her official duties against or involving  
24 a child who he or she has contact with as part of his or her official  
25 duties, he or she shall forfeit all accrued rights and benefits in any  
26 public retirement system in which he or she is a member to the  
27 extent provided in subdivision (c) and shall not accrue further  
28 benefits in that public retirement system, effective on the date of  
29 the conviction.

30 (c) (1) A public employee shall forfeit all the retirement  
31 benefits earned or accrued from the earliest date of the commission  
32 of any felony described in subdivision (b) to the forfeiture date,  
33 inclusive. The retirement benefits shall remain forfeited  
34 notwithstanding any reduction in sentence or expungement of the  
35 conviction following the date of the public employee's conviction.  
36 Retirement benefits attributable to service performed prior to the  
37 date of the first commission of the felony for which the public  
38 employee was convicted shall not be forfeited as a result of this  
39 section.

1 (2) *The forfeiture provisions in paragraph (1) do not apply after*  
2 *termination of the retirement system or complete discontinuance*  
3 *of contributions under the system.*

4 ~~(2)~~

5 (3) For purposes of this subdivision, “forfeiture date” means  
6 the date of the conviction.

7 (d) (1) Any contributions to the public retirement system made  
8 by the public employee described in subdivision (b) on or after  
9 the earliest date of the commission of any felony described in  
10 subdivision (b) shall be returned, without interest, to the public  
11 employee upon the occurrence of a distribution event unless  
12 otherwise ordered by a court or determined by the pension  
13 administrator.

14 (2) Any funds returned to the public employee pursuant to  
15 subdivision (d) shall be disbursed by electronic funds transfer to  
16 an account of the public employee, in a manner conforming with  
17 the requirements of the Internal Revenue Code, and the public  
18 retirement system shall notify the court and the district attorney  
19 at least three business days before that disbursement of funds.

20 (3) For the purposes of this subdivision, a “distribution event”  
21 means any of the following:

22 (A) Separation from employment.

23 (B) Death of the member.

24 (C) Retirement of the member.

25 (e) (1) Upon conviction, a public employee as described in  
26 subdivision (b) and the prosecuting agency shall notify the public  
27 employer who employed the public employee at the time of the  
28 commission of the felony within 60 days of the felony conviction  
29 of all of the following information:

30 (A) The date of conviction.

31 (B) The date of the first known commission of the felony.

32 (2) The operation of this section is not dependent upon the  
33 performance of the notification obligations specified in this  
34 subdivision.

35 (f) The public employer that employs or employed a public  
36 employee described in subdivision (b) and that public employee  
37 shall each notify the public retirement system in which the public  
38 employee is a member of that public employee’s conviction within  
39 90 days of the conviction. The operation of this section is not

1 dependent upon the performance of the notification obligations  
2 specified in this subdivision.

3 (g) A public retirement system may assess a public employer a  
4 reasonable amount to reimburse the cost of audit, adjustment, or  
5 correction, if it determines that the public employer failed to  
6 comply with this section.

7 (h) If a public employee's conviction is reversed and that  
8 decision is final, the employee shall be entitled to do either of the  
9 following:

10 (1) Recover the forfeited retirement benefits as adjusted for the  
11 contributions received pursuant to subdivision (d).

12 (2) Redeposit those contributions and interest, as determined  
13 by the system actuary, and then recover the full amount of the  
14 forfeited benefits.

15 (i) A public employee first employed by a public employer or  
16 first elected or appointed to an office on or after January 1, 2013,  
17 shall be subject to Section 7522.74.

18 *SEC. 3. Section 7522.74 of the Government Code is amended*  
19 *to read:*

20 7522.74. (a) This section shall apply to a public employee first  
21 employed by a public employer or first elected or appointed to an  
22 office on or after January 1, 2013, and on and after that date,  
23 Section 7522.70 shall not apply.

24 (b) (1) If a public employee is convicted by a state or federal  
25 trial court of any felony under state or federal law for conduct  
26 arising out of or in the performance of his or her official duties, in  
27 pursuit of the office or appointment, or in connection with  
28 obtaining salary, disability retirement, service retirement, or other  
29 benefits, he or she shall forfeit all accrued rights and benefits in  
30 any public retirement system in which he or she is a member to  
31 the extent provided in subdivision (c) and shall not accrue further  
32 benefits in that public retirement system, effective on the date of  
33 the conviction.

34 (2) If a public employee who has contact with children as part  
35 of his or her official duties is convicted of a felony that was  
36 committed within the scope of his or her official duties against or  
37 involving a child who he or she has contact with as part of his or  
38 her official duties, he or she shall forfeit all accrued rights and  
39 benefits in any public retirement system in which he or she is a  
40 member to the extent provided in subdivision (c) and shall not

1 accrue further benefits in that public retirement system, effective  
2 on the date of the conviction.

3 (c) (1) A public employee shall forfeit all the retirement  
4 benefits earned or accrued from the earliest date of the commission  
5 of any felony described in subdivision (b) to the forfeiture date,  
6 inclusive. The retirement benefits shall remain forfeited  
7 notwithstanding any reduction in sentence or expungement of the  
8 conviction following the date of the public employee's conviction.  
9 Retirement benefits attributable to service performed prior to the  
10 date of the first commission of the felony for which the public  
11 employee was convicted shall not be forfeited as a result of this  
12 section.

13 (2) *The forfeiture provisions in paragraph (1) do not apply after*  
14 *termination of the retirement system or complete discontinuance*  
15 *of contributions under the system.*

16 ~~(2)~~

17 (3) For purposes of this subdivision, "forfeiture date" means  
18 the date of the conviction.

19 (d) (1) Any contributions to the public retirement system made  
20 by the public employee described in subdivision (b) on or after  
21 the earliest date of the commission of any felony described in  
22 subdivision (b) shall be returned, without interest, to the public  
23 employee upon the occurrence of a distribution event unless  
24 otherwise ordered by a court or determined by the pension  
25 administrator.

26 (2) Any funds returned to the public employee pursuant to  
27 subdivision (d) shall be disbursed by electronic funds transfer to  
28 an account of the public employee, in a manner conforming with  
29 the requirements of the Internal Revenue Code, and the public  
30 retirement system shall notify the court and the district attorney  
31 at least three business days before that disbursement of funds.

32 (3) For the purposes of this subdivision, a "distribution event"  
33 means any of the following:

34 (A) Separation from employment.

35 (B) Death of the member.

36 (C) Retirement of the member.

37 (e) (1) Upon conviction, a public employee as described in  
38 subdivision (b) and the prosecuting agency shall notify the public  
39 employer who employed the public employee at the time of the

1 commission of the felony within 60 days of the felony conviction  
2 of all of the following information:

3 (A) The date of conviction.

4 (B) The date of the first known commission of the felony.

5 (2) The operation of this section is not dependent upon the  
6 performance of the notification obligations specified in this  
7 subdivision.

8 (f) The public employer that employs or employed a public  
9 employee described in subdivision (b) and that public employee  
10 shall each notify the public retirement system in which the public  
11 employee is a member of that public employee's conviction within  
12 90 days of the conviction. The operation of this section is not  
13 dependent upon the performance of the notification obligations  
14 specified in this subdivision.

15 (g) A public retirement system may assess a public employer a  
16 reasonable amount to reimburse the cost of audit, adjustment, or  
17 correction, if it determines that the public employer failed to  
18 comply with this section.

19 (h) If a public employee's conviction is reversed and that  
20 decision is final, the employee shall be entitled to do either of the  
21 following:

22 (1) Recover the forfeited retirement benefits as adjusted for the  
23 contributions received pursuant to subdivision (d).

24 (2) Redeposit those contributions and interest, as determined  
25 by the system actuary, and then recover the full amount of the  
26 forfeited benefits.

27 (i) A public employee first employed by a public employer or  
28 first elected or appointed to an office before January 1, 2013, shall  
29 be subject to Section 7522.72.

30 *SEC. 4. Section 31485.16 is added to the Government Code,*  
31 *to read:*

32 *31485.16. (a) Notwithstanding any other provision of this*  
33 *chapter, the rights of each member to his or her accrued retirement*  
34 *benefits under the retirement system shall be nonforfeitable, in*  
35 *accordance with the requirements of Sections 401(a) (7) and 411*  
36 *of Title 26 of the United States Code that are applicable to public*  
37 *employee plans, as follows:*

38 *(1) On the member's attainment of normal retirement age, while*  
39 *currently employed by an employer that maintains the system.*

1 (2) *To the extent then funded, on the date of the termination of*  
2 *the system, the partial termination of the system, or the complete*  
3 *discontinuance of contributions under the system, as provided in*  
4 *Title 26 of the United States Code.*

5 (b) *When a member's accrued benefits become nonforfeitable*  
6 *under this section, the member may be retired upon filing with the*  
7 *board a written application in the manner provided by Article 8*  
8 *and Article 9 of this chapter, as applicable.*

9 (c) *Notwithstanding subdivision (a) or (b) or any other law, a*  
10 *member's earned and accrued benefits may be forfeited under*  
11 *Sections 7522.70, 7522.72, and 7522.74.*

12 SEC. 5. *Section 31485.17 is added to the Government Code,*  
13 *to read:*

14 *31485.17. Notwithstanding any other provision of this chapter,*  
15 *no amount shall be distributed from a retirement system established*  
16 *under this chapter prior to the time that the distribution may be*  
17 *made in compliance with the requirements of Section 401(a) of*  
18 *Title 26 of the United States Code that are applicable to public*  
19 *employee plans, including, but not limited to, requirements relating*  
20 *to the distribution of amounts prior to the earlier of a member's*  
21 *death, disability, separation from service with all employers that*  
22 *maintain the retirement system, or attainment of normal retirement*  
23 *age, as defined by the retirement system.*

24 SEC. 6. *Section 31485.19 is added to the Government Code,*  
25 *to read:*

26 *31485.19. (a) A member who has not attained normal*  
27 *retirement age shall have a bona fide separation from service to*  
28 *the extent required by Section 401(a) of Title 26 of the United*  
29 *States Code before working for the county or a district. The board*  
30 *shall establish, by regulation, the criteria under which a bona fide*  
31 *separation is satisfied.*

32 (b) *Notwithstanding any other provision of this chapter, to the*  
33 *extent required or permitted by Section 401(a) of Title 26 of the*  
34 *United States Code, no amount shall be paid to any member before*  
35 *the date the member has attained normal retirement age or has*  
36 *had a bona fide separation from service, whichever is earlier.*

37 (c) *The board may establish, by regulation, normal retirement*  
38 *age consistent with federal law and eligibility requirements under*  
39 *state law.*

1     *SEC. 7. Section 31564 of the Government Code is amended to*  
2 *read:*

3     31564. (a) All officers and employees of any district who  
4 have become members of the association as provided in Section  
5 31557, may be withdrawn by a resolution of the governing body  
6 declaring all of the district's employees withdrawn from the  
7 association; provided, the governing body has first received a  
8 written petition signed by a majority of its officers and employees  
9 requesting that the district's officers and employees be withdrawn  
10 from the association.

11     ~~Upon~~

12     (b) *Upon* the adoption of any resolution to withdraw its  
13 members, all accumulated contributions held in the association  
14 shall be refunded to the district's employees upon the effective  
15 date of their withdrawal and in the same manner as the accumulated  
16 contributions would be refunded upon the termination of their  
17 employment by the district.

18     ~~Upon~~

19     (c) *Upon* the adoption of any resolution to withdraw its members  
20 and where there are no existing retirees from the district, the  
21 district's contributions shall be refunded to the district, or shall,  
22 upon the election of and designation by the governing body of the  
23 district, be transferred to another public retirement system *that*  
24 *meets the requirement of a tax-qualified retirement plan under*  
25 *Section 401(a) of Title 26 of the United States Code.*

26     (d) *A refund, distribution, or transfer of contributions for other*  
27 *funds shall not be made to any employee or any district unless that*  
28 *action complies with the requirements of Section 401(a) of Title*  
29 *26 of the United States Code.*

30     ~~In~~

31     (e) *In* the event of the transfer of district contributions to another  
32 public retirement system, the employee contributions shall also be  
33 transferred to the other public retirement system.

34     ~~The~~

35     (f) *The* effective date of withdrawal of any resolution adopted  
36 pursuant to this section shall be at the end of the calendar month  
37 during which such resolution is adopted.

38     *SEC. 8. Section 31592.2 of the Government Code is amended*  
39 *to read:*

1 31592.2. (a) In any county, earnings of the retirement fund  
 2 during any year in excess of the total interest credited to  
 3 contributions and reserves during such year shall remain in the  
 4 fund as a reserve against deficiencies in interest earnings in other  
 5 years, losses on investments, and other contingencies, except that,  
 6 when such surplus exceeds 1 percent of the total assets of the  
 7 retirement system, the board may transfer all, or any part, of such  
 8 surplus in excess of 1 percent of the said total assets into county  
 9 advance reserves for the sole purpose of payment of the cost of  
 10 the benefits described in this chapter.

11 ~~Where~~

12 (b) *Where* the board of supervisors has provided for the payment  
 13 of all, or a portion, of the premiums, dues, or other charges for  
 14 health benefits, Medicare, or the payment of accrued sick leave at  
 15 retirement to or for all, or a portion, of officers, employees, and  
 16 retired employees and their dependents, from the county general  
 17 fund or other sources, the board of retirement may authorize the  
 18 payment of all, or a portion, of payments of the benefits described  
 19 in this ~~paragraph~~ *subdivision* from the county advance reserves.  
 20 *This payment shall comply with the requirements of Section 401*  
 21 *of Title 26 of the United States Code. Payment may be made*  
 22 *directly from the county advance reserves for the benefits described*  
 23 *in Section 31691.1.*

24 SEC. 9. Section 31592.4 of the Government Code is amended  
 25 to read:

26 31592.4. (a) ~~Notwithstanding Article 5.5 (commencing with~~  
 27 ~~Section 31610) and Article 8.6 (commencing with Section 31694),~~  
 28 ~~the~~ *The* amount of excess earnings available at the end of a fiscal  
 29 year of the retirement fund, shall, subject to the limitations in this  
 30 section, be treated in the immediately succeeding fiscal year, for  
 31 all purposes under this chapter, as appropriations, transfers, and  
 32 contributions made to the retirement fund by the county and  
 33 *applicable* districts. ~~That treatment shall be solely for the purposes~~  
 34 ~~of meeting the applicable requirements of Section 401 of the~~  
 35 ~~Internal Revenue Code of the United States. That treatment shall~~  
 36 ~~also~~ occur only to the extent that, in the immediately succeeding  
 37 fiscal year, the county and *applicable* districts pay for, ~~or otherwise~~  
 38 ~~make reimbursement of, an equal amount of health benefits for~~  
 39 ~~members heretofore or hereafter retired and their dependents. For~~  
 40 ~~dependents, or make contributions in an equal amount to an~~

1 *account established under Section 401(h) of Title 26 of the United*  
2 *States Code solely for the purpose of providing health benefits for*  
3 *retired members, their spouses, and dependents, and for the*  
4 *associated administrative and investment expenses.*

5 (b) For purposes of this section, “excess earnings” means  
6 earnings of the retirement fund at the end of any fiscal year that  
7 exceed the total interest credited to contributions and reserves plus  
8 1 percent of the total assets of the retirement fund. ~~The~~

9 (c) ~~The board of supervisors and or the board of retirement may~~  
10 ~~shall take any actions otherwise authorized by law, necessary~~  
11 ~~necessary and appropriate to ensure that the program provided~~  
12 ~~by this section complies with all applicable federal and state income~~  
13 ~~tax laws. laws, including, but not limited to, establishing rules and~~  
14 ~~procedures for establishing and maintaining an account under~~  
15 ~~Section 401(h) of Title 26 of the United States Code.~~

16 (d) In accordance with Section 401(h) of Title 26 of the United  
17 States Code and Section 1.401-14(c) of the Code of Federal  
18 Regulations:

19 (1) The retirement system shall specify the medical benefits that  
20 will be available and shall set out the amount that will be paid.

21 (2) Medical benefits shall be subordinate to the retirement  
22 benefits when added to any life insurance benefits.

23 (3) A separate account shall be maintained for contributions to  
24 fund the medical benefits.

25 (4) The funds in the separate account may be invested with the  
26 funds for retirement benefits and the earnings shall be allocated  
27 to each account in a reasonable manner.

28 (5) Amounts contributed for medical benefits shall be reasonable  
29 and ascertainable.

30 (6) No part of the medical benefits account may be used for or  
31 diverted to any purpose other than providing medical benefits and  
32 paying necessary or appropriate expenses for the administration  
33 of the medical benefits account.

34 (7) Any amounts remaining in the medical benefits account after  
35 satisfaction of all medical benefits liabilities for all members, their  
36 spouses, and dependents shall be returned to the employer.

37 (8) If a member’s interest in the medical benefits account is  
38 forfeited prior to plan termination, an amount equal to the  
39 forfeiture shall reduce employer contributions to fund the account.

1 (e) Except to the extent allowed by Sections 401 and 420 of Title  
2 26 of the United States Code, and related federal regulations,  
3 assets shall not be transferred or otherwise paid from the funds  
4 held by the retirement system for retirement benefits to a medical  
5 benefits account. Assets shall not be transferred or otherwise paid  
6 from a medical benefits account to the funds held by the retirement  
7 system for retirement benefits.

8 ~~(b)~~

9 (f) This section shall not be operative in any county until the  
10 board of supervisors and the board of retirement of the county, by  
11 resolution adopted by a majority vote of each board, make this  
12 section operative in the county.

13 ~~(e) Nothing in this section is intended to, or should~~

14 (g) This section is not intended, and shall not be construed to,  
15 affect the validity of any agreement entered into by a county and  
16 a retirement association whereby a county has agreed to provide  
17 and fund a health insurance program for retired employees and  
18 their dependents for hospital services, medical services, dental  
19 services, and optical services, prior to the effective date of this  
20 section.

21 ~~(d) In any county in which this section becomes operative, the~~  
22 ~~payments provided pursuant to this section shall be in lieu of any~~  
23 ~~similar payments which could be made pursuant to Section 31592.2~~  
24 ~~and no payments shall be made pursuant to Section 31592.2 for~~  
25 ~~all, or a portion, of the premiums, dues, or other charges for health~~  
26 ~~benefits for retired employees and their dependents.~~

27 (h) This section establishes a method of providing health benefits  
28 for retired members, their spouses, and dependents to the extent  
29 allowed under Sections 31592.2 and 31691. This section does not  
30 authorize duplicate benefits.

31 (i) This section may be made applicable in any county that has  
32 adopted Article 5.5 (commencing with Section 31610), in which  
33 case the Supplemental Retiree Benefits Reserve shall be substituted  
34 for the excess earnings described in this section. This section also  
35 may be made applicable to any arrangement established under  
36 Article 8.6 (commencing with Section 31694).

37 SEC. 10. Section 31649.5 of the Government Code is amended  
38 to read:

39 31649.5. ~~(a)~~— Notwithstanding Section 31649, any member  
40 who resigned, or obtained a leave of absence, to enter and did enter

1 the armed forces of the United States on a voluntary or involuntary  
2 basis and returned to county service within one year after separation  
3 therefrom, under honorable conditions, shall receive credit for  
4 service and prior service for all or any part of his or her military  
5 service, if, before retirement from the county, he or she contributes  
6 what he or she would have paid to the fund based on his or her  
7 compensation earnable pursuant to Section 31461 at the time he  
8 or she resigned or received the leave of absence, together with  
9 regular interest thereon, and if, when he or she contributes, the  
10 military service is not a basis for present or future military  
11 retirement pay.

12 ~~(b) This section shall not be operative in any county until the~~  
13 ~~board of supervisors so orders.~~

14 *SEC. 11. Section 31656 of the Government Code is amended*  
15 *to read:*

16 31656. Nothing in this chapter shall be construed to prohibit  
17 any district established pursuant to Part 4 (commencing with  
18 Section 40000) of Division 10 of the Public Utilities Code, from  
19 extending retirement service credit pursuant to Section 40127 of  
20 the Public Utilities Code to any employee of the district who is on  
21 an authorized leave of absence to serve as an official of a  
22 recognized employee bargaining unit, under all of the following  
23 conditions:

24 ~~(a) The employee or the recognized employee organization, or~~  
25 ~~both, as determined pursuant *agrees* to applicable provisions of~~  
26 ~~this part, agree to pay the total contributions which *that* would~~  
27 otherwise be paid if the employee were not on leave, as well as  
28 any additional costs which may accrue to the system as a result of  
29 this extension of coverage.

30 (b) The maximum service credit accumulated under this section  
31 shall not exceed 12 years.

32 (c) Employees covered under this section shall not be eligible  
33 for disability benefits under any public employees' retirement  
34 system in this state while on such leave of absence.

35 This section shall not be operative in any county until such time  
36 as the board of supervisors shall, by resolution adopted by majority  
37 vote, make the provisions of this section applicable in the county.

38 *SEC. 12. Section 31671 of the Government Code is amended*  
39 *to read:*

1 31671. The amount of compensation that is taken into account  
2 in computing benefits payable to any person who first becomes a  
3 member of the retirement system on or after July 1, 1996, *or*  
4 *January 1, 1996, for systems operating on a calendar basis*, shall  
5 not exceed the limitations in Section 401(a)(17) of Title 26 of the  
6 United States Code upon public retirement systems, as that section  
7 may be amended from time to time and as that limit may be  
8 adjusted by the Commissioner of Internal Revenue for increases  
9 in cost of living. The determination of compensation for each  
10 12-month period shall be subject to the annual compensation limit  
11 in effect for the calendar year in which the 12-month period begins.  
12 In a determination of average annual compensation over more than  
13 one 12-month period, the amount of compensation taken into  
14 account for each 12-month period shall be subject to the applicable  
15 annual compensation limit.

16 *SEC. 13. Section 31691 of the Government Code is amended*  
17 *to read:*

18 31691. (a) The board of supervisors of any county by  
19 ordinance, or the governing body of any district under the County  
20 Employees Retirement Law, by ordinance or resolution, may  
21 provide for the contribution by the county or district from its funds  
22 and not from the retirement fund, toward the payment of all or a  
23 portion of the premiums on a policy or certificate of life insurance  
24 or disability insurance issued by an admitted insurer, or toward  
25 the payment of all or part of the consideration for any hospital  
26 service or medical service corporation, including any corporation  
27 lawfully operating under Section 9201 of the Corporations Code,  
28 contract, or for any combination thereof, for the benefit of any  
29 member heretofore or hereafter retired or his or her dependents.  
30 At least one of these plans shall include free choice of physician  
31 and surgeon.

32 (b) The benefits provided by this section (b) are in addition to any  
33 other benefits provided by this chapter.

34 (c) The board of retirement may provide on behalf of a member  
35 who has retired, or an eligible surviving spouse who was married  
36 to the member for one year prior to the date of retirement of the  
37 member, or, if there is no such spouse, the surviving unmarried  
38 children of the member who are under 18 years of age, or under  
39 22 years of age and full-time students, for the *hospital and medical*  
40 ~~benefits enumerated herein~~ *in subdivision (a)* from the earnings

1 of the retirement fund that are in excess of the total interest credited  
 2 to contributions and reserves plus 1 percent of the total assets of  
 3 the retirement fund. The board may provide for the benefits  
 4 enumerated from like sources when the board of supervisors or  
 5 the governing body of a district has elected to provide these  
 6 benefits to its active employees, even though the benefits are not  
 7 provided to those who have retired from the service of the county  
 8 or district. *Hospital and medical benefits provided under this*  
 9 *section shall be provided in compliance with Section 401(h) of*  
 10 *Title 26 of the United States Code. They may also be provided in*  
 11 *compliance with Section 31592.2.*

12 (d) Except in a county of the first class, upon adoption by any  
 13 county providing benefits pursuant to this section, the board of  
 14 retirement shall, instead, pay those benefits from the that has  
 15 adopted Article 5.5 (commencing with Section 31610), the  
 16 Supplemental Retiree Benefits Reserve established pursuant to  
 17 Section 31618. 31618 shall be substituted for the excess earnings  
 18 described in subdivision (c).

19 SEC. 14. Section 31691.1 of the Government Code is amended  
 20 to read:

21 31691.1. (a) In lieu of the benefits prescribed by subdivision  
 22 ~~(d)~~ of Section 31691, the board of retirement may provide on behalf  
 23 of a member who has retired, or an eligible surviving spouse who  
 24 was married to the member prior to the date of retirement of the  
 25 member, or, if there is no such spouse, the surviving unmarried  
 26 children of the member who are under 18 years of age, or under  
 27 22 years of age and full-time students, for an equivalent increase  
 28 in allowance from the earnings of the retirement fund that are in  
 29 excess of the total interest credited to contributions and reserves  
 30 plus 1 percent of the total assets of the retirement fund. Any benefit  
 31 provided by this section shall be subject to Section 31692.

32 (b) Except in a county of the first class, upon adoption by any  
 33 county providing benefits pursuant to this section, the board of  
 34 retirement shall, instead, pay those benefits from the Supplemental  
 35 Retiree Benefits Reserve established pursuant to Section 31618.

36 SEC. 15. Section 31694.6 is added to the Government Code,  
 37 to read:

38 31694.6. (a) Notwithstanding any provision to the contrary  
 39 in this article, if the Post-Employment Benefits Trust Account  
 40 established under Section 31694 is established as a part of the

1 *retirement fund, then that account shall be established for the sole*  
2 *purpose of providing health benefits for retired members, their*  
3 *spouses, and dependents, and shall comply with all requirements,*  
4 *including the limitations on contributions, of Section 401(h) of*  
5 *Title 26 of the United States Code, as applicable.*

6 *(b) The board of supervisors or the board of retirement shall*  
7 *take any actions necessary or appropriate to ensure that the*  
8 *program provided by this section complies with all applicable*  
9 *federal and state income tax laws, including, but not limited to,*  
10 *establishing rules and procedures for establishing and maintaining*  
11 *an account under Section 401(h) of Title 26 of the United States*  
12 *Code.*

13 *(c) If the Post-Employment Benefits Trust Account is established*  
14 *under Section 31694, assets shall not be transferred or otherwise*  
15 *paid from the funds held by the retirement system for retirement*  
16 *benefits to a medical benefits account. Assets shall not be*  
17 *transferred or otherwise paid from a medical benefits account to*  
18 *the funds held by the retirement system for retirement benefits.*

19 *SEC. 16. Section 31696.3 of the Government Code is amended*  
20 *to read:*

21 31696.3. (a) The board shall establish a trust fund designated  
22 as the Long-Term Care Fund for the purpose of the payment of  
23 the costs and administration of the long-term care plan. The  
24 Long-Term Care Fund shall be held for the exclusive benefit of  
25 enrollees and the payment of the costs and administration of the  
26 program.

27 (b) The board shall have exclusive control of the administration  
28 and investment of the Long-Term Care Fund, except that in a  
29 county having a board of investments, the board of investments  
30 shall have exclusive control of the investment of the fund. Funds  
31 in the Long-Term Care Fund shall be invested pursuant to the law  
32 governing the investment of the retirement fund.

33 (c) Income, of whatever nature, earned on the Long-Term Care  
34 Fund shall be credited to the fund.

35 *(d) If the Long-Term Care Fund is intended to be a part of the*  
36 *retirement system trust fund, then the operation of the Long-Term*  
37 *Care Fund, including, but not limited to, its funding, governance,*  
38 *investment of assets, allocation of income, and payment of benefits,*  
39 *shall comply with the requirements of Section 401(h) of Title 26*  
40 *of the United States Code, to the extent required by that title and*

1 *related federal regulations. If the Long-Term Care Fund is intended*  
 2 *to be separate from and not a part of the retirement system, then*  
 3 *the assets shall not be commingled for investment with the assets*  
 4 *of the retirement system and shall constitute a separate fund with*  
 5 *a trust that is separate from the funds and trust of the retirement*  
 6 *system. The board shall indicate, as a part of establishment of the*  
 7 *Long-Term Care Fund, whether the separate fund is intended to*  
 8 *be a part of, or separate from, the retirement system.*

9 *SEC. 17. Section 31698.5 is added to the Government Code,*  
 10 *to read:*

11 *31698.5. If the vision care program is intended to be part of*  
 12 *the retirement system trust fund, the operation of the vision care*  
 13 *program, including, but not limited to, its funding, governance,*  
 14 *investment of assets, allocation of income, and payment of benefits,*  
 15 *shall comply with the requirements of Section 401(h) of Title 26*  
 16 *of the United States Code, to the extent required by that title, and*  
 17 *related federal regulations. If the vision care program is intended*  
 18 *to be separate from and not a part of the retirement system, then*  
 19 *no assets attributable to that program shall be commingled for*  
 20 *investment with the assets of the retirement system and the program*  
 21 *shall be separate from the funds and trust of the retirement system.*  
 22 *The sponsor of the vision care program shall indicate as part of*  
 23 *the establishment of the program whether that separate fund is*  
 24 *intended to be a part of, or separate from, the retirement system.*

25 ~~SECTION 1. Chapter 2.55 (commencing with Section 65087)~~  
 26 ~~is added to Division 1 of Title 7 of the Government Code, to read:~~

27  
 28 ~~CHAPTER 2.55. SUSTAINABLE COMMUNITIES STRATEGY~~  
 29 ~~TRANSACTIONS AND USE TAX~~  
 30

31 ~~65087. (a) (1) A transportation planning agency that is~~  
 32 ~~designated as a metropolitan planning organization pursuant to~~  
 33 ~~Section 134 of Title 23 of the United States Code may, subject to~~  
 34 ~~approval of an ordinance pursuant to Section 65087.1 and voter~~  
 35 ~~approval pursuant to Section 65087.2, impose a transactions and~~  
 36 ~~use tax within its jurisdiction for the purpose of achieving the goals~~  
 37 ~~of the sustainable communities strategy required pursuant to~~  
 38 ~~paragraph (2) of subdivision (b) of Section 65080 at a rate of no~~  
 39 ~~more than 0.5 percent.~~

1     ~~(2) Notwithstanding any other law, this transactions and use tax~~  
2     ~~may be imposed even if the combined rate of this tax and all taxes~~  
3     ~~imposed in accordance with Part 1.6 (commencing with Section~~  
4     ~~7251) of the Revenue and Taxation Code, exceed the limit~~  
5     ~~established in Section 7251.1 of the Revenue and Taxation Code.~~

6     ~~(b) A transportation planning agency that includes territory of~~  
7     ~~more than one county may elect to exclude one or more counties~~  
8     ~~from the transactions and use tax ordinance.~~

9     ~~(c) As part of the ordinance under Section 65087.1, the~~  
10     ~~transportation planning agency shall adopt an expenditure plan for~~  
11     ~~the net revenues to be generated by the transactions and use tax.~~  
12     ~~The expenditure plan shall include funding for transportation,~~  
13     ~~affordable housing, and parks and open space in conformity with~~  
14     ~~the sustainable communities strategy for the region and its~~  
15     ~~priorities. Not less than 25 percent of available net revenues shall~~  
16     ~~be allocated under the expenditure plan to each of these three~~  
17     ~~categories. Available net revenues not used for these purposes~~  
18     ~~shall be available for purposes determined by the transportation~~  
19     ~~planning agency to assist in attaining the goals of the sustainable~~  
20     ~~communities strategy adopted for the region.~~

21     ~~65087.1. To impose the transactions and use tax authorized~~  
22     ~~under this chapter, all of the following shall be required:~~

23     ~~(a) An ordinance proposing the tax and the expenditure plan~~  
24     ~~and submitting the tax and expenditure plan to the voters for~~  
25     ~~approval shall be approved by two-thirds of the governing board~~  
26     ~~of the transportation planning agency.~~

27     ~~(b) The voters within the jurisdiction of the transportation~~  
28     ~~planning agency, or a portion of that jurisdiction pursuant to~~  
29     ~~subdivision (b) of Section 65087, approve the ballot measure~~  
30     ~~pursuant to Section 65087.2. For purposes of voter approval, the~~  
31     ~~ordinance will be approved if the requisite number of voters from~~  
32     ~~all areas cumulatively voting on the measure approve the ordinance~~  
33     ~~in accordance with Article XIII C of the California Constitution.~~

34     ~~(c) With the exception of Section 7251.1 of the Revenue and~~  
35     ~~Taxation Code, the transaction and use tax is levied in accordance~~  
36     ~~with the Transaction and Use Tax Law (Part 1.6 (commencing~~  
37     ~~with Section 7251) of the Revenue and Tax Code).~~

38     ~~65087.2. The transportation planning agency may call a special~~  
39     ~~election for the purposes of submitting the ordinance containing~~  
40     ~~the tax and the expenditure plan to the voters within the jurisdiction~~

1 ~~of the transportation planning agency, or a portion of that~~  
2 ~~jurisdiction pursuant to subdivision (b) of Section 65087. The~~  
3 ~~election shall be consolidated with a statewide primary or general~~  
4 ~~election specified by the transportation planning agency.~~

O