

AMENDED IN SENATE JUNE 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 611

Introduced by Assembly Member Bonta

February 20, 2013

An act to amend Section ~~22950~~ of the Education Code, relating to ~~state teachers' retirement~~, 22960.4 of, and to add Sections 22960.05 and 22960.51 to, the Government Code, relating to public employees' retirement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 611, as amended, Bonta. ~~State teachers' retirement. State Peace Officers' and Firefighters' Defined Contribution Plan.~~

Existing law requires that contributions to the State Peace Officers' and Firefighters' Defined Contribution Plan cease, prohibits new members from participating in the plan, and requires that the plan be terminated, as prescribed. Existing law requires that moneys in the State Peace Officers' and Firefighters' Defined Contribution Plan Fund be distributed, as specified and in accordance with federal law, including requiring that amounts payable from the fund be rolled over to the Supplemental Contributions Program, if not elected otherwise.

This bill would require that the plan be terminated effective June 1, 2014, subject to obtaining appropriate approvals from the Internal Revenue Service. The bill would state that the bill is intended to constitute a governmental plan under federal tax law, as specified. Consistent with specified federal law, the bill would prohibit the corpus or income of the plan's trust from being diverted to purposes other than the exclusive benefit of the members or their beneficiaries or there being a reversion of trust funds, except as federal law permits.

This bill would declare that it is to take effect immediately as an urgency statute.

~~The State Teachers' Retirement System provides pension benefits based in part upon credited service. Existing law states that by accepting employment to perform creditable service, a member consents to make contributions for service and compensation. The Teachers' Retirement Law requires the employer to contribute monthly to the system 8% of the creditable compensation upon which members' contributions are based. The Teachers' Retirement Law requires portions of the employer contributions to be deposited in the Teachers' Retirement Fund and the Teachers' Health Benefits Fund. Existing law authorizes a limited amount from the employer contributions to also be deposited into the Teachers' Retirement Program Development Fund.~~

~~This bill would make that deposit into the Teachers' Retirement Program Development Fund a required deposit.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 *SECTION 1. Section 22960.4 of the Government Code is*
2 *amended to read:*

3 22960.4. (a) The Legislature finds and declares that an
4 agreement between the exclusive representative of state peace
5 officer and firefighter members in State Bargaining Unit 6 and the
6 employer has eliminated the employer contributions to the plan
7 provided in Section 22960.60.

8 (b) The following shall occur:

9 (1) All contributions to the plan shall cease.

10 (2) New participants shall be prohibited from participating in
11 the plan.

12 (3) The plan shall be terminated ~~on the later of January~~ *effective*
13 *June 1, 2014, or upon* ~~subject to~~ obtaining appropriate approvals
14 from the Internal Revenue Service, including a favorable
15 determination letter on plan termination from the Internal Revenue
16 Service.

17 (4) Subject to paragraph (3), all moneys in the fund shall be
18 distributed in accordance with this part and federal law. If not
19 elected otherwise, amounts that become payable from the fund
20 under this section shall be rolled over under Section 401(a)(31) of

1 Title 26 of the United States Code to the Supplemental
2 Contributions Program established in accordance with Section
3 22970.

4 *SEC. 2. Section 22960.05 is added to the Government Code,*
5 *to read:*

6 *22960.05. The plan is intended to constitute a governmental*
7 *plan as defined by Section 414(d) of the Internal Revenue Code*
8 *(26 U.S.C. Sec. 414(d)) and, as such, the plan and all benefits*
9 *payable thereunder are intended to satisfy all requirements of*
10 *Section 401(a) of the Internal Revenue Code (26 U.S.C. Sec.*
11 *401(a)) that apply to the plan.*

12 *SEC. 3. Section 22960.51 is added to the Government Code,*
13 *to read:*

14 *22960.51. Consistent with the requirements of Section 401(a)(2)*
15 *of the Internal Revenue Code (26 U.S.C. Sec. 401(a)(2)), the corpus*
16 *or income of the plan's trust shall not be diverted to, or used for,*
17 *purposes other than the exclusive benefit of the members or their*
18 *beneficiaries nor shall there be a reversion of trust funds except*
19 *as permitted by Revenue Ruling 91-4, 1991-1 C.B. 57, by the*
20 *Internal Revenue Service.*

21 *SEC. 4. This act is an urgency statute necessary for the*
22 *immediate preservation of the public peace, health, or safety within*
23 *the meaning of Article IV of the Constitution and shall go into*
24 *immediate effect. The facts constituting the necessity are:*

25 *In order that the members of the State Peace Officers' and*
26 *Firefighters' Defined Contribution Plan may receive the*
27 *distributions that are due to them at the earliest possible time, it*
28 *is necessary that this act take effect immediately.*

29 ~~SECTION 1. Section 22950 of the Education Code is amended~~
30 ~~to read:~~

31 ~~22950. (a) Employers shall contribute monthly to the system~~
32 ~~8 percent of the creditable compensation upon which members'~~
33 ~~contributions under this part are based.~~

34 ~~(b) From the contributions required under subdivision (a), there~~
35 ~~shall be deposited in the Teachers' Retirement Fund an amount,~~
36 ~~determined by the board, that is not less than the amount,~~
37 ~~determined in an actuarial valuation of the Defined Benefit~~
38 ~~Program pursuant to Section 22311.5, necessary to finance the~~
39 ~~liabilities associated with the benefits of the Defined Benefit~~
40 ~~Program over the funding period adopted by the board, after taking~~

1 into account the contributions made pursuant to Sections 22901,
2 22951, and 22955.

3 (e) ~~The amount of contributions required under subdivision (a)~~
4 ~~that is not deposited in the Teachers' Retirement Fund pursuant~~
5 ~~to subdivision (b) shall be deposited directly into the Teachers'~~
6 ~~Health Benefits Fund, as established in Section 25930, and shall~~
7 ~~not be deposited into or transferred from the Teachers' Retirement~~
8 ~~Fund.~~

9 (d) ~~(1) Notwithstanding subdivisions (b) and (c), there shall be~~
10 ~~deposited into the Teachers' Retirement Program Development~~
11 ~~Fund, as established in Section 22307.5, from the contributions~~
12 ~~required under subdivision (a), an amount determined by the board,~~
13 ~~not to exceed the limit specified in paragraph (2).~~

14 (2) ~~The balance of deposits into the Teachers' Retirement~~
15 ~~Program Development Fund, minus the subsequent transfer of~~
16 ~~funds, with interest, into the Teachers' Retirement Fund pursuant~~
17 ~~to subdivision (e) of Section 22307.5, shall not exceed 0.01 percent~~
18 ~~of the total of the creditable compensation of the fiscal year ending~~
19 ~~in the immediately preceding calendar year upon which member's~~
20 ~~contributions to the Defined Benefit Program are based.~~

21 (3) ~~The deposits described in this subdivision shall not be~~
22 ~~deposited into, or transferred from, the Teachers' Retirement Fund.~~