

Assembly Bill No. 1824

CHAPTER 726

An act to add Section 31760.8 to the Government Code, relating to county employees' retirement.

[Approved by Governor September 28, 2014. Filed with
Secretary of State September 28, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1824, Rendon. County employees' retirement: optional settlements revision.

The County Employees Retirement Law of 1937 permits a member or retired member of a retirement system established pursuant to its provisions, prior to the time that the first payment of any retirement allowance is made, to elect certain optional settlements, which operate to reduce the allowance payable to the member through his or her life and provide for a subsequent payment to another party or parties, including his or her spouse. Existing law authorizes a person to revoke a beneficiary nomination at his or her pleasure and nominate a different beneficiary, except for a nomination made under 3 specified optional settlements.

This bill, upon adoption by a county, would permit a retired member to revise the designated beneficiary for those specified optional settlements if, at retirement, the retired member was unmarried or had been married less than one year, the retired member had retired before the county adopted other specified optional retirement settlements, and the application to revise includes the signature of the designated beneficiary of the optional settlement or a written declaration, as specified. The bill would provide a civil penalty for a person who knowingly provides false information in the declaration, to be brought at the option of a public prosecutor. The bill would also require, if the designated beneficiary of the optional settlement is a spouse or domestic partner of the member, that the application for revision evidence that person's agreement to the revision. The bill would require, pursuant to this revision, the retired member's allowance to remain the same as provided by the optional settlement, adjusted for any cost-of-living increases that have been added to the retirement allowance. The bill would provide that the retirement system has no obligation to locate or otherwise contact retired members who may qualify for a revision. The bill would provide that any actions taken, as described above, do not excuse the obligation of a member to provide a continuing benefit to a former spouse pursuant to court order.

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

SECTION 1. Section 31760.8 is added to the Government Code, to read: 31760.8. (a) Notwithstanding Section 31782, a retired member, in order to provide for his or her spouse, shall be entitled to revise the designated beneficiary of an optional settlement elected pursuant to Section 31762, 31763, or 31764 at the time of retirement, if all of the following criteria are satisfied:

(1) The member retired on or before the date the board made Section 31760.2, 31785.1, or 31786.1 applicable in the county.

(2) At retirement, the member was unmarried or had been married less than one year.

(3) The member's spouse is at least 55 years of age and is older than the originally designated beneficiary.

(4) The member's application satisfies the requirements described in subdivisions (b) and (c).

(b) (1) An application for a revision of an optional settlement pursuant to this section shall include the signature of the designated beneficiary of the optional settlement acknowledging the revision or shall include a written declaration of one or more of the following as may be applicable to the member:

(A) The beneficiary has no identifiable community property interest in the benefit.

(B) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the beneficiary.

(C) The beneficiary has been advised of the application and has refused to sign the written acknowledgment.

(D) The beneficiary is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(2) The purpose of this subdivision is to notify the beneficiary of the revision of an optional settlement made by a member that may affect the entitlement of the beneficiary.

(3) A person who knowingly provides false information in the written declaration submitted pursuant to paragraph (1) shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) and not more than twenty-five thousand dollars (\$25,000), in addition to any civil remedies available to the board. An action to impose a civil penalty pursuant to this paragraph may be brought by any public prosecutor in the name of the people of the state.

(c) In addition to the requirements of subdivision (b), if the originally designated beneficiary of the optional settlement is a former spouse or domestic partner of the member, the application for revision of an optional settlement shall also evidence agreement to the revision by the former spouse or domestic partner.

(d) After revision, the member's retirement allowance shall remain the same as provided by the optional settlement, adjusted by any cost-of-living increases that have been added to the retirement allowance.

(e) The retirement system has no obligation to locate or otherwise contact retired members who may qualify for a revision under this section.

(f) No actions taken pursuant to this section excuse the obligation of a member to provide a continuing benefit to a former spouse or other person pursuant to court order.

(g) This section is not applicable in any county until the board of retirement, by resolution adopted by a majority vote, makes this section applicable in the county. The board's resolution may designate a date, which may be prior or subsequent to the date of the resolution, as of which the resolution and this section shall be operative in the county.

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