

Assembly Bill No. 2472

Passed the Assembly August 11, 2014

Chief Clerk of the Assembly

Passed the Senate August 7, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 20340, 20533, 21074, 21075, 21453, 21499, 75070, 75079, 75552, and 75570 of, to add Section 75580.5 to, and to repeal Sections 20237 and 22849 of, the Government Code, relating to public employee benefits.

LEGISLATIVE COUNSEL’S DIGEST

AB 2472, Committee on Public Employees, Retirement and Social Security. Public employees: retirement and health benefits.

(1) The Public Employees’ Retirement Law (PERL) creates the Public Employees’ Retirement System (PERS), which provides a defined benefit to its members based on age at retirement, service credit, and final compensation. Existing law vests the management and control of the PERS in the Board of Administration of the PERS. Existing law requires the board, in addition to any other reports it is required to make, to annually file a separate report with the Governor and the Legislature on all matters under its jurisdiction.

This bill would repeal that requirement and make other conforming changes.

(2) PERL specifies that a person ceases to be a member of PERS if the person has less than 5 years of service credit and no accumulated contributions in the retirement fund at the time of termination of service, as specified.

This bill would provide that a member who is subject to specified provisions also ceases to be a member of PERS if the person has less than 10 years of service credit and no accumulated contributions in the retirement fund at the time of termination of service, and would make related conforming changes.

(3) PERL prescribes different benefit formulas referred to as First Tier and Second Tier. Existing law provides that a state member who elected a calculation of a service retirement allowance based upon a specified computation of First Tier and Second Tier service shall be retired for service upon written application to the board if he or she has attained 50 years of age and is credited with 5 years of state service.

This bill would specify that this provision applies to a state member, as described above, who is subject to a certain benefit formula available to Second Tier members who became members of the system before January 1, 2013.

(4) PERL provides that if a correction of the amount of compensation received by a member that is reported to the system requires additional employer contributions to be paid to the system, the contributions shall be computed using the employer rate in effect at the time of the adjustment.

This bill would instead provide that the employer contribution shall be computed using the employer contribution rate in effect at the time that the compensation requiring adjustment was earned.

(5) PERL requires that an election, revocation, or change of retirement benefits be made prior to the making of the first payment on account of any retirement allowance, or any retirement allowance following a change in retirement status.

This bill would allow an election, revocation, or change of election to be made within 30 calendar days after the making of the first payment.

(6) PERL requires the board to conduct a study to examine the feasibility and cost-effectiveness of creating a single statewide health care pool that would cover all public school employees.

This bill would repeal that requirement.

(7) Existing law establishes the Judges' Retirement System II which provides retirement benefits to elected judges. Existing law authorizes a judge to elect, revoke, or change a previous election of benefits in a writing filed with the system prior to the making of the first payment on account of the retirement allowance.

This bill would require those authorized elections, revocations, and changes to be made within 30 calendar days after the making of the first payment.

(8) Existing law provides that if a retired judge becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement for disability, the retirement allowance otherwise payable pursuant to the Judges' Retirement System II Law shall, during the time he or she is entitled to receive that salary or other compensation, be reduced by the amount of that salary or compensation.

This bill would require, except as provided, a person who is retired for service or disability under the system to reinstate from

retirement and again become a member of the system if he or she is appointed or elected to serve as a judge.

(9) The bill would make other conforming, and technical, nonsubstantive changes.

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

SECTION 1. Section 20237 of the Government Code is repealed.

SEC. 2. Section 20340 of the Government Code is amended to read:

20340. A person ceases to be a member:

(a) Upon retirement, except while participating in reduced worktime for partial service retirement.

(b) If he or she is paid his or her normal contributions, unless payment of contributions is the result of an election pursuant to paragraph (1) of subdivision (b) of Section 21070, or unless, after reducing the member's credited service by the service applicable to the contributions being withdrawn, the member meets the requirements of Section 21075 or if he or she is paid a portion of his or her normal contributions where more than one payment is made, or these contributions are held pursuant to Section 21500. For the purposes of this subdivision, deposit in the United States mail of a warrant drawn in favor of a member, addressed to the latest address of the member on file in the office of this system, electronic fund transfer to the person's bank, savings and loan association, or credit union account, constitutes payment to the person of the amount for which the warrant is drawn or electronically transferred.

(c) If the member has less than five years of service credit, or less than 10 years of service credit if the member is subject to Section 21076 or 21076.5, and no accumulated contributions in the retirement fund at the time of termination of service, unless the member establishes membership in the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the State Teachers' Retirement System, or the University of California Retirement Plan, or establishes reciprocity with a reciprocal retirement system.

SEC. 3. Section 20533 of the Government Code is amended to read:

20533. The employer contribution rate adopted under this part, or because of amendments to the contract or to this part, apply to all compensation upon the basis of which member's contributions are deducted after those employer contribution rates became or become effective.

If correction of the amount of compensation reported is required, the employer contributions shall be computed using the employer contribution rate in effect at the time that the compensation requiring adjustment was earned.

SEC. 4. Section 21074 of the Government Code is amended to read:

21074. (a) A state member who became subject to the Second Tier shall be retired for service upon his or her written application to the board if he or she has attained age 55 and is credited with 10 years of state service.

(b) A state member who elected coverage under Section 21077, shall be retired for service upon his or her written application to the board if he or she has attained 50 years of age if subject to Section 21076 and is credited with five years of state service. No benefit shall be payable for service rendered under the Second Tier retirement formula unless the member has rendered 10 years of state service except as provided in subdivision (c).

(c) Notwithstanding subdivision (a) or (b), a state member in the Second Tier who is credited with five years of state service prior to January 1, 1985, may retire with less than 10 years of state service upon his or her written application to the board if he or she has attained age 50.

SEC. 5. Section 21075 of the Government Code is amended to read:

21075. Notwithstanding Section 20340, a person who is subject to Section 21076, 21076.5, or Section 21077 ceases to be a member if he or she has less than 10 years of service credit and no accumulated contributions in the retirement fund at the time of termination of service, except a member who had five years of credited service prior to January 1, 1985.

SEC. 6. Section 21453 of the Government Code is amended to read:

21453. An election, revocation, or change of election shall be made within 30 calendar days after the making of the first payment on account of any retirement allowance or, in the event of a change

of retirement status after retirement, within 30 calendar days after the making of the first payment on account of any retirement allowance following the change in retirement status. “Change in retirement status” includes, but is not limited to, change from service to disability retirement, from disability retirement to service retirement, from nonindustrial disability retirement to industrial disability retirement, or from industrial to nonindustrial disability retirement.

For purposes of this section, payment shall be deemed to have been made on the date a warrant is mailed, or the date funds are electronically transferred to a bank, savings and loan association, or credit union account for deposit in the member’s account.

This section shall not be construed to authorize a member to change his or her retirement status after the election, revocation, or change of election provided in this section.

SEC. 7. Section 21499 of the Government Code is amended to read:

21499. (a) Notwithstanding Section 21498, when either an initial payment of a preretirement or postretirement death allowance or a preretirement or postretirement lump-sum benefit is payable in an amount of ten dollars (\$10) or more, it shall be authorized to the Controller within 45 days of receipt by this system of all the necessary information, including the return of warrants issued or any overpayment outstanding after the date of the death of the annuitant.

(b) If any payment is not made within that time limitation, the payment shall also include interest at the greater of the interest crediting rate specified in Section 20178 or the net earnings rate (including capital gains and losses) in effect at the time the payment is made, for time following the expiration of that time limitation.

SEC. 8. Section 22849 of the Government Code is repealed.

SEC. 9. Section 75070 of the Government Code is amended to read:

75070. In lieu of the retirement allowance for his or her life alone, a judge may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in Section 75071.

That election, revocation, or change of election shall be made by a writing filed with the Judges' Retirement System within 30 calendar days after the making of the first payment on account of any retirement allowance.

SEC. 10. Section 75079 of the Government Code is amended to read:

75079. (a) When a judge elects and becomes entitled to receive the benefits accorded by this article, he or she does not have the right to select an optional settlement under the provisions of Article 3.5 (commencing with Section 75070) of this chapter.

(b) When a judge becomes entitled on and after January 1, 1987, to receive the benefits accorded by this article, the judge may instead elect an actuarially reduced retirement allowance payable for life and if the judge dies before he or she receives the amount of his or her accumulated contributions at retirement, the remaining unpaid amount of his or her accumulated contributions shall be paid to his or her designated beneficiary, if he or she has so designated, and if none, to his or her estate.

The election shall be made in writing and filed with the Judges' Retirement System within 30 calendar days after the making of the first payment on account of any retirement allowance.

(c) The surviving spouse of a judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by Section 75076 but who elected to receive the actuarially reduced retirement allowance as provided in subdivision (b) and who dies during retirement shall receive, until death, an allowance equal to one-half of the retirement allowance that would have been payable to the judge if he or she were living and had elected to receive the benefits accorded by Section 75076.

SEC. 11. Section 75552 of the Government Code is amended to read:

75552. (a) After payment of a portion of the member's contributions to a nonmember pursuant to subdivision (b) of Section 75551, the member may redeposit the full amount in the fund at any time before he or she retires or otherwise leaves judicial office. The redeposit shall include interest at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20750 from the date of payment to the date of redeposit. A partial redeposit shall not be accepted.

(b) After payment of a portion of the member's monetary credits to a nonmember pursuant to subdivision (c) of Section 75551, the member may redeposit the full amount in the fund at any time before he or she retires or otherwise leaves judicial office. The redeposit shall include interest at the greater of: (1) the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20750 from the date of payment to the date of redeposit; or (2) the compounded amounts that would have been credited to the member's monetary account pursuant to subdivision (b) of Section 75520 had the payment not been made to the nonmember. A partial redeposit shall not be accepted.

SEC. 12. Section 75570 of the Government Code is amended to read:

75570. (a) In lieu of the retirement allowance under subdivision (d) of Section 75522 for his or her life alone, a judge who elects to retire with a monthly allowance under subdivision (d) of Section 75522 may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his or her retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in Section 75571.

(b) That election, revocation, or change of election shall be made by a writing filed with the system within 30 calendar days after the making of the first payment on account of any retirement allowance.

SEC. 13. Section 75580.5 is added to the Government Code, to read:

75580.5. (a) Except as provided in subdivision (b), if a person who is retired for service or disability under this system is appointed or elected to serve as a judge, he or she shall reinstate from retirement and again become a member of the system pursuant to this chapter.

(b) This section shall not apply to a retired judge who is assigned to serve in a court pursuant to Section 68543.5, and he or she shall not earn service credit or be entitled to retirement benefits under this part for that service.

Approved _____, 2014

Governor