

AMENDED IN ASSEMBLY APRIL 8, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2474

Introduced by Committee on Public Employees, Retirement and Social Security (Bonta (Chair), Rendon, Ridley-Thomas, and Wieckowski)

February 21, 2014

An act to amend Sections 31462.05, 31462.2, 31563, 31631, 31781, 31781.3, 31781.31, and 31787.6 of the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2474, as amended, Committee on Public Employees, Retirement and Social Security. ~~Final~~—*County employees retirement: final compensation: forfeiture of benefits: employee contributions: death benefits.*

The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to county, city, and district employees and their beneficiaries. The CERL provides for a defined retirement benefit based upon credited service, final compensation, and age at retirement subject to specified formulas relating to membership classification.

The California Public Employees' Pension Reform Act of 2013 (PEPRA) requires a public retirement system, as defined, including county and district retirement systems created pursuant to CERL, to modify its pension plan or plans to comply with the act and, among other provisions, establishes new limits of pensionable compensation that may not be exceeded whenever pensionable compensation is used

in the calculation of a benefit. PEPRAs defines pensionable compensation for purposes of its provisions.

This bill would clarify that the definition of final compensation for members whose services is on a tenure that is temporary, seasonal, intermittent, or part time in the CERL, as described, also applies to those members meeting the same service criteria who are subject to PEPRAs.

The CERL provides that for a member who is subject to PEPRAs for all or any portion of his or her membership in the county retirement system, final compensation means the highest average pensionable compensation earned by the member during a period of at least 36 consecutive months, immediately preceding his or her retirement or last separation from service if earlier, or during any other period of 36 consecutive months designated by the member.

This bill would require the computation for any absence to be based on the compensation of the position held by the member at the beginning of the absence.

PEPRAs requires a public employee, including one who is elected or appointed to a public office, who is convicted of any state or federal felony for conduct arising out of, or in the performance of, his or her official duties in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, to forfeit retirement benefits earned or accrued from the earliest date of the commission of the felony to the forfeiture date, as specified.

This bill would make a conforming change to the CERL to specify that a person ceases to be a member for any portion of his or her service as an elected public officer or as a public employee that is forfeited under those circumstances.

Under the CERL, except as otherwise specified, a board of supervisors or the governing body of a district may require that members pay all or part of the contributions of a member or employer, or both, for any retirement benefits provided under the CERL, and designates those payments as employee contributions. Existing law requires the contributions to be uniform either (1) with respect to all members of a recognized bargaining unit or (2) within each of the following classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, and all local safety members other than local police officers, local firefighters, and county peace officers and classifications covered pursuant to specified provisions in PEPRAs.

This bill would revise that latter provision to require the contributions to be uniform either (1) with respect to all members of a recognized bargaining unit or (2) within both of the following categories: nonsafety and safety members referenced pursuant to specified provisions in PEPR.

The CERL provides that upon the death before retirement of a member under specified circumstances, the retirement system is liable for a death benefit. The CERL requires the death benefit to consist of the member’s accumulated contributions and an amount calculated using the annual compensation earned by the deceased, as specified.

This bill would instead require that latter amount to be calculated using the pensionable compensation earned by the deceased member, if that member was subject to PEPR.

~~The CERL provides that~~ *authorizes* the surviving spouses of members who die in service after a specified number of years of service or as a result of service-connected injury or disease ~~may~~ *to* elect a benefit calculated using the annual compensation earned by the deceased in lieu of a death benefit or life annuity.

This bill would instead require that benefit to be calculated using the pensionable compensation earned by the deceased member, if that member was subject to PEPR.

~~The CERL provides that~~ *requires* a surviving spouse of a safety member who is killed in the performance of duty or who dies as the result of an accident or injury caused by external violence or physical force incurred in the performance of his or her duty *to* be paid a one-time lump-sum benefit calculated using the annual compensation earnable by the deceased.

This bill would instead require ~~that benefit~~ *those benefits* to be calculated using the pensionable compensation earned by the deceased member, if that member was subject to PEPR.

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

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

- 1 SECTION 1. Section 31462.05 of the Government Code is
- 2 amended to read:
- 3 31462.05. (a) For a member who is subject to the California
- 4 Public Employees’ Pension Reform Act of 2013 for all or any
- 5 portion of his or her membership in the county retirement system,

1 “final compensation” as defined in Section 7522.32 shall apply.

2 ~~¶~~

3 (b) If a member has less than three years of service, that
4 member’s final compensation shall be determined by dividing the
5 total compensation by the number of months of service credited
6 to the member and multiplying by 12.

7 (c) The computation for any absence shall be based on the
8 compensation of the position held by the member at the beginning
9 of the absence.

10 ~~SECTION 1.~~

11 SEC. 2. Section 31462.2 of the Government Code is amended
12 to read:

13 31462.2. (a) “Final compensation” for members whose service
14 is on a tenure that is temporary, seasonal, intermittent, or for part
15 time only means one-third of the total compensation earned for
16 that period of time during which the member rendered the
17 equivalent of three years of full-time service.

18 (b) The member may elect at or before the time he or she files
19 an application for retirement the period of time during which he
20 or she has earned three full years of credit upon which final
21 compensation shall be calculated. If he or she does not so elect,
22 that period of time immediately preceding his or her retirement
23 shall be used.

24 (c) This section also applies to a member meeting the conditions
25 specified in subdivision (a), whose service is described in
26 subdivision (a), and who is subject to the California Public
27 Employees’ Pension Reform Act of 2013 (Article 4 (commencing
28 with Section 7522) of Chapter 21 of Division 7 of Title 1).

29 SEC. 3. Section 31563 of the Government Code is amended to
30 read:

31 31563. Notwithstanding any other provision of law, a person
32 ceases to be a member for any portion of his or her service as an
33 elected public officer or as a public employee that is forfeited
34 pursuant to ~~Section 1243~~ Sections 7522.70, 7522.72, and 7522.74.

35 SEC. 4. Section 31631 of the Government Code is amended to
36 read:

37 31631. (a) Notwithstanding any other law, a board of
38 supervisors or the governing body of a district may, by resolution,
39 ordinance, contract, or contract amendment under this chapter,
40 without a change in benefits, require that members pay all or part

1 of the contributions of a member or employer, or both, for any
2 retirement benefits provided under this chapter. All of those
3 payments are hereby designated as employee contributions. For
4 members who are represented in a bargaining unit, the payment
5 requirement shall be approved in a memorandum of understanding
6 executed by the board of supervisors or the governing body of a
7 district and the employee collective bargaining representative. The
8 contributions shall be uniform either (1) with respect to all
9 members of a recognized bargaining unit or (2) within each both
10 of the following classifications: ~~local miscellaneous members,~~
11 ~~local police officers, local firefighters, county peace officers, and~~
12 ~~all local safety members other than local police officers, local~~
13 ~~firefighters, and county peace officers and classifications covered~~
14 ~~pursuant to Sections 7522.20 and 7522.25 categories: nonsafety~~
15 ~~and safety members subject to Sections 7522.20 and 7522.25.~~

16 (b) Nothing in this section shall modify a board of supervisors'
17 or the governing body of a district's authority under law as it
18 existed on December 31, 2012, including any restrictions on that
19 authority, to change the amount of member contributions.

20 *SEC. 5. Section 31781 of the Government Code is amended to*
21 *read:*

22 31781. The death benefit shall consist of:

23 (a) The member's accumulated contributions.

24 (b) An amount, provided from contributions by the county or
25 district, equal to one-twelfth of the annual compensation earnable
26 *or pensionable compensation as defined in Section 7522.34,*
27 *whichever is applicable,* by the deceased during the 12 months
28 immediately preceding his death, multiplied by the number of
29 completed years of service under the system, but not to exceed 50
30 percent of such annual compensation.

31 ~~SEC. 2.~~

32 *SEC. 6. Section 31781.3 of the Government Code is amended*
33 *to read:*

34 31781.3. The surviving spouse of a member who dies in service
35 after five years of service or as a result of service-connected injury
36 or disease may elect, in lieu of the death benefit in Section 31781
37 or the life annuity provided in Section 31781.1 or 31787, the
38 benefit that is the sum of both of the following:

39 (a) An amount, provided from contributions by the county or
40 district, equal to one-twelfth of the annual compensation earnable

1 or pensionable compensation as defined in Section 7522.34,
2 whichever is applicable, by the deceased during the 12 months
3 immediately preceding his or her death, multiplied by the number
4 of completed years of service under the system, but not to exceed
5 50 percent of that compensation.

6 (b) A monthly allowance as provided in Section 31781.1 or
7 31787 reduced by a monthly amount which is the actuarial
8 equivalent of the amount in subdivision (a) as applied to the life
9 of the surviving spouse.

10 ~~SEC. 3.~~

11 *SEC. 7.* Section 31781.31 of the Government Code is amended
12 to read:

13 31781.31. Notwithstanding Sections 31781.1 and 31781.3, the
14 surviving spouse of a member subject to Section 31751 who dies
15 in service after 10 years of service, or as a result of
16 service-connected injury or disease, may elect, in lieu of the life
17 annuity provided in Section 31765.11 or the death benefit provided
18 in Section 31781.01, the benefit that is the sum of both of the
19 following:

20 (a) An amount, provided from contributions by the county or
21 district, equal to one-twelfth of the annual compensation earnable
22 or pensionable compensation as defined in Section 7522.34,
23 whichever is applicable, by the deceased during the 12 months
24 immediately preceding his or her death, multiplied by the number
25 of completed years of service under the system, but not to exceed
26 50 percent of that compensation.

27 (b) A monthly allowance as provided in Section 31765.11
28 reduced by a monthly amount which is the actuarial equivalent of
29 the amount in subdivision (a) as applied to the life of the surviving
30 spouse.

31 ~~SEC. 4.~~

32 *SEC. 8.* Section 31787.6 of the Government Code is amended
33 to read:

34 31787.6. A surviving spouse of a safety member who is killed
35 in the performance of duty or who dies as the result of an accident
36 or injury caused by external violence or physical force, incurred
37 in the performance of his or her duty, shall be paid the following
38 amount in addition to all other benefits provided by this chapter:

39 A one-time lump-sum benefit equal to an amount, provided from
40 contributions by the county or district, equal to the annual

1 compensation ~~earnable~~, *earnable* or the pensionable compensation
2 for a member who is subject to the California Public Employees'
3 Pension Reform Act of 2013 (Article 4 (commencing with Section
4 7522) of Chapter 21 of Division 7 of Title 1) *as defined in Section*
5 *7522.34, whichever is applicable*, by the deceased at his or her
6 monthly rate of compensation at the time of his or her death.

7 This section is not applicable to members described in Section
8 31469.2.

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