

AMENDED IN ASSEMBLY APRIL 28, 2014

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, *31649*, *31649.6*, *31653*, 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. County employees ~~retirement: final compensation: forfeiture of benefits: employee contributions: death benefits: retirement: 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. PEPRA 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 PEPRA.

The CERL provides that for a member who is subject to PEPRA 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.~~

*This bill would require, when determining final compensation, the computation for any absence to be based on the pensionable compensation earned by the member during the absence. This bill would specify a formula for determining the final compensation in the event the member does not have 3 years of earned pensionable compensation.*

PEPRA 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 PEPRA.

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 PEPRA.

~~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 PEPRA.~~

~~The CERL 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 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 PEPRA.~~

~~The CERL 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 those benefits to be calculated using the pensionable compensation earned by the deceased member, if that member was subject to PEPRA.~~

*The CERL requires specified death benefits, benefits in lieu of death benefits, and lump-sum benefits paid to surviving spouses of deceased members to be calculated using the annual compensation earned by the deceased, as provided.*

*This bill would instead require those benefits to be calculated using the pensionable compensation earned by the deceased member, for a member subject to PEPR.*

*The CERL allows certain benefits to members who reenter county service after an absence from serving in the Armed Forces, and requires the contributions for those benefits to be calculated or determined using his or her compensation earnable at the commencement of the absence.*

*This bill would instead require those contributions to be calculated or determined using the pensionable compensation earned at the commencement of the absence for a member 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,  
6 “final compensation” as defined in Section 7522.32 shall apply.

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

11 ~~(c) The computation for any absence shall be based on the~~  
12 ~~compensation of the position held by the member at the beginning~~  
13 ~~of the absence.~~

14 (c) *When determining final compensation, the computation for*  
15 *any absence shall be based on the pensionable compensation*  
16 *earned by the member during the absence. In the event the member*  
17 *does not have three years of earned pensionable compensation,*  
18 *the computation shall be determined by dividing the total*  
19 *pensionable compensation by the number of months of service*  
20 *credited to the member and multiplying by 12.*

21 SEC. 2. Section 31462.2 of the Government Code is amended  
22 to read:

23 31462.2. (a) “Final compensation” for members whose service  
24 is on a tenure that is temporary, seasonal, intermittent, or for part  
25 time only means one-third of the total compensation earned for

1 that period of time during which the member rendered the  
2 equivalent of three years of full-time service.

3 (b) The member may elect at or before the time he or she files  
4 an application for retirement the period of time during which he  
5 or she has earned three full years of credit upon which final  
6 compensation shall be calculated. If he or she does not so elect,  
7 that period of time immediately preceding his or her retirement  
8 shall be used.

9 (c) This section also applies to a member meeting the conditions  
10 specified in subdivision (a), whose service is described in  
11 subdivision (a), and who is subject to the California Public  
12 Employees' Pension Reform Act of 2013 (Article 4 (commencing  
13 with Section 7522) of Chapter 21 of Division 7 of Title 1).

14 SEC. 3. Section 31563 of the Government Code is amended  
15 to read:

16 31563. Notwithstanding any other provision of law, a person  
17 ceases to be a member for any portion of his or her service as an  
18 elected public officer or as a public employee that is forfeited  
19 pursuant to Sections 7522.70, 7522.72, and 7522.74.

20 SEC. 4. Section 31631 of the Government Code is amended  
21 to read:

22 31631. (a) Notwithstanding any other law, a board of  
23 supervisors or the governing body of a district may, by resolution,  
24 ordinance, contract, or contract amendment under this chapter,  
25 without a change in benefits, require that members pay all or part  
26 of the contributions of a member or employer, or both, for any  
27 retirement benefits provided under this chapter. All of those  
28 payments are hereby designated as employee contributions. For  
29 members who are represented in a bargaining unit, the payment  
30 requirement shall be approved in a memorandum of understanding  
31 executed by the board of supervisors or the governing body of a  
32 district and the employee collective bargaining representative. The  
33 contributions shall be uniform either (1) with respect to all  
34 members of a recognized bargaining unit or (2) within both of the  
35 following categories: nonsafety and safety members subject to  
36 Sections 7522.20 and 7522.25.

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

1     *SEC. 5. Section 31649 of the Government Code is amended to*  
2     *read:*

3     31649. (a) Any member who resigns to enter and does enter  
4     the armed forces of the United States on a voluntary or involuntary  
5     basis, and within 90 days after the termination of that service under  
6     honorable conditions, reenters county service, or

7     (b) Any member who obtains a leave of absence to enter and  
8     does enter the armed forces of the United States on a voluntary or  
9     involuntary basis, and within one year after the termination under  
10    honorable conditions of leave of absence reenters county service,  
11    if he or she has not contributed to the retirement fund the total  
12    percentage of his or her compensation earnable due pursuant to  
13    Section 31461 *or pensionable compensation as defined in Section*  
14    *7522.34, whichever is applicable*, due under this chapter for the  
15    entire period during which he or she was out of county service and  
16    in military service, may, not more than 90 days after his or her  
17    reentrance into county service, file with the board his or her  
18    election that no further contributions be deducted from his or her  
19    compensation except contributions due because of current service.

20    (c) A member who reenters county service under either (a) or  
21    (b) above may be allowed up to five years credit for vesting in the  
22    system.

23    *SEC. 6. Section 31649.6 of the Government Code is amended*  
24    *to read:*

25    31649.6. (a) Notwithstanding Section 31649 or 31649.5, a  
26    member who resigned from county service, or who obtained a  
27    leave of absence from county service, to enter and did enter the  
28    Armed Forces of the United States on a voluntary or involuntary  
29    basis and who then returned to county service within one year after  
30    separation from the Armed Forces under honorable conditions,  
31    shall receive credit for service and prior service for all or any part  
32    of his or her military service, if, before retirement from the county,  
33    he or she contributes what he or she would have paid to the fund  
34    based on his or her compensation earnable pursuant to Section  
35    31461 *or pensionable compensation as defined in Section 7522.34,*  
36    *whichever is applicable*, at the time he or she resigned or obtained  
37    the leave of absence, together with regular interest thereon.

38    (b) This section shall not be operative in any county until the  
39    board of supervisors, by resolution, makes this section applicable  
40    in the county.

1     *SEC. 7. Section 31653 of the Government Code is amended to*  
2 *read:*

3     31653. Notwithstanding the provisions of this article, the  
4 governing board of the county or district may elect to contribute  
5 for any member of this system who is absent from and reenters  
6 the service of the county or district pursuant to Section 31649 of  
7 this code, amounts equal to the contributions which would have  
8 been made by the member and his employer to the system on the  
9 basis of his compensation earnable *or pensionable compensation*  
10 *as defined in Section 7522.34, whichever is applicable, at the*  
11 *commencement of his absence, if he had not been so absent.*

12     If the governing board elects to make any member's contributions  
13 pursuant to this section:

14     (a) Any such member who exercises or did exercise the right  
15 to contribute to the system during the period of military service  
16 shall have such contributions refunded or credited to his account.

17     (b) Any such member who withdraws or has withdrawn his  
18 accumulated contributions during his military service and who  
19 does not or did not redeposit the amount withdrawn upon his return  
20 to employment with the county or district is entitled to be credited  
21 with any contribution the governing board elects to make, and to  
22 receive credit for service during the period he was absent on  
23 military service, the same as if he had not withdrawn his  
24 accumulated contributions, and his rate for future contributions  
25 shall be based upon his age at the commencement of his absence  
26 on military service.

27     (c) The contributions made by the governing board pursuant to  
28 this section shall be available only for the purpose of retirement  
29 for service or for disability, and shall be made available only for  
30 the purpose of retirement, and a member resigning from the service  
31 of the county or district after reinstatement from military service  
32 shall be entitled to withdraw only that portion of his accumulated  
33 contributions personally made by him.

34     (d) This section shall be retroactively applied to extend its  
35 benefits to such members of this system as the governing board  
36 may determine whose absence from county service on military  
37 service commenced on or after September 16, 1940, and who return  
38 or have returned to this service upon the termination of their  
39 military service.

1     ~~SEC. 5.~~

2     *SEC. 8.* Section 31781 of the Government Code is amended  
3 to read:

4     31781. The death benefit shall consist of:

5     (a) The member’s accumulated contributions.

6     (b) An amount, provided from contributions by the county or  
7 district, equal to one-twelfth of the annual compensation earnable  
8 or pensionable compensation as defined in Section 7522.34,  
9 whichever is applicable, by the deceased during the 12 months  
10 immediately preceding his death, multiplied by the number of  
11 completed years of service under the system, but not to exceed 50  
12 percent of such annual compensation.

13     ~~SEC. 6.~~

14     *SEC. 9.* Section 31781.3 of the Government Code is amended  
15 to read:

16     31781.3. The surviving spouse of a member who dies in service  
17 after five years of service or as a result of service-connected injury  
18 or disease may elect, in lieu of the death benefit in Section 31781  
19 or the life annuity provided in Section 31781.1 or 31787, the  
20 benefit that is the sum of both of the following:

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

28     (b) A monthly allowance as provided in Section 31781.1 or  
29 31787 reduced by a monthly amount which is the actuarial  
30 equivalent of the amount in subdivision (a) as applied to the life  
31 of the surviving spouse.

32     ~~SEC. 7.~~

33     *SEC. 10.* Section 31781.31 of the Government Code is amended  
34 to read:

35     31781.31. Notwithstanding Sections 31781.1 and 31781.3, the  
36 surviving spouse of a member subject to Section 31751 who dies  
37 in service after 10 years of service, or as a result of  
38 service-connected injury or disease, may elect, in lieu of the life  
39 annuity provided in Section 31765.11 or the death benefit provided

1 in Section 31781.01, the benefit that is the sum of both of the  
2 following:

3 (a) An amount, provided from contributions by the county or  
4 district, equal to one-twelfth of the annual compensation earnable  
5 or pensionable compensation as defined in Section 7522.34,  
6 whichever is applicable, by the deceased during the 12 months  
7 immediately preceding his or her death, multiplied by the number  
8 of completed years of service under the system, but not to exceed  
9 50 percent of that compensation.

10 (b) A monthly allowance as provided in Section 31765.11  
11 reduced by a monthly amount which is the actuarial equivalent of  
12 the amount in subdivision (a) as applied to the life of the surviving  
13 spouse.

14 ~~SEC. 8.~~

15 *SEC. 11.* Section 31787.6 of the Government Code is amended  
16 to read:

17 31787.6. A surviving spouse of a safety member who is killed  
18 in the performance of duty or who dies as the result of an accident  
19 or injury caused by external violence or physical force, incurred  
20 in the performance of his or her duty, shall be paid the following  
21 amount in addition to all other benefits provided by this chapter:

22 A one-time lump-sum benefit equal to an amount, provided from  
23 contributions by the county or district, equal to the annual  
24 compensation earnable or pensionable compensation as defined  
25 in Section 7522.34, whichever is applicable, by the deceased at  
26 his or her monthly rate of compensation at the time of his or her  
27 death.

28 This section is not applicable to members described in Section  
29 31469.2.

O