

Assembly Bill No. 2474

Passed the Assembly August 20, 2014

Chief Clerk of the Assembly

Passed the Senate August 19, 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

Second enrollment

CHAPTER _____

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, Committee on Public Employees, Retirement and Social Security. County employees 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, when determining final compensation for a member subject to PEPRA who does not have 3 consecutive years of earned pensionable compensation due to an absence, the compensation for any absence to be based on the pensionable compensation of the position held by the member immediately prior to the absence.

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) all members within each of the following categories: nonsafety or safety members referenced pursuant to specified provisions in 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 PEPRA.

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 PEPRA.

The CERL authorizes the governing board of the county or district to elect to contribute for any member who reenters county service after an absence from serving in the Armed Forces amounts equal to the contributions which would have been made by the member and the employer to the system on the basis of compensation earnable at the commencement of the absence, as specified.

This bill would provide that the authorization does not apply to a member subject to PEPRA.

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

SECTION 1. Section 31462.05 of the Government Code is amended to read:

31462.05. (a) For a member who is subject to the California Public Employees' Pension Reform Act of 2013 for all or any portion of his or her membership in the county retirement system, "final compensation" as defined in Section 7522.32 shall apply.

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

(c) When determining final compensation for a member who does not have three consecutive years of earned pensionable compensation due to an absence, the compensation for any absence shall be based on the pensionable compensation of the position held by the member immediately prior to the absence.

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

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

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

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

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

31563. Notwithstanding any other provision of law, 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 pursuant to Sections 7522.70, 7522.72, and 7522.74.

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

31631. (a) Notwithstanding any other law, a board of supervisors or the governing body of a district may, by resolution, ordinance, contract, or contract amendment under this chapter, without a change in benefits, require that members pay all or part of the contributions of a member or employer, or both, for any retirement benefits provided under this chapter. All of those payments are hereby designated as employee contributions. For members who are represented in a bargaining unit, the payment requirement shall be approved in a memorandum of understanding executed by the board of supervisors or the governing body of a district and the employee collective bargaining representative. The contributions shall be uniform either (1) with respect to all members of a recognized bargaining unit or (2) all members within

each of the following categories: nonsafety subject to Section 7522.20 or safety subject to Section 7522.25.

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

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

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

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

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

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

31649.6. (a) Notwithstanding Section 31649 or 31649.5, a member who resigned from county service, or who obtained a leave of absence from county service, to enter and did enter the Armed Forces of the United States on a voluntary or involuntary basis and who then returned to county service within one year after separation from the Armed Forces under honorable conditions, shall receive credit for service and prior service for all or any part of his or her military service, if, before retirement from the county, he or she contributes what he or she would have paid to the fund

based on his or her compensation earnable pursuant to Section 31461 or pensionable compensation as defined in Section 7522.34, whichever is applicable, at the time he or she resigned or obtained the leave of absence, together with regular interest thereon.

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

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

31653. Notwithstanding the provisions of this article, the governing board of the county or district may elect to contribute for any member of this system who is absent from and reenters the service of the county or district pursuant to Section 31649 of this code, amounts equal to the contributions that would have been made by the member and the member's employer to the system on the basis of the member's compensation earnable at the commencement of the absence, if the member had not been so absent.

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

(a) Any such member who exercises or did exercise the right to contribute to the system during the period of military service shall have those contributions refunded or credited to that member's account.

(b) Any such member who withdraws or has withdrawn accumulated contributions during military service and who does not or did not redeposit the amount withdrawn upon return to employment with the county or district is entitled to be credited with any contribution the governing board elects to make, and to receive credit for service during the period of absence for military service, the same as if the member had not withdrawn accumulated contributions, and the rate for future contributions shall be based upon the member's age at the commencement of the absence for military service.

(c) The contributions made by the governing board pursuant to this section shall be available only for the purpose of retirement for service or for disability, and shall be made available only for the purpose of retirement, and a member resigning from the service of the county or district after reinstatement from military service

shall be entitled to withdraw only that portion of accumulated contributions personally made by the member.

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

(e) This section shall not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing Section 7522) of Chapter 21 of Division 7 of Title 1).

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

31781. The death benefit shall consist of:

(a) The member's accumulated contributions.

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

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

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

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

(b) A monthly allowance as provided in Section 31781.1 or 31787 reduced by a monthly amount which is the actuarial

equivalent of the amount in subdivision (a) as applied to the life of the surviving spouse.

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

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

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

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

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

31787.6. 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, shall be paid the following amount in addition to all other benefits provided by this chapter:

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

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

Approved _____, 2014

Governor