

Introduced by Senator BeallFebruary 11, 2013

An act to amend Section 22508 of the Education Code, and to amend Sections 20092, 20309, 21269, 22850, 22920, and 22922 of, and to repeal Section 20204 of, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 215, as introduced, Beall. Public employees' retirement.

(1) Existing law permits a member of the Public Employees' Retirement System (PERS) who is employed by a school district, community college district, a county superintendent of schools, or the State Department of Education to elect to have specified service excluded from coverage by the Defined Benefit Program of the State Teachers' Retirement Plan and instead be subject to coverage by PERS, as specified.

This bill would provide that the option to elect the exclusion applies when the member of PERS was employed by a school district, community college district, a county superintendent of schools, or the State Department of Education within 120 days prior to the member's date of hire to perform service that requires membership in the Defined Benefit Program of the State Teachers' Retirement Plan.

(2) Existing law provides that PERS is governed by its Board of Administration (board) and prescribes the composition of the board. Existing law requires the retirement fund of PERS to reimburse an employing agency that employs an elected member of the board and that employs a person to replace the member during attendance at meetings of the board, among other times, for the direct and reasonable costs incurred by employing a replacement.

This bill would recast these provisions to provide that the employing agency be reimbursed, as specified, without regard to whether it replaces the elected member.

(3) Existing law authorizes the board to sell exchange-traded call options only through an exchange, and only with respect to stock owned by the system, as specified.

This bill would repeal these provisions.

(4) Existing law permits a person entitled to a benefit from PERS to request that payment be made an electronic fund transfer, as specified. Existing law prohibits the board from sending a copy of benefit payment information to any person who has had payment made by electronic fund transfer or by mail, as specified, if the board has received a written request from that person that it not be sent.

This bill would authorize the board to make available, in a manner it determines appropriate, copies of the monthly benefit payment information electronically and by mail. The bill would require the board, if it does not elect to mail copies of this payment information, as specified, to all or some of the people receiving monthly benefit payments, to notify people of their right to request that a copy of the benefit payment information be mailed. The bill would require the board to mail the information upon receiving a written request to do so.

(5) Existing law, the Public Employees' Medical and Hospital Care Act (PEMHCA), authorizes the board to enter into contracts with carriers offering health benefit plans or with entities offering services relating to the administration of health benefit plans. Existing law specifically authorizes the board to contract for, or approve, health benefit plans exclusively for the employees and annuitants of contracting agencies. Existing law authorizes a contracting agency and its employees and annuitants to elect to be subject to PEMHCA upon filing with the board a resolution of its governing body, as specified. Existing law authorizes the board, by regulation, to establish requirements for a contracting agency that elects to become subject to PEMHCA.

This bill would provide that a contracting agency and its employees and annuitants may obtain a health benefit plan, as defined, subject to board approval of a resolution submitted by the governing body. The bill would authorize the board to refuse to contract with, or to agree to an amendment proposed by, any contracting agency for benefit provisions that are not specifically authorized by PEMHCA and that the board determines would adversely affect the administration of this system. Among other things, the bill would permit the board to require

the contracting agency to enter into a contract with the board in this regard and that the contract would constitute an election by the contracting agency to include the agency and its employees PEMHCA-authorized health benefit plans. The bill would require that the approval of the contract be by ordinance adopted by the affirmative vote of a majority of the members of the relevant governing body, at least 20 days after the adoption of the resolution of intention, or by ordinance adopted by a majority vote of the electorate of the contracting agency.

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

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

1 SECTION 1. Section 22508 of the Education Code is amended
2 to read:

3 22508. (a) A member who becomes employed by the same or
4 a different school district or community college district, or a county
5 superintendent, or who becomes employed by the state in a position
6 described in subdivision (b), to perform service that requires
7 membership in a different public retirement system, and who is
8 not excluded from membership in that public retirement system,
9 may elect to have that service subject to coverage by the Defined
10 Benefit Program of this plan and excluded from coverage by the
11 other public retirement system. The election shall be made in
12 writing on a form prescribed by this system within 60 days from
13 the date of hire in the position requiring membership in the other
14 public retirement system. If that election is made, the service
15 performed for the employer after the date of hire shall be
16 considered creditable service for purposes of this part.

17 (b) Subdivision (a) shall apply to a member who becomes
18 employed by the state only if the member is also one of the
19 following:

20 (1) Represented by a state bargaining unit that represents
21 educational consultants, professional educators, or librarians
22 employed by the state.

23 (2) Excluded from the definition of “state employee” in
24 subdivision (c) of Section 3513 of the Government Code, but
25 performing, supervising, or managing work similar to work
26 performed by employees described in paragraph (1).

1 (3) In a position not covered by civil service and in the executive
 2 branch of government, but performing, supervising, or managing
 3 work similar to work performed by employees described in
 4 paragraph (1).

5 (c) (1) A member of the Public Employees' Retirement System
 6 described in paragraph (2) who is subsequently employed to
 7 perform creditable service requiring coverage by the Defined
 8 Benefit Program of this plan may elect to have that subsequent
 9 service subject to coverage by the Public Employees' Retirement
 10 System and excluded from coverage by the Defined Benefit
 11 Program pursuant to Section 20309 of the Government Code. If
 12 the election is made, creditable service performed for the employer
 13 after the date of hire shall be subject to coverage by the Public
 14 Employees' Retirement System.

15 (2) This subdivision shall apply to a member of the Public
 16 Employees' Retirement System who either (A) ~~is~~ *was* employed
 17 by a school district, community college district, a county
 18 superintendent, or the State Department of Education *within 120*
 19 *days prior to the member's date of hire to perform service that*
 20 *requires membership in the Defined Benefit Program of the State*
 21 *Teachers' Retirement Plan* or (B) has at least five years of credited
 22 service under the system.

23 (d) An election made by a member pursuant to this section shall
 24 be irrevocable.

25 SEC. 2. Section 20092 of the Government Code is amended
 26 to read:

27 20092. Each employing agency that employs an elected
 28 member of the board ~~and that employs a person to replace the~~
 29 ~~member during attendance at~~ *shall be reimbursed by the retirement*
 30 *fund in an amount equal to the salary and benefits paid to the*
 31 *elected board member by the employing agency for the percentage*
 32 *of the elected board member's regular work schedule during which*
 33 *the elected board member is on leave from the employing agency*
 34 *to attend meetings or activities of the board, or meetings of*
 35 *committees or subcommittees of the board, or when serving as a*
 36 ~~panel member of this system~~ *or when serving as president or vice*
 37 *president of the board or chair or vice chair of a committee or*
 38 *subcommittee of the board, or when carrying out other powers or*
 39 *duties as may be approved by the board, shall be reimbursed from*
 40 ~~the retirement fund for the direct and reasonable costs incurred by~~

1 employing a replacement. Reimbursement for the costs incurred
2 in employing a replacement pursuant to this section shall be
3 operative on February 1, 2003 or to otherwise fulfill his or her
4 responsibilities to the system.

5 SEC. 3. Section 20204 of the Government Code is repealed.

6 ~~20204. The board may sell exchange-traded call options only
7 through an exchange, and only with respect to stock owned by this
8 system. Common stock that is obligated under an unexpired written
9 call option shall not be sold unless the board first enters into a
10 closing purchase transaction.~~

11 ~~The board may purchase exchange traded options only through
12 an exchange and only for the purpose of a closing purchase
13 transaction.~~

14 SEC. 4. Section 20309 of the Government Code is amended
15 to read:

16 20309. (a) A member of the system described in subdivision
17 (b) who subsequently is employed to perform service subject to
18 coverage by the Defined Benefit Program of the State Teachers'
19 Retirement Plan, may elect to retain coverage by this system for
20 that subsequent service. An election to retain coverage under this
21 system shall be submitted in writing by the member to the system
22 on a form prescribed by the system, and a copy of the election
23 shall be submitted to the State Teachers' Retirement System, within
24 60 days after the member's date of hire to perform service that
25 requires membership in the Defined Benefit Program of the State
26 Teachers' Retirement Plan. A member who elects to retain
27 coverage under this system pursuant to this section shall be deemed
28 to be a school member while employed by a school employer.

29 (b) This section shall apply to a member of the system who
30 either (1) ~~is~~ *was* employed by a school employer, the Board of
31 Governors of the California Community Colleges, or the State
32 Department of Education *within 120 days prior to the member's*
33 *date of hire to perform service that requires membership in the*
34 *Defined Benefit Program of the State Teachers' Retirement Plan*
35 or (2) has at least five years of credited service under this system.

36 (c) Any election made pursuant to this section shall become
37 effective as of the first day of employment in the position that
38 qualified the member to make an election.

39 SEC. 5. Section 21269 of the Government Code is amended
40 to read:

1 21269. (a) Any person entitled to a benefit from this system
2 may request that payment be made by deposit by electronic fund
3 transfer in the person's bank, savings and loan association, or credit
4 union account.

5 (b) If deposit pursuant to subdivision (a) is not available, deposit
6 may be made by mail in the person's bank, savings and loan
7 association or credit union account.

8 (c) Mailing of the warrant or electronic fund transfer is a full
9 discharge of the board and this system.

10 (d) *The board shall make available, in a manner it determines*
11 *appropriate, copies of the monthly benefit payment information*
12 *electronically or by mail.*

13 (1) ~~The board~~ *If the board elects to mail copies of this payment*
14 *information to all or a portion of persons receiving monthly benefit*
15 *payments, it shall not send a copy of the benefit payment*
16 *information to any person who has had payment made by electronic*
17 *fund transfer or by mail pursuant to subdivision (a) or (b), if the*
18 *board has received a written request from that person that it not*
19 *be sent.*

20 (2) The board shall notify persons subject to this section, in the
21 monthly benefit payment notice, of their right to request that no
22 copy of the benefit payment information be mailed, pursuant to
23 paragraph (1).

24 (3) *If the board does not elect to mail copies of this payment*
25 *information to all or a portion of persons receiving monthly benefit*
26 *payments, it shall notify a person subject to this section of his or*
27 *her right to request that a copy of the benefit payment information*
28 *be mailed. The board shall mail a copy of the benefit payment*
29 *information if the system has received a written request to do so*
30 *from that person.*

31 SEC. 6. Section 22850 of the Government Code is amended
32 to read:

33 22850. (a) The board may, without compliance with any
34 provision of law relating to competitive bidding, enter into
35 contracts with carriers offering health benefit plans or with entities
36 offering services relating to the administration of health benefit
37 plans.

38 (b) The board may contract with carriers for health benefit plans
39 or approve health benefit plans offered by employee organizations,
40 provided that the carriers have operated successfully in the hospital

1 and medical care fields prior to the contracting for or approval
2 thereof. The plans may include hospital benefits, surgical benefits,
3 inpatient medical benefits, outpatient benefits, obstetrical benefits,
4 and benefits offered by a bona fide church, sect, denomination, or
5 organization whose principles include healing entirely by prayer
6 or spiritual means.

7 (c) Notwithstanding any other provision of this part, the board
8 may contract with health benefit plans offering unique or
9 specialized health services.

10 (d) The board may administer self-funded or minimum premium
11 health benefit plans.

12 (e) The board may contract for or implement employee cost
13 containment and cost reduction incentive programs that involve
14 the employee, the annuitant, and family members as active
15 participants, along with the carrier and the provider, in a joint effort
16 toward containing and reducing the cost of providing medical and
17 hospital health care services to public employees. In developing
18 these plans, the board, in cooperation with the Department of
19 Human Resources, may request proposals from carriers and
20 certified public employee representatives.

21 (f) Notwithstanding any other provision of this part, the board
22 may do any of the following:

23 (1) Contract for, or approve, health benefit plans that charge a
24 contracting agency and its employees and annuitants rates based
25 on regional variations in the costs of health care services.

26 (2) Contract for, or approve, health benefit plans exclusively
27 for the employees and annuitants of contracting agencies. State
28 employees and annuitants may not enroll in these plans. The board
29 may ~~offer~~ *provide* health benefit plans exclusively for employees
30 and annuitants of contracting agencies in addition to or in lieu of
31 other health benefit plans offered under this part. ~~The governing~~
32 ~~body of a contracting agency may elect, upon filing a resolution~~
33 ~~with the board, to provide those health benefit plans to its~~
34 ~~employees and annuitants. The resolution shall be subject to mutual~~
35 ~~agreement between the contracting agency and the recognized~~
36 ~~employee organization, if any pursuant to Section 22922.~~

37 (3) Implement and administer risk adjustment procedures
38 consistent with Section 22864 that require health benefit plans to
39 adjust premiums and authorize the system to redistribute premiums

1 based on rules and regulations established by the board for this
2 purpose.

3 (g) The board shall approve any employee association health
4 benefit plan that was approved by the board in the 1987–88 contract
5 year or prior, provided the plan continues to meet the minimum
6 standards prescribed by the board. The trustees of an employee
7 association health benefit plan are responsible for providing health
8 benefit plan administration and services to its enrollees.
9 Notwithstanding any other provision of this part, the California
10 Correctional Peace Officer Association Health Benefits Trust may
11 offer different health benefit plan designs with varying premiums
12 in different areas of the state.

13 (h) Irrespective of any other provision of law, the sponsors of
14 a health benefit plan approved under this section may reinsure the
15 operation of the plan with an admitted insurer authorized to write
16 disability insurance, if the premium includes the entire prepayment
17 fee.

18 SEC. 7. Section 22920 of the Government Code is amended
19 to read:

20 22920. The following entities are eligible to ~~become subject~~
21 ~~to this part~~ *obtain a health benefit plan, as defined in Section*
22 *22777, subject to board approval:*

23 (a) A contracting agency, as defined in Section 20022, a county
24 or special district subject to the County Employees Retirement
25 Law of 1937 (Chapter 3 (commencing with Section 31450) of Part
26 3 of Division 4 of Title 3), and a school employer.

27 (b) A public body or agency of or within the state that is not
28 subject to Part 3 (commencing with Section 20000) of the
29 Government Code or the County Employees Retirement Law of
30 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of
31 Division 4 of Title 3), and that provides a retirement system for
32 its employees funded wholly or in part by public funds.

33 (c) The protection and advocacy agency described in subdivision
34 (h) of Section 4900 of the Welfare and Institutions Code, if the
35 agency obtains a written advisory opinion from the United States
36 Department of Labor stating that the organization is an agency or
37 instrumentality of the state or a political subdivision thereof within
38 the meaning of Chapter 18 (commencing with Section 1001) of
39 Title 29 of the United States Code.

1 SEC. 8. Section 22922 of the Government Code is amended
2 to read:

3 22922. (a) A contracting agency and its employees and
4 annuitants ~~shall be~~ *may obtain a health benefit plan, as defined in*
5 *Section 22777, subject to this part upon filing with the board*
6 *approval of a resolution of its submitted by the governing body*
7 *electing to be so subject. The resolution shall be adopted by a*
8 *majority vote and shall be effective at the time provided in board*
9 *regulations.*

10 (b) *In addition to, or in lieu of, submitting a resolution as*
11 *prescribed in subdivision (a), the board may require the*
12 *contracting agency to enter into a contract with the board to obtain*
13 *a health benefit plan, as defined in Section 22777, for all or part*
14 *of its employees, pursuant to rules and regulations developed by*
15 *the board for this purpose. The contract entered into between a*
16 *contracting agency and the board pursuant to this part constitutes*
17 *an election by the contracting agency to include the agency and*
18 *its employees in this system's health benefit plans.*

19 (c) *The board may refuse to contract with, or to agree to an*
20 *amendment proposed by, a contracting agency for any benefit*
21 *provisions that are not specifically authorized by this part and*
22 *that the board determines would adversely affect the administration*
23 *of this system.*

24 ~~(b)~~

25 (d) A contracting agency may become subject to this part with
26 respect to a recognized employee organization *with which it has*
27 *reached mutual agreement. The resolution filed with respect to a*
28 *contracting agency pursuant to subdivision (a) and any contracts,*
29 *or the resolution and contract required by subdivisions (a) and*
30 *(b), shall specify the recognized employee organizations to which*
31 *the resolution applies participating in this system.*

32 (e)

33 (e) Pursuant to Section 22796 and subdivision (g) of Section
34 22934, the board may by regulation require any contracting agency
35 that ~~elects to become~~ *becomes* subject to this part to meet certain
36 board-determined criteria, including, but not limited to, additional
37 requirements for any contracting agency that elects to become
38 subject to this part that previously terminated coverage pursuant
39 to Section 22938.

1 *(f) Approval of the contract to obtain a health benefit plan*
2 *pursuant to subdivision (b) shall be by ordinance adopted by the*
3 *affirmative vote of a majority of the members of the governing*
4 *body of the contracting agency, not less than 20 days after the*
5 *adoption of the resolution of intention, or by ordinance adopted*
6 *by a majority vote of the electorate of the contracting agency voting*
7 *upon it.*

O