

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 215

Introduced by Senator Beall

February 11, 2013

An act to amend Section 22508 of the Education Code, and to amend Sections 7504, 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 amended, 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 requires all state and local public retirement systems to secure the services of an enrolled actuary on a triennial basis to perform a valuation of the system utilizing actuarial assumptions and techniques established by the agency that are, in the aggregate,*

reasonably related to the experience and the actuary's best estimate of anticipated experience under the system, as specified.

This bill would instead require an enrolled actuary to be retained on a biennial basis to perform these functions.

(2)

(3) Existing law provides that PERS is governed by its ~~Board of Administration~~ *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)

(4) 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)

(5) Existing law permits a person entitled to a benefit from PERS to request that payment be made *by* 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)

(6) 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

1 writing on a form prescribed by this system within 60 days from
2 the date of hire in the position requiring membership in the other
3 public retirement system. If that election is made, the service
4 performed for the employer after the date of hire shall be
5 considered creditable service for purposes of this part.

6 (b) Subdivision (a) shall apply to a member who becomes
7 employed by the state only if the member is also one of the
8 following:

9 (1) Represented by a state bargaining unit that represents
10 educational consultants, professional educators, or librarians
11 employed by the state.

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

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

20 (c) (1) A member of the Public Employees’ Retirement System
21 described in paragraph (2) who is subsequently employed to
22 perform creditable service requiring coverage by the Defined
23 Benefit Program of this plan may elect to have that subsequent
24 service subject to coverage by the Public Employees’ Retirement
25 System and excluded from coverage by the Defined Benefit
26 Program pursuant to Section 20309 of the Government Code. If
27 the election is made, creditable service performed for the employer
28 after the date of hire shall be subject to coverage by the Public
29 Employees’ Retirement System.

30 (2) This subdivision shall apply to a member of the Public
31 Employees’ Retirement System who either (A) was employed by
32 a school district, community college district, a county
33 superintendent, or the State Department of Education within 120
34 days prior to the member’s date of hire to perform service that
35 requires membership in the Defined Benefit Program of the State
36 Teachers’ Retirement Plan or (B) has at least five years of credited
37 service under the system.

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

1 SEC. 2. Section 7504 of the Government Code is amended to
2 read:

3 7504. (a) All state and local public retirement systems shall,
4 not less than ~~triennially~~, *biennially*, secure the services of an
5 enrolled actuary. An enrolled actuary, for the purposes of this
6 section, means an actuary enrolled under subtitle C of Title III of
7 the federal Employee Retirement Income Security Act of 1974
8 (Public Law 93-406) and who has demonstrated experience in
9 public retirement systems. The actuary shall perform a valuation
10 of the system utilizing actuarial assumptions and techniques
11 established by the agency that are, in the aggregate, reasonably
12 related to the experience and the actuary's best estimate of
13 anticipated experience under the system. Any differences between
14 the actuarial assumptions and techniques used by the actuary that
15 differ significantly from those established by the agency shall be
16 disclosed in the actuary's report and the effect of the differences
17 on the actuary's statement of costs and obligations shall be shown.

18 (b) All state and local public retirement systems shall secure
19 the services of a qualified person to perform an attest audit of the
20 system's financial statements. A qualified person means any of
21 the following:

22 (1) A person who is licensed to practice as a certified public
23 accountant in this state by the California Board of Accountancy.

24 (2) A person who is registered and entitled to practice as a public
25 accountant in this state by the California Board of Accountancy.

26 (3) A county auditor in any county subject to the County
27 Employees Retirement Law of 1937 (Chapter 3 (commencing with
28 Section 31450) of Part 3 of Division 4 of Title 3).

29 (4) A county auditor in any county having a pension trust and
30 retirement plan established pursuant to Section 53216.

31 (c) All state and local public retirement systems shall submit
32 audited financial statements to the State Controller at the earliest
33 practicable opportunity within six months of the close of each
34 fiscal year. However, the State Controller may delay the filing date
35 for reports due in the first year until the time as report forms have
36 been developed that, in his or her judgment, will satisfy the
37 requirements of this section. The financial statements shall be
38 prepared in accordance with generally accepted accounting
39 principles in the form and manner prescribed by the State
40 Controller. The penalty prescribed in Section 53895 shall be

1 invoked for failure to comply with this section. Upon a satisfactory
2 showing of good cause, the State Controller may waive the penalty
3 for late filing provided by this subdivision.

4 (d) The State Controller shall compile and publish a report
5 annually on the financial condition of all state and local public
6 retirement systems containing, but not limited to, the data required
7 in Section 7502. The report shall be published within 12 months
8 of the receipt of the information, and in no case later than 18
9 months after the end of the fiscal year upon which the information
10 in the report is based.

11 ~~SEC. 2.~~

12 *SEC. 3.* Section 20092 of the Government Code is amended
13 to read:

14 20092. Each employing agency that employs an elected
15 member of the board shall be reimbursed by the retirement fund
16 in an amount equal to the salary and benefits paid to the elected
17 board member by the employing agency for the percentage of the
18 elected board member’s regular work schedule during which the
19 elected board member is on leave from the employing agency to
20 attend meetings or activities of the board, or meetings of
21 committees or subcommittees of the board, or when serving as
22 president or vice president of the board or chair or vice chair of a
23 committee or subcommittee of the board, or when carrying out
24 other powers or duties as may be approved by the board, or to
25 otherwise fulfill his or her responsibilities to the system.

26 ~~SEC. 3.~~

27 *SEC. 4.* Section 20204 of the Government Code is repealed.

28 ~~SEC. 4.~~

29 *SEC. 5.* Section 20309 of the Government Code is amended
30 to read:

31 20309. (a) A member of the system described in subdivision
32 (b) who subsequently is employed to perform service subject to
33 coverage by the Defined Benefit Program of the State Teachers’
34 Retirement Plan, may elect to retain coverage by this system for
35 that subsequent service. An election to retain coverage under this
36 system shall be submitted in writing by the member to the system
37 on a form prescribed by the system, and a copy of the election
38 shall be submitted to the State Teachers’ Retirement System, within
39 60 days after the member’s date of hire to perform service that
40 requires membership in the Defined Benefit Program of the State

1 Teachers' Retirement Plan. A member who elects to retain
2 coverage under this system pursuant to this section shall be deemed
3 to be a school member while employed by a school employer.

4 (b) This section shall apply to a member of the system who
5 either (1) was employed by a school employer, the Board of
6 Governors of the California Community Colleges, or the State
7 Department of Education within 120 days prior to the member's
8 date of hire to perform service that requires membership in the
9 Defined Benefit Program of the State Teachers' Retirement Plan
10 or (2) has at least five years of credited service under this system.

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

14 ~~SEC. 5.~~

15 *SEC. 6.* Section 21269 of the Government Code is amended
16 to read:

17 21269. (a) Any person entitled to a benefit from this system
18 may request that payment be made by deposit by electronic fund
19 transfer in the person's bank, savings and loan association, or credit
20 union account.

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

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

26 (d) The board shall make available, in a manner it determines
27 appropriate, copies of the monthly benefit payment information
28 electronically or by mail.

29 (1) If the board elects to mail copies of this payment information
30 to all or a portion of persons receiving monthly benefit payments,
31 it shall not send a copy of the benefit payment information to any
32 person who has had payment made by electronic fund transfer or
33 by mail pursuant to subdivision (a) or (b), if the board has received
34 a written request from that person that it not be sent.

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

39 (3) If the board does not elect to mail copies of this payment
40 information to all or a portion of persons receiving monthly benefit

1 payments, it shall notify a person subject to this section of his or
2 her right to request that a copy of the benefit payment information
3 be mailed. The board shall mail a copy of the benefit payment
4 information if the system has received a written request to do so
5 from that person.

6 ~~SEC. 6.~~

7 *SEC. 7.* Section 22850 of the Government Code is amended
8 to read:

9 22850. (a) The board may, without compliance with any
10 provision of law relating to competitive bidding, enter into
11 contracts with carriers offering health benefit plans or with entities
12 offering services relating to the administration of health benefit
13 plans.

14 (b) The board may contract with carriers for health benefit plans
15 or approve health benefit plans offered by employee organizations,
16 provided that the carriers have operated successfully in the hospital
17 and medical care fields prior to the contracting for or approval
18 thereof. The plans may include hospital benefits, surgical benefits,
19 inpatient medical benefits, outpatient benefits, obstetrical benefits,
20 and benefits offered by a bona fide church, sect, denomination, or
21 organization whose principles include healing entirely by prayer
22 or spiritual means.

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

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

28 (e) The board may contract for or implement employee cost
29 containment and cost reduction incentive programs that involve
30 the employee, the annuitant, and family members as active
31 participants, along with the carrier and the provider, in a joint effort
32 toward containing and reducing the cost of providing medical and
33 hospital health care services to public employees. In developing
34 these plans, the board, in cooperation with the Department of
35 Human Resources, may request proposals from carriers and
36 certified public employee representatives.

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

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

4 (2) Contract for, or approve, health benefit plans exclusively
5 for the employees and annuitants of contracting agencies. State
6 employees and annuitants may not enroll in these plans. The board
7 may provide health benefit plans exclusively for employees and
8 annuitants of contracting agencies in addition to or in lieu of other
9 health benefit plans offered under this part pursuant to Section
10 22922.

11 (3) Implement and administer risk adjustment procedures
12 consistent with Section 22864 that require health benefit plans to
13 adjust premiums and authorize the system to redistribute premiums
14 based on rules and regulations established by the board for this
15 purpose.

16 (g) The board shall approve any employee association health
17 benefit plan that was approved by the board in the 1987–88 contract
18 year or prior, provided the plan continues to meet the minimum
19 standards prescribed by the board. The trustees of an employee
20 association health benefit plan are responsible for providing health
21 benefit plan administration and services to its enrollees.
22 Notwithstanding any other provision of this part, the California
23 Correctional Peace Officer Association Health Benefits Trust may
24 offer different health benefit plan designs with varying premiums
25 in different areas of the state.

26 (h) Irrespective of any other provision of law, the sponsors of
27 a health benefit plan approved under this section may reinsure the
28 operation of the plan with an admitted insurer authorized to write
29 disability insurance, if the premium includes the entire prepayment
30 fee.

31 ~~SEC. 7.~~

32 *SEC. 8.* Section 22920 of the Government Code is amended
33 to read:

34 22920. The following entities are eligible to obtain a health
35 benefit plan, as defined in Section 22777, subject to board approval:

36 (a) A contracting agency, as defined in Section 20022, a county
37 or special district subject to the County Employees Retirement
38 Law of 1937 (Chapter 3 (commencing with Section 31450) of Part
39 3 of Division 4 of Title 3), and a school employer.

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

7 (c) The protection and advocacy agency described in subdivision
8 (h) of Section 4900 of the Welfare and Institutions Code, if the
9 agency obtains a written advisory opinion from the United States
10 Department of Labor stating that the organization is an agency or
11 instrumentality of the state or a political subdivision thereof within
12 the meaning of Chapter 18 (commencing with Section 1001) of
13 Title 29 of the United States Code.

14 ~~SEC. 8:~~

15 *SEC. 9.* Section 22922 of the Government Code is amended
16 to read:

17 22922. (a) A contracting agency and its employees and
18 annuitants may obtain a health benefit plan, as defined in Section
19 22777, subject to board approval of a resolution submitted by the
20 governing body electing to be so subject. The resolution shall be
21 adopted by a majority vote and shall be effective at the time
22 provided in board regulations.

23 (b) In addition to, or in lieu of, submitting a resolution as
24 prescribed in subdivision (a), the board may require the contracting
25 agency to enter into a contract with the board to obtain a health
26 benefit plan, as defined in Section 22777, for all or part of its
27 employees, pursuant to rules and regulations developed by the
28 board for this purpose. ~~The contract entered into between a~~
29 ~~contracting agency and the board pursuant to this part constitutes~~
30 ~~an election by the contracting agency to include the agency and~~
31 ~~its employees in this system's health benefit plans.~~

32 (c) The board may refuse to contract with, or to agree to an
33 amendment proposed by, a contracting agency for any benefit
34 provisions that are not specifically authorized by this part and that
35 the board determines would adversely affect the administration of
36 this system.

37 (d) A contracting agency may become subject to this part with
38 respect to a recognized employee organization with which it has
39 reached mutual agreement. The resolution and any contracts, or
40 the resolution and contract required by subdivisions (a) and (b),

1 shall specify the recognized employee organizations participating
2 in this system.

3 (e) Pursuant to Section 22796 and subdivision (g) of Section
4 22934, the board may by regulation require any contracting agency
5 that becomes subject to this part to meet certain board-determined
6 criteria, including, but not limited to, additional requirements for
7 any contracting agency that elects to become subject to this part
8 that previously terminated coverage pursuant to Section 22938.

9 (f) Approval of the contract to obtain a health benefit plan
10 pursuant to subdivision (b) shall be by ~~ordinance adopted by~~ the
11 affirmative vote of a majority of the members of the governing
12 body of the contracting agency, ~~not less than 20 days after the~~
13 ~~adoption of the resolution of intention, or by ordinance adopted~~
14 ~~by a majority vote of the electorate of the contracting agency voting~~
15 ~~upon it.~~

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