

AMENDED IN ASSEMBLY MAY 30, 2013

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.~~

~~(3)~~

~~(1) Existing law provides that—PERS the Public Employees' Retirement System (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.~~

~~(4)~~

~~(2) 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.~~

~~(5)~~

~~(3) 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.~~

~~(6)~~

~~(4) 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. The bill would require that the approval of the contract be by affirmative vote of a majority of the members of the relevant governing body.

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~~

1 performed for the employer after the date of hire shall be
2 considered creditable service for purposes of this part.

3 (b) Subdivision (a) shall apply to a member who becomes
4 employed by the state only if the member is also one of the
5 following:

6 (1) Represented by a state bargaining unit that represents
7 educational consultants, professional educators, or librarians
8 employed by the state.

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

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

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

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

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

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

39 7504. (a) All state and local public retirement systems shall,
40 not less than biennially, secure the services of an enrolled actuary.

1 ~~An enrolled actuary, for the purposes of this section, means an~~
2 ~~actuary enrolled under subtitle C of Title III of the federal~~
3 ~~Employee Retirement Income Security Act of 1974 (Public Law~~
4 ~~93-406) and who has demonstrated experience in public retirement~~
5 ~~systems. The actuary shall perform a valuation of the system~~
6 ~~utilizing actuarial assumptions and techniques established by the~~
7 ~~agency that are, in the aggregate, reasonably related to the~~
8 ~~experience and the actuary's best estimate of anticipated experience~~
9 ~~under the system. Any differences between the actuarial~~
10 ~~assumptions and techniques used by the actuary that differ~~
11 ~~significantly from those established by the agency shall be~~
12 ~~disclosed in the actuary's report and the effect of the differences~~
13 ~~on the actuary's statement of costs and obligations shall be shown.~~

14 ~~(b) All state and local public retirement systems shall secure~~
15 ~~the services of a qualified person to perform an attest audit of the~~
16 ~~system's financial statements. A qualified person means any of~~
17 ~~the following:~~

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

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

22 ~~(3) A county auditor in any county subject to the County~~
23 ~~Employees Retirement Law of 1937 (Chapter 3 (commencing with~~
24 ~~Section 31450) of Part 3 of Division 4 of Title 3).~~

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

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

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

8 ~~SEC. 3.~~

9 *SECTION 1.* Section 20092 of the Government Code is
10 amended to read:

11 20092. Each employing agency that employs an elected
12 member of the board shall be reimbursed by the retirement fund
13 in an amount equal to the salary and benefits paid to the elected
14 board member by the employing agency for the percentage of the
15 elected board member's regular work schedule during which the
16 elected board member is on leave from the employing agency to
17 attend meetings or activities of the board, or meetings of
18 committees or subcommittees of the board, or when serving as
19 president or vice president of the board or chair or vice chair of a
20 committee or subcommittee of the board, or when carrying out
21 other powers or duties as may be approved by the board, or to
22 otherwise fulfill his or her responsibilities to the system.

23 ~~SEC. 4.~~

24 *SEC. 2.* Section 20204 of the Government Code is repealed.

25 ~~SEC. 5.~~ Section 20309 of the Government Code is amended
26 to read:

27 ~~20309. (a) A member of the system described in subdivision~~
28 ~~(b) who subsequently is employed to perform service subject to~~
29 ~~coverage by the Defined Benefit Program of the State Teachers'~~
30 ~~Retirement Plan, may elect to retain coverage by this system for~~
31 ~~that subsequent service. An election to retain coverage under this~~
32 ~~system shall be submitted in writing by the member to the system~~
33 ~~on a form prescribed by the system, and a copy of the election~~
34 ~~shall be submitted to the State Teachers' Retirement System, within~~
35 ~~60 days after the member's date of hire to perform service that~~
36 ~~requires membership in the Defined Benefit Program of the State~~
37 ~~Teachers' Retirement Plan. A member who elects to retain~~
38 ~~coverage under this system pursuant to this section shall be deemed~~
39 ~~to be a school member while employed by a school employer.~~

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

8 ~~(e) Any election made pursuant to this section shall become~~
9 ~~effective as of the first day of employment in the position that~~
10 ~~qualified the member to make an election.~~

11 ~~SEC. 6.~~

12 *SEC. 3.* Section 21269 of the Government Code is amended
13 to read:

14 21269. (a) Any person entitled to a benefit from this system
15 may request that payment be made by deposit by electronic fund
16 transfer in the person's bank, savings and loan association, or credit
17 union account.

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

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

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

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

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

36 (3) If the board does not elect to mail copies of this payment
37 information to all or a portion of persons receiving monthly benefit
38 payments, it shall notify a person subject to this section of his or
39 her right to request that a copy of the benefit payment information
40 be mailed. The board shall mail a copy of the benefit payment

1 information if the system has received a written request to do so
2 from that person.

3 ~~SEC. 7.~~

4 *SEC. 4.* Section 22850 of the Government Code is amended
5 to read:

6 22850. (a) The board may, without compliance with any
7 provision of law relating to competitive bidding, enter into
8 contracts with carriers offering health benefit plans or with entities
9 offering services relating to the administration of health benefit
10 plans.

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

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

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

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

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

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

39 (2) Contract for, or approve, health benefit plans exclusively
40 for the employees and annuitants of contracting agencies. State

1 employees and annuitants may not enroll in these plans. The board
2 may provide health benefit plans exclusively for employees and
3 annuitants of contracting agencies in addition to or in lieu of other
4 health benefit plans offered under this part pursuant to Section
5 22922.

6 (3) Implement and administer risk adjustment procedures
7 consistent with Section 22864 that require health benefit plans to
8 adjust premiums and authorize the system to redistribute premiums
9 based on rules and regulations established by the board for this
10 purpose.

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

21 (h) Irrespective of any other provision of law, the sponsors of
22 a health benefit plan approved under this section may reinsure the
23 operation of the plan with an admitted insurer authorized to write
24 disability insurance, if the premium includes the entire prepayment
25 fee.

26 ~~SEC. 8:~~

27 *SEC. 5.* Section 22920 of the Government Code is amended
28 to read:

29 22920. The following entities are eligible to obtain a health
30 benefit plan, as defined in Section 22777, subject to board approval:

31 (a) A contracting agency, as defined in Section 20022, a county
32 or special district subject to the County Employees Retirement
33 Law of 1937 (Chapter 3 (commencing with Section 31450) of Part
34 3 of Division 4 of Title 3), and a school employer.

35 (b) A public body or agency of or within the state that is not
36 subject to Part 3 (commencing with Section 20000) of the
37 Government Code or the County Employees Retirement Law of
38 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of
39 Division 4 of Title 3), and that provides a retirement system for
40 its employees funded wholly or in part by public funds.

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

8 ~~SEC. 9.~~

9 *SEC. 6.* Section 22922 of the Government Code is amended
10 to read:

11 22922. (a) A contracting agency and its employees and
12 annuitants may obtain a health benefit plan, as defined in Section
13 22777, subject to board approval of a resolution submitted by the
14 governing body electing to be so subject. The resolution shall be
15 adopted by a majority vote and shall be effective at the time
16 provided in board regulations.

17 (b) In addition to, or in lieu of, submitting a resolution as
18 prescribed in subdivision (a), the board may require the contracting
19 agency to enter into a contract with the board to obtain a health
20 benefit plan, as defined in Section 22777, for all or part of its
21 employees, pursuant to rules and regulations developed by the
22 board for this purpose.

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

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

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

1 (f) Approval of the contract to obtain a health benefit plan
2 pursuant to subdivision (b) shall be by the affirmative vote of a
3 majority of the members of the governing body of the contracting
4 agency.

O