

AMENDED IN ASSEMBLY AUGUST 22, 2013

AMENDED IN ASSEMBLY AUGUST 15, 2013

AMENDED IN ASSEMBLY AUGUST 5, 2013

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 Sections 20092, 21269, 21462, 22772, 22850, 22920, 22922, and 31527 of, to amend, repeal, and add Section 21130 of, and to repeal Section 20204 of, the Government Code, relating to public employee benefits, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 215, as amended, Beall. Public employee benefits.

(1) Existing law provides that 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.

(2) Existing law requires that a patrol member of PERS who is subject to specified benefit formulas be retired in the calendar month succeeding that in which he or she attains 60 years of age.

This bill, until January 1, 2018, would except from this requirement a Commissioner of the California Highway Patrol, *as specified*, who was appointed on or after January 1, 2008.

(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 authorizes a member, in lieu of the retirement allowance for his or her life alone, to elect, or to revoke or change a previous election, to have the actuarial equivalent of his or her retirement allowance, as specified, applied to a lesser retirement allowance, in accordance with one of several optional settlements. Existing law authorizes a member who previously elected to receive one of certain optional settlements involving a life contingency of the beneficiary, and who has a qualifying event, as specified, to make a new election within 12 months after the occurrence of the qualifying event. Existing law requires the member to name a new beneficiary for this purpose.

This bill would authorize a member who exercises the election described above on and after January 1, 2014, to name the same beneficiary as previously designated and requires that the resulting benefit under these circumstances otherwise satisfy applicable existing law requirements.

(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.

(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 authorizes the board to contract for, or approve, health benefit plans exclusively for the employees and annuitants of the state and contracting agencies. Existing law defines an employee for these purposes and provides that a person who is an intermittent or irregular employee is not an employee. 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.

Existing law creates the Public Employees' Health Care Fund to fund health benefit plans administered by the board. Existing law provides that the fund is continuously appropriated and consists of, among other things, health plan premiums paid by contracting agencies, the state, and enrolled employees. Existing law creates the Public Employees' Contingency Reserve Fund, and various accounts within that fund, which are continuously appropriated, for the receipt of funds for certain purposes relating to PEMHCA, including for payments made by contracting agencies for health care premiums.

This bill would revise the definition of employee to include an individual who would not otherwise qualify but who meets the definition of a full-time employee provided in specified federal law and is designated as an employee by the state or a contracting agency. By providing for increased contributions to a continuously appropriated fund, this bill would make an appropriation. The 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.

(7) The County Employees Retirement Law of 1937 prescribes a comprehensive set of rights and benefits for county and district employees who are members of a retirement system subject to that law and establishes retirement boards for the administration of those systems. Existing law authorizes a retirement board to promulgate regulations regarding the administration of benefits and specifically authorizes regulations for the use and acceptance of a document requiring a signature that is submitted by a member using an electronic signature, as specified.

This bill would permit a retirement board to promulgate regulations regarding the use of recorded telephone communications for the processing of authorized transactions affecting a member’s account if the board approves procedures adequate to protect the member and the system, as specified.

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

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

- 1 SECTION 1. Section 20092 of the Government Code is
- 2 amended to read:
- 3 20092. Each employing agency that employs an elected
- 4 member of the board shall be reimbursed by the retirement fund
- 5 in an amount equal to the salary and benefits paid to the elected
- 6 board member by the employing agency for the percentage of the
- 7 elected board member’s regular work schedule during which the
- 8 elected board member is on leave from the employing agency to
- 9 attend meetings or activities of the board, or meetings of
- 10 committees or subcommittees of the board, or when serving as
- 11 president or vice president of the board or chair or vice chair of a
- 12 committee or subcommittee of the board, or when carrying out
- 13 other powers or duties as may be approved by the board, or to
- 14 otherwise fulfill his or her responsibilities to the system.
- 15 SEC. 2. Section 20204 of the Government Code is repealed.
- 16 SEC. 3. Section 21130 of the Government Code is amended
- 17 to read:
- 18 21130. (a) Except as provided in subdivision (b), every patrol
- 19 member subject to Section 21362, 21362.2, or 21363.1, as
- 20 applicable, shall be retired on the first day of the calendar month
- 21 succeeding that in which he or she attains the age of 60 years.

1 (b) Subdivision (a) does not apply to a Commissioner of the
2 California Highway Patrol, *as specified in Section 2107 of the*
3 *Vehicle Code*, appointed on or after January 1, 2008.

4 (c) This section shall remain in effect only until January 1, 2018,
5 and as of that date is repealed, unless a later enacted statute, that
6 is enacted before January 1, 2018, deletes or extends that date.

7 SEC. 4. Section 21130 is added to the Government Code, to
8 read:

9 21130. (a) Every patrol member subject to Section 21362,
10 21362.2, or 21363.1, as applicable, shall be retired on the first day
11 of the calendar month succeeding that in which he or she attains
12 the age of 60 years.

13 (b) This section shall be operative January 1, 2018.

14 SEC. 5. Section 21269 of the Government Code is amended
15 to read:

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

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

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

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

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

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

38 (3) If the board does not elect to mail copies of this payment
39 information to all or a portion of persons receiving monthly benefit
40 payments, it shall notify a person subject to this section of his or

1 her right to request that a copy of the benefit payment information
2 be mailed. The board shall mail a copy of the benefit payment
3 information if the system has received a written request to do so
4 from that person.

5 SEC. 6. Section 21462 of the Government Code is amended
6 to read:

7 21462. (a) (1) Notwithstanding any other provision of this
8 part, a member who elected to receive optional settlement 2, 3, or
9 4, involving a life contingency of the beneficiary, may, if the
10 beneficiary predeceases the member or if the member marries and
11 the former spouse was not named as beneficiary, or, if a former
12 spouse was named, in the event of a dissolution or annulment of
13 the marriage or a legal separation in which the judgment dividing
14 the community property awards the total interest in the retirement
15 system to the retired member, elect to have the actuarial equivalent
16 reflecting any selection against the fund resulting from the election
17 as of the date of election of the allowance payable for the remainder
18 of the member's lifetime under the optional settlement previously
19 chosen applied to a lesser allowance during the member's
20 remaining lifetime under one of the optional settlements specified
21 in this article and name a different beneficiary.

22 (2) Notwithstanding paragraph (1), for an election pursuant to
23 this section that occurs on or after January 1, 2014, a member may
24 name the same beneficiary as previously designated, provided that
25 the resulting benefit to the member and the named beneficiary
26 otherwise meets the requirements of this section.

27 (b) The election shall be made within 12 months following the
28 death of the beneficiary who predeceased the member or within
29 12 months of the date of entry of the judgment dividing the
30 community property of the parties, or within 12 months following
31 marriage if the spouse is named as beneficiary. The election shall
32 become effective on the date specified on the election, provided
33 that this date is not earlier than the day following receipt of the
34 election in this system pursuant to this section.

35 (c) A member who has a qualifying event prior to January 1,
36 1988, and who fails to elect by January 1, 1989, or a member who
37 has a qualifying event on or after January 1, 1988, and who fails
38 to elect within 12 months, shall retain the right to make an election
39 under this section. However, this election shall become effective
40 no earlier than 12 months after the date it is filed with the board,

1 provided that neither the member nor the designated beneficiary
2 die prior to the effective date of the election.

3 (d) This section shall not be construed to mean that designation
4 of a new beneficiary causes the selection of an optional settlement.
5 An optional settlement shall be selected by a member in a writing
6 filed by the member with the board.

7 SEC. 7. Section 22772 of the Government Code is amended
8 to read:

9 22772. (a) “Employee” means:

10 (1) An officer or employee of the state or of any agency,
11 department, authority, or instrumentality of the state, including
12 the University of California.

13 (2) An employee who is employed by a contracting agency and
14 participates in a publicly funded retirement system provided by
15 the contracting agency, or an officer or official of a contracting
16 agency.

17 (3) An annuitant receiving a retirement allowance pursuant to
18 Section 21228 who is employed by a contracting agency.

19 (4) A teaching associate, lecturer, coach, or interpreter employed
20 by the California State University who is appointed to work in an
21 academic year classification for at least six weighted teaching units
22 for one semester, or for at least six weighted teaching units for two
23 or more consecutive quarter terms. This paragraph does not apply
24 to a state member employed by the California State University,
25 unless provided for in a memorandum of understanding reached
26 pursuant to Chapter 12 (commencing with Section 3560) of
27 Division 4 of Title 1 or authorized by the Trustees of the California
28 State University for employees excluded from collective
29 bargaining.

30 (5) All employees in job classes specified in subdivision (a) of
31 Section 14876.

32 (6) An individual not described in paragraphs (1) to (5),
33 inclusive, who is both of the following:

34 (A) A “full-time employee” of the state or a contracting agency
35 within the meaning of Section 4980H of Title 26 of the United
36 States Code and applicable United States Treasury Department
37 regulations and interpretive guidance.

38 (B) Designated in writing as an employee for purposes of this
39 section by the state or the contracting agency, as applicable.

1 (b) Except as otherwise provided by this part, “employee” does
2 not include any of the following:

3 (1) A person employed on an intermittent, irregular, or less than
4 half-time basis, or an employee similarly situated.

5 (2) A National Guard member described in Section 20380.5.

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

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

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

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

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

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

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

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

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

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

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

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

28 SEC. 9. Section 22920 of the Government Code is amended
29 to read:

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

32 (a) A contracting agency, as defined in Section 20022, a county
33 or special district subject to the County Employees Retirement
34 Law of 1937 (Chapter 3 (commencing with Section 31450) of Part
35 3 of Division 4 of Title 3), and a school employer.

36 (b) A public body or agency of or within the state that is not
37 subject to Part 3 (commencing with Section 20000) of the
38 Government Code or the County Employees Retirement Law of
39 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of

1 Division 4 of Title 3), and that provides a retirement system for
2 its employees funded wholly or in part by public funds.

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

10 SEC. 10. Section 22922 of the Government Code is amended
11 to read:

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

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

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

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

35 (e) Pursuant to Section 22796 and subdivision (g) of Section
36 22934, the board may by regulation require any contracting agency
37 that becomes subject to this part to meet certain board-determined
38 criteria, including, but not limited to, additional requirements for
39 any contracting agency that elects to become subject to this part
40 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.

5 SEC. 11. Section 31527 of the Government Code is amended
6 to read:

7 31527. In its regulations, the board may include the following
8 provisions:

9 (a) From what warrants deductions of members' contributions
10 shall be made.

11 (b) For a period of time longer than one year during which a
12 member may redeposit in the retirement fund an amount equal to
13 all of the accumulated normal contributions that he or she has
14 withdrawn, plus regular interest thereon from the date of return to
15 service.

16 (c) For a period of time longer than one year during which a
17 member brought within the field of membership may pay into the
18 retirement fund the amount equal to the contributions he or she
19 would have made plus interest, if he or she had been a member
20 from the date of its organization, or from the date of his or her
21 entrance into service, whichever is later.

22 (d) For a withdrawal charge against a member who withdraws
23 his or her accumulated contributions. The withdrawal charge shall
24 not exceed the interest credited to the member subsequent to the
25 effective date of the regulation.

26 (e) For the exemption or exclusion from membership as a peace
27 officer member or as a safety member or from membership
28 altogether, in the discretion of the board, of persons whose tenure
29 is temporary, seasonal, intermittent, or for part time only, or
30 persons whose compensation is fixed at a rate by the day or hour.

31 (f) For the periodic physical examination, at county expense,
32 of safety members.

33 (g) The amount of additional deductions from the salaries or
34 wages of members pursuant to Article 15.5 (commencing with
35 Section 31841) or Article 16 (commencing with Section 31861).
36 Such a provision may be adopted in anticipation of, and prior to
37 Article 15.5 (commencing with Section 31841) or Article 16
38 (commencing with Section 31861) becoming operative in the
39 particular county.

- 1 (h) The day upon which each person becomes a member of the
2 association if it is to be other than the first day of the calendar
3 month after his or her entrance into service. However, that day
4 shall be no later than 12 weeks after his or her entrance into service,
5 or the day upon which the member terminates service credited by
6 the association, and that the day shall be no earlier than 12 weeks
7 prior to the member’s termination from employment.
- 8 (i) Notwithstanding any other law, for the use and acceptance
9 of a document requiring a signature that is submitted by a member
10 using an electronic signature, if the document and electronic
11 signature are submitted using technology the board deems sufficient
12 to ensure its integrity, security, and authenticity. A document
13 submitted pursuant to the regulation shall be given the same force
14 as a signed, valid original document.
- 15 (j) For the use of recorded telephone communications for the
16 processing of authorized transactions affecting a member’s account,
17 if the board approves procedures adequate to protect the member
18 and the system. These procedures shall include adequate validation
19 and authentication of member identity and permanent retention of
20 recorded communication.