

Senate Bill No. 215

Passed the Senate August 30, 2013

Secretary of the Senate

Passed the Assembly August 26, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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.

Appropriation: yes.

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

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

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

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 Section 20204 of the Government Code is repealed.

SEC. 3. Section 21130 of the Government Code is amended to read:

21130. (a) Except as provided in subdivision (b), every patrol member subject to Section 21362, 21362.2, or 21363.1, as applicable, shall be retired on the first day of the calendar month succeeding that in which he or she attains the age of 60 years.

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

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

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

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

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

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

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

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

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

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

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

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

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

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

21462. (a) (1) Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4, involving a life contingency of the beneficiary, may, if the beneficiary predeceases the member or if the member marries and the former spouse was not named as beneficiary, or, if a former spouse was named, in the event of a dissolution or annulment of the marriage or a legal separation in which the judgment dividing

the community property awards the total interest in the retirement system to the retired member, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary.

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

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

(c) A member who has a qualifying event prior to January 1, 1988, and who fails to elect by January 1, 1989, or a member who has a qualifying event on or after January 1, 1988, and who fails to elect within 12 months, shall retain the right to make an election under this section. However, this election shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die prior to the effective date of the election.

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

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

22772. (a) "Employee" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22922. (a) A contracting agency and its employees and annuitants may obtain a health benefit plan, as defined in Section

22777, subject to board approval of a resolution submitted by the governing body electing to be so subject. The resolution shall be adopted by a majority vote and shall be effective at the time provided in board regulations.

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

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

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

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

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

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

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

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

(b) For a period of time longer than one year during which a member may redeposit in the retirement fund an amount equal to all of the accumulated normal contributions that he or she has

withdrawn, plus regular interest thereon from the date of return to service.

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

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

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

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

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

(h) The day upon which each person becomes a member of the association if it is to be other than the first day of the calendar month after his or her entrance into service. However, that day shall be no later than 12 weeks after his or her entrance into service, or the day upon which the member terminates service credited by the association, and that the day shall be no earlier than 12 weeks prior to the member's termination from employment.

(i) Notwithstanding any other law, for the use and acceptance of a document requiring a signature that is submitted by a member using an electronic signature, if the document and electronic signature are submitted using technology the board deems sufficient to ensure its integrity, security, and authenticity. A document submitted pursuant to the regulation shall be given the same force as a signed, valid original document.

(j) For 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. These procedures shall include adequate validation and authentication of member identity and permanent retention of recorded communication.

Approved _____, 2013

Governor