

AMENDED IN SENATE APRIL 11, 2013

AMENDED IN SENATE MARCH 18, 2013

SENATE BILL

No. 220

Introduced by Senator Beall

February 11, 2013

An act to amend Sections 9353, 20636, 20636.1, 20677.4, 20683.2, 20691, 20693, 20731, 20737, 20891, 21010, 21011, 21033, 21052, 21070.5, 21070.6, 21070.7, 21150, 22760, 75005, and 75505 of, and to add Section 20004 to, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as amended, Beall. California Public Employees' Pension Reform Act of 2013: administration.

The Public Employees' Retirement Law (*PERL*) establishes the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to specified public employees. Existing law also establishes the Judges' Retirement System and Judges' Retirement System II, which provide pension benefits to judges, as defined, and the Legislators' Retirement System, which provides pension benefits to specified elective officers of the state, other than judges, and to legislative statutory officers. Existing law requires that these systems be administered by the Board of Administration of PERS. Existing law, the California Public Employees' Pension Reform Act of 2013 (PEPRA), on and after January 1, 2013, generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act, as specified. *Existing law establishes the Public Employee Medical and Hospital Care Act (PEMHCA) for the purpose of providing postemployment health care benefits to specified retirees.*

This bill would require the Board of Administration of PERS to administer each of the retirement systems described above in conformance with PEPRA as if the provisions of the act were contained in the provisions governing those systems. The bill would provide that if the board determines that there is a conflict between the provisions of PEPRA and respective provisions of those systems, the provisions of PEPRA control. *The bill would make various changes in PERL and in PEMHCA to conform with the requirements of PEPRA.*

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 9353 of the Government Code is amended
2 to read:
3 9353. This system shall be administered by the Board of
4 Administration of the Public Employees' Retirement System. The
5 board shall administer this system in accordance with the
6 provisions of the Public Employees' Retirement Law to the same
7 extent and with the same effect as if those provisions are contained
8 in the ~~Legislator's~~ Legislators' Retirement Law, except for those
9 provisions which provide for the payment of an allowance or other
10 benefit and except for those provisions which conflict with any
11 provision or provisions of the Legislators' Retirement Law. To
12 the extent applicable, the board shall also administer this system
13 in conformance with the California Public Employees' Pension
14 Reform Act of 2013 (Article 4 (commencing with Section 7522)
15 of Chapter 21 of Division 7 of Title 1) to the same extent and with
16 the same effect as if the provisions of the act are contained in the
17 Legislators' Retirement Law. If the Board of Administration of
18 the Public Employees' Retirement System determines that there
19 is a conflict between the provisions of the California Public
20 Employees' Pension Reform Act of 2013 and this chapter, the
21 provisions of the California Public Employees' Pension Reform
22 Act of 2013 shall control.

23 SEC. 2. Section 20004 is added to the Government Code, to
24 read:
25 20004. (a) It is the intent of the Legislature, in enacting this
26 section and amending this part, to comply with, and implement
27 the provisions of, the California Public Employees' Pension

1 Reform Act of 2013 (Article 4 (commencing with Section 7522)
2 of Chapter 21 of Division 7 of Title 1) to ensure the continued
3 ability of the board to invest the retirement fund and administer
4 the system in conformity with its duties and responsibilities and
5 to ensure that members are provided with the retirement and related
6 benefits to which they are entitled pursuant to law.

7 (b) To achieve the purposes set forth in subdivision (a), the
8 board shall have all powers reasonably necessary to invest the
9 assets associated with, and to administer and implement the
10 provisions of, the California Public Employees' Pension Reform
11 Act of 2013, to the extent and with the same effect as if the
12 provisions of the act are contained in the Public Employees'
13 Retirement Law. All laws governing the investment of the
14 retirement fund, and the organization, procedures, and
15 administrative duties and responsibilities of the board shall be
16 applicable to the board in its administration of the California Public
17 Employees' Pension Reform Act of 2013, to the extent these laws
18 are not in conflict with, or are not inconsistent with, the act. If the
19 board determines that there is a conflict between the provisions of
20 the California Public Employees' Pension Reform Act of 2013
21 and the Public Employees' Retirement Law, the provisions of the
22 California Public Employees' Pension Reform Act of 2013 shall
23 control.

24 (c) Nothing in this section shall be construed to amend,
25 supersede, limit, or extend the application of the provisions of the
26 California Public Employees' Pension Reform Act of 2013.

27 *SEC. 3. Section 20636 of the Government Code is amended to*
28 *read:*

29 20636. (a) "Compensation earnable" by a member means the
30 payrate and special compensation of the member, as defined by
31 subdivisions (b), (c), and (g), and as limited by Section 21752.5.

32 (b) (1) "Payrate" means the normal monthly rate of pay or base
33 pay of the member paid in cash to similarly situated members of
34 the same group or class of employment for services rendered on
35 a full-time basis during normal working hours, pursuant to publicly
36 available pay schedules. "Payrate," for a member who is not in a
37 group or class, means the monthly rate of pay or base pay of the
38 member, paid in cash and pursuant to publicly available pay
39 schedules, for services rendered on a full-time basis during normal

1 working hours, subject to the limitations of paragraph (2) of
2 subdivision (e).

3 (2) “Payrate” shall include an amount deducted from a member’s
4 salary for any of the following:

5 (A) Participation in a deferred compensation plan.

6 (B) Payment for participation in a retirement plan that meets
7 the requirements of Section 401(k) of Title 26 of the United States
8 Code.

9 (C) Payment into a money purchase pension plan and trust that
10 meets the requirements of Section 401(a) of Title 26 of the United
11 States Code.

12 (D) Participation in a flexible benefits program.

13 (3) The computation for a leave without pay of a member shall
14 be based on the compensation earnable by him or her at the
15 beginning of the absence.

16 (4) The computation for time prior to entering state service shall
17 be based on the compensation earnable by him or her in the position
18 first held by him or her in state service.

19 (c) (1) Special compensation of a member includes a payment
20 received for special skills, knowledge, abilities, work assignment,
21 workdays or hours, or other work conditions.

22 (2) Special compensation shall be limited to that which is
23 received by a member pursuant to a labor policy or agreement or
24 as otherwise required by state or federal law, to similarly situated
25 members of a group or class of employment that is in addition to
26 payrate. If an individual is not part of a group or class, special
27 compensation shall be limited to that which the board determines
28 is received by similarly situated members in the closest related
29 group or class that is in addition to payrate, subject to the
30 limitations of paragraph (2) of subdivision (e).

31 (3) Special compensation shall be for services rendered during
32 normal working hours and, when reported to the board, the
33 employer shall identify the pay period in which the special
34 compensation was earned.

35 (4) Special compensation may include the full monetary value
36 of normal contributions paid to the board by the employer, on
37 behalf of the member and pursuant to Section 20691, if the
38 employer’s labor policy or agreement specifically provides for the
39 inclusion of the normal contribution payment in compensation
40 earnable.

1 (5) The monetary value of a service or noncash advantage
2 furnished by the employer to the member, except as expressly and
3 specifically provided in this part, is not special compensation unless
4 regulations promulgated by the board specifically determine that
5 value to be “special compensation.”

6 (6) The board shall promulgate regulations that delineate more
7 specifically and exclusively what constitutes “special
8 compensation” as used in this section. A uniform allowance, the
9 monetary value of employer-provided uniforms, holiday pay, and
10 premium pay for hours worked within the normally scheduled or
11 regular working hours that are in excess of the statutory maximum
12 workweek or work period applicable to the employee under Section
13 201 et seq. of Title 29 of the United States Code shall be included
14 as special compensation and appropriately defined in those
15 regulations.

16 (7) Special compensation does not include any of the following:

17 (A) Final settlement pay.

18 (B) Payments made for additional services rendered outside of
19 normal working hours, whether paid in lump sum or otherwise.

20 (C) Other payments the board has not affirmatively determined
21 to be special compensation.

22 (d) Notwithstanding any other provision of law, payrate and
23 special compensation schedules, ordinances, or similar documents
24 shall be public records available for public scrutiny.

25 (e) (1) As used in this part, “group or class of employment”
26 means a number of employees considered together because they
27 share similarities in job duties, work location, collective bargaining
28 unit, or other logical work-related grouping. One employee may
29 not be considered a group or class.

30 (2) Increases in compensation earnable granted to an employee
31 who is not in a group or class shall be limited during the final
32 compensation period applicable to the employees, as well as the
33 two years immediately preceding the final compensation period,
34 to the average increase in compensation earnable during the same
35 period reported by the employer for all employees who are in the
36 same membership classification, except as may otherwise be
37 determined pursuant to regulations adopted by the board that
38 establish reasonable standards for granting exceptions.

39 (f) As used in this part, “final settlement pay” means pay or
40 cash conversions of employee benefits that are in excess of

1 compensation earnable, that are granted or awarded to a member
2 in connection with, or in anticipation of, a separation from
3 employment. The board shall promulgate regulations that delineate
4 more specifically what constitutes final settlement pay.

5 (g) (1) Notwithstanding subdivision (a), “compensation
6 earnable” for state members means the average monthly
7 compensation, as determined by the board, upon the basis of the
8 average time put in by members in the same group or class of
9 employment and at the same rate of pay, and is composed of the
10 payrate and special compensation of the member. The computation
11 for an absence of a member shall be based on the compensation
12 earnable by him or her at the beginning of the absence and for time
13 prior to entering state service shall be based on the compensation
14 earnable by him or her in the position first held by him or her in
15 that state service.

16 (2) Notwithstanding subdivision (b), “payrate” for state members
17 means the average monthly remuneration paid in cash out of funds
18 paid by the employer to similarly situated members of the same
19 group or class of employment, in payment for the member’s
20 services or for time during which the member is excused from
21 work because of holidays, sick leave, vacation, compensating time
22 off, or leave of absence. “Payrate” for state members shall include:

23 (A) An amount deducted from a member’s salary for any of the
24 following:

25 (i) Participation in a deferred compensation plan established
26 pursuant to Chapter 4 (commencing with Section 19993) of Part
27 2.6.

28 (ii) Payment for participation in a retirement plan that meets
29 the requirements of Section 401(k) of Title 26 of the United States
30 Code.

31 (iii) Payment into a money purchase pension plan and trust that
32 meets the requirements of Section 401(a) of Title 26 of the United
33 States Code.

34 (iv) Participation in a flexible benefits program.

35 (B) A payment in cash by the member’s employer to one other
36 than an employee for the purpose of purchasing an annuity contract
37 for a member under an annuity plan that meets the requirements
38 of Section 403(b) of Title 26 of the United States Code.

1 (C) Employer “pick up” of member contributions that meets
2 the requirements of Section 414(h)(2) of Title 26 of the United
3 States Code.

4 (D) Disability or workers’ compensation payments to safety
5 members in accordance with Section 4800 of the Labor Code.

6 (E) Temporary industrial disability payments pursuant to Article
7 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.

8 (F) Other payments the board may determine to be within
9 “payrate.”

10 (3) Notwithstanding subdivision (c), “special compensation”
11 for state members shall mean all of the following:

12 (A) The monetary value, as determined by the board, of living
13 quarters, board, lodging, fuel, laundry, and other advantages of
14 any nature furnished to a member by his or her employer in
15 payment for the member’s services.

16 (B) Compensation for performing normally required duties,
17 such as holiday pay, bonuses (for duties performed on regular work
18 shift), educational incentive pay, maintenance and noncash
19 payments, out-of-class pay, marksmanship pay, hazard pay,
20 motorcycle pay, paramedic pay, emergency medical technician
21 pay, Peace Officer Standards and Training (POST) certificate pay,
22 and split shift differential.

23 (C) Compensation for uniforms, except as provided in Section
24 20632.

25 (D) Other payments the board may determine to be within
26 “special compensation.”

27 (4) “Payrate” and “special compensation” for state members do
28 not include any of the following:

29 (A) The provision by the state employer of a medical or hospital
30 service or care plan or insurance plan for its employees (other than
31 the purchase of annuity contracts as described below in this
32 subdivision), a contribution by the employer to meet the premium
33 or charge for that plan, or a payment into a private fund to provide
34 health and welfare benefits for employees.

35 (B) A payment by the state employer of the employee portion
36 of taxes imposed by the Federal Insurance Contribution Act.

37 (C) Amounts not available for payment of salaries and that are
38 applied by the employer for the purchase of annuity contracts
39 including those that meet the requirements of Section 403(b) of
40 Title 26 of the United States Code.

1 (D) Benefits paid pursuant to Article 5 (commencing with
2 Section 19878) of Chapter 2.5 of Part 2.6.

3 (E) Employer payments that are to be credited as employee
4 contributions for benefits provided by this system, or employer
5 payments that are to be credited to employee accounts in deferred
6 compensation plans. The amounts deducted from a member's
7 wages for participation in a deferred compensation plan may not
8 be considered to be "employer payments."

9 (F) Payments for unused vacation, annual leave, personal leave,
10 sick leave, or compensating time off, whether paid in lump sum
11 or otherwise.

12 (G) Final settlement pay.

13 (H) Payments for overtime, including pay in lieu of vacation or
14 holiday.

15 (I) Compensation for additional services outside regular duties,
16 such as standby pay, callback pay, court duty, allowance for
17 automobiles, and bonuses for duties performed after the member's
18 regular work shift.

19 (J) Amounts not available for payment of salaries and that are
20 applied by the employer for any of the following:

21 (i) The purchase of a retirement plan that meets the requirements
22 of Section 401(k) of Title 26 of the United States Code.

23 (ii) Payment into a money purchase pension plan and trust that
24 meets the requirements of Section 401(a) of Title 26 of the United
25 States Code.

26 (K) Payments made by the employer to or on behalf of its
27 employees who have elected to be covered by a flexible benefits
28 program, where those payments reflect amounts that exceed the
29 employee's salary.

30 (L) Other payments the board may determine are not "payrate"
31 or "special compensation."

32 (5) If the provisions of this subdivision, including the board's
33 determinations pursuant to subparagraph (F) of paragraph (2) and
34 subparagraph (D) of paragraph (3), are in conflict with the
35 provisions of a memorandum of understanding reached pursuant
36 to Section 3517.5 or 3560, the memorandum of understanding
37 shall be controlling without further legislative action, except that
38 if the provisions of a memorandum of understanding require the
39 expenditure of funds, those provisions may not become effective
40 unless approved by the Legislature in the annual Budget Act. No

1 memorandum of understanding reached pursuant to Section 3517.5
2 or 3560 may exclude from the definition of either “payrate” or
3 “special compensation” a member’s base salary payments or
4 payments for time during which the member is excused from work
5 because of holidays, sick leave, vacation, compensating time off,
6 or leave of absence. If items of compensation earnable are included
7 by memorandum of understanding as “payrate” or “special
8 compensation” for retirement purposes for represented and higher
9 education employees pursuant to this paragraph, the Department
10 of Human Resources or the Trustees of the California State
11 University shall obtain approval from the board for that inclusion.

12 (6) (A) Subparagraph (B) of paragraph (3) prescribes that
13 compensation earnable includes compensation for performing
14 normally required duties, such as holiday pay, bonuses (for duties
15 performed on regular work shift), educational incentive pay,
16 maintenance and noncash payments, out-of-class pay,
17 marksmanship pay, hazard pay, motorcycle pay, paramedic pay,
18 emergency medical technician pay, POST certificate pay, and split
19 shift differential; and includes compensation for uniforms, except
20 as provided in Section 20632; and subparagraph (I) of paragraph
21 (4) excludes from compensation earnable compensation for
22 additional services outside regular duties, such as standby pay,
23 callback pay, court duty, allowance for automobile, and bonuses
24 for duties performed after regular work shift.

25 (B) Notwithstanding subparagraph (A), the Department of
26 Human Resources shall determine which payments and allowances
27 that are paid by the state employer shall be considered
28 compensation for retirement purposes for an employee who either
29 is excluded from the definition of state employee in Section 3513,
30 or is a nonelected officer or employee of the executive branch of
31 government who is not a member of the civil service.

32 (C) Notwithstanding subparagraph (A), the Trustees of the
33 California State University shall determine which payments and
34 allowances that are paid by the trustees shall be considered
35 compensation for retirement purposes for a managerial employee,
36 as defined in Section 3562, or supervisory employee as defined in
37 Section 3580.3.

38 (h) *This section shall not apply to a new member, as defined in*
39 *Section 7522.04.*

1 SEC. 4. Section 20636.1 of the Government Code is amended
2 to read:

3 20636.1. (a) Notwithstanding Section 20636, and Section
4 45102 of the Education Code, “compensation earnable” by a school
5 member means the payrate and special compensation of the
6 member, as defined by subdivisions (b) and (c), and as limited by
7 Section 21752.5.

8 (b) (1) “Payrate” means the normal monthly rate of pay or base
9 pay of the member paid in cash to similarly situated members of
10 the same group or class of employment for services rendered on
11 a full-time basis during normal working hours. For purposes of
12 this part, for classified members, full-time employment is 40 hours
13 per week, and payments for services rendered, not to exceed 40
14 hours per week, shall be reported as compensation earnable for all
15 months of the year in which work is performed. “Payrate,” for a
16 member who is not in a group or class, means the monthly rate of
17 pay or base pay of the member, paid in cash and pursuant to
18 publicly available pay schedules, for services rendered on a
19 full-time basis during normal working hours, subject to the
20 limitations of paragraph (2) of subdivision (e).

21 (A) “Payrate” shall include an amount deducted from a
22 member’s salary for any of the following:

- 23 (i) Participation in a deferred compensation plan.
- 24 (ii) Payment for participation in a retirement plan that meets
25 the requirements of Section 401(k) or 403(b) of Title 26 of the
26 United States Code.
- 27 (iii) Payment into a money purchase pension plan and trust that
28 meets the requirements of Section 401(a) of Title 26 of the United
29 States Code.
- 30 (iv) Participation in a flexible benefits program.

31 (B) For the purposes of this section, “classified members” shall
32 mean members who retain membership under this system while
33 employed with a school employer in positions not subject to
34 coverage under the Defined Benefit Program under the State
35 Teachers’ Retirement System.

36 (C) For the purposes of this section, and Sections 20962 and
37 20966, “certificated members” shall mean members who retain
38 membership under this system while employed in positions subject
39 to coverage under the Defined Benefit Program under the State
40 Teachers’ Retirement System.

1 (2) The computation for any leave without pay of a member
2 shall be based on the compensation earnable by him or her at the
3 beginning of the absence.

4 (3) The computation for time prior to entering state service shall
5 be based on the compensation earnable by him or her in the position
6 first held by him or her in state service.

7 (c) (1) Special compensation of a school member includes any
8 payment received for special skills, knowledge, abilities, work
9 assignment, workdays or hours, or other work conditions.

10 (2) Special compensation shall be limited to that which is
11 received by a member pursuant to a labor policy or agreement or
12 as otherwise required by state or federal law, to similarly situated
13 members of a group or class of employment that is in addition to
14 payrate. If an individual is not part of a group or class, special
15 compensation shall be limited to that which the board determines
16 is received by similarly situated members in the closest related
17 group or class that is in addition to payrate, subject to the
18 limitations of paragraph (2) of subdivision (e).

19 (3) Special compensation shall be for services rendered during
20 normal working hours and, when reported to the board, the
21 employer shall identify the pay period in which the special
22 compensation was earned.

23 (4) Special compensation may include the full monetary value
24 of normal contributions paid to the board by the employer, on
25 behalf of the member and pursuant to Section 20691, provided
26 that the employer's labor policy or agreement specifically provides
27 for the inclusion of the normal contribution payment in
28 compensation earnable.

29 (5) The monetary value of any service or noncash advantage
30 furnished by the employer to the member, except as expressly and
31 specifically provided in this part, shall not be special compensation
32 unless regulations promulgated by the board specifically determine
33 that value to be "special compensation."

34 (6) The board shall promulgate regulations that delineate more
35 specifically and exclusively what constitutes "special
36 compensation" as used in this section. A uniform allowance, the
37 monetary value of employer-provided uniforms, holiday pay, and
38 premium pay for hours worked within the normally scheduled or
39 regular working hours that are in excess of the statutory maximum
40 workweek or work period applicable to the employee under Section

1 201 et seq. of Title 29 of the United States Code shall be included
2 as special compensation and appropriately defined in those
3 regulations.

4 (7) Special compensation does not include any of the following:

5 (A) Final settlement pay.

6 (B) Payments made for additional services rendered outside of
7 normal working hours, whether paid in lump sum or otherwise.

8 (C) Any other payments the board has not affirmatively
9 determined to be special compensation.

10 (d) Notwithstanding any other provision of law, payrate and
11 special compensation schedules, ordinances, or similar documents
12 shall be public records available for public scrutiny.

13 (e) (1) As used in this part, “group or class of employment”
14 means a number of employees considered together because they
15 share similarities in job duties, work location, collective bargaining
16 unit, or other logical work-related grouping. Under no
17 circumstances shall one employee be considered a group or class.

18 (2) Increases in compensation earnable granted to any employee
19 who is not in a group or class shall be limited during the final
20 compensation period applicable to the employees, as well as the
21 two years immediately preceding the final compensation period,
22 to the average increase in compensation earnable during the same
23 period reported by the employer for all employees who are in the
24 same membership classification, except as may otherwise be
25 determined pursuant to regulations adopted by the board that
26 establish reasonable standards for granting exceptions.

27 (f) As used in this part, “final settlement pay” means any pay
28 or cash conversions of employee benefits that are in excess of
29 compensation earnable, that are granted or awarded to a member
30 in connection with or in anticipation of a separation from
31 employment. The board shall promulgate regulations that delineate
32 more specifically what constitutes final settlement pay.

33 (g) *This section shall not apply to a new member, as defined in*
34 *Section 7522.04.*

35 *SEC. 5. Section 20677.4 of the Government Code is amended*
36 *to read:*

37 20677.4. (a) (1) The normal rate of contribution for a state
38 miscellaneous or state industrial member whose service is not
39 included in the federal system shall be 6 percent of the
40 compensation in excess of three hundred seventeen dollars (\$317)

1 per month paid to that member for service rendered on or after
2 July 1, 1976.

3 (2) The normal rate of contribution for a state miscellaneous or
4 state industrial member, who has elected to be subject to Section
5 21353.5 and whose service is not included in the federal system,
6 shall be 6 percent of the member's compensation.

7 (3) The normal rate of contribution as established under this
8 subdivision for a member whose service is included in the federal
9 system, and whose service retirement allowance is reduced under
10 Section 21354.1, because of that inclusion, shall be reduced by
11 one-third as applied to compensation not exceeding four hundred
12 dollars (\$400) per month for service after the date of execution of
13 the agreement including service in the federal system and prior to
14 termination of the agreement with respect to the coverage group
15 to which he or she belongs.

16 (b) The normal rate of contribution for a state miscellaneous or
17 state industrial member whose service has been included in the
18 federal system shall be 5 percent of compensation in excess of five
19 hundred thirteen dollars (\$513) per month paid that member for
20 service rendered on or after July 1, 1976.

21 (c) The normal rate of contribution for a state miscellaneous or
22 state industrial member who is subject to Section 21076, 21076.5,
23 or 21077 shall be ~~0 percent~~ *determined in the manner described*
24 *in Section 20683.2.*

25 (d) A member who elected to become subject to Section 21353
26 solely for service rendered on or after the effective date of the
27 election, as authorized by subdivision (c) of Section 21070 during
28 the period between November 1, 1988, and October 31, 1989, is
29 not required to make the contributions specified in Section 21073.

30 (e) A member who elects to become subject to Section 21354.1,
31 as applicable, shall contribute at the rate specified in paragraph
32 (1) of subdivision (a) or paragraph (1) of subdivision (b), as
33 determined by the member's status with the federal system, and
34 the rate shall be applied from the first of the month following the
35 date of the election. A member who makes the election shall also
36 contribute for service prior to the date the contribution rate was
37 applied, in the manner specified in Section 21073 or 21073.1, as
38 applicable.

39 (f) If the provisions of this section are in conflict with the
40 provisions of a memorandum of understanding reached pursuant

1 to Section 3517.5, the memorandum of understanding shall be
2 controlling without further legislative action, except that if the
3 provisions of a memorandum of understanding require the
4 expenditure of funds, the provisions shall not become effective
5 unless and until approved by the Legislature in the annual Budget
6 Act.

7 (g) The Director of Human Resources may establish the normal
8 rate of contribution for a state employee who is excepted from the
9 definition of “state employee” in subdivision (c) of Section 3513,
10 and an officer or employee of the executive branch of state
11 government who is not a member of the civil service. The normal
12 rate of contribution shall be the same for all members identified
13 in this subdivision. The contribution rate shall be effective the
14 beginning of the pay period indicated by the Director of Human
15 Resources but shall be no earlier than the beginning of the pay
16 period following the date the board receives notification.

17 *SEC. 6. Section 20683.2 of the Government Code is amended*
18 *to read:*

19 20683.2. Equal sharing of normal costs between the state
20 employer and public employees shall be the standard. It shall be
21 the standard that employees pay at least 50 percent of normal costs
22 and that employers not pay any of the required employee
23 contribution. Equal sharing of normal costs is currently the standard
24 for most state employees.

25 (a) Notwithstanding any other section of this code, or other
26 provision of law in conflict with this section, except as provided
27 in Section 7522.30, normal contribution rates for defined benefit
28 plans for state employees of public employers as defined in
29 paragraph (1) of subdivision (i) of Section 7522.04, excluding the
30 California State University, shall be determined as follows:

31 (1) Normal cost contribution rates shall increase as follows:

32 (A) The contribution rate for State Peace Officer/Firefighter
33 members in State Bargaining Unit 6 and for State Safety members
34 in State Bargaining Units 1, 3, 4, 7, 9, 10, 11, 14, 15, 17, 20, and
35 21 will increase by 1.0 percentage point on July 1, 2013, and will
36 increase by an additional 1.0 percentage point on July 1, 2014.

37 (B) The contribution rate for State Peace Officer/Firefighter
38 members in State Bargaining Units 7 and 8 will increase by 1.5
39 percentage points on July 1, 2013, and will increase by an
40 additional 1.5 percentage points on July 1, 2014.

1 (C) The contribution rate for state industrial members in State
2 Bargaining Units 1, 3, 4, 6, 9, 10, 11, 14, 15, 17, and 20 will
3 increase by 1.0 percentage point on July 1, 2013.

4 (D) The contribution rate for state miscellaneous and industrial
5 members that have elected the Second Tier benefit formula will
6 increase by 1.5 percentage points annually starting July 1, 2013,
7 *until the contribution rate is equal to at least 50 percent of normal*
8 *costs rounded up to the nearest one-fourth of 1 percent.* The final
9 annual increase in the contribution rate shall be adjusted *to less*
10 *than 1.5 percent* as appropriate.

11 (E) The contribution rate for State Safety members in State
12 Bargaining Unit 2 and state miscellaneous members in State
13 Bargaining Unit 5 will increase by 1.0 percentage point on July 1,
14 2013.

15 (F) The contribution rate for Patrol members in State Bargaining
16 Unit 5 will increase by 1.5 percentage points on July 1, 2013.

17 (2) Consistent with paragraph (1), the normal rate of contribution
18 shall be adjusted accordingly for related state employees who are
19 exempted from the definition of “state employee,” or officers and
20 employees of the executive, legislative, or judicial branch of state
21 government who are not members of the civil service.

22 (b) Calculation of employee contribution rate increases pursuant
23 to this section shall be based upon compensation calculations
24 established pursuant to Sections 20671 to 20694, inclusive.

25 (c) In addition to the actuarially required contribution, savings
26 realized by the state employer as a result of the employee
27 contribution rate increases required by this section shall be
28 allocated to any unfunded liability, subject to appropriation in the
29 annual Budget Act.

30 *SEC. 7. Section 20691 of the Government Code is amended to*
31 *read:*

32 20691. ~~Notwithstanding~~—(a) (1) *Except as provided in*
33 *subdivision (b), notwithstanding any other provision of law, a*
34 *contracting agency or school employer may pay all or a portion*
35 *of the normal contributions required to be paid by a member.*
36 *Where the member is included in a group or class of employment,*
37 *the payment shall be for all members in the group or class of*
38 *employment. If an individual is not part of a group or class, the*
39 *payment shall be limited to the amount that the board determines*
40 *is payable to similarly situated members in the closest related group*

1 or class, subject to the limitations of paragraph (2) of subdivision
2 (e) of Section 20636. The payments shall be reported simply as
3 normal contributions and shall be credited to member accounts.

4 ~~Nothing~~

5 (2) ~~Nothing~~ in this ~~section~~ *subdivision* shall be construed to
6 limit the authority of a contracting agency or school employer to
7 periodically increase, reduce, or eliminate the payment by the
8 contracting agency or school employer of all or a portion of the
9 normal contributions required to be paid by members, as authorized
10 by this section.

11 (b) *Notwithstanding subdivision (a), employers shall not pay a*
12 *portion of the normal contributions for members who are subject*
13 *to subdivision (c) of Section 7522.30, except where authorized*
14 *pursuant to subdivision (f) of Section 7522.30.*

15 *SEC. 8. Section 20693 of the Government Code is amended to*
16 *read:*

17 20693. ~~Notwithstanding~~ (a) *Except as provided in subdivision*
18 *(b), notwithstanding any other provision of law, the state or the*
19 *Regents of the University of California may pay all or a portion*
20 *of the normal contributions required to be paid by a state member.*
21 *The payments shall be reported as employer-paid normal*
22 *contributions and shall be credited to member accounts. Nothing*
23 *in this ~~section~~ subdivision shall be construed to limit the authority*
24 *of the state to periodically increase, reduce, or eliminate the*
25 *payment by the state of all or a portion of the normal contributions*
26 *required to be paid by a state member, as authorized by this section.*

27 This section shall be subject to any applicable
28 collective-bargaining laws.

29 (b) *Notwithstanding subdivision (a), employers shall not pay a*
30 *portion of the normal contributions for members who are subject*
31 *to subdivision (c) of Section 7522.30, except where authorized*
32 *pursuant to subdivision (f) of Section 7522.30.*

33 *SEC. 9. Section 20731 of the Government Code is amended to*
34 *read:*

35 20731. (a) *Notwithstanding any other provision of this part,*
36 *a member who is credited with less than the years of service*
37 *specified in Article 1 (commencing with Section 21060) of Chapter*
38 *12 who enters employment as a member of a public retirement*
39 *system supported, in whole or in part, by state funds, including*
40 *the University of California Retirement System, or as a member*

1 of a county retirement system, within six months of leaving state
2 service, shall have the right to elect to leave accumulated
3 contributions on deposit in the retirement fund. Failure to make
4 an election to withdraw accumulated contributions shall be deemed
5 an election to leave accumulated contributions on deposit in the
6 retirement fund. This section shall also apply to a member who is
7 subject to ~~Section 21076, except that no election to leave~~
8 ~~contributions on deposit is required for service that is subject to~~
9 ~~Section 21076 or 21076.5.~~

10 (b) (1) An election to allow accumulated contributions to remain
11 in the retirement fund may be revoked by the member at any time,
12 except any of the following:

13 (A) While the member is employed in state service in a position
14 in which the member is not excluded from membership with respect
15 to that service.

16 (B) While the member is in service as a member of a public
17 retirement system supported, in whole or in part, by state funds,
18 including the University of California Retirement System.

19 (C) While the member is in service, entered within six months
20 after discontinuing state service, as a member of a county
21 retirement system.

22 (2) All accumulated contributions in a member's account up to
23 the time of revocation shall be distributed in accordance with an
24 election pursuant to Section 20735.

25 (3) A member who is permanently separated from all service
26 covered by the system, who is not subject to paragraph (1), and
27 who attains 70 years of age shall be provided with an election to
28 withdraw contributions or, if vested, an election to either apply
29 for service retirement or to withdraw contributions. Failure to apply
30 for service retirement or to make an election to withdraw
31 contributions within 90 days shall be deemed an election to
32 withdraw contributions. If the person fails to either apply for
33 service retirement or elect to withdraw contributions, or cannot,
34 with reasonable diligence, be located, the accumulated
35 contributions shall be distributed in accordance with Section 21500.

36 (c) A member whose membership continues under this section
37 is subject to the same age and disability requirements as apply to
38 other members for service or for disability retirement. After the
39 qualification of the member for retirement by reason of age, which
40 shall be the lowest age applicable to any membership category in

1 which the member has credited service, or disability, the member
2 shall be entitled to receive a retirement allowance based upon the
3 amount of the member's accumulated contributions and service
4 standing to the member's credit at the time of retirement and on
5 the employer contributions held for the member and calculated in
6 the same manner as for other members, except that the provisions
7 in this part for minimum service and disability retirement
8 allowances shall not apply to the member, unless the member
9 meets the minimum service requirements. If a basic death benefit
10 becomes payable under Article 1 (commencing with Section
11 21490), Article 2 (commencing with Section 21530), and Article
12 5 (commencing with Section 21620) of Chapter 14 because of
13 death before retirement of a member, the average annual
14 compensation earnable in the year preceding the date of termination
15 of that service, rather than in the year preceding death, shall be
16 used in computing the benefit under Articles 1, 2, and 5 of Chapter
17 14.

18 The provisions of this section, as it read prior to June 21, 1971,
19 shall continue with respect to a member whose membership
20 continued under this section on that date.

21 *SEC. 10. Section 20737 of the Government Code is amended*
22 *to read:*

23 20737. The account of a member who elects to be subject to
24 Section 21076 or 21076.5 shall be paid current year interest
25 through the effective date of that election for service rendered as
26 a state miscellaneous or state industrial member. Interest
27 subsequent to the effective date of that election shall accrue at a
28 rate determined by the board. The member shall not receive his or
29 her accumulated contributions plus interest until the time of
30 retirement or upon request after permanent separation from state
31 service. Interest shall be paid through the day prior to retirement
32 or through the date on which the claim is filed with the Controller.
33 This section does not apply to a member who elects to be subject
34 to Section 21077.

35 *SEC. 11. Section 20891 of the Government Code is amended*
36 *to read:*

37 20891. Section 20066 and subdivisions (a) and (b) of Section
38 20068 shall not apply to a state miscellaneous or state industrial
39 member subject to ~~Section 21076 or Section 21076, 21076.5, or~~
40 21077 who becomes a patrol member, a state safety member, or

1 a state peace officer/firefighter member as a result of an amendment
2 to this part defining those members, or is reclassified as a state
3 peace officer/firefighter member pursuant to Sections 20395 or
4 20398, unless the member elects to: (a) deposit in the retirement
5 fund an amount equal to any accumulated contributions that he or
6 she withdrew pursuant to Section 20737, plus an amount equal to
7 the interest which would have been credited to his or her account,
8 to the date of completion of payments, had those contributions not
9 been withdrawn; and, (b) deposit in the retirement fund the amount
10 that he or she would have contributed had he or she not been
11 subject to subdivision (c) of Section 20677, plus an amount equal
12 to the interest, to the date of completion of payments, which would
13 have been credited to those contributions had he or she been subject
14 to subdivision (a) or (b) of Section 20677.

15 *SEC. 12. Section 21010 of the Government Code is amended*
16 *to read:*

17 21010. Unless otherwise provided in this article, a member
18 electing to receive service credit for time during which he or she
19 was absent from state service shall contribute in a lump sum or by
20 installments over that period and subject to such minimum
21 payments as may be prescribed by regulations of the board, an
22 amount equal to (a) the contributions he or she would have made
23 to this system for the period for which current service credit is
24 granted, assuming that the rate of contribution under his or her
25 employer's formula at the rate age applicable to him or her at the
26 beginning of his or her first subsequent period of service in
27 membership and his or her compensation earnable on that date had
28 applied to him or her during the period for which credit is granted,
29 plus (b) those added contributions as may be specially required
30 under this article as a condition for crediting a particular absence,
31 plus (c) the interest that would have accrued to those contributions
32 if they had been on deposit at the beginning date of his or her first
33 subsequent period of service in membership, from that date until
34 the date of completion of payments. The beginning date of the first
35 subsequent period of service for purposes of computation of
36 contributions and interest shall be deemed to be the end of the
37 period of service credited for a member who has no subsequent
38 return to service. For a member who is subject to ~~Sections 21076~~
39 ~~and Section 21076 or 21076.5, and Section 21077~~, the service and
40 contribution rate to be used for purposes of computation shall be

1 deemed to be the service and contribution rate that would have
2 been used had the member not been subject to ~~Sections 21076 and~~
3 *Section 21076 or 21076.5, and Section 21077.*

4 Service shall be credited as current or prior service, or both, as
5 it would be credited if the member had been in state service during
6 his or her absence. All contributions of a member under this article
7 shall be considered to be and shall be administered as normal
8 contributions.

9 *SEC. 13. Section 21011 of the Government Code is amended*
10 *to read:*

11 21011. Notwithstanding Section 21010, for a member electing
12 to receive service credit for time during which he or she was absent
13 from state service who is subject to ~~Sections 21076 and Section~~
14 *21076 or 21076.5, and Section 21077*, the contribution rate to be
15 used for the purposes of computation shall be deemed to be the
16 contribution rate that would have been used had the member not
17 been subject to ~~Sections 21076 and Section 21076 or 21076.5, and~~
18 *Section 21077.*

19 *SEC. 14. Section 21033 of the Government Code is amended*
20 *to read:*

21 21033. A member electing to receive credit for public service
22 shall contribute in a lump sum or by installment payments over
23 that period and subject to minimum payments as may be prescribed
24 by regulations of the board an amount equal to (a) the contributions
25 he or she would have made to this system for the period for which
26 current service credit is granted, assuming that the rate of
27 contribution under his or her employer's formula at the rate age
28 applicable to him or her at the beginning of his or her first
29 subsequent period of service in membership and his or her
30 compensation earnable on that date had applied to him or her
31 during the period for which credit is granted, plus (b) the added
32 contribution that may be specially required under this article as a
33 condition for crediting particular public service, plus (c) the interest
34 which would have accrued to those contributions if they had been
35 deposited at the beginning date of his or her first subsequent period
36 of service in membership, from that date until the date of
37 completion of payments, and (d) if he or she elects to contribute
38 in other than one sum, interest on the unpaid balance of the amount
39 payable to the retirement fund, beginning on the date of the election
40 to receive credit. The beginning date of the first subsequent period

1 of service for purposes of computation of contribution and interest
2 shall be deemed to be the end of the period of service credited for
3 a member who has no subsequent return to service. For a member
4 who is subject to ~~Sections 21076 and~~ *Section 21076 or 21076.5,*
5 *and Section 21077,* the service and contribution rate to be used for
6 purposes of computation shall be deemed to be the service and
7 contribution rate that would have been used had the member not
8 been subject to ~~Sections 21076 and~~ *Section 21076 or 21076.5, and*
9 *Section 21077.*

10 *SEC. 15. Section 21052 of the Government Code is amended*
11 *to read:*

12 21052. A member or retired former employee who elects to
13 receive service credit subject to this section shall contribute, in
14 accordance with Section 21050, an amount equal to the increase
15 in employer liability, using the payrate and other factors affecting
16 liability on the date of the request for costing of the service credit.
17 The methodology for calculating the amount of the contribution
18 shall be determined by the chief actuary and approved by the board.
19 A member or retired former employee electing to receive service
20 credit for service subject to Section 21076, 21076.5, or 21077 shall
21 pay the contributions as described.

22 *SEC. 16. Section 21070.5 of the Government Code is amended*
23 *to read:*

24 21070.5. (a) Notwithstanding any other provision of this
25 article, a person who, on or after January 1, 2000, becomes a state
26 miscellaneous or state industrial member of the system because
27 the person (1) is first employed by the state, (2) returns to
28 employment with the state from a break in service of more than
29 90 days, or (3) returns to employment with the state after ceasing
30 to be a member pursuant to Section 20340 or 21075, shall be
31 subject to the benefits provided by Section 21354.1, unless the
32 person elects within 180 days of membership as a state
33 miscellaneous or state industrial member to be subject to the
34 Second Tier benefits provided for in Section 21076 *or 21076.5,*
35 *as applicable.* This section shall only apply to state miscellaneous
36 and state industrial members who are (1) excluded from the
37 definition of state employee in subdivision (c) of Section 3513,
38 (2) employed by the executive branch of government and are not
39 members of the civil service, or (3) included in the definition of
40 state employee in subdivision (c) of Section 3513.

1 (b) The effective date of the election shall be the first day of the
2 month following the date the election is received by the system
3 and shall be applicable to state service rendered on and after that
4 date. Any election filed with the board pursuant to this section
5 shall also be signed by the spouse of the member.

6 (c) A member who makes an election authorized by this section
7 shall not be precluded from making a subsequent election pursuant
8 to Section 21073.7 to be subject to the benefits provided by Section
9 21354.1.

10 (d) Operation and application of this section are subject to the
11 limitations set forth in Section 21251.13.

12 (e) For a member subject to Section 20281.5, the 180-day
13 election period shall not commence until the first day of the first
14 pay period commencing 24 months after becoming a member of
15 the system.

16 *SEC. 17. Section 21070.6 of the Government Code is amended*
17 *to read:*

18 21070.6. (a) A member who is subject to Section 21076,
19 21076.5, or 21077 may be credited at no cost with all previous
20 state miscellaneous or state industrial service eligible to be credited
21 under Second Tier benefits. A member who is entitled to service
22 credit under this section shall apply for and identify time periods
23 for that service to the board.

24 (b) Operation and application of this section are subject to the
25 limitations set forth in Section 21251.13.

26 (c) *This section shall only apply to service credit associated*
27 *with employment periods prior to July 1, 2013.*

28 *SEC. 18. Section 21070.7 of the Government Code is amended*
29 *to read:*

30 21070.7. Notwithstanding any other provision of this part,
31 Sections 21076, 2076.5, and 21077 shall not apply to service with
32 the California National Guard or service as a National Guard
33 member regardless of any prior membership status or previous
34 election made.

35 *SEC. 19. Section 21150 of the Government Code is amended*
36 *to read:*

37 21150. (a) A member incapacitated for the performance of
38 duty shall be retired for disability pursuant to this chapter if he or
39 she is credited with five years of state service, regardless of age,

1 unless the person has elected to become subject to Section 21076,
2 21076.5, or 21077.

3 (b) A member subject to Section 21076, 21076.5, or 21077 who
4 becomes incapacitated for the performance of duty shall be retired
5 for disability pursuant to this chapter if he or she is credited with
6 10 years of state service, regardless of age, except that a member
7 may retire for disability if he or she had five years of state service
8 prior to January 1, 1985.

9 (c) For purposes of this section, “state service” includes service
10 to the state for which the member, pursuant to Section 20281.5,
11 did not receive credit.

12 *SEC. 20. Section 22760 of the Government Code is amended*
13 *to read:*

14 22760. “Annuitant” means:

15 (a) A person, other than a National Guard member defined in
16 Section 20380.5, who has retired within 120 days of separation
17 from employment and who receives a retirement allowance under
18 any state or University of California retirement system to which
19 the state was a contributing party.

20 (b) A surviving family member receiving an allowance in place
21 of an annuitant who has retired as provided in subdivision (a), or
22 as the survivor of a deceased employee under Section 21541,
23 21546, 21547, or 21547.7, or similar provisions of any other state
24 retirement system.

25 (c) A person who has retired within 120 days of separation from
26 employment with a contracting agency as defined in Section 22768
27 and who receives a retirement allowance from the retirement
28 system provided by the employer, or a surviving family member
29 who receives the retirement allowance in place of the deceased.

30 (d) A judge who receives the benefits provided by subdivision
31 (e) of Section 75522.

32 (e) A person who was a state member for 30 years or more and
33 who, at the time of retirement, was a local member employed by
34 a contracting agency.

35 (f) A Member of the Legislature or an elective officer of the
36 state whose office is provided by the California Constitution, who
37 has at least eight years of credited service, and who meets the
38 following conditions:

39 (1) Permanently separates from state service on or after January
40 1, 1988, and not more than 10 years before or 10 years after his

1 or her minimum age for service retirement, or is an inactive
 2 member of the Legislators’ Retirement System pursuant to Section
 3 9355.2.

4 (2) Receives a retirement allowance under a state retirement
 5 system supported in whole or in part by state funds other than the
 6 University of California Retirement System.

7 (g) An exempt employee who meets all of the following
 8 conditions:

9 (1) Has at least 10 years of credited state service that includes
 10 at least two years of credited service while an exempt employee.

11 (2) Permanently separates from state service on or after January
 12 1, 1988, and not more than 10 years before or 10 years after his
 13 or her minimum age for service retirement.

14 (3) Receives a retirement allowance under a state retirement
 15 system supported in whole or in part by state funds other than the
 16 University of California Retirement System.

17 (h) A person receiving a survivor allowance pursuant to Article
 18 3 (commencing with Section 21570) of Chapter 14 of Part 3
 19 provided that he or she was eligible to enroll in a health benefit
 20 plan on the date of the member’s death, on whose account the
 21 survivor allowance is payable.

22 (i) (1) A family member of a deceased retired member of the
 23 State Teachers’ Retirement Plan, if the deceased member meets
 24 the following conditions:

25 (A) Retired within 120 days of separation from employment.
 26 (B) Retired before the member’s school employer elected to
 27 contract for health benefit coverage under this part.

28 (C) Prior to his or her death, received a retirement allowance
 29 that did not provide for a survivor allowance to family members.

30 (2) The family member shall elect coverage as an annuitant
 31 within one calendar year from the date that the deceased member’s
 32 school employer elected to contract for health benefit coverage
 33 under this part.

34 (j) *A person who reinstates benefits pursuant to subparagraph*
 35 *(ii) of paragraph (2) of subdivision (d) of Section 7522.57.*

36 ~~SEC. 3.~~
 37 *SEC. 21.* Section 75005 of the Government Code is amended
 38 to read:

39 75005. Notwithstanding any other provision of law, this chapter
 40 shall be administered and governed by the Board of Administration

1 of the Public Employees' Retirement System in accordance with
2 the Public Employees' Retirement Law to the same extent and
3 with the same effect as if those provisions are contained in the
4 Judges' Retirement Law, except for those provisions which provide
5 for the payment of an allowance or other benefit and except for
6 those provisions which conflict with any provision of the Judges'
7 Retirement Law. To the extent applicable, the Board of
8 Administration of the Public Employees' Retirement System shall
9 also administer this chapter in conformance with the California
10 Public Employees' Pension Reform Act of 2013 (Article 4
11 (commencing with Section 7522) of Chapter 21 of Division 7 of
12 Title 1) to the same extent and with the same effect as if the
13 provisions of the act are contained in the Judges' Retirement Law.
14 If the Board of Administration of the Public Employees'
15 Retirement System determines that there is a conflict between the
16 provisions of the California Public Employees' Pension Reform
17 Act of 2013 and this chapter, the provisions of the California Public
18 Employees' Pension Reform Act of 2013 shall control. "State
19 Controller" or "Controller" as used in this chapter, or any other
20 provision of law relating to the chapter, shall be construed to refer
21 to and mean the "Board of Administration of the Public Employees'
22 Retirement System"; however, the Controller shall continue to
23 perform the duties prescribed in Sections 75092, 75097, 75101,
24 and 75102.

25 All payments from the Judges' Retirement Fund shall be made
26 upon warrants drawn by the Controller upon demands by the Board
27 of Administration of the Public Employees' Retirement System.

28 ~~SEC. 4.~~

29 *SEC. 22.* Section 75505 of the Government Code is amended
30 to read:

31 75505. (a) This chapter shall be administered and governed
32 pursuant to the Public Employees' Retirement Law to the same
33 extent and with the same effect as if those provisions are contained
34 in this chapter, except for those provisions that provide for the
35 payment of an allowance or other benefit and except for those
36 provisions that conflict with any provision of this chapter. To the
37 extent applicable, the Board of Administration of the Public
38 Employees' Retirement System shall administer this chapter in
39 conformance with the California Public Employees' Pension
40 Reform Act of 2013 (Article 4 (commencing with Section 7522))

1 of Chapter 21 of Division 7 of Title 1) to the same extent and with
2 the same effect as if the provisions of the act are contained in the
3 Judges' Retirement System II Law. If the Board of Administration
4 of the Public Employees' Retirement System determines that there
5 is a conflict between the provisions of the California Public
6 Employees' Pension Reform Act of 2013 and this chapter, the
7 provisions of the California Public Employees' Pension Reform
8 Act of 2013 shall control.

9 (b) All payments from the Judges' Retirement System II Fund
10 shall be made upon warrants drawn by the Controller upon
11 demands by the Board of Administration of the Public Employees'
12 Retirement System.

O