

AMENDED IN SENATE MARCH 21, 2013

SENATE BILL

No. 277

Introduced by Senator Beall

February 14, 2013

An act to ~~add Section 22960.4 to, and to amend Sections 22960.99, 22970.58, and 22970.855 of, to add Section 22960.4 to, and to repeal Section 22960.100 of,~~ the Government Code, relating to public employees' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 277, as amended, Beall. State Peace Officers' and Firefighters' Defined Contribution Plan.

Existing law establishes the State Peace Officers' and Firefighters' Defined Contribution Plan for state peace officer/firefighter members in State Bargaining Unit 6, the California Correctional Peace Officers Association, and others as specified. *Under existing law, the plan applies to state peace officer and firefighter members in State Bargaining Unit 8 who have become subject by a memorandum of understanding. Existing law authorizes the plan to be provided to state peace officers or firefighters who meet stated criteria, if the Department of Human Resources has approved their inclusion for coverage.* The moneys in the State Peace Officers' and Firefighters' Defined Contribution Plan Fund are continuously appropriated. Existing law entitles a participant in the plan to a lump-sum distribution of the balance of his or her account, or installment payments if he or she is entitled to \$5,000 or more, upon separation from all service for the employer for any reason other than death, disability, or retirement.

Existing law requires the Board of Administration of the Public Employees' Retirement System to administer the Supplemental

Contributions Program and requires contributions by eligible employees, as defined, participating in the program to be deposited in the Supplemental Contributions Program Fund, a continuously appropriated fund.

This bill would require that contributions to the State Peace Officers' and Firefighters' Defined Contribution Plan cease, prohibit new members from participating in the plan, and would require that the plan be terminated as prescribed. *The bill would repeal those provisions extending plan coverage to State Bargaining Unit 8 and certain state peace officers or firefighters.* The bill would require all moneys in the State Peace Officers' and Firefighters' Defined Contribution Plan Fund to be distributed, as specified, including requiring that, if not elected otherwise, amounts that become payable from the fund be rolled over under existing federal law to the Supplemental Contributions Program. The bill would provide for rollover contributions to separate rollover contribution accounts in the Supplemental Contributions Program, as specified, and would provide for the distribution of amounts held in the participant's account. By changing the circumstances under which moneys in the State Peace Officers' and Firefighters' Defined Contribution Fund would be distributed, and by providing for an increase in contributions to the Supplemental Contributions Program, this bill would make an appropriation.

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 22960.4 is added to the Government
2 Code, to read:
3 22960.4. (a) The Legislature finds and declares that an
4 agreement between the exclusive representative of state peace
5 officer and firefighter members in *State Bargaining Unit 6* and the
6 employer has eliminated the employer contributions to the plan
7 provided in Section 22960.60.
8 (b) The following shall occur:
9 (1) All contributions to the plan shall cease.
10 (2) New participants shall be prohibited from participating in
11 the plan.
12 (3) The plan shall be terminated on the later of January 1, 2014,
13 or upon obtaining appropriate approvals from the Internal Revenue

1 Service, including a favorable determination letter on plan
2 termination from the Internal Revenue Service.

3 (4) Subject to paragraph (3), all moneys in the fund shall be
4 distributed in accordance with this part and federal law. If not
5 elected otherwise, amounts that become payable from the fund
6 under this section shall be rolled over under Section 401(a)(31) of
7 Title 26 of the United States Code to the Supplemental
8 Contributions Program established in accordance with Section
9 22970.

10 SEC. 2. Section 22960.99 of the Government Code is amended
11 to read:

12 22960.99. (a) The plan's obligations to a participant,
13 beneficiary, or nonparticipant spouse who has applied for a
14 lump-sum benefit cease upon distribution of the lump-sum benefit.

15 (1) Deposit in the United States mail of a warrant drawn in favor
16 of the participant, beneficiary, or nonparticipant spouse and
17 addressed to the latest address on file for that person constitutes
18 distribution of the benefit.

19 (2) Deposit in the United States mail of a notice that the
20 requested electronic funds transfer has been made as directed by
21 the participant, beneficiary, or nonparticipant spouse constitutes
22 distribution of the benefit.

23 (3) If the participant, beneficiary, or nonparticipant spouse has
24 elected on a form prescribed by the board to transfer all or a
25 specific portion of the account that is eligible for a direct
26 trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of
27 the United States Code, deposit in the United States mail of a notice
28 that the requested transfer has been made constitutes distribution
29 of the benefit.

30 (b) The plan's obligations to a participant, beneficiary, or
31 nonparticipant spouse who elected to receive a benefit in the form
32 of installment payments or an annuity cease upon distribution of
33 the final payment.

34 (1) Deposit in the United States mail of a warrant drawn in favor
35 of the participant, beneficiary, or nonparticipant spouse and
36 addressed to the latest address on file for that person constitutes
37 distribution of the benefit.

38 (2) Deposit in the United States mail of a notice that the
39 requested electronic funds transfer has been made as directed by

1 the participant, beneficiary, or nonparticipant spouse constitutes
2 distribution of the benefit.

3 (c) Distribution under paragraph (1), (2), or (3) of subdivision
4 (a) or paragraph (1) or (2) of subdivision (b) pursuant to the board's
5 determination in good faith of the existence, identity, or other facts
6 relating to entitlement of persons constitutes a complete discharge
7 and release of the board, system, and plan from liability for
8 payments.

9 (d) Distribution under paragraph (4) of subdivision (b) of Section
10 22960.4 constitutes a complete discharge and release of the board,
11 system, and plan from liability for payments, and the board and
12 system shall not be treated as fiduciaries with respect to a transfer
13 of funds from the plan to the Supplemental Contributions Program
14 in accordance with Section 22970.

15 *SEC. 3. Section 22960.100 of the Government Code is repealed.*

16 ~~22960.100. (a) Notwithstanding any other provision of law,
17 the plan established by this part shall also apply to state peace
18 officer and firefighter members in State Bargaining Unit 8 who
19 have become subject to this part by a memorandum of
20 understanding, as provided in Section 3517.5.~~

21 ~~(b) The plan may also be provided to state peace officers or
22 firefighters who are either excluded from the definition of state
23 employee in subdivision (c) of Section 3513, or are nonelected
24 officers or employees of the executive branch of government and
25 are not members of the civil service, and who supervise employees
26 in a bargaining unit that is subject to this part, provided that the
27 Department of Human Resources has approved their inclusion for
28 coverage under this part.~~

29 ~~SEC. 3.~~

30 *SEC. 4. Section 22970.58 of the Government Code is amended*
31 *to read:*

32 22970.58. The board may amend the plan to permit a participant
33 to transfer funds from an eligible retirement plan into this plan to
34 the extent that the transfers are allowed under applicable federal
35 and state laws, and pursuant to the terms and conditions established
36 by the board. The plan may accept rollover contributions made in
37 accordance with paragraph (4) of subdivision (b) of Section
38 22960.4, if the board ~~amends the plan to establish~~ *establishes* a
39 separate rollover contribution account for each participant or

1 beneficiary who makes such rollover contributions for the purpose
2 of holding those contributions.

3 ~~SEC. 4.~~

4 *SEC. 5.* Section 22970.855 of the Government Code is amended
5 to read:

6 22970.855. The board may amend the plan to permit a
7 participant to withdraw some or all of his or her after-tax
8 contributions without requiring the participant to terminate from
9 the plan to the extent that this in-service distribution is allowed
10 under applicable federal and state laws, and pursuant to the terms
11 and conditions established by the board. A participant may apply
12 for a distribution of amounts held in the participant's separate
13 rollover contribution account established pursuant to Section
14 22970.58 at any time before that participant's termination of
15 employment, to the extent that an in-service distribution is allowed
16 under applicable federal and state law, and pursuant to the terms
17 and conditions established by the board.

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