

AMENDED IN SENATE MAY 13, 2013
AMENDED IN SENATE MARCH 21, 2013

SENATE BILL

No. 277

Introduced by Senator Beall

February 14, 2013

An act to amend Sections 22960.99, 22970.10, 22970.19, 22970.58, and 22970.60, 22970.62, 22970.855, and 22970.89 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. *The bill would authorize participants to elect investment fund options, as specified, in the Supplemental Contributions Program. The bill would require that certain rollover contributions be invested in the applicable target retirement date fund investment fund option available until the participant elects another investment fund option. The bill would also make various clarifying and technical changes in the Supplemental Contributions Program.* 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

1 employer has eliminated the employer contributions to the plan
2 provided in Section 22960.60.

3 (b) The following shall occur:

4 (1) All contributions to the plan shall cease.

5 (2) New participants shall be prohibited from participating in
6 the plan.

7 (3) The plan shall be terminated on the later of January 1, 2014,
8 or upon obtaining appropriate approvals from the Internal Revenue
9 Service, including a favorable determination letter on plan
10 termination from the Internal Revenue Service.

11 (4) Subject to paragraph (3), all moneys in the fund shall be
12 distributed in accordance with this part and federal law. If not
13 elected otherwise, amounts that become payable from the fund
14 under this section shall be rolled over under Section 401(a)(31) of
15 Title 26 of the United States Code to the Supplemental
16 Contributions Program established in accordance with Section
17 22970.

18 SEC. 2. Section 22960.99 of the Government Code is amended
19 to read:

20 22960.99. (a) The plan's obligations to a participant,
21 beneficiary, or nonparticipant spouse who has applied for a
22 lump-sum benefit cease upon distribution of the lump-sum benefit.

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

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

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

38 (b) The plan's obligations to a participant, beneficiary, or
39 nonparticipant spouse who elected to receive a benefit in the form

1 of installment payments or an annuity cease upon distribution of
2 the final payment.

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

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

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

17 (d) Distribution under paragraph (4) of subdivision (b) of Section
18 22960.4 constitutes a complete discharge and release of the board,
19 system, and plan from liability for payments, and the board and
20 system shall not be treated as fiduciaries with respect to a transfer
21 of funds from the plan to the Supplemental Contributions Program
22 in accordance with Section 22970.

23 SEC. 3. Section 22960.100 of the Government Code is
24 repealed.

25 SEC. 4. *Section 22970.10 of the Government Code is amended*
26 *to read:*

27 22970.10. "Account" means the account maintained with
28 respect to the participant that reflects the aggregate value of the
29 following amounts credited to the participant:

30 (a) Employee after-tax contributions to the plan.

31 (b) Net earnings of the Supplemental Contributions Program
32 allocable to the participant.

33 (c) Any amount credited to the participant's account by reason
34 of a transfer *or a rollover* from another plan or arrangement in
35 accordance with applicable laws.

36 SEC. 5. *Section 22970.19 of the Government Code is amended*
37 *to read:*

38 22970.19. "Net earnings" means the income earned, or losses
39 incurred, *after asset management fees*, on the *applicable investment*

1 *fund options offered under the Supplemental Contributions*
2 *Program Fund*, less the costs of administering the plan.

3 ~~SEC. 4.~~

4 *SEC. 6.* Section 22970.58 of the Government Code is amended
5 to read:

6 22970.58. The board may ~~amend the plan to~~ permit a participant
7 to transfer funds, *including eligible rollover contributions*, from
8 an eligible retirement plan into this plan to the extent that the
9 transfers are allowed under applicable federal and state laws, and
10 pursuant to the terms and conditions established by the board. The
11 plan may accept rollover contributions made in accordance with
12 paragraph (4) of subdivision (b) of Section 22960.4, if the board
13 establishes a separate rollover contribution account for each
14 participant or beneficiary who makes such rollover contributions
15 for the purpose of holding those contributions. *Rollover*
16 *contributions made in accordance with paragraph (4) of*
17 *subdivision (b) of Section 22960.4, shall be invested in the*
18 *applicable target retirement date fund investment fund option*
19 *available under the plan until the participant elects another*
20 *investment fund option available under the plan in accordance*
21 *with the terms and conditions established by the board.*

22 *SEC. 7.* Section 22970.60 of the Government Code is amended
23 to read:

24 22970.60. (a) Contributions made to the plan by the
25 participant shall be credited to the participant's account.

26 (b) *Subject to the terms and conditions established by the board,*
27 *a participant may elect to have all or a portion of the participant's*
28 *account in one or more investment fund options available under*
29 *the plan.*

30 *SEC. 8.* Section 22970.62 of the Government Code is amended
31 to read:

32 22970.62. The net earnings of the *applicable investment fund*
33 *option available under the plan* shall be allocated to the
34 participant's account as of each valuation date.

35 ~~SEC. 5.~~

36 *SEC. 9.* Section 22970.855 of the Government Code is amended
37 to read:

38 22970.855. The board may ~~amend the plan to~~ permit a
39 participant to withdraw some or all of his or her after-tax
40 contributions without requiring the participant to terminate from

1 the plan to the extent that this in-service distribution is allowed
2 under applicable federal and state laws, and pursuant to the terms
3 and conditions established by the board. A participant may apply
4 for a distribution of amounts held in the participant's separate
5 rollover contribution account established pursuant to Section
6 22970.58 at any time before that participant's termination of
7 employment, to the extent that an in-service distribution is allowed
8 under applicable federal and state law, and pursuant to the terms
9 and conditions established by the board.

10 *SEC. 10. Section 22970.89 of the Government Code is amended*
11 *to read:*

12 22970.89. (a) The plan's obligations to a participant,
13 beneficiary, or nonparticipant spouse who elected a lump-sum
14 distribution 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 to the trustee of an eligible retirement plan,
28 deposit in the United States mail of a notice that the requested
29 transfer has been made constitutes distribution of the benefit.

30 (b) The plan's obligations to a participant or beneficiary who
31 elected to receive a benefit in the form of partial distributions cease
32 upon distribution of the final payment.

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

36 (2) Deposit in the United States mail of a notice that the
37 requested electronic funds transfer has been made as directed by
38 the participant or beneficiary constitutes distribution of the benefit.

39 (c) Distribution under paragraph (1), (2), or (3) of subdivision
40 (a) or paragraph (1) or (2) of subdivision (b) pursuant to the board's

1 determination in good faith of the existence, identity, or other facts
2 relating to entitlement of persons constitutes a complete discharge
3 and release of the board, system, and plan from liability for
4 payments.

5 (d) This section shall not apply to a permissible in-service
6 distribution pursuant to Section 22970.855 *if the participant*
7 *account is only partially distributed.*

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