

ASSEMBLY BILL

No. 2375

Introduced by Committee on Public Employees, Retirement, and Social Security (Assembly Members Cooper (Chair), Bonta, Cooley, Gonzalez, and O'Donnell)

February 18, 2016

An act to amend Sections 20034, 20035, 20035.5, 20037, 20037.6, 20037.7, 20037.8, 20037.9, 20037.10, 20037.11, 20037.12, 20037.13, 20037.15, 20537, 20572, 20577.5, 20578, 20638, 20963, 20963.1, 20965, 21499, and 21626.5 of, and to repeal and amend Sections 20037.5 and 20037.14 of, the Government Code, relating to the Public Employees' Retirement System.

LEGISLATIVE COUNSEL'S DIGEST

AB 2375, as introduced, Committee on Public Employees, Retirement, and Social Security. Public Employees' Retirement System: omnibus bill.

Existing law, the Public Employees' Retirement Law, creates the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to state employees and employees of contracting agencies and prescribes the rights and duties of members of the system and their beneficiaries. Existing law vests management and control of PERS in its board of administration. PERS provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations.

(1) Existing law prescribes various definitions of final compensation based on employment classification, bargaining unit, date of hire, and date of retirement, among other things.

This bill would revise these definitions to remove redundant language and make technical and style changes.

(2) Existing law authorizes the board to charge interest, at the actuarial interest rate, on the amount of any payment due and unpaid by a contracting agency until payment is received.

This bill would instead permit the board to change interest on payments due and unpaid at the greater of the annual return on the system's investments for the year prior to the year in which payments are not timely made or a simple annual rate of 10%.

(3) In addition to the above, existing law authorizes the board to assess a contracting agency that fails to make contributions when due interest at an annual rate of 10% and the costs of collection, including reasonable legal fees. In the case of repeated delinquencies, the board may assess the contracting agency a penalty of 10% of the delinquent amount.

This bill would recast these provision to authorize the board, if a contracting agency fails to fully pay any installment of contributions when due, to assess a penalty of 10% of the total amount due and unpaid, including accrued and unpaid interest. The bill would permit the penalty to be assessed once during each 30-day period that the outstanding amount remains unpaid. The bill would also specify that the contracting agency may be assessed the costs of collection, including reasonable legal fees and litigation costs, including, without limitation, legal fees and legal costs incurred in bankruptcy, when necessary to collect any amounts due.

(4) Existing law authorizes the board to terminate a local agency contract if the contracting agency fails for 30 days after demand by the board to pay any installment of required contributions or fails for three months after demand to file any information required for administration of the agency's employees. Existing law permits the board to reduce benefits in certain instances when contributions are inadequate to fund them. Existing law authorizes the board to merge a plan that has been terminated into the terminated agency pool without benefit reduction or with a lesser reduction if certain conditions are met.

This bill would delete references to merging a plan and instead specify that the board may elect to not impose a reduction on a plan, or to impose a lesser reduction on a plan, that has been terminated if those acts will not impact the actuarial soundness of the terminated agency pool. The bill would make related changes by deleting administrative

provisions relating to the sequence for transferring assets in relation to the reduction of benefits.

(5) Existing law grants members in specified member classifications whose retirements are within 4 months of separation from employment specified percentages of service credit for each unused day of sick leave or educational leave.

This bill would specify that a day of unused sick leave or unused educational leave is the equivalent of an 8-hour day.

(6) Existing law requires payment of interest on a preretirement or postretirement death allowance or a preretirement or postretirement lump-sum benefit if not paid within a specified time after the date of death of an annuitant. Existing law prescribes the method of calculating interest for this purpose.

This bill would instead require that interest be calculated at 7%, pursuant to the California Constitution.

(7) Existing law requires a surviving domestic partner be treated in the same manner as a surviving spouse for purposes of postretirement survivor's allowances if certain conditions are met.

This bill would require that an individual who is the same gender as a member be treated in the same manner as a surviving spouse for purposes of postretirement survivor's allowances if certain conditions are met.

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 20034 of the Government Code is
2 amended to read:

3 20034. ~~The average monthly salary~~ *highest annual average*
4 *compensation* during any *consecutive 12- or 36-month* period of
5 ~~service employment~~ as a member of any retirement system
6 maintained by the university shall be considered compensation
7 earnable by a member of this system for purposes of computing
8 final compensation for the member providing he or she retires
9 concurrently under both systems.

10 SEC. 2. Section 20035 of the Government Code is amended
11 to read:

12 20035. (a) Notwithstanding Section 20037, "final
13 compensation" for the purposes of determining any pension or

1 benefit with respect to a state member who retires or dies on or
 2 after July 1, 1991, and with respect to benefits based on service
 3 with the state, means the highest annual compensation which was
 4 earnable by the state member during ~~the any~~ consecutive 12-month
 5 period of employment ~~immediately~~ preceding the effective date
 6 of his or her retirement or the date of his or her last separation
 7 from state service ~~if earlier or during any other period of 12~~
 8 ~~consecutive months during his or her membership in this system~~
 9 ~~that the member designates on the application for retirement.~~
 10 *earlier.*

11 (b) With respect to a state member who retires or dies on or
 12 after July 1, 1991, and who was a managerial employee, as defined
 13 by subdivision (e) of Section 3513, or a supervisory employee, as
 14 defined by subdivision (g) of Section 3513, whose monthly salary
 15 range was administratively reduced by 5 percent because of the
 16 salary range reductions administratively imposed upon managers
 17 and supervisors during the 1991-92 fiscal year, “final
 18 compensation” means the highest annual compensation the state
 19 member would have earned had his or her salary range not been
 20 reduced by the 5-percent reduction. This subdivision shall only
 21 apply if the period during which the state member’s salary was
 22 reduced would have otherwise been included in determining his
 23 or her final compensation. The costs, if any, that may result from
 24 the use of the higher final compensation shall be paid for by the
 25 employer in the same manner as other retirement benefits are
 26 funded.

27 SEC. 3. Section 20035.5 of the Government Code is amended
 28 to read:

29 20035.5. Notwithstanding Section 20037, “final compensation”
 30 for the purposes of determining any pension or benefit with respect
 31 to a school member who retires or dies on or after January 1, 2000,
 32 and with respect to benefits based on service with a school
 33 employer, means the highest annual compensation that was
 34 earnable by the school member during ~~the any~~ consecutive
 35 12-month period of employment ~~immediately~~ preceding the
 36 effective date of his or her retirement or the date of his or her last
 37 separation from service ~~if earlier or during any other period of 12~~
 38 ~~consecutive months during his or her membership in this system~~
 39 ~~that the member designates on the application for retirement.~~
 40 *earlier.*

1 SEC. 4. Section 20037 of the Government Code is amended
2 to read:

3 20037. For a state member, or for a local member who is an
4 employee of a contracting agency that is subject to this section,
5 “final compensation” means the highest ~~average~~ annual *average*
6 compensation earnable by a member during ~~the three consecutive~~
7 *years any consecutive 36-month period* of employment ~~immediately~~
8 preceding the effective date of his or her retirement or the date of
9 his or her last separation from state service if ~~earlier or during any~~
10 ~~other period of three consecutive years during his or her~~
11 ~~membership in this system which he or she designates in his or~~
12 ~~her application for retirement, earlier,~~ including any or all of the
13 period or periods of (a) service required for qualification for
14 membership, or (b) prior service which qualifies for credit under
15 this system, if any, immediately preceding membership, or (c) time
16 prior to entering state service at the compensation earnable by him
17 or her in the position first held by him or her in that service, as
18 may be necessary to complete three consecutive years. For the
19 purposes of this section, periods of service separated by a period
20 of retirement or breaks in service may be aggregated to constitute
21 a period of three consecutive years, if the periods of service are
22 consecutive except for such a period of retirement or breaks. If a
23 break in service did not exceed six months in duration, time
24 included in the break and compensation earnable during that time
25 shall be included in computation of final compensation. If a break
26 in service exceeded six months in duration, the first six months
27 thereof and the compensation earnable during those six months
28 shall be included in computation of final compensation, but time
29 included in the break which is in excess of six months and the
30 compensation earnable during that excess time shall be excluded
31 in computation of final compensation. On and after November 13,
32 1968, this section shall apply to all contracting agencies and to the
33 employees of those agencies whether or not those agencies have
34 previously elected to be subject to this section, except that this
35 section shall not apply to an employee of a contracting agency
36 which has not elected to be subject to this section whose death
37 occurred or whose retirement was effective prior to November 13,
38 1968.

39 SEC. 5. Section 20037.5 of the Government Code, as added
40 by Section 56 of Chapter 88 of the Statutes of 1998, is repealed.

1 ~~20037.5. Notwithstanding Section 20035, “final compensation”~~
 2 ~~for a state member who has elected to be subject to Section~~
 3 ~~21353.5, for the purposes of determining any pension or benefit~~
 4 ~~based on service credited under that section, means the highest~~
 5 ~~average annual compensation earnable by the member during the~~
 6 ~~consecutive 36-month period immediately preceding the effective~~
 7 ~~date of his or her retirement, or the date of his or her last separation~~
 8 ~~from state service if earlier, or during any other period of 36~~
 9 ~~consecutive months during his or her state membership that the~~
 10 ~~member designates on the application for retirement.~~

11 SEC. 6. Section 20037.5 of the Government Code, as added
 12 by Section 56 of Chapter 91 of the Statutes of 1998, is amended
 13 to read:

14 20037.5. Notwithstanding Section 20035, “final compensation”
 15 for a state member who has elected to be subject to Section
 16 21353.5, for the purposes of determining any pension or benefit
 17 based on service credited under that section, means the highest
 18 average annual compensation earnable by the member during ~~the~~
 19 *any* consecutive 36-month period ~~immediately~~ preceding the
 20 effective date of his or her ~~retirement~~, *retirement* or the date of his
 21 or her last separation from state service if ~~earlier, or during any~~
 22 ~~other period of 36 consecutive months during his or her state~~
 23 ~~membership that the member designates on the application for~~
 24 ~~retirement.~~ *earlier.*

25 SEC. 7. Section 20037.6 of the Government Code is amended
 26 to read:

27 20037.6. (a) Notwithstanding Sections 20035 and 20037, final
 28 compensation for a person who is employed by the state for the
 29 first time and becomes a state member of the system on or after
 30 July 1, 2006, and is represented by State Bargaining Unit 2, means
 31 the highest average annual compensation earnable by the member
 32 during ~~the any~~ consecutive 36-month period ~~immediately~~ preceding
 33 the effective date of his or her ~~retirement~~, *retirement* or the date
 34 of his or her last separation from state service if ~~earlier, or during~~
 35 ~~any other period of 36 consecutive months during his or her state~~
 36 ~~membership that the member designates on the application for~~
 37 ~~retirement.~~ *earlier.*

38 (b) This section applies to service credit accrued while a member
 39 of State Bargaining Unit 2.

40 (c) This section does not apply to:

1 (1) Former state employees who return to state employment
2 on or after July 1, 2006.

3 (2) State employees hired prior to July 1, 2006, who were subject
4 to Section 20281.5 during the first 24 months of state employment.

5 (3) State employees hired prior to July 1, 2006, who become
6 subject to representation by State Bargaining Unit 2 on or after
7 July 1, 2006.

8 (4) State employees on an approved leave of absence who return
9 to active employment on or after July 1, 2006.

10 SEC. 8. Section 20037.7 of the Government Code is amended
11 to read:

12 20037.7. (a) Notwithstanding Sections 20035 and 20037, final
13 compensation for a person who is employed by the state for the
14 first time and becomes a state member of the system on or after
15 January 1, 2007, and is represented by State Bargaining Unit 1, 3,
16 4, 11, 14, 15, 17, 20, or 21, means the highest average annual
17 compensation earnable by the member during ~~the~~ *any* consecutive
18 36-month period ~~immediately~~ preceding the effective date of his
19 or her ~~retirement~~, *retirement* or the date of his or her last separation
20 from state service if ~~earlier, or during any other period of 36~~
21 ~~consecutive months during his or her state membership that the~~
22 ~~member designates on the application for retirement.~~ *earlier.*

23 (b) This section applies to service credit accrued while a member
24 of State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21.

25 (c) This section does not apply to:

26 (1) Former state employees previously employed before January
27 1, 2007, who return to state employment on or after January 1,
28 2007.

29 (2) State employees hired prior to January 1, 2007, who were
30 subject to Section 20281.5 during the first 24 months of state
31 employment.

32 (3) State employees hired prior to January 1, 2007, who become
33 subject to representation by State Bargaining Unit 1, 3, 4, 11, 14,
34 15, 17, 20, or 21 on or after January 1, 2007.

35 (4) State employees on an approved leave of absence employed
36 before January 1, 2007, who return to active employment on or
37 after January 1, 2007.

38 SEC. 9. Section 20037.8 of the Government Code is amended
39 to read:

1 20037.8. (a) Notwithstanding Sections 20035 and 20037, final
 2 compensation for a person who is employed by the state for the
 3 first time and becomes a state member of the system on or after
 4 January 1, 2007, and is represented by State Bargaining Unit 12
 5 or 13, means the highest average annual compensation earnable
 6 by the member during ~~the any~~ consecutive 36-month period
 7 ~~immediately~~ preceding the effective date of his or her ~~retirement,~~
 8 *retirement* or the date of his or her last separation from state service
 9 ~~if earlier, or during any other period of 36 consecutive months~~
 10 ~~during his or her state membership that the member designates on~~
 11 ~~the application for retirement.~~ *earlier.*

12 (b) This section applies to service credit accrued while a member
 13 of State Bargaining Unit 12 or 13.

14 (c) This section does not apply to:

15 (1) Former state employees previously employed before January
 16 1, 2007, who return to state employment on or after January 1,
 17 2007.

18 (2) State employees hired prior to January 1, 2007, who were
 19 subject to Section 20281.5 during the first 24 months of state
 20 employment.

21 (3) State employees hired prior to January 1, 2007, who become
 22 subject to representation by State Bargaining Unit 12 or 13 on or
 23 after January 1, 2007.

24 (4) State employees on an approved leave of absence employed
 25 before January 1, 2007, who return to active employment on or
 26 after January 1, 2007.

27 SEC. 10. Section 20037.9 of the Government Code is amended
 28 to read:

29 20037.9. (a) Notwithstanding Sections 20035 and 20037, final
 30 compensation for a person who is employed by the state for the
 31 first time and becomes a state member of the system on or after
 32 January 1, 2007, and is represented by State Bargaining Unit 16
 33 or 19, means the highest average annual compensation earnable
 34 by the member during ~~the any~~ consecutive 36-month period
 35 ~~immediately~~ preceding the effective date of his or her ~~retirement,~~
 36 *retirement* or the date of his or her last separation from state service
 37 ~~if earlier, or during any other period of 36 consecutive months~~
 38 ~~during his or her state membership that the member designates on~~
 39 ~~the application for retirement.~~ *earlier.*

1 (b) This section applies to service credit accrued while a member
2 of State Bargaining Unit 16 or 19.

3 (c) This section does not apply to:

4 (1) Former state employees previously employed before January
5 1, 2007, who return to state employment on or after January 1,
6 2007.

7 (2) State employees hired prior to January 1, 2007, who were
8 subject to Section 20281.5 during the first 24 months of state
9 employment.

10 (3) State employees hired prior to January 1, 2007, who become
11 subject to representation by State Bargaining Unit 16 or 19 on or
12 after January 1, 2007.

13 (4) State employees on an approved leave of absence employed
14 before January 1, 2007, who return to active employment on or
15 after January 1, 2007.

16 SEC. 11. Section 20037.10 of the Government Code is amended
17 to read:

18 20037.10. (a) Notwithstanding Sections 20035 and 20037,
19 final compensation for a person who is employed by the state for
20 the first time and becomes a state member of the system on or after
21 January 1, 2007, and is represented by State Bargaining Unit 7,
22 means the highest average annual compensation earnable by the
23 member during ~~the any~~ consecutive 36-month period immediately
24 preceding the effective date of his or her ~~retirement~~, *retirement* or
25 the date of his or her last separation from state service if ~~earlier~~,
26 ~~or during any other period of 36 consecutive months during his or~~
27 ~~her state membership that the member designates on the application~~
28 ~~for retirement.~~ *earlier.*

29 (b) This section applies to service credit accrued while a member
30 of State Bargaining Unit 7.

31 (c) This section does not apply to:

32 (1) Service credit accrued while classified as a state peace
33 officer/firefighter while a member of Bargaining Unit 7.

34 (2) Former state employees previously employed before January
35 1, 2007, who return to state employment on or after January 1,
36 2007.

37 (3) State employees hired prior to January 1, 2007, who were
38 subject to Section 20281.5 during the first 24 months of state
39 employment.

1 (4) State employees hired prior to January 1, 2007, who become
2 subject to representation by State Bargaining Unit 7 on or after
3 January 1, 2007.

4 (5) State employees on an approved leave of absence employed
5 before January 1, 2007, who return to active employment on or
6 after January 1, 2007.

7 SEC. 12. Section 20037.11 of the Government Code is amended
8 to read:

9 20037.11. (a) Notwithstanding Sections 20035 and 20037,
10 final compensation for a person who is employed by the state for
11 the first time and becomes a state member of the system on or after
12 January 1, 2007, and is represented by State Bargaining Unit 10,
13 means the highest average annual compensation earnable by the
14 member during ~~the any~~ consecutive 36-month period ~~immediately~~
15 preceding the effective date of his or her ~~retirement~~, *retirement* or
16 the date of his or her last separation from state service if ~~earlier~~,
17 ~~or during any other period of 36 consecutive months during his or~~
18 ~~her state membership that the member designates on the application~~
19 ~~for retirement.~~ *earlier.*

20 (b) This section applies to service credit accrued while a member
21 of State Bargaining Unit 10.

22 (c) This section does not apply to:

23 (1) Former state employees previously employed before January
24 1, 2007, who return to state employment on or after January 1,
25 2007.

26 (2) State employees hired prior to January 1, 2007, who were
27 subject to Section 20281.5 during the first 24 months of state
28 employment.

29 (3) State employees hired prior to January 1, 2007, who become
30 subject to representation by State Bargaining Unit 10 on or after
31 January 1, 2007.

32 (4) State employees on an approved leave of absence employed
33 before January 1, 2007, who return to active employment on or
34 after January 1, 2007.

35 SEC. 13. Section 20037.12 of the Government Code is amended
36 to read:

37 20037.12. (a) Notwithstanding Sections 20035 and 20037,
38 final compensation for a person who is employed by the state for
39 the first time and becomes a state member of the system on or after
40 January 1, 2007, and is represented by State Bargaining Unit 18,

1 means the highest average annual compensation earnable by the
2 member during ~~the any~~ consecutive 36-month period ~~immediately~~
3 preceding the effective date of his or her ~~retirement~~, *retirement* or
4 the date of his or her last separation from state service if ~~earlier~~,
5 or ~~during any other period of 36 consecutive months during his or~~
6 ~~her state membership that the member designates on the application~~
7 ~~for retirement.~~ *earlier.*

8 (b) This section applies to service credit accrued while a member
9 of State Bargaining Unit 18.

10 (c) This section does not apply to:

11 (1) Former state employees previously employed before January
12 1, 2007, who return to state employment on or after January 1,
13 2007.

14 (2) State employees hired prior to January 1, 2007, who were
15 subject to Section 20281.5 during the first 24 months of state
16 employment.

17 (3) State employees hired prior to January 1, 2007, who become
18 subject to representation by State Bargaining Unit 18 on or after
19 January 1, 2007.

20 (4) State employees on an approved leave of absence employed
21 before January 1, 2007, who return to active employment on or
22 after January 1, 2007.

23 SEC. 14. Section 20037.13 of the Government Code is amended
24 to read:

25 20037.13. (a) Notwithstanding Sections 20035 and 20037, for
26 the purposes of determining any pension or benefit with respect
27 to benefits based on service with the state, “final compensation”
28 means the highest annual compensation that was earnable by the
29 state member during ~~the any~~ consecutive 36-month period of
30 employment ~~immediately~~ preceding the effective date of his or
31 her retirement or the date of his or her last separation from state
32 service ~~or during any other period of 36 consecutive months during~~
33 ~~his or her membership in this system that the member designates~~
34 ~~on the application for retirement.~~ *if earlier.*

35 (b) This section shall only apply to a member appointed to a
36 career executive assignment, as defined in Section 18546, who at
37 the time of appointment meets one or more of the following
38 criteria:

39 (1) He or she previously had, but does not currently have,
40 permanent status in the civil service.

1 (2) He or she is a person described in Section 18990 who was
2 not, within the past 12 months, employed by the Legislature for
3 two or more consecutive years.

4 (3) He or she is a person described in Sections 18992 who was
5 not, within the past 12 months, holding a nonelected exempt
6 position in the executive branch.

7 (c) A state entity that employs a person described in subdivision
8 (b) in a career executive assignment shall notify the Controller of
9 this person’s employment status and the Controller shall forward
10 this information to the system.

11 SEC. 15. Section 20037.14 of the Government Code, as
12 amended by Section 127 of Chapter 296 of the Statutes of 2011,
13 is repealed.

14 ~~20037.14.— (a) Notwithstanding Sections 20035 and 20037,~~
15 ~~final compensation for a person who is employed by the state for~~
16 ~~the first time and becomes a state member of the system on or after~~
17 ~~October 31, 2010, and is represented by State Bargaining Unit 5~~
18 ~~or 8, means the highest average annual compensation earnable by~~
19 ~~the member during the consecutive 36-month period immediately~~
20 ~~preceding the effective date of his or her retirement, or the date of~~
21 ~~his or her last separation from state service if earlier, or during any~~
22 ~~other period of 36 consecutive months during his or her state~~
23 ~~membership that the member designates on the application for~~
24 ~~retirement.~~

25 ~~(b) This section applies to service credit accrued while a member~~
26 ~~of State Bargaining Unit 5 or 8 or in a class related to State~~
27 ~~Bargaining Unit 5 or 8 as an employee who is excepted from the~~
28 ~~definition of “state employee” in subdivision (c) of Section 3513,~~
29 ~~or an officer or employee of the executive branch of state~~
30 ~~government who is not a member of the civil service.~~

31 ~~(c) This section does not apply to:~~

32 ~~(1) Former state employees previously employed before October~~
33 ~~31, 2010, who return to state employment on or after October 31,~~
34 ~~2010.~~

35 ~~(2) State employees hired prior to October 31, 2010, who were~~
36 ~~subject to Section 20281.5 during the first 24 months of state~~
37 ~~employment.~~

38 ~~(3) State employees hired prior to October 31, 2010, who~~
39 ~~become subject to representation by State Bargaining Unit 5 or 8~~
40 ~~on or after October 31, 2010.~~

1 ~~(4) State employees on an approved leave of absence employed~~
2 ~~before October 31, 2010, who return to active employment on or~~
3 ~~after October 31, 2010.~~

4 SEC. 16. Section 20037.14 of the Government Code, as added
5 by Section 11 of Chapter 163 of the Statutes of 2010, is amended
6 to read:

7 20037.14. (a) Notwithstanding Sections 20035 and 20037,
8 final compensation for a person who is employed by the state for
9 the first time and becomes a state member of the system on or after
10 October 31, 2010, and is represented by State Bargaining Unit 5
11 or 8, means the highest average annual compensation earnable by
12 the member during ~~the~~ *any* consecutive 36-month period
13 ~~immediately~~ preceding the effective date of his or her ~~retirement,~~
14 ~~retirement~~ or the date of his or her last separation from state service
15 ~~if earlier, or during any other period of 36 consecutive months~~
16 ~~during his or her state membership that the member designates on~~
17 ~~the application for retirement.~~ *earlier.*

18 (b) This section applies to service credit accrued while a member
19 of State Bargaining Unit 5 or 8 or in a class related to State
20 Bargaining Unit 5 or 8 as an employee who is excepted from the
21 definition of “state employee” in subdivision (c) of Section 3513,
22 or an officer or employee of the executive branch of state
23 government who is not a member of the civil service.

24 (c) This section does not apply to:

25 (1) Former state employees previously employed before October
26 31, 2010, who return to state employment on or after October 31,
27 2010.

28 (2) State employees hired prior to October 31, 2010, who were
29 subject to Section 20281.5 during the first 24 months of state
30 employment.

31 (3) State employees hired prior to October 31, 2010, who
32 become subject to representation by State Bargaining Unit 5 or 8
33 on or after October 31, 2010.

34 (4) State employees on an approved leave of absence employed
35 before October 31, 2010, who return to active employment on or
36 after October 31, 2010.

37 SEC. 17. Section 20037.15 of the Government Code is amended
38 to read:

39 20037.15. (a) Notwithstanding Sections 3517.8, 20035, and
40 20037, final compensation for a person who is employed for the

1 first time and becomes a member of the system on or after January
2 15, 2011, means the highest average annual compensation earnable
3 by the member during ~~the any~~ consecutive 36-month period
4 immediately preceding the effective date of his or her ~~retirement,~~
5 *retirement* or the date of his or her last separation from state service
6 if ~~earlier, or during any other period of 36 consecutive months~~
7 ~~during his or her state membership that the member designates on~~
8 ~~the application for retirement.~~ *earlier.*

9 (b) This section applies to the following:

10 (1) Service credit accrued while a member of State Bargaining
11 Unit 6 or 9 or in a class related to State Bargaining Unit 6 or 9 as
12 an employee who is excepted from the definition of “state
13 employee” in subdivision (c) of Section 3513, or an officer or
14 employee of the executive branch of state government who is not
15 a member of the civil service.

16 (2) Service credit accrued while a peace officer/firefighter
17 member represented by State Bargaining Unit 7 or in a class related
18 to peace officer/firefighter members in State Bargaining Unit 7 as
19 an employee who is excepted from the definition of “state
20 employee” in subdivision (c) of Section 3513, or an officer or
21 employee of the executive branch of state government who is not
22 a member of the civil service.

23 (3) Service credit accrued as an employee who is excepted from
24 the definition of “state employee” in subdivision (c) of Section
25 3513, or an officer or employee of the executive branch of state
26 government who is not a member of the civil service.

27 (4) Service credit accrued as an employee of the Legislature,
28 the judicial branch, or the California State University.

29 (c) This section does not apply to:

30 (1) Former employees previously employed before January 15,
31 2011, who return to employment on or after January 15, 2011, and
32 who were previously subject to a 12-month average.

33 (2) State employees hired prior to January 15, 2011, who were
34 subject to Section 20281.5 during the first 24 months of state
35 employment, and who were previously subject to a 12-month
36 average.

37 (3) State employees hired prior to January 15, 2011, who become
38 subject to representation by State Bargaining Unit 6, 7, or 9 on or
39 after January 15, 2011, and who were previously subject to a
40 12-month average.

1 (4) Employees on an approved leave of absence employed before
2 January 15, 2011, who return to active employment on or after
3 January 15, 2011, and who were previously subject to a 12-month
4 average.

5 (d) If this section is in conflict with a memorandum of
6 understanding that is current and in effect on January 15, 2011,
7 the memorandum of understanding shall be controlling while it
8 remains in effect. Upon expiration of the memorandum of
9 understanding that is in effect and current on January 15, 2011,
10 this section shall be controlling and may not be superseded by a
11 subsequent memorandum of understanding.

12 SEC. 18. Section 20537 of the Government Code is amended
13 to read:

14 20537. The board may charge interest on the amount of any
15 payment due and unpaid by a contracting agency until payment is
16 received. Interest shall be charged at the ~~actuarial interest rate.~~
17 *greater of the annual return on the system's investments for the*
18 *year prior to the year in which payments are not timely made or*
19 *a simple annual rate of 10 percent.* The interest shall be deemed
20 interest earnings for the year in which the late payment is received.

21 SEC. 19. Section 20572 of the Government Code is amended
22 to read:

23 20572. (a) If a contracting agency fails for 30 days after
24 demand by the board to pay *in full* any installment of contributions
25 required by its contract, or fails for three months after demand
26 *therefor* by the board ~~therefor~~ to file any information required in
27 the administration of this system with respect to that *contracting*
28 agency's employees, or if the board determines that the *contracting*
29 agency is no longer in existence, the board may terminate that
30 contract by resolution adopted by a majority vote of its members
31 effective 60 days after notice of its adoption has been mailed by
32 registered mail to the governing body of the contracting agency.

33 (b) ~~Notwithstanding~~ *In addition to the interest obligations set*
34 *forth in Section 20537, if a contracting agency fails to remit pay*
35 *in full any installment of the contributions when due, the agency*
36 *may be assessed interest at an annual rate of 10 percent and the*
37 *costs of collection, including reasonable legal fees, when necessary*
38 *to collect the amounts due. In the case of repeated delinquencies,*
39 *due and the failure continues for a period of three months, the*
40 contracting agency may be assessed a penalty of 10 percent of the

1 ~~delinquent amount. That~~ *total amount due and unpaid, including*
 2 *any accrued and unpaid interest. The penalty may be assessed*
 3 *once during each 30-day period that the outstanding amount*
 4 *remains unpaid. In addition, the contracting agency may be*
 5 *assessed the costs of collection, including reasonable legal fees*
 6 *and litigation costs, including, without limitation, legal fees and*
 7 *legal costs incurred in bankruptcy, when necessary to collect any*
 8 *amounts due.*

9 SEC. 20. Section 20577.5 of the Government Code is amended
 10 to read:

11 20577.5. Notwithstanding Section 20577, the board may ~~merge~~
 12 ~~a plan~~ *elect not to impose a reduction, or to impose a lesser*
 13 *reduction, on a plan that has been terminated pursuant to Section*
 14 ~~20572 into the terminated agency pool without benefit reduction;~~
 15 ~~or with a lesser reduction;~~ 20572 if (a) the board has made all
 16 reasonable efforts to collect the amount necessary to fully fund
 17 the liabilities of the ~~plan~~; *plan* and (b) the board finds that ~~the~~
 18 ~~merger of the plan into the terminated agency pool without benefit~~
 19 ~~reduction not reducing the benefits, or imposing a lesser reduction,~~
 20 will not impact the actuarial soundness of the terminated agency
 21 pool.

22 SEC. 21. Section 20578 of the Government Code is amended
 23 to read:

24 20578. (a) Except as provided in subdivision (b), on and after
 25 January 1, 1991, the rights and benefits of a former employee of
 26 a contracting agency which terminated on or before January 1,
 27 1991, or of his or her beneficiary, shall be the same as if the agency
 28 had continued as a contracting agency. Any monthly allowance
 29 of that individual, or of his or her beneficiary, that was reduced
 30 pursuant to Section 20577 because the contracting agency failed
 31 to pay the board the amount of the difference shall not be subject
 32 to continued reduction on or after January 1, 1991. As of January
 33 1, 1991, benefits shall be paid at the level provided in the contract
 34 prior to that reduction. However, if a former employee of a
 35 contracting agency that terminated on or before January 1, 1991,
 36 becomes employed by another covered employer after the date of
 37 termination, including an employer subject to reciprocity, the
 38 benefits shall be calculated by using the highest compensation
 39 earned by the individual.

1 In accordance with Section 20580, an individual who has
2 withdrawn his or her accumulated contributions from the
3 terminated agency shall not be permitted to redeposit any
4 withdrawn contributions upon again becoming a member of this
5 system.

6 ~~Except as provided in Section 20577.5, benefits shall be reduced~~
7 ~~proportionally pursuant to Section 20577 prior to the transfer of~~
8 ~~assets to the pool if the amount of the terminating agency's assets~~
9 ~~are less than the actuarial equivalent described in clause (1) of~~
10 ~~subdivision (a) of Section 20576 and if the agency fails to pay the~~
11 ~~difference.~~

12 (b) If a contracting agency has not paid the system for any deficit
13 in funding for earned benefits, as determined pursuant to Section
14 20577, members shall be entitled to the benefits to which members
15 of the plan were entitled 36 months prior to the date the agency
16 notified the board of its intention to terminate its contract or 36
17 months prior to the date the board notified the agency of its intent
18 to terminate the contract, whichever is earlier. Entitlement to earned
19 benefits under this subdivision shall be subject to Section 20577.5.

20 SEC. 22. Section 20638 of the Government Code is amended
21 to read:

22 20638. ~~The average monthly salary~~ *highest annual average*
23 *compensation* during any *consecutive 12- or 36-month* period of
24 *service employment* as a member of a county retirement system
25 shall be considered compensation earnable by a member of this
26 system for purposes of computing final compensation for the
27 member provided:

28 (a) (1) Entry into employment in which he or she became a
29 member in one system occurred on or after October 1, 1957, and
30 within 90 days of discontinuance of employment as a member of
31 the other system.

32 (2) This subdivision shall not deny the benefit of this section to
33 any person retiring after October 1, 1963, who entered membership
34 prior to October 1, 1957, if he or she entered the employment in
35 which he or she became a member within 90 days of termination
36 of employment in which he or she was a member of the other
37 system, and he or she became a member within seven months of
38 entry into employment, or, if an employee of a district as defined
39 in Section 31468, became a member at the time the district was
40 included in a county retirement system.

1 (b) He or she retires concurrently under both systems and is
2 credited with the period of service under the county system at the
3 time of retirement.

4 SEC. 23. Section 20963 of the Government Code is amended
5 to read:

6 20963. (a) A state, school, or school safety member, whose
7 effective date of retirement is within four months of separation
8 from employment with the employer subject to this section that
9 granted the sick leave credit, shall be credited at his or her
10 retirement with 0.004 year of service credit for each unused day
11 of sick leave certified to the board by the employer. *A day of*
12 *unused sick leave is the equivalent of an eight-hour day.* The
13 certification shall report only those days of unused sick leave that
14 were accrued by the member during the normal course of his or
15 her employment and shall not include any additional days of sick
16 leave reported for the purpose of increasing the member's
17 retirement benefit. Reports of unused days of sick leave shall be
18 subject to audit and retirement benefits may be adjusted where
19 improper reporting is found. For purposes of this subdivision, sick
20 leave shall not include sick leave earned as a National Guard
21 member as described in Section 20380.5.

22 (b) Until receipt of certification from an employer concerning
23 unused sick leave, the board may pay an estimated allowance
24 pursuant to this section. At the time of receipt of the certification,
25 the allowance shall be adjusted to reflect any necessary changes.

26 (c) Notwithstanding any other provisions of this part, this section
27 shall not apply to local members other than local miscellaneous
28 members employed before July 1, 1980, by a school district that
29 is a contracting agency or those school safety members employed
30 before July 1, 1980, by a contracting agency that is a school district
31 or community college district, as defined in subdivision (i) of
32 Section 20057.

33 (d) This section shall not apply to any of the following:

34 (1) A person who becomes a school member on and after July
35 1, 1980, and any person who becomes a local member employed,
36 on and after July 1, 1980, by a school district that is a contracting
37 agency whether or not the person was ever a school member or
38 local member prior to that date.

39 (2) A state employee, with respect to sick leave credits earned
40 as a state member under Section 21353.5, except that the member

1 shall be entitled to receive credit under this section for the sick
2 leave he or she has earned as a state member subject to any other
3 retirement formula, provided the member has a sick leave credit
4 balance remaining at the time of retirement.

5 (e) For the purposes of this section, sick leave benefits provided
6 to state employees pursuant to the state sick leave system shall be
7 construed to mean compensation paid to employees on approved
8 leaves of absence because of sickness.

9 SEC. 24. Section 20963.1 of the Government Code is amended
10 to read:

11 20963.1. (a) A state member whose effective date of retirement
12 is within four months of separation from employment of the state,
13 shall be credited at his or her retirement with 0.004 year of service
14 for each unused day of educational leave credit, as certified to the
15 board by the employer. *A day of unused educational leave is the*
16 *equivalent of an eight-hour day.* The provisions of this section
17 shall be effective for eligible state members who retire directly
18 from state employment on and after January 1, 2000.

19 (b) This section shall apply to eligible state members in state
20 bargaining units that have agreed to this section in a memorandum
21 of understanding, or as authorized by the Director of Human
22 Resources for classifications of state employees that are excluded
23 from the definition of “state employee” by paragraph (c) of Section
24 3513 of the Government Code.

25 SEC. 25. Section 20965 of the Government Code is amended
26 to read:

27 20965. A local miscellaneous member and a local safety
28 member, whose effective date of retirement is within four months
29 of separation from employment with the employer which granted
30 the sick leave credit, shall be credited at his or her retirement with
31 0.004 year of service credit for each unused day of sick leave
32 certified to the board by his or her employer. *A day of unused sick*
33 *leave is the equivalent of an eight-hour day.* The certification shall
34 report only those days of unused sick leave that were accrued by
35 the member during the normal course of his or her employment
36 and shall not include any additional days of sick leave reported
37 for the purpose of increasing the member’s retirement benefit.
38 Reports of unused days of sick leave shall be subject to audit and
39 retirement benefits may be adjusted where improper reporting is
40 found.

1 This section shall not apply to any contracting agency nor to the
 2 employees of a contracting agency until the agency elects to be
 3 subject to this section by contract or by amendment to its contract
 4 made in the manner prescribed for approval of contracts, except
 5 that an election among the employees is not required, or, in the
 6 case of contracts made after September 26, 1974, by express
 7 provision in the contract making the contracting agency subject
 8 to this section.

9 This section shall only apply to members who retire after the
 10 effective date of the contract amendments.

11 SEC. 26. Section 21499 of the Government Code is amended
 12 to read:

13 21499. (a) Notwithstanding Section 21498, when either an
 14 initial payment of a preretirement or postretirement death allowance
 15 or a preretirement or postretirement lump-sum benefit is payable
 16 in an amount of ten dollars (\$10) or more, it shall be authorized
 17 to the Controller within 45 days of receipt by this system of all the
 18 necessary information, including the return of warrants issued or
 19 any overpayment outstanding after the date of the death of the
 20 annuitant.

21 (b) If any payment is not made within that time limitation, the
 22 payment shall also include interest at the ~~greater of the interest~~
 23 ~~crediting rate specified in Section 20178 or the net earnings rate~~
 24 ~~(including capital gains and losses) in effect at the time the payment~~
 25 ~~is made, default interest rate established in Section 1 of Article~~
 26 ~~XV of the California Constitution~~ for time following the expiration
 27 of that time limitation.

28 SEC. 27. Section 21626.5 of the Government Code is amended
 29 to read:

30 21626.5. (a) For purposes of Section 21624, 21626, 21627,
 31 21629, or 21630, a surviving domestic partner shall be treated in
 32 the same manner as a surviving spouse if either:

33 (a)

34 (1) The domestic partnership was registered for one year prior
 35 to the member's service retirement date or at the disability
 36 retirement date and continuously until the date of the member's
 37 death.

38 (b)

39 (2) The member retired prior to January 1, 2006, and both the
 40 member and his or her domestic partner, who currently are in a

1 state-registered domestic partnership, sign an affidavit stating that,
2 at the time prescribed by the retirement system for married spouses
3 to qualify for survivor continuance, the member and the domestic
4 partner would have qualified to be registered as domestic partners
5 pursuant to Section 297 of the Family Code.

6 *(b) For purposes of Section 21624, 21626, 21627, 21629, or*
7 *21630, an individual who is the same gender as the member shall*
8 *be treated in the same manner as a surviving spouse if the following*
9 *conditions are satisfied:*

10 *(1) The individual entered into marriage with the member on*
11 *or after the date when individuals of the same gender were legally*
12 *allowed to enter into marriage and was married continuously until*
13 *the date of the member's death.*

14 *(2) Either of the following applies:*

15 *(A) The member retired prior to the date when individuals of*
16 *the same gender were legally allowed to enter into marriage, and*
17 *both the member and his or her spouse, who are currently married,*
18 *sign an affidavit stating that, at the time prescribed by the*
19 *retirement system for spouses to qualify for a survivor continuance,*
20 *the member and the individual would have qualified to be legally*
21 *married had it been legally possible for people of the same gender*
22 *to marry.*

23 *(B) The individual originally qualified to become a surviving*
24 *spouse under subdivision (a).*

O