

ASSEMBLY BILL

No. 2376

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 31494.2, 31494.5, and 31526 of the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2376, as introduced, Committee on Public Employees, Retirement, and Social Security. County employees' retirement: Los Angeles County.

The County Employees Retirement Law of 1937 (CERL) establishes retirement plans, known as Retirement Plan D and Retirement Plan E, that are applicable in the retirement system in Los Angeles County and prescribes procedures for members to transfer between those plans. CERL defines "Retirement Plan E" to mean the noncontributory retirement plan established by specific provisions, and defines "Retirement Plan D" to mean the contributory retirement plan otherwise available to new members of the retirement system on the transfer date.

This bill would revise the definition of Retirement Plan D to, instead, refer to the contributory retirement plan otherwise available to members of the system between June 1, 1979, and December 31, 2012, inclusive.

Under CERL, except as specified, the management of a retirement system is vested in the board of retirement, with membership as prescribed. CERL authorizes such a board to make regulations not inconsistent with that law, and requires that the regulations include specific provisions, including provisions for the filing of a sworn

statement by every person who is or becomes a member, showing date of birth, nature and duration of employment with the county, compensation received, and other information as is required by the board.

This bill would authorize those regulations, in lieu of a sworn statement, to provide for the submission by a member’s employer to the retirement association of the information otherwise required in a sworn statement, in a form determined by the retirement association.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 31494.2 of the Government Code is
2 amended to read:

3 31494.2. (a) A general member whose benefits are governed
4 by Retirement Plan D may, during a period of active employment,
5 elect to change plan membership and become a member,
6 prospectively, in Retirement Plan E. The election shall be made
7 upon written application signed by the member and filed with the
8 board, pursuant to enrollment procedures and during an enrollment
9 period established by the board, which enrollment period shall not
10 occur more frequently than once every three years for that member.
11 The change in plan membership shall be effective as of the transfer
12 date, as defined in subdivision (d). Except as otherwise provided
13 in this section, the rights and obligations of a member who elects
14 to change membership under this section shall be governed by the
15 terms of this article on and after the transfer date. Prior to the
16 transfer date, the rights to retirement, survivors’, or other benefits
17 payable to a member and his or her survivors or beneficiaries shall
18 continue to be governed by Retirement Plan D.

19 (b) Except as otherwise provided in this section, effective as of
20 the transfer date, a member who has transferred to Retirement Plan
21 E pursuant to this section and his or her survivors or beneficiaries
22 shall receive retirement, survivors’, and other benefits that shall
23 consist of: (1) the benefits to which they are entitled under the
24 terms of Retirement Plan E, but based on the member’s service
25 credited only under that plan, and payable at the time and in the
26 manner provided under Retirement Plan E, and (2) the benefits to
27 which they would have been entitled under the terms of Retirement

1 Plan D had the member remained a member of Retirement Plan
2 D, but based on the member's service credited only under that
3 plan, and payable at the time and in the manner provided under
4 Retirement Plan D. Except as otherwise provided in this section,
5 the calculation of the member's, survivors', or beneficiaries'
6 benefits under each plan shall be subject to that plan's respective,
7 separate terms, including, but not limited to, the definitions of
8 "final compensation" and provisions establishing cost-of-living
9 adjustments, establishing minimum retirement age and service
10 requirements, and governing integration with federal social security
11 payments. Notwithstanding the foregoing, the aggregate service
12 credited under both retirement plans shall be taken into account
13 for the purpose of determining eligibility for and vesting of benefits
14 under each plan.

15 (c) Notwithstanding any other provision of Retirement Plan D
16 or Retirement Plan E:

17 (1) A member who has transferred to Retirement Plan E pursuant
18 to this section may not retire for disability and receive disability
19 retirement benefits under Retirement Plan D.

20 (2) If a member who has transferred to Retirement Plan E
21 pursuant to this section dies prior to retirement, that member's
22 survivor or beneficiary may not receive survivor or death benefits
23 under Retirement Plan D but shall receive a refund of the member's
24 contributions to Retirement Plan D together with all interest
25 credited thereto.

26 (d) As used in this section:

27 (1) "Period of active employment" means a period during which
28 the member is actively performing the duties of a full-time or
29 part-time employee position or is on any authorized paid leave of
30 absence, except a leave of absence during which the member is
31 totally disabled and is receiving, or is eligible to receive, disability
32 benefits, either during or after any elimination or qualifying period,
33 under a disability plan provided by the employer.

34 (2) "Retirement Plan D" means the contributory retirement plan
35 otherwise available to ~~new members of the system on the transfer~~
36 ~~date.~~ *members of the system between June 1, 1979, and December*
37 *31, 2012, inclusive.*

38 (3) "Retirement Plan E" means the noncontributory retirement
39 plan established under this article.

1 (4) “Transfer date” means the first day of the first month that
2 is at least 30 days after the date that the application is filed with
3 the board to change plan membership under subdivision (a).

4 (e) This section shall only be applicable to Los Angeles County
5 and shall not become operative until the board of supervisors of
6 that county elects, by resolution adopted by a majority vote, to
7 make this section operative in the county.

8 SEC. 2. Section 31494.5 of the Government Code is amended
9 to read:

10 31494.5. (a) A general member whose benefits are governed
11 by Retirement Plan E may, during a period of active employment,
12 elect to change plan membership and become a member,
13 prospectively, in Retirement Plan D. The election shall be made
14 upon written application signed by the member and filed with the
15 board, pursuant to enrollment procedures and during an enrollment
16 period established by the board, which enrollment period shall not
17 occur more frequently than once every three years for that member.
18 The change in plan membership shall be effective as of the transfer
19 date, as defined in subdivision (g). Except as otherwise provided
20 in this section, the rights and obligations of a member who elects
21 to change membership under this section shall be governed by the
22 terms of Retirement Plan D on and after the transfer date. Prior to
23 the transfer date, the rights to retirement, survivors’, or other
24 benefits payable to a member and his or her survivors or
25 beneficiaries shall continue to be governed by Retirement Plan E.

26 (b) If a member has made the election to change plans under
27 subdivision (a), monthly contributions by the member and the
28 employer under the terms of Retirement Plan D shall commence
29 as of the transfer date. For the purposes of calculating the member’s
30 contribution rate under Retirement Plan D, his or her entry age
31 shall be deemed to be his or her age at his or her birthday nearest
32 the transfer date; however, if the member exchanges service credit
33 in accordance with subdivision (c), with regard to contributions
34 made for periods after that exchange, his or her entry age shall be
35 adjusted and deemed to be the member’s age at his or her birthday
36 nearest the date on which begins the most recent period of
37 unbroken service credited under Retirement Plan D, taking into
38 account service purchased under subdivision (c). In no event shall
39 the exchange of service under subdivision (c) affect the entry age

1 with respect to, or the cost of, employee contributions made, or
2 service purchased, prior to the exchange.

3 (c) (1) A general member who has elected to change plans
4 under subdivision (a) also may elect to exchange, at that time or
5 any time thereafter, but prior to the earlier of his or her application
6 for retirement, termination from employment, or death, some
7 portion designated in whole-month increments, or all of the service
8 credited under Retirement Plan E for an equivalent amount of
9 service credited under Retirement Plan D, provided, however, that
10 the member may not exchange less than 12 months' service or, if
11 less, the total service credited under Retirement Plan E. The
12 exchange shall be effective on the date when the member completes
13 the purchase of that service by depositing in the retirement fund,
14 by lump sum or regular monthly installments, over the period of
15 time determined by a resolution adopted by a majority vote of the
16 board of retirement, or both, but in any event prior to the earlier
17 of his or her death or the date that is 120 days after the effective
18 date of his or her retirement, the sum of: (1) the contributions the
19 member would have made to the retirement fund under Retirement
20 Plan D for that length of time for which the member shall receive
21 credit as service under Retirement Plan D, computed in accordance
22 with the rate of contribution applicable to the member under
23 Retirement Plan D, based upon his or her entry age, and in the
24 same manner prescribed under Retirement Plan D as if that plan
25 had been in effect during the period for which the member shall
26 receive service credit, and (2) the regular interest thereon.

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28 (2) For the purposes of this subdivision, a member's entry age
29 shall be deemed to be the member's age at his or her birthday
30 nearest the date on which begins the most recent period of
31 unbroken service credited under Retirement Plan D following
32 completion of the service exchange under this subdivision. A
33 member may receive credit for a period of service under only one
34 plan and in no event shall a member receive credit for the same
35 period of service under both Retirement Plan D and Retirement
36 Plan E.

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38 (3) A member who fails to complete the purchase of service as
39 required under this subdivision shall be treated as completing an
40 exchange of service under Retirement Plan E for an equivalent

1 amount of service under Retirement Plan D only with regard to
2 the service that actually has been purchased through completed
3 deposit with the retirement fund of the requisite purchase amount,
4 calculated in accordance with this subdivision.

5 (d) Except as otherwise provided in this section, effective as of
6 the transfer date, a member who has transferred to Retirement Plan
7 D pursuant to this section and his or her survivors or beneficiaries
8 shall receive retirement, disability, survivors', death, or other
9 benefits that shall consist of: (1) the benefits to which they are
10 entitled under the terms of Retirement Plan D, but based on the
11 member's service credited only under that plan, and payable at the
12 time and in the manner provided under Retirement Plan D, and
13 (2) the benefits to which they would have been entitled under the
14 terms of Retirement Plan E had the member remained a member
15 of Retirement Plan E, but based on the member's service credited
16 only under that plan, and payable at the time and in the manner
17 provided under Retirement Plan E. Except as otherwise provided
18 in this section, the calculation of the portion of a member's or
19 beneficiary's benefit that is attributable to each plan is subject to
20 that plan's respective, separate terms, including, but not limited
21 to, the definitions of "final compensation" and provisions
22 establishing cost-of-living adjustments, establishing minimum age
23 and service requirements, and governing integration with federal
24 social security payments. Notwithstanding the foregoing, the
25 aggregate service credited under both Retirement Plan D and
26 Retirement Plan E shall be taken into account for the purpose of
27 determining eligibility for, and vesting of, benefits under each
28 plan.

29 (e) Notwithstanding any other provision of Retirement Plan D
30 or Retirement Plan E, a member who transfers into Retirement
31 Plan D under this section may retire for service-connected or
32 nonservice-connected disability and receive disability benefits
33 under Retirement Plan D only if he or she has either (1) completed
34 two continuous years of active service after his or her most recent
35 transfer date, or (2) earned five years of retirement service credit
36 under Retirement Plan D after his or her most recent transfer date.
37 Notwithstanding any other provision to the contrary, a member
38 who becomes disabled and does not meet either of these conditions
39 (1) may apply for and receive only a deferred or service retirement
40 allowance, or (2) may elect to transfer prospectively back to

1 Retirement Plan E, and for the purposes of calculating his or her
2 retirement benefits under this section, shall in lieu of credit under
3 Retirement Plan D be credited with service under Retirement Plan
4 E as provided under subdivision (g) of Section 31488 during any
5 period he or she is totally disabled and is receiving, or eligible to
6 receive, disability benefits, either during or after any elimination
7 or qualifying period, under a disability plan provided by the
8 employer up to the earlier of the date he or she retires or no longer
9 qualifies for disability benefits. If a member dies before he or she
10 is eligible to retire and before completing either two continuous
11 years of active service after the transfer date into Retirement Plan
12 D or after earning five years of retirement service credit under
13 Retirement Plan D after that transfer date, that member's
14 beneficiary shall not be entitled to the survivor allowance under
15 Section 31781.1 or 31781.12, if operative.

16 (f) Notwithstanding any other provisions of Retirement Plan D
17 or Retirement Plan E, a member who has transferred to Retirement
18 Plan D pursuant to this section and who retires for disability when
19 eligible under this section and Retirement Plan D, may not also
20 retire for service and receive service retirement benefits under
21 Retirement Plan E. However, for the purpose of calculating
22 disability benefits under Retirement Plan D, the "sum to which he
23 or she would be entitled as service retirement" or his or her "service
24 retirement allowance," as those terms are used in Sections 31726,
25 31726.5, and 31727.4, shall consist of the blended benefit to which
26 the member would be entitled under subdivision (d) if he or she
27 retired for service, not just the service retirement benefit to which
28 he or she would be entitled under Retirement Plan D.

29 (g) As used in this section:

30 (1) "Active service" means time spent on active, on-the-job
31 performance of the duties of a full-time or part-time position and
32 on any authorized paid leaves of absence; provided, however, that
33 any authorized paid leave of absence or part-time service shall not
34 constitute active service if the leave of absence or part-time service
35 is necessitated by a preexisting disability, injury, or disease. The
36 board of retirement shall determine whether or not a leave of
37 absence or part-time service is necessitated by a preexisting
38 disability, injury, or disease, and thus excluded from the member's
39 active service, based upon evidence presented by the employer
40 and the member upon request by the board.

1 (2) “Entry age” means the age used for calculating the normal
2 rate of contribution to Retirement Plan D with respect to a member
3 who has transferred membership to Retirement Plan D under this
4 section.

5 (3) “Period of active employment” means a period during which
6 the member is actively performing the duties of a full-time or
7 part-time employee position or is on any authorized paid leave of
8 absence, except a leave of absence during which the member is
9 totally disabled and is receiving, or is eligible to receive, disability
10 benefits, either during or after any elimination or qualifying period,
11 under a disability plan provided by the employer.

12 (4) “Retirement Plan D” means the contributory retirement plan
13 otherwise available to ~~new members of the retirement system on~~
14 ~~the transfer date.~~ *members of the system between June 1, 1979,*
15 *and December 31, 2012, inclusive.*

16 (5) “Retirement Plan E” means the noncontributory retirement
17 plan established under this article.

18 (6) “Transfer date” means the first day of the first month that
19 is at least 30 days after the date that the application is filed with
20 the board to change plan membership under subdivision (a).

21 (h) This section shall only be applicable to Los Angeles County
22 and shall not become operative until the board of supervisors of
23 that county elects, by resolution adopted by a majority vote, to
24 make this section operative in the county.

25 SEC. 3. Section 31526 of the Government Code is amended
26 to read:

27 31526. The regulations shall include provisions:

28 (a) For the election of officers, their terms, meetings, and all
29 other matters relating to the administrative procedure of the board.

30 (b) For ~~the one of the following~~:

31 (1) *The* filing of a sworn statement by every person who is or
32 becomes a member, showing date of birth, nature and duration of
33 employment with the county, compensation received, and ~~such~~
34 other information as is required by the board.

35 (2) *In lieu of a sworn statement, the submission by the member’s*
36 *employer to the retirement association of the information otherwise*
37 *required in paragraph (1), in a form determined by the retirement*
38 *association.*

1 (c) For forms of annuity certificates and ~~for such~~ other forms
2 as ~~are~~ required.

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