

**Introduced by Senator Pan**February 12, 2015

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An act to amend Sections 20235, 21002, and 21013 of, and to repeal Section 20194 of, the Government Code, relating to public employees' retirement.

## LEGISLATIVE COUNSEL'S DIGEST

SB 216, as introduced, Pan. The Public Employees' Retirement System.

(1) The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to specified public employees and prescribes the rights and duties of members and annuitants of the system. PERL vests management and control of PERS in the Board of Administration. The California Constitution and PERL grant the board control over the investment of the retirement fund subject to certain restrictions. PERL directs the board to invest not less than 25 % of all funds that become available in a fiscal year for new investments in specified obligations and securities connected with residential realty, subject to the board's authority to substitute other investments consistent with its fiduciary obligations to the retirement system and standards for prudent investment. PERL requires the board to report on these investments.

This bill would repeal the provisions regarding investing in residential realty, described above.

(2) PERL requires the board to submit a quarterly review of system assets to the Legislature, which is required to include reporting on the system's portfolio on the basis of cost and market value, among other things.

This bill would change the frequency of this report to semiannual, would eliminate the requirement to report on the investments on a cost basis, and would make other changes to the content of the report.

(3) PERL permits a member who returns to active service following an employer-approved uncompensated leave of absence, as defined, because of his or her serious illness or injury to purchase service credit for that period of absence upon the payment of contributions, as specified.

This bill would specify that the option to purchase service credit shall be elected prior to retirement, that the member be returning to state service, and would make other related changes.

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 20194 of the Government Code is  
2 repealed.  
3 ~~20194. (a) Notwithstanding any other provision of law, the~~  
4 ~~board shall give first priority to investing not less than 25 percent~~  
5 ~~of all funds which become available in a fiscal year for new~~  
6 ~~investments, in the following:~~  
7 ~~(1) Obligations secured by a lien or charge solely on residential~~  
8 ~~realty, including rental housing, located in the state and on the~~  
9 ~~security of which, commercial banks are permitted to make loans~~  
10 ~~pursuant to Article 2 (commencing with Section 1220) of Chapter~~  
11 ~~10 of Division 1 of the Financial Code.~~  
12 ~~(2) Securities representing a beneficial interest in a pool of~~  
13 ~~obligations secured by a lien or charge solely on residential realty~~  
14 ~~located in the state.~~  
15 ~~(3) Certificates of deposit issued by savings and loan~~  
16 ~~associations, if the savings and loan associations agree to make~~  
17 ~~loans, or to fund tax-exempt notes or bonds issued by housing~~  
18 ~~authorities, cities, or counties, on residential realty located in the~~  
19 ~~state, including rental housing, in an amount equal to the amount~~  
20 ~~of the deposit.~~  
21 ~~(b) Funds subject to investment pursuant to this section include~~  
22 ~~all moneys received as employer and member contributions,~~  
23 ~~investment income, and the proceeds from all net gains and losses~~  
24 ~~from securities, reduced by the amount of benefit payments and~~

1 withdrawals occurring during the fiscal year. In computing the  
2 amount of investment pursuant to this section, a dollar-for-dollar  
3 credit shall be given for residential realty investments described  
4 in this section that are contractually agreed to be made by a  
5 financial institution from which the board, in consideration thereof,  
6 purchases other investments. In computing the amount of  
7 investment pursuant to this section, the board may elect to include  
8 the dollar amount of commitments to purchase mortgages from  
9 public revenue bond programs in the year the commitment is given.  
10 However, that election may not exceed one-fifth of the total  
11 guideline amount.

12 (e) Nothing in this section shall be construed to require the  
13 acquisition of any instrument or security at less than the market  
14 rate.

15 (d) If the board determines during any fiscal year that  
16 compliance with this section will result in lower overall earnings  
17 for the fund than obtainable from alternative investment  
18 opportunities that would provide equal or superior security,  
19 including guarantee of yield, the board may substitute those higher  
20 yielding investments, to the extent actually available for  
21 acquisition, for the investments otherwise specified by this section.  
22 Additionally, if, and to the extent that, adherence to the  
23 diversification guideline specified in this section would conflict  
24 with its fiduciary obligations in violation of Section 9 of Article I  
25 of the California Constitution or Section 10 of Article I of the  
26 United States Constitution, or would conflict with the standard for  
27 prudent investment of the fund set forth in Section 17 of Article  
28 XVI of the California Constitution, the board may substitute  
29 alternative investments. In that case, the board shall estimate the  
30 amount of funds available for investment in substitute alternative  
31 investments and the amount of funds invested pursuant to the first  
32 paragraph of this section and shall submit its resolution of findings  
33 and determinations, together with a description of the type,  
34 quantity, and yield of the investments substituted, to the Governor  
35 and to the Joint Committee on Legislative Audit within 20 days  
36 following the conclusion of the fiscal year. Within 30 days  
37 thereafter, the Joint Committee on Legislative Audit shall transmit  
38 the State Auditor's report to the Speaker of the Assembly and to  
39 the Senate Committee on Rules for transmittal to affected policy  
40 committees.

1 ~~(e) The board, upon determining the final amount of funds~~  
 2 ~~available for investment in substitute alternative investments and~~  
 3 ~~the estimated amount of funds invested pursuant to the first~~  
 4 ~~paragraph of this section, shall submit that information to the~~  
 5 ~~Governor and the Joint Committee on Legislative Audit. Thereafter,~~  
 6 ~~the Joint Committee on Legislative Audit shall transmit the report~~  
 7 ~~of the State Auditor to the Speaker of the Assembly and the Senate~~  
 8 ~~Committee on Rules for transmittal to the affected policy~~  
 9 ~~committees.~~

10 SEC. 2. Section 20235 of the Government Code is amended  
 11 to read:

12 20235. (a) The board shall submit a review of this system's  
 13 assets to the Legislature on a ~~quarterly~~ *semiannual* basis. The report  
 14 shall also be made available to all contracting agencies. The report  
 15 shall ~~do both of the following: discuss the system's assets,~~  
 16 ~~including review of all defined benefit trusts and defined~~  
 17 ~~contribution plans, and shall contain the following information:~~

18 ~~(1) Discuss this system's portfolio and contain the following~~  
 19 ~~information:~~

20 ~~(A) Concentration, current holdings at cost and market value,~~  
 21 ~~of equities.~~

22 ~~(B) Concentration, current holdings at cost and market value,~~  
 23 ~~of fixed income instruments.~~

24 ~~(C) Current holdings at cost and market value of real estate~~  
 25 ~~equities.~~

26 ~~(D) Current holdings at cost and market value of mortgages.~~

27 ~~(E) Options and forward commitments.~~

28 ~~(F) Cash and cash equivalents.~~

29 ~~(2) Disclose the following information on the rate of return of~~  
 30 ~~the fund by type of asset:~~

31 ~~(A) Time-weighted return on a five-year, three-year, and~~  
 32 ~~one-year basis.~~

33 ~~(B) Dollar-weighted return on a five-year, three-year, and~~  
 34 ~~one-year basis.~~

35 ~~(C) Summary of performance of an alternative theoretical~~  
 36 ~~portfolio containing all investments and performance of comparable~~  
 37 ~~universes and other indexes.~~

38 ~~(1) Defined benefit trust and defined contribution plan total~~  
 39 ~~current market value and allocation of investments across primary~~  
 40 ~~asset classes, if appropriate.~~

1 (2) *Review of all portfolio and partnership current market value*  
2 *by primary asset class and strategy.*

3 (3) *Historical time-weighted return for all defined benefit trusts,*  
4 *defined contribution plans, portfolios, and partnerships on a*  
5 *five-year, three-year, and one-year basis.*

6 (4) *Summary of performance of an alternative theoretical*  
7 *portfolio for all defined benefit trusts and defined contribution*  
8 *plans based upon policy benchmarks approved by the board.*

9 (5) *Description of policy benchmark components represented*  
10 *in the alternative theoretical portfolio.*

11 (b) Upon written request from a contracting agency that does  
12 not participate in a risk pool, the board shall *also* submit ~~additional~~  
13 quarterly reports to the contracting agency as described in this  
14 subdivision. For the first quarter of the fiscal year, the report shall  
15 be submitted within 120 days after the end of the quarter and shall  
16 contain the agency's beginning balance for the fiscal year. For the  
17 second and third quarters of the fiscal year, the report shall be  
18 submitted to the contracting agency within 90 days after the end  
19 of the quarter. For the fourth quarter of the fiscal year, the report  
20 shall be submitted within 180 days after the end of the quarter and  
21 shall contain the agency's balance as of the end of the fiscal year.  
22 The report shall include, but need not be limited to, the following:

23 (1) All contributions made to the system by the contracting  
24 agency and its employees. The contributions shall be reported as  
25 the amounts paid and the amounts due from the contracting agency  
26 for both employer contributions and employee contributions.

27 (2) All benefits paid by the system to members of the contracting  
28 agency and their survivors and beneficiaries, including payments  
29 on account of pension, death, and disability benefits, and  
30 withdrawals of contributions. The benefits shall be reported as the  
31 total monthly allowances paid to retirees, survivors, and  
32 beneficiaries; the amount of total refunds paid; and the amount of  
33 any other lump sums paid.

34 (3) An amount that represents any miscellaneous adjustments,  
35 including transfers in and out.

36 (4) That quarter's portion of the agency's estimated share of  
37 the system's administrative costs that shall be assessed at the end  
38 of the fiscal year.

39 (5) The rate of return for the system during the quarter as  
40 reported to the board by the investment committee.

1 (6) The estimated interest applied to the agency's account as  
2 determined by the system. For purposes of this paragraph, the  
3 "estimated interest applied" means the estimate of the annual net  
4 earnings, as defined in Section 20052, and is subject to adjustment  
5 at the end of the fiscal year based on the actual dollar-weighted  
6 amount of investment return that shall be credited to the agency's  
7 account for the fiscal year. The report for the fourth quarter of the  
8 fiscal year shall also include the actual dollar-weighted amount of  
9 investment return for the fiscal year that shall be credited to the  
10 contracting agency's account.

11 (c) Upon written request from a contracting agency that  
12 participates in a risk pool, the board shall submit to the contracting  
13 agency quarterly reports that reflect the total contributions made  
14 to the system by agencies in the risk pool, the total benefits paid  
15 by the system with respect to the risk pool, the total estimated  
16 share of administrative costs for the risk pool, and the total  
17 estimated share of investment returns for the risk pool.

18 (d) A contracting agency requesting quarterly reports pursuant  
19 to subdivision (b) or (c) shall pay a fee, in an amount determined  
20 by the board, not to exceed one thousand five hundred dollars  
21 (\$1,500) quarterly per agency while the manual process of  
22 collecting the information is in use.

23 (e) Any report received by a contracting agency pursuant to this  
24 section shall be made available by the agency to any employee  
25 organization that represents the agency's employees and that  
26 requests a copy of the report.

27 SEC. 3. Section 21002 of the Government Code is amended  
28 to read:

29 21002. A member who returns to active *state* service following  
30 an employer-approved uncompensated leave of absence because  
31 of his or her serious illness or injury may ~~purchase~~ *elect to receive*  
32 service credit for that period of absence ~~upon the payment~~ *at any*  
33 *time prior to retirement* of contributions as specified in Sections  
34 21050 and 21052. The purchase of additional service credit  
35 pursuant to this section shall not reduce the amount of service  
36 credit that the member is eligible to purchase pursuant to this  
37 chapter. A member may purchase service credit pursuant to this  
38 section for a leave of absence that occurred either before or after  
39 the effective date of these provisions.

1 SEC. 4. Section 21013 of the Government Code is amended  
2 to read:

3 21013. “Leave of absence” also means any time, up to one  
4 year, during which a member is granted an approved maternity or  
5 paternity leave and returns to ~~employment~~ *active state service* at  
6 the end of the approved leave for a period of time at least equal to  
7 that leave. Any member ~~electing~~ *may elect* to receive service credit  
8 for that leave of absence ~~shall make~~ *at any time prior to retirement*  
9 *by making* the contributions as specified in Sections 21050 and  
10 21052. This section applies to both past and future maternity or  
11 paternity leaves of absences by members of the system.

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