AMENDED IN SENATE APRIL 24, 1995

SENATE BILL No. 468

Introduced by Senator Mello

February 17, 1995

~~An act to amend Section 11350.6 of the Welfare and~~ *An act to amend Section 704.110 of the Code of Civil Procedure, to amend Section 20134 of the Government Code, and to add Section 11350.7 to the Welfare and* Institutions Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

SB 468, as amended, Mello. Support enforcement.

(1) Under existing law, rights and benefits under a public retirement system are exempt from procedures for the enforcement of a money judgment. However, existing law provides an exception where benefits become payable and are sought to be applied to the satisfaction of a support judgment. Under existing law, if the amount is payable periodically, the amount is subject to an earnings assignment order for support or any other applicable enforcement procedure, as specified.

This bill would enact procedures for the enforcement of support obligations, whereby the State Department of Social Services would provide to the Public Employees' Retirement System information on support judgments and orders being enforced by district attorneys. The bill would require the Public Employees' Retirement System to withhold amounts certified as overdue support from benefits and refunds, as provided. The bill would revise the provisions described

above to provide that amounts payable under a public retirement system for the satisfaction of a support judgment are subject to this intercept procedure if they are payable periodically or as a lump-sum distribution, and to provide that amounts payable as a lump-sum distribution are subject to any other applicable enforcement procedure. The bill would impose a state-mandated local program by adding to the duties of district attorneys.

(2) Under existing law, data filed by any member or beneficiary with the Board of Administration of the Public Employees' Retirement System is confidential, but the gross amount of any benefit is not confidential and may be released upon request to the Board of Administration.

This bill would additionally provide that the gross amount of any refund of a PERS contribution due to a member or beneficiary is not confidential and may be released upon request to the Board of Administration.

~~Existing law precludes state professional licensing agencies from issuing or renewing a license if the licensee is on a list of persons who have not complied with support orders. The unauthorized use of information received by such an agency is a misdemeanor.~~

~~This bill would expand the application of this provision to include any driver's license issued by the Department of Motor Vehicles, thereby imposing a state-mandated local program by adding to the duties of district attorneys. The bill would also impose a state-mandated local program by changing the definition of a crime.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that~~

~~the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

~~SECTION 1. Section 11350.6 of the Welfare and~~

SECTION 1. Section 704.110 of the Code of Civil Procedure is amended to read:

704.110. (a) As used in this section:

(1) ‘‘Public entity’’ means the state, or a city, city and county, county, or other political subdivision of the state, or a public trust, public corporation, or public board, or the governing body of any of them, but does not include the United States except where expressly so provided.

(2) ‘‘Public retirement benefit’’ means a pension or an annuity, or a retirement, disability, death, or other benefit, paid or payable by a public retirement system.

(3) ‘‘Public retirement system’’ means a system established pursuant to statute by a public entity for retirement, annuity, or pension purposes or payment of disability or death benefits.

(b) All amounts held, controlled, or in process of distribution by a public entity derived from contributions by the public entity or by an officer or employee of the public entity for public retirement benefit purposes, and

all rights and benefits accrued or accruing to any person under a public retirement system, are exempt without making a claim.

(c) Notwithstanding subdivision (b), where an amount described in subdivision (b) becomes payable to a person and is sought to be applied to the satisfaction of a judgment for child, family, or spousal support against that person:

(1) Except as provided in ~~paragraph~~ *paragraphs* (2) *and (3)*, the amount is exempt only to the extent that the court determines under subdivision (c) of Section 703.070.

(2) If the amount sought to be applied to the satisfaction of the judgment is payable periodically, the amount payable is subject to an earnings assignment order for support as defined in Section 706.011*, the intercept procedure provided in Section 11350.7 of the Welfare and Institutions Code,* or any other applicable enforcement procedure, but the amount to be withheld pursuant to the assignment order or other procedure shall not exceed the amount permitted to be withheld on an earnings withholding order for support under Section 706.052. The paying entity may deduct from each payment made pursuant to an earnings assignment order under this paragraph an amount reflecting the actual cost of administration caused by the assignment order up to two dollars ($2) for each payment.

(3) If the amount sought to be applied to the satisfaction of the judgment is payable as a lump-sum distribution, the amount payable is subject to the intercept procedure provided in Section 11350.7 of the Welfare and Institutions Code or any other applicable enforcement procedure.

(d) All amounts received by any person, a resident of the state, as a public retirement benefit or as a return of contributions and interest thereon from the United States or a public entity or from a public retirement system are exempt.

SEC. 2. Section 20134 of the Government Code is amended to read:

20134. Data filed by any member or beneficiary with the board is confidential, and no individual record shall be divulged by any official or employee having access to it to any person other than the member to whom the information relates or his *or her* authorized representative, the contracting agency or school district by which he *or she* is employed, any state department or agency, or the university. ~~Such~~ *The* information shall be used by the board for the sole purpose of carrying into effect the provisions of this part. Any information which is requested for retirement purposes by any public agency shall be treated as confidential by ~~such~~ *the* agency.

The gross amount of any benefit *or any refund of a PERS contribution due to a member or beneficiary* is not confidential and may be released upon request to the board.

The board may seek reimbursement for reasonable administrative expenses incurred when providing that information.

Except as provided by this section, no member's, beneficiary's or annuitant's address, home telephone number, or other personal information shall be released.

SEC. 3. Section 11350.7 is added to the Welfare and Institutions Code, to read:

11350.7. (a) As authorized by subdivision (c) of Section 704.110 of the Code of Civil Procedure, the following actions shall be taken in order to enforce support obligations which are not being met:

(1) Within 18 months of implementation of the Statewide Automated Child Support System (SACSS), as prescribed by Section 10815, and certification of SACSS by the United States Department of Health and Human Services, the State Department of Social Services shall compile a file of all support judgments and orders that are being enforced by district attorneys pursuant to Section 11475.1 that have sums overdue.

(2) The file shall contain the name and social security number of the person who owes overdue support, the amount of overdue support, the name of the county in

which the support obligation is being enforced by the district attorney, and any other information that is deemed necessary by the department and the Public Employees' Retirement System.

(3) The department shall provide the certified file to the Public Employees' Retirement System for the purpose of matching the names on the file with members and beneficiaries of the Public Employees' Retirement System that are entitled to receive Public Employees' Retirement System benefits. The department and the Public Employees' Retirement System shall work cooperatively to develop an interface in order to match the names in their respective electronic data processing systems.

(4) The department shall update the certified file periodically to add new cases within the district attorneys' offices or existing cases that become delinquent and to delete persons who are no longer delinquent. The department shall provide the updated file on a periodic basis to the Public Employees' Retirement System.

(b) Notwithstanding any other provision of law, the Public Employees' Retirement System shall withhold the amount certified from the benefits and refunds to be distributed to members with overdue support obligations or from benefits to be distributed to beneficiaries with overdue support obligations. If the benefits are payable periodically, the amount withheld pursuant to this section or paragraph (2) of subdivision (c) of Section 704.110 of the Code of Civil Procedure shall not exceed the amount permitted to be withheld for an earnings withholding order for support under Section 706.052 of the Code of Civil Procedure.

(c) The Public Employees' Retirement System shall periodically forward the amounts withheld pursuant to subdivision (b) to the State Department of Social Services for distribution to the appropriate county.

(d) On an annual basis, the State Department of Social Services shall notify individuals with overdue support obligations that PERS benefits or PERS contribution

refunds may be intercepted for the purpose of enforcing family support obligations.

(e) No later than the time of the first withholding, the Public Employees' Retirement System shall notify those persons subject to the withholding of both of the following:

(1) That his or her benefits or retirement contribution refund have been reduced by payment on a support judgment or pursuant to this section.

(2) The address and telephone number of the district attorney's office that is enforcing the support obligation pursuant to Section 11475.1.

(f) The department shall develop a form that the applicant shall use to request a review by the district attorney if the applicant believes that the amount certified pursuant to this section is incorrect. The department shall develop procedures to be used by each district attorney in conducting the review. The district attorney shall refund any amounts withheld in excess of the correct amount.

(g) The department and the Public Employees' Retirement System shall enter into any agreement necessary to implement this section.

(h) The Public Employees' Retirement System may assess service charges on beneficiaries from whose accounts amounts are withheld, in order to recover any administrative costs resulting from complying with this section.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act

shall become operative on the same date that the act takes effect pursuant to the California Constitution.

All matter omitted in this version of the bill appears in the bill as introduced in the Senate February 17, 1995. (JR 11)

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