

Assembly Bill No. 2840

CHAPTER 489

An act to amend Sections 20320, 20322, 20324, 20325, 21006, 21007, 21008, 21013, 21020, 21021, 21023, 21023.5, 21024, 21027, 21029, 21030, and 21031 of, and to add Article 6 (commencing with Section 21050) to Chapter 11 of Part 3 of Division 5 of Title 2 of, the Government Code, relating to public employees' retirement.

[Approved by Governor September 16, 2000. Filed
with Secretary of State September 19, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2840, Committee on Public Employees, Retirement and Social Security. Public employees' retirement: service credit costing.

Under the Public Employees' Retirement Law, service retirement allowances are calculated, in part, based on years of credited service. Members and, in one circumstance, retirees of the Public Employees' Retirement System may, under existing law, elect to receive service credit for public service, as defined, and other types of excluded service, as specified, subject to the payment of additional contributions, as specified.

This bill would revise and recast the provisions relating to the calculation and payment of those additional contributions and make related technical changes. The bill would require the Board of Administration of the system to inform members of certain rights under the bill's provisions, as specified.

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

SECTION 1. Section 20320 of the Government Code is amended to read:

20320. (a) A person directly appointed by the Governor, without the nomination of any officer or board, or directly appointed by the Attorney General, Lieutenant Governor, Controller, Secretary of State, Treasurer, or Superintendent of Public Instruction exempt from civil service under Article VII of the California Constitution, except those appointed pursuant to subdivision (i) of Section 4 thereof, is excluded from membership in this system unless he or she files with the board an election in writing to become a member.

(b) Upon electing to become a member, the person may further elect at any time prior to retirement to receive service credit for his or her prior, excluded state service by making the contributions as specified in Sections 21050 and 21051.



SEC. 2. Section 20322 of the Government Code is amended to read:

20322. (a) An elective officer is excluded from membership in this system unless the officer files with the board an election in writing to become a member. Upon electing to become a member, the officer may further elect at any time prior to retirement to receive service credit for his or her prior, excluded service by making the contributions as specified in Sections 21050 and 21051.

(b) As used in this part, "elective officer" includes any officer of the Senate or Assembly who is elected by vote of the members of either or both of the houses of the Legislature, and any appointive officer of a city or county occupying a fixed term of office, as well as officers of the state or contracting agencies elected by the people, and persons elected to a city council or a county board of supervisors.

(c) Notwithstanding any other provision of subdivision (a) or (b), elected or appointed officers of a county superintendent of schools, school district, or community college district, or of a contracting agency, who serve on public commissions, boards, councils, or similar legislative or administrative bodies are excluded from membership in this system. This exclusion shall only apply to those elected or appointed officers, other than city or county officers, who are first elected or appointed to an office on or after July 1, 1994, or who are elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994. For city or county elected or appointed officers, this exclusion shall only apply to those officers who are first elected or appointed to an office on or after January 1, 1997, or who are elected or appointed to a term of office not consecutive with the term of office held on December 31, 1996. This exclusion shall not apply to persons elected to a city council or county board of supervisors.

(d) Any person holding the office of city attorney or the office of assistant city attorney, whether employed, appointed, or elected, is excluded from the definition of "elective officer" as defined in subdivision (b). This subdivision shall apply only to persons first employed, elected, or appointed on or after July 1, 1994, or following any break in state service while serving in the office if the office was held on June 30, 1994.

(e) In accordance with Section 20125, the board shall be the sole judge of which elected or appointed positions qualify the incumbent as an "elective officer" in this system under this section.

(f) Notwithstanding any other provision of law, with respect to elective officers of contracting agencies, payment by a contracting agency of employer contributions and any other amounts for employer paid benefits under this system shall not be construed as receipt of salary or compensation by the elective officer for purposes of any statutory salary or compensation limitation.



SEC. 3. Section 20324 of the Government Code is amended to read:

20324. (a) An employee of the Senate or the Assembly, or the respective committees thereof, whose salaries or wages are paid from the Senate Operating Fund or the Assembly Operating Fund or the Operating Funds of the Assembly and Senate, shall be deemed a "legislative employee." A legislative employee is excluded from membership in this system unless he or she files with the board an election in writing to become a member. The election shall not be required of a legislative employee who was a member of this system on October 1, 1963.

(b) Upon electing to become a member, a legislative employee may further elect at any time prior to retirement to receive service credit for his or her prior, excluded legislative service and he or she shall have the option as to how much of that prior legislative service is to be credited. The legislative employee shall make contributions to this system as specified in Sections 21050 and 21051 for the previous service as a legislative employee for which he or she desires to receive service credit.

SEC. 4. Section 20325 of the Government Code is amended to read:

20325. (a) A county superintendent of schools, a school district, a community college district, or a contracting agency, whose respective resolution or contract contains an election to be subject to this section, may offer to its part-time employees whose service is less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 the option to elect at any time to become a member by filing an election in writing with the board to become a member. An election by a county superintendent of schools, a school district, or a community college district to be subject to this section shall subject all of its employees whose service is less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 to mandatory social security coverage but shall not, in and of itself, affect any other county superintendent of schools, school district, or community college district with respect to any social security coverage of employees of the other county superintendent of schools, school district, or community college district.

(b) If a part-time employee elects to become a member, he or she may further elect at any time prior to retirement to receive service credit for past service that was less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 by making the contributions as specified in Sections 21050 and 21051.

(c) This section shall not apply to those part-time employees of any contracting agency nor to any contracting agency until the contracting agency elects to be subject to this section by amendment



to its contract with the board made pursuant to Section 20474 or by express provision in its contract with the board.

(d) This section shall not apply to those part-time employees of any county superintendent of schools or school district or community college district nor to any county superintendent of schools or school district or community college district until the county superintendent of schools, the school district, or community college district, elects to be subject to this section by adopting a resolution to that effect and transmitting that resolution through the county superintendent of schools to the board. Notwithstanding any specified effective date in a resolution, the resolution shall not become effective until it is received by this system.

SEC. 5. Section 21006 of the Government Code is amended to read:

21006. (a) "Leave of absence" also means any time during which a state member was excused from performance of his or her duties on approved leave for the purpose of further education. Any member electing to receive service credit for that leave of absence shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who applies to make that election between January 1, 2001 and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(b) Credit granted under this section may not exceed two years.

(c) This section shall be applicable to persons who are members or became members of this system on and after January 1, 1975.

SEC. 6. Section 21007 of the Government Code is amended to read:

21007. "Leave of absence" also means any time during which a member is granted an approved leave for the purpose of service with a university; college; local, state, federal or foreign governmental agency; or nonprofit organization, if he or she returns to employment within the terms and conditions under which the leave was granted. A member may elect to receive service credit for that leave of absence at any time prior to retirement by making the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050. In no event shall a member receive service credit in excess of two years for each approved leave of absence.

SEC. 7. Section 21008 of the Government Code is amended to read:



21008. Time during which a member is excused from performance of his or her duties, whether or not he or she is required to perform any portion of those duties during that time, and for which he or she receives compensation, but in an amount less than the full compensation earnable by him or her while performing his or her duties when not so excused, such as sabbatical leave, shall be credited as service in the proportion that the compensation paid to the member bears to the full compensation that would be earnable by him or her while performing his or her duties on a full-time basis. However, the member shall receive full-time credit for the time if after returning to the employment from which he or she was excused and at any time prior to retirement he or she elects to, and does, make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

SEC. 8. Section 21013 of the Government Code is amended to read:

21013. "Leave of absence" also means any time during which a member is granted an approved maternity or paternity leave up to one year and returns to employment at the end of the approved leave for a period of time at least equal to that leave. Any member electing to receive service credit for that leave of absence shall make the contributions as specified in Sections 21050 and 21052. This section applies to both past and future maternity or paternity leaves of absences by members of the system.

SEC. 9. Section 21020 of the Government Code is amended to read:

21020. "Public service" for purposes of this article means the following:

(a) The period of time an employee served the state, a school employer, or a contracting agency prior to becoming a member, when the service was rendered in a position in which the employee was excluded provided one of the following conditions is met:

(1) The position has since become subject to compulsory membership in this system.

(2) The employee was excluded because the employee was serving on a part-time basis.

(3) The employee was excluded because the employee failed to exercise the right to elect membership under this part.

(b) Employment in the State Emergency Relief Administration or the State Relief Administration, regardless of the source of the compensation paid for that employment.

(c) Employment as an academic employee of the University of California prior to October 1, 1963.



(d) Employment by the state in which the person was not eligible for membership in this system if the ineligibility was solely because his or her compensation was paid from other than state-controlled funds. However, time spent in work as a work relief recipient under programs such as, but not limited to, the Works Progress Administration, the Civil Works Administration, the Federal Emergency Relief Administration, the National Youth Administration, and the Civilian Conservation Corps, shall not constitute public service.

(e) Employment in a function formerly performed by a public agency other than a contracting agency and assumed by a contracting agency where the employees who performed those functions are or were transferred to or employed by the contracting agency without change in occupation or position.

(f) Civilian service as an employee or officer of an agency of the government of the United States that performed functions the same as or substantially similar to those performed by this state prior to January 1, 1942, and that were transferred from the state to that agency, including military service in any branch of the Armed Forces of the United States performed by an individual on military leave of absence from that federal employment, if all the following conditions exist:

(1) Prior to performing that federal service he or she was employed by the state.

(2) He or she was laid off from state service or would have been laid off if he or she had not been absent in military service because of the transfer of the functions of the state to an agency of the United States government.

(3) Subsequent to his or her layoff from state service he or she was employed by the United States government in an agency performing functions the same as or substantially similar to those of the state agency from which he or she was laid off.

(4) After his or her separation from federal service, he or she was employed by a state agency.

(5) In lieu of paragraphs (1), (2), and (3), the United States government pays to the state or an agency of the state, funds equal to contributions that would have been made by the state had the member been in state service for the period of his or her public service with respect to members who were not employed by the state prior to entering that federal employment or whose state service prior to entering that federal employment was terminated for reasons other than the transfer of the function.

(g) Employment in a district, prior to the time the district became a subsidiary district of a city, of a person who was employed by the city following the reorganization to render service to the district and who became a member in that employment.



SEC. 10. Section 21021 of the Government Code is amended to read:

21021. “Public service” for the employee of a student body organization, that is not a contracting agency, of a community college, means the period of employment prior to becoming a member of the permanent classified service of the district pursuant to Section 76060 or 88020 of the Education Code.

The county superintendent of schools or superintendent of schools of an independently contracting community college district shall draw a requisition against the funds of the community college district for an amount equal to the total employer contribution that would have been requisitioned under Section 20617 had that service been rendered in the employ of the community college district and the employer rate and member compensation on the date of transfer had been in effect throughout the period of service credited.

The governing board may, at its discretion, establish a method of recovering a portion of, or the total liability for, the amount so requisitioned.

SEC. 11. Section 21023 of the Government Code is amended to read:

21023. (a) “Public service” with respect to a state member, other than a university member, also means the following:

(1) Time during which the member was a prisoner of war involving the United States, plus the time, if any, during which a member was hospitalized following his or her release from captivity for a disabling wound, injury, or disease directly attributable to that captivity but not to include hospitalization after the member’s honorable and permanent medical separation from the armed forces.

(2) Time between the onset of the member’s disabling wound, injury, or disease, directly attributable to service in combat with the armed forces during a war involving the United States, and the date of the member’s honorable and permanent medical separation from the armed forces due to the disabling condition, if the member has a permanent disability rating in excess of 50 percent, that percentage having been determined under applicable federal law.

(b) For the purposes of this section, a war involving the United States exists in any of the following circumstances:

(1) Whenever Congress has declared war and peace has not been formally restored.

(2) Whenever the United States is engaged in active military operations against any foreign power, whether or not a war has been formally declared.

(3) Whenever the United States is assisting the United Nations, in actions involving the use of the armed forces, to maintain or restore international peace and security.



(c) A member electing to receive credit for public service under this section shall pay the contributions and interest required pursuant to Section 21033.

(d) This section shall apply to a member only if the member elects to receive credit while he or she is a state member, other than a university member, and he or she is credited with at least 10 years of service as a state member, other than a university member, on the date of the election.

(e) The maximum public service credit that may be received pursuant to this section is five years.

(f) This section shall not apply to any member receiving military retirement pay as described in Section 20896 or disability retirement pay as described in Section 20897.

(g) Except as provided in subdivision (f), this section shall apply to a state member, other than a university member, who leaves or has left employment with the state, subsequently meets or has subsequently met the conditions specified in subdivisions (a) and (b), and thereafter returns or thereafter has returned to service as a state member, other than a university member, is not entitled to receive the service credit pursuant to Section 20991 or 20997.

SEC. 12. Section 21023.5 of the Government Code is amended to read:

21023.5. (a) "Public service" for purposes of this article also means time served, not to exceed three years, as a volunteer in the Peace Corps or AmeriCorps: Volunteers In Service To America.

(b) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

(c) Any member electing to receive credit for service under this section shall make the contributions as specified in Sections 21050 and 21052. This section applies to past and future service in the Peace Corps or AmeriCorps: Volunteers In Service To America.

SEC. 13. Section 21024 of the Government Code is amended to read:

21024. (a) "Public service" with respect to a local member, other than a school member, also means active service with the Armed Forces or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the member's first employment by the employer under this section in which he or she was a member.

(b) Any member electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of



making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service under this section shall not include military service (1) in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990), (2) that is not continuous, or (3) to the extent that total credit under this section would exceed four years.

(d) Notwithstanding Section 21034, a member may select which of two or more periods of continuous service entitles him or her to receive public service under this section.

(e) This section shall apply to a member only if he or she elects to receive credit while he or she is in state service in the employment of one employer on or after the date of the employer's election to be subject to this section.

(f) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or in the case of contracts made after this section takes effect, by express provision in the contract making the contracting agency subject to this section. The amendments to this section made during the second year of the 1999–2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

SEC. 14. Section 21027 of the Government Code is amended to read:

21027. (a) "Public service" with respect to a local member who retired pursuant to this part before the effective date of the election of his or her employer to be subject to Section 21024 also means active service with the Armed Forces or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the person's first employment by the employer under this section in which he or she was a member.

(b) Any retired person electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service shall not include military service (1) in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990), (2) that is not continuous, or (3) to the extent that total credit under this section would exceed four years.



(d) Notwithstanding Section 21034, a retired person may select which of two or more periods of continuous service entitles him or her to receive public service under this section.

(e) This section shall apply to a retired person only if he or she retired immediately following service as a local member, pursuant to this part, and before the effective date of the election by his or her employer to be subject to Section 21024.

(f) The retirement allowance of a retired person who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the effective date of the election.

(g) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency has elected to be subject to Section 21024 and elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after January 1, 1988, by express provision in the contract making the contracting agency subject to both Section 21024 and this section. The amendments to this section made during the second year of the 1999–2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

SEC. 15. Section 21029 of the Government Code is amended to read:

21029. (a) “Public service” with respect to a state member or a school member or with respect to a retired former state employee or a retired former school employee, who retired on or after December 31, 1981, also means active service, prior to entering this system as a state member or as a school member, of not less than one year in the Armed Forces of the United States, or, active service, prior to entering this system as a state or school member, of not less than one year in the Merchant Marine of the United States prior to January 1, 1950. Public service credit shall not be granted if the service described above terminated with a discharge under dishonorable conditions. The public service credit to be granted for that service shall be on the basis of one year of credit for each year of credited state service, but shall not exceed a total of four years of public service credit regardless of the number of years of either that service or subsequent state service. A state member or a school member or a retired former state employee or a retired former school employee electing to receive a credit for that public service shall have been credited with at least one year of state service on the date of election or the date of retirement.

(b) An election by a state member or a school member with respect to public service under this section may be made only while the member is in state, university, or school employment, and a retired former employee shall have retired immediately following service as a state member or as a school member. The retirement



allowance of a retired former state employee or a retired former school employee, who elects to receive public service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election. For the purposes of this section, a member as described in subdivision (d) of Section 20776, shall also mean a former state employee or a former school employee, who retired on or after December 31, 1981.

(c) A member or retired former employee who elects to become subject to this section shall make the contributions as specified in Sections 21050 and 21052.

(d) The board has no duty to locate or notify any eligible former member who is currently retired or to provide the name or address of any such retired person, agency, or entity for the purpose of notifying those persons.

SEC. 16. Section 21030 of the Government Code is amended to read:

21030. (a) "Public service" for purposes of this article also means employment under a program sponsored by, and financed at least in part by, the Comprehensive Employment and Training Act of 1973, as amended.

(b) Notwithstanding any other provision of law, a member electing to receive credit for public service under this section shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) Benefits arising from service credited to a member under this section shall become a liability of the employer for which the service was rendered.

SEC. 17. Section 21031 of the Government Code is amended to read:

21031. (a) "Public service" also means employment by a contracting agency before the effective date of its contract with the board, and is limited to that portion of the service that the agency does not provide in its contract for inclusion as prior service.

(b) A member electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21051. The election may be made at any time prior to retirement.

(c) If the contracting agency subsequently amends its contract to include a greater percentage of final compensation as prior service, the electing member shall be refunded that portion of his or her contributions made under this section as represents the additional prior service percentage contracted for by the agency plus interest at the crediting rate.



(d) If the agency pays all or a portion of the normal contributions required to be paid by a member, the contributions required under this section shall be based upon the normal contribution rate that would be applicable to that member if the agency were not paying any normal contributions under Section 20690 or 20691.

(e) This section shall not apply to any contracting agency until the agency elects to be subject to the provision of this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after March 1, 1982, by express provision in the contract making the contracting agency subject to the provisions of this section. The amendments to this section made during the second year of the 1999–2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

SEC. 18. Article 6 (commencing with Section 21050) is added to Chapter 11 of Part 3 of Division 5 of Title 2 of the Government Code, to read:

Article 6. Service Credit Election and Cost Calculation

21050. An election by a member to receive credit for service under this part, in addition to his or her current and prior service credit, shall be effective only if accompanied by a lump-sum payment or an authorization for payments, other than a lump-sum payment, in accordance with regulations of the board.

21051. A member electing to receive credit for service subject to this section shall contribute, in accordance with Section 21050, an amount equal to the following:

(a) The contributions the member would have made to the system for the period for which current service credit is granted, assuming that the rate of contribution under his or her employer's formula at the rate age applicable to him or her at the beginning of his or her first subsequent period of service in membership and his or her compensation earnable on that date had applied to the member during the period for which credit is granted.

(b) The interest that would have accrued on those contributions if they had been deposited at the beginning date of his or her first subsequent period of service in membership, from that date until the date of completion of payments.

(c) If the member is authorized under Section 21050 to contribute in other than a lump sum, interest on the unpaid balance of the amounts payable under paragraphs (1) and (2), which interest shall begin to accrue as of the date of the election to receive credit.

The beginning date of the first subsequent period of service, for purposes of computation of contributions and interest, shall be



deemed to be the end of the period of service credited for a member who has no subsequent return to service.

21052. A member or retired former employee who elects to receive service credit subject to this section shall contribute, in accordance with Section 21050, an amount equal to the increase in employer liability, using the payrate and other factors affecting liability on the date of the request for costing of the service credit. The methodology for calculating the amount of the contribution shall be determined by the chief actuary and approved by the board. A member or retired former employee electing to receive service credit for service subject to Section 21076 or 21077 shall pay the contributions as described.

21053. All contributions of a member under this article shall be deemed to be and shall be administered as normal contributions.

21054. Notwithstanding any other provision of law, a member or retired member who elected to purchase military service credit under Section 20124 or 21027 on or after January 1, 1999, and prior to January 1, 2001, may, at any time prior to making the final payment for the service credit, elect to have the cost of that service credit recalculated pursuant to Section 21052. If that cost as recalculated under Section 21052 is less than the cost as originally calculated, the member or retired member shall pay the lesser amount, with credit for the payments previously made. However, no refund shall be payable to a member or retired member as a result of the recalculation of cost pursuant to this section.

SEC. 19. The board shall inform members at least once in calendar years 2001 and 2002, and in September 2003, that the right to request costing of service credit under Section 21006, 21007, 21008, 21024, 21027, or 21030 of the Government Code, under the formulas applicable prior to January 1, 2001, shall expire on December 31, 2003.

SEC. 20. Nothing in this act shall be construed to preclude the application of Section 20160 of the Government Code to correct errors or omissions related to the costing of service credit.

