

AMENDED IN ASSEMBLY JUNE 14, 1999

SENATE BILL

No. 583

Introduced by Senator Baca

February 23, 1999

An act to amend Sections 20303, 20894, and 21754 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 583, as amended, Baca. Public employees' retirement: supplemental defined benefit plans.

The Public Employees' Retirement Law provides that a person receiving service credit in another publicly funded retirement system may not be a member of the Public Employees' Retirement System as to that service and prohibits a person from receiving service credit for the same service in 2 publicly funded retirement systems. That law also provides, however, that participation in a deferred compensation plan or money purchase pension plan and trust, as specified, shall not be deemed membership in another publicly funded retirement system or preclude concurrent participation and service credit in the PERS plan and those specified other plans.

This bill would additionally provide that participation in a supplemental defined benefit plan maintained by the employer that meets specified criteria shall not be deemed membership in another publicly funded retirement system or preclude concurrent participation and service credit in the PERS defined benefit plan and that plan if specified conditions exist.

Existing law provides that if a member’s combined benefits under the PERS plan and another benefit plan maintained by the employer exceed limits specified in federal law, the benefits payable under the PERS plan shall be reduced.

This bill would instead provide that if a member’s combined benefits under the PERS plan and other defined benefit plans maintained by the employer exceed federal limits, the benefits payable under the other defined benefit plan shall be reduced.

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 20303 of the Government Code
2 is amended to read:

3 20303. (a) Persons who are members of any other
4 retirement or pension system supported wholly or in part
5 by funds of the United States government, any state
6 government~~—or~~, or any political subdivision thereof and
7 who are receiving credit in the other system for service
8 are, as to that service, excluded from this system.

9 (b) (1) For the purpose of this section only, persons
10 who are receiving pensions~~—or~~, retirement allowances, or
11 other payments, from any source whatever, on account of
12 service rendered to an employer other than the state and
13 while they were not in state service, are not, because of
14 that receipt, members of any other retirement or pension
15 system.

16 (2) For the purposes of this section only, persons who
17 participate in a deferred compensation plan established
18 pursuant to Chapter 4 (commencing with Section 19993)
19 of Part 2.6 of Division 5 of Title 2 or established pursuant
20 to Article 1.1 (commencing with Section 53212) of
21 Chapter 2 of Part 1 of Division 2 of Title 5, are not, because
22 of that participation, members of any other retirement or
23 pension system.

24 (3) For the purposes of this section only, persons who
25 participate in a money purchase pension plan and trust
26 that meets the requirements of Section 401(a) of Title 26



1 of the United States Code are not, because of that
2 participation, members of any other retirement or
3 pension system, so long as the contracting agency has
4 received a ruling from the Internal Revenue Service
5 stating that the money purchase pension plan and trust
6 qualifies under Section 401(a) and furnishes proof
7 thereof upon request by the board.

8 (4) For the purposes of this section only, persons who
9 participate in a supplemental defined benefit plan
10 maintained by their employer that ~~meet~~ *meets* the
11 requirements of Section 401(a) of Title 26 of the United
12 States Code are not, because of that participation,
13 members of another retirement or pension system,
14 provided that all of the following conditions exist:

15 (A) The defined benefit plan provided under this part
16 has been designated as the employer's primary plan for
17 the person.

18 (B) The ~~employer~~ *supplemental defined benefit plan*
19 has received a ruling from the Internal Revenue Service
20 stating that the ~~supplemental defined benefit~~ plan
21 qualifies under Section 401(a) of Title 26 of the United
22 States Code, and has furnished proof ~~thereof upon~~
23 ~~request by the board.~~ *thereof to the employer and, upon*
24 *request, to the board.*

25 (C) The person's participation in the supplemental
26 defined benefit plan does not, in any way, interfere with
27 the person's rights to membership in the defined benefit
28 plan, or any benefit provided, under this part.

29 SEC. 2. Section 20894 of the Government Code is
30 amended to read:

31 20894. (a) A person shall not receive credit for the
32 same service in two retirement systems supported wholly
33 or in part by public funds under any circumstance.

34 (b) Nothing in this section shall preclude concurrent
35 participation and credit for service in a public retirement
36 system and in a deferred compensation plan established
37 pursuant to Chapter 4 (commencing with Section 19993)
38 of Part 2.6 or pursuant to Article 1.1 (commencing with
39 Section 53212) of Chapter 2 of Part 1 of Division 2 of Title
40 5, a tax-deferred retirement plan that meets the



1 requirements of Section 401(k) of Title 26 of the United
2 States Code, or a money purchase pension plan and trust
3 that meets the requirements of Section 401(a) of Title 26
4 of the United States Code.

5 (c) Nothing in this section shall preclude concurrent
6 participation and credit for service in the defined benefit
7 plan provided under this part and in a supplemental
8 defined benefit plan maintained by the employer that
9 meets the requirements of Section 401(a) of Title 26 of
10 the United States Code, provided all of the following
11 conditions exist:

12 (1) The defined benefit plan provided under this part
13 has been designated as the employer's primary plan for
14 the person.

15 (2) The ~~employer~~ *supplemental defined benefit plan*
16 has received a ruling from the Internal Revenue Service
17 stating that the ~~supplemental defined benefit~~ plan
18 qualifies under Section 401(a) of Title 26 of the United
19 States Code, and has furnished proof ~~thereof upon~~
20 ~~request by the board.~~ *thereof to the employer and, upon*
21 *request, to the board.*

22 (3) The person's participation in the supplemental
23 defined benefit plan does not, in any way, interfere with
24 the person's rights to membership in the defined benefit
25 plan, or any benefit provided, under this part.

26 SEC. 3. Section 21754 of the Government Code is
27 amended to read:

28 21754. In addition to the benefit limitations specified
29 in this part, if a member participates in other defined
30 benefit plans maintained by the employer, to the extent
31 the aggregation of benefits payable under those plans and
32 pursuant to Part 3 (commencing with Section 20000) are
33 subject to and exceed the limits prescribed by Section 415
34 of Title 26 of the United States Code, the benefits payable
35 pursuant to the other defined benefit plans maintained
36 by the employer shall be reduced, but not below zero, to
37 the extent necessary to satisfy Section 415, before
38 adjustments to the benefits provided under Part 3 are
39 made. Nothing in this section shall limit a member's



1 entitlement to replacement benefits as provided by
2 Section 21757.

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