

Senate Bill No. 583

CHAPTER 474

An act to amend Sections 20303, 20894, and 21754 of, and to add Sections 20225.5 and 20815.5 to, the Government Code, relating to public employees' retirement.

[Approved by Governor September 23, 1999. Filed
with Secretary of State September 23, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 583, Baca. Public Employees' Retirement System.

The Public Employees' Retirement Law requires the assets and liabilities arising out of contracts with school employers to be merged.

This bill would authorize the creation of separate risk pools for local and school miscellaneous, local safety, and school safety members, as specified, and would authorize the assets and liabilities of contracting agencies and school districts participating in the same risk pool to be combined for purposes of setting employer contribution rates.

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.

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

SECTION 1. Section 20225.5 is added to the Government Code, to read:

20225.5. (a) Notwithstanding Sections 20616, 20618, and 20815, the board may create separate risk pools for local and school miscellaneous, local safety, and school safety members. Should a contracting agency or school district choose to participate in a risk pool, the assets and liabilities with respect to the affected member classification shall be combined with those of the pool.

(b) Within six months after the effective date of any new option available to contracting agencies or school districts, the board shall (1) notify all contracting agencies and school districts participating in a risk pool created under subdivision (a) of the availability and approximate cost of the new option, (2) include the new option in at least one of the risk pools applicable to each member category to which the new option may apply and previously created under subdivision (a), and (3) notify the contracting agencies and school districts of their options if they are participating in a risk pool to which the new option is added and choose not to offer the new option to their employees.

(c) This section shall not apply to any contracting agency or school district nor to the employees of any contracting agency or school district 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 contract made after this section takes effect, by express provision in the contract making the contracting agency subject to this section.

SEC. 2. Section 20303 of the Government Code is amended to read:

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

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

(2) For the purposes of this section only, persons who participate in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6 of Division 5 of Title 2 or established pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, are not, because



of that participation, members of any other retirement or pension system.

(3) For the purposes of this section only, persons who participate in a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code are not, because of that participation, members of any other retirement or pension system, so long as the contracting agency has received a ruling from the Internal Revenue Service stating that the money purchase pension plan and trust qualifies under Section 401(a) and furnishes proof thereof upon request by the board.

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

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

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

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

SEC. 3. Section 20815.5 is added to the Government Code, to read:

20815.5. Notwithstanding Sections 20618 and 20815, the assets and liabilities of contracting agencies and school districts electing to be subject to Section 20225.5 shall be combined for purposes of setting employer contributions for public agencies participating in the same risk pool.

SEC. 4. Section 20894 of the Government Code is amended to read:

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

(b) Nothing in this section shall preclude concurrent participation and credit for service in a public retirement system and in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, a tax-deferred retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code,



or a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

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

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

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

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

SEC. 5. Section 21754 of the Government Code is amended to read:

21754. In addition to the benefit limitations specified in this part, if a member participates in other defined benefit plans maintained by the employer, to the extent the aggregation of benefits payable under those plans and pursuant to Part 3 (commencing with Section 20000) are subject to and exceed the limits prescribed by Section 415 of Title 26 of the United States Code, the benefits payable pursuant to the other defined benefit plans maintained by the employer shall be reduced, but not below zero, to the extent necessary to satisfy Section 415, before adjustments to the benefits provided under Part 3 are made. Nothing in this section shall limit a member's entitlement to replacement benefits as provided by Section 21757.

