

AMENDED IN SENATE AUGUST 20, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 192**

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**Introduced by ~~Committee on Budget (Evans (Chair), Arambula, Beall, Blumenfield, Brownley, Caballero, Carter, De La Torre, Feuer, Hill, Huffman, Monning, Ruskin, and Swanson)~~ Assembly Member Gatto**

**(Coauthors: Assembly Members De La Torre, Bonnie Lowenthal, Nava, Smyth, Audra Strickland, and Torrico)**

February 2, 2009

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An act relating to the ~~Budget Act of 2009~~ to add Section 20808.5 to the Government Code, relating to public employee retirement benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 192, as amended, ~~Committee on Budget Gatto. Budget Act of 2009. Public retirement benefits: excess salaries.~~

*The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to its employees based on age at retirement, service credit, and final or highest compensation paid to the employee. In the case of an employee who has been employed by one or more contracting public agencies, retirement benefits distributed to that employee is the obligation of all of contracting public agency employers and is prorated to each of the contracting public agencies based upon the number of years that the employee worked for each of those agencies.*

*This bill would provide that the obligations for retirement benefits that are attributable to excess compensation earned by a nonrepresented employee who was employed by one or more public agencies shall be the sole obligation of the subsequent contracting agency that paid the*

*excess compensation. This bill would define “excess compensation” as the final compensation of an employee of a contracting agency who previously worked for another contracting agency to the extent the final compensation received from the current contracting agency is in excess of 15% of the salary paid by the prior contracting agency, as adjusted for actuarial increases in that salary.*

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.~~

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

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

1 SECTION 1. Section 20808.5 is added to the Government Code,  
2 to read:

3 20808.5. (a) (1) Notwithstanding any other law, the  
4 contributions and disbursements of benefits for that portion of the  
5 compensation of an employee of a contracting agency that  
6 constitutes excessive compensation shall be the sole obligation of  
7 the current contracting agency that paid the excessive  
8 compensation to that employee.

9 (2) The liability of any prior contracting agency for the  
10 contributions and disbursements of benefits of that employee shall  
11 be limited to contributions and other assets sufficient to fund a  
12 retirement allowance calculated using the amount of the  
13 employee’s final compensation at the time he or she terminated  
14 his or her service with the prior contracting agency and any  
15 amount that is not excess compensation.

16 (b) For purposes of this section, “excessive compensation” is  
17 the final compensation of an employee of a contracting agency  
18 who previously worked for another contracting agency to the extent  
19 the final compensation received from the current contracting  
20 agency is in excess of 15 percent of the salary paid by the prior  
21 contracting agency, as adjusted for actuarial increases in that  
22 salary.

23 (c) This section shall not apply to any employee who is covered  
24 by a memorandum of understanding or to any employee who is a  
25 member of a recognized employee organization as that term is  
26 defined in Section 3501.

1     (d) The actuary, in determining contributions required of  
2     contracting agencies, subject to this section, shall establish a  
3     contribution with respect to excessive compensation separate from  
4     and independent of the contribution required for other benefits  
5     under their contracts. The total contribution, in that case, for the  
6     agencies as a group shall be established and from time to time  
7     adjusted by actuarial valuation performed by the actuary of the  
8     liability for the benefit or benefits on account of the employees of  
9     all those agencies. Adjustments shall affect only future  
10    contributions and shall take into account the difference between  
11    contributions on hand and the amount required to fund the  
12    allowances or benefits for which entitlement has already been  
13    established as well as liability for future entitlements to benefits.  
14    The contribution as so established and adjusted from time to time  
15    shall be allocated between the agencies on a basis that, in the  
16    opinion of the board, after recommendation of the actuary,  
17    provides an equitable distribution between the agencies as required  
18    by this section. However, the allocation shall not be based on  
19    differences in the incidence of death or disability in the respective  
20    agencies.

21    (e) (1) Whenever the board, pursuant to subdivision (d),  
22    establishes a separate contribution, it shall maintain the  
23    contribution and any contributions required to be made by  
24    employees towards the cost of the benefit or benefits as a separate  
25    account, which shall be available only for payment of the benefit  
26    or benefits and shall not be a part of the accumulated contributions  
27    under this system of any of the employers or members included.

28    (2) All contributions in that account, irrespective of the agency  
29    from which they were received, shall be available for payment of  
30    the benefit or benefits with respect to the employees of any agency  
31    included. In the event of termination of any agency's participation  
32    in this system, the liability with respect to all those benefits to  
33    which the agency's employees have become entitled, after  
34    establishment of the rate and prior to the termination, shall be its  
35    contributions, as established under subdivision (d), that have  
36    become due and payable as of the date of termination.

37    (f) The board and each contracting agency shall modify each  
38    contract to reflect the requirements of this section on or before  
39    July 1, 2011.

1 SECTION 1. ~~It is the intent of the Legislature to enact statutory~~  
2 ~~changes relating to the Budget Act of 2009.~~

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