AMENDED IN SENATE AUGUST 22, 2011

AMENDED IN SENATE JULY 1, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 1184

Introduced by Assembly Member Gatto
(Coauthors: Assembly Members Blumenfield, Gordon, Jeffries, Smyth, and Williams)
(Coauthor: Senator Liu)

February 18, 2011

An act to amend Section 21757 of, and to add Section 20791 to, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1184, as amended, Gatto. Public employees' retirement benefits.

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. Existing law authorizes any public agency to participate in, and make its employees members of, PERS by contract. In the case of an employee who has been employed by one or more contracting public agencies, retirement benefits distributed to that employee are based on the highest final compensation under any system, and each system makes a separate retirement payment to the employee based upon the number of years that the employee worked for each of those agencies.

This bill would state the intent of the Legislature that a contracting agency not experience a significant increase in actuarial liability due to increased compensation paid by another contracting agency to a nonrepresented employee. The bill would require the Board of Administration of PERS to develop guidelines in this regard and to implement program changes to ensure that a contracting agency that creates a significant increase in actuarial liability due to increased compensation bears the associated liability. The bill would require the system actuary to assess an increase in liability in this regard to the employer that created it at the time the increase is determined and to make adjustments to that employer's rates as needed. The bill would apply these requirements to any significant increase in actuarial liability due to increased compensation paid to a nonrepresented employee regardless of when the increase in compensation occurred. The bill would require the board to report to the Legislature on the implementation of these provisions.

Existing law requires the Board of Administration of PERS to establish a plan of replacement benefits for members and any survivors or beneficiaries whose retirement benefits are limited by a specified provision of federal law and that cannot be fully maximized pursuant to PERL.

This bill would prohibit a plan of replacement benefits from being administered by the board for a person who first becomes a member on or after January 1, 2013.

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

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

~~SECTION 1. Section 20791 is added to the Government Code, to read:~~

~~20791. (a)~~

SECTION 1. It is the intent of the Legislature, *by adding Section 20791 to the Government Code pursuant to Section 2 of this act,* that a contracting agency shall not experience a significant increase in actuarial liability due to increased compensation paid by another contracting agency to a nonrepresented employee subject to ~~this part~~ *the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code).*

~~(b)~~

SEC. 2. Section 20791 is added to the Government Code, to read:

20791. (a) The board shall develop requirements for defining a significant increase in actuarial liability due to increased compensation paid to a nonrepresented employee and to implement program changes to ensure that a contracting agency that creates a significant increase in actuarial liability due to increased compensation paid to a nonrepresented employee that would also apply to another contracting agency or agencies shall instead bear that liability.

~~(c)~~

(b) The system actuary, in accordance with the requirements established pursuant to subdivision ~~(b)~~ *(a)*, shall assess the increase in liability to the employer that created it at the time the increase is determined and shall make adjustments to that employer's rates as needed to comply with the requirements.

~~(d)~~

(c) This section shall not apply to compensation paid to an employee for service performed while covered by a memorandum of understanding or to compensation paid for service performed while a member of a recognized employee organization as that term is defined in Section 3501.

~~(e)~~

(d) This section shall apply to any significant increase in actuarial liability, due to increased compensation paid to a nonrepresented employee, that is determined after January 1, 2012, regardless of when the increase in compensation occurred.

~~(f)~~

(e) (1) No later than June 30, 2012, in compliance with Section 9795, the board shall report to the Legislature on the implementation of this section. The report shall include an explanation of the guidelines developed by the board pursuant to this section and an assessment of the implementation and effectiveness of the guidelines.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on June 30, 2016, pursuant to Section 10231.5.

~~SEC. 2.~~

SEC. 3. Section 21757 of the Government Code is amended to read:

21757. (a) If the retirement benefits of any member or his or her survivors or beneficiaries payable pursuant to Part 3 (commencing with Section 20000) would be limited by Section 415 of Title 26 of the United States Code, the board shall adjust the payment of those benefits, including, but not limited to, cost-of-living adjustments, cost-of-living banks, temporary annuities, survivor continuance benefits, or any combinations thereof, in order to maximize benefits within the limits of Section 415.

(b) The board shall establish a plan of replacement benefits for members and any survivors or beneficiaries whose retirement benefits are limited by Section 415 and cannot be fully maximized pursuant to Part 3 (commencing with Section 20000). The benefits provided by that plan may consist of deferred compensation, cash payments, health benefits, or supplemental disability benefits, as shall be determined by the board to give effect to the purpose of this part. The factors the board may take into consideration in making its determination shall include, but not be limited to, the following: legal constraints, administrative feasibility, and cost effectiveness. The board may periodically modify the replacement benefits plan and may add or eliminate any type of replacement benefits, as necessary, to carry out the purpose of this part. The administrative costs of the replacement benefits plan shall be satisfied out of funds credited to the accounts of the participant members, and shall not be paid from the retirement fund or the retirement trust fund of a participating agency.

(c) The application of Section 415 to benefits provided under Part 3 (commencing with Section 20000) and this part shall not be taken into account for purposes of determining employers' or employees' contribution rates, until replacement benefits are implemented pursuant to Section 21758.

(d) Under no circumstances shall the replacement benefit plan result in increased benefit costs to an employer, member, or annuitant.

(e) The board shall not administer a plan of replacement benefits for a person who first becomes a member on or after January 1, 2013.

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