Senate Bill No. 277

CHAPTER 755

An act to amend Sections 22960.99, 22970.10, 22970.19, 22970.31, 22970.58, 22970.60, 22970.62, 22970.855, and 22970.89 of, to add Section 22960.4 to, and to repeal Section 22960.100 of, the Government Code, relating to public employees' retirement, and making an appropriation therefor.

[Approved by Governor October 11, 2013. Filed with Secretary of State October 11, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 277, Beall. State Peace Officers' and Firefighters' Defined Contribution Plan.

Existing law establishes the State Peace Officers' and Firefighters' Defined Contribution Plan for state peace officer/firefighter members in State Bargaining Unit 6, the California Correctional Peace Officers Association, and others as specified. Under existing law, the plan applies to state peace officer and firefighter members in State Bargaining Unit 8 who have become subject by a memorandum of understanding. Existing law authorizes the plan to be provided to state peace officers or firefighters who meet stated criteria, if the Department of Human Resources has approved their inclusion for coverage. The moneys in the State Peace Officers' and Firefighters' Defined Contribution Plan Fund are continuously appropriated. Existing law entitles a participant in the plan to a lump-sum distribution of the balance of his or her account, or installment payments if he or she is entitled to $5,000 or more, upon separation from all service for the employer for any reason other than death, disability, or retirement.

Existing law requires the Board of Administration of the Public Employees' Retirement System to administer the Supplemental Contributions Program and requires contributions by eligible employees, as defined, participating in the program to be deposited in the Supplemental Contributions Program Fund, a continuously appropriated fund.

This bill would require that contributions to the State Peace Officers' and Firefighters' Defined Contribution Plan cease, prohibit new members from participating in the plan, and would require that the plan be terminated as prescribed. The bill would repeal those provisions extending plan coverage to State Bargaining Unit 8 and certain state peace officers or firefighters. The bill would require all moneys in the State Peace Officers' and Firefighters' Defined Contribution Plan Fund to be distributed, as specified, including requiring that, if not elected otherwise, amounts that become payable from the fund be rolled over under existing federal law to the Supplemental Contributions Program. The bill would provide for rollover contributions to separate rollover contribution accounts in the Supplemental Contributions Program, as specified, and would provide for the distribution of amounts held in the participant's account.

The bill would authorize participants to elect investment fund options, as specified, in the Supplemental Contributions Program. The bill would provide that a fiduciary of the program is not liable for losses resulting from investments in fund options selected by participants or provided to participants who fail to select an option. The bill would require that certain rollover contributions be invested in the applicable target retirement date fund investment fund option available until the participant elects another investment fund option. The bill would also make various clarifying and technical changes in the Supplemental Contributions Program. By changing the circumstances under which moneys in the State Peace Officers' and Firefighters' Defined Contribution Fund would be distributed, and by providing for an increase in contributions to the Supplemental Contributions Program, this bill would make an appropriation.

Appropriation: yes.

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

SECTION 1. Section 22960.4 is added to the Government Code, to read:

22960.4. (a) The Legislature finds and declares that an agreement between the exclusive representative of state peace officer and firefighter members in State Bargaining Unit 6 and the employer has eliminated the employer contributions to the plan provided in Section 22960.60.

(b) The following shall occur:

(1) All contributions to the plan shall cease.

(2) New participants shall be prohibited from participating in the plan.

(3) The plan shall be terminated on the later of January 1, 2014, or upon obtaining appropriate approvals from the Internal Revenue Service, including a favorable determination letter on plan termination from the Internal Revenue Service.

(4) Subject to paragraph (3), all moneys in the fund shall be distributed in accordance with this part and federal law. If not elected otherwise, amounts that become payable from the fund under this section shall be rolled over under Section 401(a)(31) of Title 26 of the United States Code to the Supplemental Contributions Program established in accordance with Section 22970.

SEC. 2. Section 22960.99 of the Government Code is amended to read:

22960.99. (a) The plan's obligations to a participant, beneficiary, or nonparticipant spouse who has applied for a lump-sum benefit cease upon distribution of the lump-sum benefit.

(1) Deposit in the United States mail of a warrant drawn in favor of the participant, beneficiary, or nonparticipant spouse and addressed to the latest address on file for that person constitutes distribution of the benefit.

(2) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant, beneficiary, or nonparticipant spouse constitutes distribution of the benefit.

(3) If the participant, beneficiary, or nonparticipant spouse has elected on a form prescribed by the board to transfer all or a specific portion of the account that is eligible for a direct trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of the United States Code, deposit in the United States mail of a notice that the requested transfer has been made constitutes distribution of the benefit.

(b) The plan's obligations to a participant, beneficiary, or nonparticipant spouse who elected to receive a benefit in the form of installment payments or an annuity cease upon distribution of the final payment.

(1) Deposit in the United States mail of a warrant drawn in favor of the participant, beneficiary, or nonparticipant spouse and addressed to the latest address on file for that person constitutes distribution of the benefit.

(2) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant, beneficiary, or nonparticipant spouse constitutes distribution of the benefit.

(c) Distribution under paragraph (1), (2), or (3) of subdivision (a) or paragraph (1) or (2) of subdivision (b) pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of persons constitutes a complete discharge and release of the board, system, and plan from liability for payments.

(d) Distribution under paragraph (4) of subdivision (b) of Section 22960.4 constitutes a complete discharge and release of the board, system, and plan from liability for payments, and the board and system shall not be treated as fiduciaries with respect to a transfer of funds from the plan to the Supplemental Contributions Program in accordance with Section 22970.

SEC. 3. Section 22960.100 of the Government Code is repealed.

SEC. 4. Section 22970.10 of the Government Code is amended to read:

22970.10. "Account" means the account maintained with respect to the participant that reflects the aggregate value of the following amounts credited to the participant:

(a) Employee after-tax contributions to the plan.

(b) Net earnings of the Supplemental Contributions Program allocable to the participant.

(c) Any amount credited to the participant's account by reason of a transfer or a rollover from another plan or arrangement in accordance with applicable laws.

SEC. 5. Section 22970.19 of the Government Code is amended to read:

22970.19. "Net earnings" means the income earned, or losses incurred, after asset management fees, on the applicable investment fund options offered under the Supplemental Contributions Program, less the costs of administering the plan.

SEC. 6. Section 22970.31 of the Government Code is amended to read:

22970.31. (a) The board shall adopt a plan instrument embodying the material terms and conditions of the plan consistent with this part and the applicable provisions of Title 26 of the United States Code.

(b) The board may, as it deems necessary or appropriate, amend the plan consistent with this part and the applicable provisions of Title 26 of the United States Code.

(c) A fiduciary of the plan shall not be liable for any loss that results from the individual investment fund option selected by a participant or the plan's designated default option for investment of contributions by participants who do not provide affirmative instruction on how to invest their contributions.

SEC. 7. Section 22970.58 of the Government Code is amended to read:

22970.58. The board may permit a participant to transfer funds, including eligible rollover contributions, from an eligible retirement plan into this plan to the extent that the transfers are allowed under applicable federal and state laws, and pursuant to the terms and conditions established by the board. The plan may accept rollover contributions made in accordance with paragraph (4) of subdivision (b) of Section 22960.4 if the board establishes a separate rollover contribution account for each participant or beneficiary who makes such rollover contributions for the purpose of holding those contributions. Rollover contributions made in accordance with paragraph (4) of subdivision (b) of Section 22960.4, shall be invested in the applicable target retirement date fund investment fund option available under the plan until the participant elects another investment fund option available under the plan in accordance with the terms and conditions established by the board.

SEC. 8. Section 22970.60 of the Government Code is amended to read:

22970.60. (a) Contributions made to the plan by the participant shall be credited to the participant's account.

(b) Subject to the terms and conditions established by the board, a participant may elect to have all or a portion of the participant's account in one or more investment fund options available under the plan.

SEC. 9. Section 22970.62 of the Government Code is amended to read:

22970.62. The net earnings of the applicable investment fund option available under the plan shall be allocated to the participant's account as of each valuation date.

SEC. 10. Section 22970.855 of the Government Code is amended to read:

22970.855. The board may permit a participant to withdraw some or all of his or her after-tax contributions without requiring the participant to terminate from the plan to the extent that this in-service distribution is allowed under applicable federal and state laws, and pursuant to the terms and conditions established by the board. A participant may apply for a distribution of amounts held in the participant's separate rollover contribution account established pursuant to Section 22970.58 at any time before that participant's termination of employment, to the extent that an in-service distribution is allowed under applicable federal and state law, and pursuant to the terms and conditions established by the board.

SEC. 11. Section 22970.89 of the Government Code is amended to read:

22970.89. (a) The plan's obligations to a participant, beneficiary, or nonparticipant spouse who elected a lump-sum distribution cease upon distribution of the lump-sum benefit.

(1) Deposit in the United States mail of a warrant drawn in favor of the participant, beneficiary, or nonparticipant spouse and addressed to the latest address on file for that person constitutes distribution of the benefit.

(2) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant, beneficiary, or nonparticipant spouse constitutes distribution of the benefit.

(3) If the participant, beneficiary, or nonparticipant spouse has elected on a form prescribed by the board to transfer all or a specific portion of the account that is eligible for a direct trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of the United States Code to the trustee of an eligible retirement plan, deposit in the United States mail of a notice that the requested transfer has been made constitutes distribution of the benefit.

(b) The plan's obligations to a participant or beneficiary who elected to receive a benefit in the form of partial distributions cease upon distribution of the final payment.

(1) Deposit in the United States mail of a warrant drawn in favor of the participant or beneficiary and addressed to the latest address on file for that person constitutes distribution of the benefit.

(2) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant or beneficiary constitutes distribution of the benefit.

(c) Distribution under paragraph (1), (2), or (3) of subdivision (a) or paragraph (1) or (2) of subdivision (b) pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of persons constitutes a complete discharge and release of the board, system, and plan from liability for payments.

(d) This section shall not apply to a permissible in-service distribution pursuant to Section 22970.855 if the participant account is only partially distributed.

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