

ASSEMBLY BILL

No. 3252

Introduced by Assembly Member Kaloogian

February 23, 1996

An act to add Chapter 21.6 (commencing with Section 7522) to Division 7 of Title 1 of the Government Code, relating to public employees, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 3252, as introduced, Kaloogian. Public employees: retirement.

Existing law establishes various public retirement systems for state and local public agency employees.

This bill would establish the Public Employees' Defined Contribution Retirement System for state and other local public agency employees whose employees elect to participate in the system. The system would be administered by the Public Employees' Consolidated Retirement Board and on and after July 1, 1997, the system shall be the single retirement program for new state public agency employees whose employment commences on or after that date and who would have been state miscellaneous members of the Public Employees' Retirement System. Present state employees would be authorized to elect membership in the defined contribution system in lieu of continued membership in their existing system. The bill would establish the Public Employees' Defined Contribution Retirement Fund in the State Treasury and provide that all moneys would be continuously appropriated for payments of the system.

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

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

1 SECTION 1. Chapter 21.6 (commencing with
2 Section 7522) is added to Division 7 of Title 1 of the
3 Government Code, to read:

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CHAPTER 21.6. PUBLIC EMPLOYEES' DEFINED
CONTRIBUTION RETIREMENT SYSTEM

8 7522. This chapter shall be known and may be cited
9 as the Public Employees' Defined Contribution
10 Retirement System Law.

11 7522.1. As used in this chapter, unless the context
12 clearly requires a different meaning:

13 (a) "Defined contribution system" or "system" means
14 the defined contribution retirement system created and
15 established by this chapter.

16 (b) "Existing retirement system" means any state or
17 local public retirement system in existence on January 1,
18 1997.

19 (c) "Existing employer" means any public employer
20 of a member of the existing retirement system.

21 (d) "Board" means the Public Employees'
22 Consolidated Retirement Board created and established
23 to administer the provisions of this chapter.

24 (e) "Member" or "employee" means any person
25 employed full-time by the state or any local public agency
26 that elects to be included in the system.

27 (f) "Year of employment service" means full-time
28 employment for at least 10 months, a month being
29 defined as 20 employment days. No more than one year
30 of service may be accumulated in any 12-month period.

31 (g) "Employer" means the state or local public agency
32 that employs a member.

33 (h) "Compensation" means the full compensation
34 actually received by members for service provided by the
35 state or local public agency.



1 (i) “Member contribution” means an amount reduced
2 from the employee’s regular pay periods, and deposited
3 into the member’s individual annuity account within the
4 defined contribution system.

5 (j) “Employer contribution” means an amount
6 deposited into the member’s individual annuity account
7 on a periodic basis coinciding with the employee’s regular
8 pay period by an employer from its own funds.

9 (k) “Annuity account” or “annuity” means an account
10 established for each member to record the deposit of
11 member and employer contributions and interest,
12 dividends, or other accumulations credited on behalf of
13 the member.

14 (l) “Retirement” means a member’s withdrawal from
15 the active employment of a participating employer and
16 completion of all conditions precedent to retirement.

17 (m) “Permanent, total disability” means a mental or
18 physical incapacity requiring the absence from
19 employment service for at least six months.

20 (n) “Fund” means the Public Employees’ Defined
21 Contribution Retirement System Fund.

22 7522.2. The Public Employees’ Defined Contribution
23 Retirement System is hereby created and established to
24 provide for the secure, fair, and orderly retirement of the
25 state and local public agency employees in this state.

26 7522.3. The provisions of this chapter shall be liberally
27 construed to provide a general annuity based retirement
28 system for state and local public agency employees. The
29 purpose of this chapter is to provide a defined
30 contribution retirement program that is fully funded on
31 a current basis from employer and employee
32 contributions.

33 7522.4. (a) The Public Employees’ Consolidated
34 Retirement Board is hereby established to administer the
35 system.

36 (b) It consists of:

37 _____
38 (c) The board may sue and be sued, contract and be
39 contracted with, and conduct all the business of the
40 system.



1 7522.5. (a) The board has all powers necessary to
2 effectuate the purposes of this chapter. The board shall
3 determine and charge reasonable costs of administering
4 the system. The board shall contract with a private
5 pension, insurance, annuity, mutual fund, or other
6 qualified company or companies to administer the
7 day-to-day operations of the system.

8 (b) The Public Employees' Defined Contribution
9 Retirement System Fund is hereby created and is a trust
10 fund in the State Treasury administered by the board in
11 accordance with this chapter and Section 17 of Article
12 XVI of the California Constitution. Notwithstanding
13 Section 13340, all moneys in the fund are continuously
14 appropriated, without regard to fiscal years, for
15 administrative costs and payments which shall be made
16 upon warrants drawn by the Controller upon demands
17 made by the board.

18 7522.6. Any state employee who is a member of any
19 existing retirement system may, upon written election,
20 voluntarily elect membership in the defined contribution
21 system, on a prospective basis, on or after July 1, 1997, in
22 lieu of continued membership in the retirement system.
23 All benefits earned by any employee making that
24 voluntary election under the existing retirement system
25 prior to a voluntary election shall be made available to
26 that employee upon retirement as provided by the
27 existing retirement system. A member of the existing
28 retirement system who has less than five years of service
29 in an existing retirement system may irrevocably elect to
30 withdraw his or her contributions plus interest thereon as
31 if the member is terminating employment and upon
32 withdrawal transfer the funds to the defined contribution
33 system. The member's years of contributing service in the
34 existing system shall be applied for the years of
35 employment service required under this chapter. After
36 having made an election, the employee may not change
37 that election or again become a member of the existing
38 retirement system.

39 7522.7. (a) On and after July 1, 1997, the Public
40 Employees' Defined Contribution Retirement System,



1 rather than the Public Employees' Retirement System,
2 shall be the retirement program for new state employees
3 whose employment commences on or after that date and
4 who would have become state miscellaneous members of
5 the Public Employees' Retirement System. No additional
6 new state employees except as may be provided in this
7 chapter may be admitted as state miscellaneous members
8 of the Public Employees' Retirement System. Members
9 of the Public Employees' Retirement System whose
10 employment continues beyond July 1, 1997, shall not be
11 affected by this chapter and may continue to contribute
12 and participate in the existing system.

13 (b) The governing body of any local public agency and
14 the Board of Regents of the University of California may
15 elect at any time to have all or part of their employees
16 participate in this system.

17 (c) Any state member of the Public Employees'
18 Retirement System who is not a state miscellaneous
19 member may elect to participate in this system rather
20 than the Public Employees' Retirement System.

21 (d) Notwithstanding any other provision of law, any
22 employee whose employment terminates after June 30,
23 1997, and is later reemployed by an employer shall be
24 eligible for membership only this system.

25 (e) An employee whose employment with a former
26 employer or an existing employer is suspended as a result
27 of an approved leave of absence, approved maternity or
28 paternity break in service, or any other approved break
29 in service authorized by the board, is eligible for
30 readmission to the existing retirement system in which he
31 or she was a member.

32 (f) In all cases where a question exists as to readmission
33 to membership in the existing retirement system, the
34 board shall decide the question.

35 7522.8. (a) Each employee who is a member of the
36 defined contribution system shall contribute 4¹/₂ percent
37 of his or her monthly gross compensation by salary
38 reduction. Those salary reductions shall be made by the
39 employer at the normal payroll intervals and shall be
40 remitted within five working days to the private pension,



1 insurance, annuity, mutual fund, or other qualified
2 company or companies designated by the board to
3 administer the day-to-day operations of the system.

4 (b) All member contributions shall be immediately
5 deposited in the fund to an account or accounts
6 established in the name of the member and held in trust
7 for the benefit of the member. An account agreement
8 shall be issued to each member setting forth the terms
9 and conditions under which contributions are received,
10 and the investment and retirement options available to
11 the member. The board, on or before June 30, 1997, shall
12 adopt rules defining the minimum requirements for the
13 investment and retirement options to be provided to the
14 members. The adoption, repeal, amendment, or
15 modification of the rules shall not be subject to the
16 Administrative Procedure Act (Chapter 3.5
17 commencing with Section 11340) of Part 1 of Division 3
18 of Title 2).

19 (c) The rules, to the extent not inconsistent with the
20 applicable provisions of the Internal Revenue Code of the
21 United States, shall provide for varied retirement options
22 including, but not limited to:

23 (1) Lump sum distributions.

24 (2) Joint and survivor annuities.

25 (3) Other annuity forms in the discretion of the board.

26 (4) Variable annuities that gradually increase monthly
27 retirement payments. Those increased payments shall be
28 funded solely by the existing current value of the
29 member's account at the time of the member's
30 retirement payments commence and not, to any extent,
31 in a manner that would require additional employer or
32 employee contributions to any member's account after
33 retirement or after the cessation of employment.

34 (5) The instances in which, if any, distributions or loans
35 may be made to members from their annuity account
36 balances prior to having attained the age of 55 years.

37 (d) The board shall study the feasibility of employees
38 making personal contributions to the defined
39 contribution system in addition to those required by this
40 section and the impact of the United States Internal



1 Revenue Code upon those contributions. The results of
2 the study and recommendations for legislation to
3 authorize additional payments shall be presented to the
4 committee on retirement of each house of the Legislature
5 on or before January 1, 1998.

6 7522.9. Each participating employer shall make a
7 monthly contribution equal to $7\frac{1}{2}$ percent of each
8 member's gross compensation. The pro rata share of this
9 amount shall be paid into the fund upon each date that a
10 member contribution is made and shall be remitted for
11 credit to the member's annuity account. Each
12 participating employer has a fiduciary duty to its
13 employees to ensure that the employer contributions are
14 timely made.

15 In the event that any payment is not timely made, the
16 participating employer shall immediately give to the
17 employee and the Controller notice in writing of
18 nonpayment, in the form and accompanied by the
19 documentation as may be required by the Controller and
20 shall be subject to an interest penalty determined by the
21 board.

22 7522.10. Any member whose employment with a
23 participating employer terminates shall be eligible to
24 terminate his or her annuity account and receive a
25 distribution of all funds contributed and earnings
26 accumulated in his or her annuity account. However, on
27 the death or permanent, total disability of any member,
28 that member shall be eligible to terminate his or her
29 annuity account and receive all funds contributed and
30 earnings accumulated in his or her annuity account.

31 7522.11. At any time after an employee reaches the
32 age of 55 years, he or she may elect to take retirement by
33 notifying the board or its designee in writing of that
34 intention not less than 60 days prior to the effective date
35 of retirement. Retirement payments shall commence
36 within 30 days of the retirement date under the payment
37 option or options as may be provided by the board and
38 elected by the employee.

39 7522.12. (a) The amount of annuity payments a
40 retired member shall receive shall be based solely upon



1 the balance in the member's annuity account at the date
2 of retirement, the retirement option selected, or in the
3 event of an annuity option being selected, the actuarial
4 life expectancy of the member, and the other factors as
5 normally govern annuity payments.

6 (b) The board, or its designee, is authorized upon
7 retirement of a member, with the approval of that
8 member, to purchase an annuity with the balance of the
9 member's account. Upon delivery of the annuity to the
10 member upon his or her retirement, the member shall
11 execute a release surrendering any claim the member
12 may have against the retirement trust.

13 7522.13. The board shall authorize the private
14 pension, insurance, annuity, mutual fund, or other
15 qualified company or companies with whom it contracts
16 to make available to members those supplemental
17 annuity options, disability, and other insurance or
18 benefits as the board deems appropriate. Those
19 supplemental annuities, insurance, and benefits shall be
20 funded solely from employee contributions.

21 7522.14. The board shall prepare or cause to be
22 prepared, on an annual basis, an account statement for
23 each member's annuity account. The statement shall
24 include, but not be limited to, a statement of the current
25 market value of the member's account. The board shall
26 prescribe the form and content of the account statement
27 not inconsistent with this section.

28 7522.15. The right of any person to a benefit under
29 this chapter and the money in any account and the fund
30 are not be subject to execution or any process whatsoever,
31 except to the extent permitted by Section 704.110 of the
32 Code of Civil Procedure, and are unassignable, except as
33 specifically provided in this chapter.

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