

AMENDED IN ASSEMBLY APRIL 22, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3252**

**Introduced by Assembly Member Kaloogian**

February 23, 1996

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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 amended, 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~~ *Plan* 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~~ *Defined Contribution* Retirement Board and on and after ~~July~~ *January* 1, 1997, ~~the system shall be the single retirement program for new bargaining units representing 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 would be authorized to reach agreement with the employer to have their members participate. Present state employees would be authorized to elect membership in the defined contribution system~~

*retirement plan* in lieu of continued membership in their existing system *and the existing retirement system would be required to transfer the actuarial present value, as defined, to the plan administrator.* 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:

4  
5 CHAPTER 21.6. PUBLIC EMPLOYEES’ DEFINED  
6 CONTRIBUTION RETIREMENT ~~SYSTEM~~ PLAN  
7

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

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

13 (a) *“Accrued service benefit” means the amount,*  
14 *determined actuarially, that represents the present value*  
15 *of an employee’s projected retirement benefit earned*  
16 *through the date on which a payment is made to a defined*  
17 *contribution retirement plan by an existing retirement*  
18 *system for the benefit of an individual account. In order*  
19 *to determine the present value of the projected benefit,*  
20 *the discount rate for investment earnings and the*  
21 *assumptions for projected salary increases shall be*  
22 *approved by the board. At the employer’s written*  
23 *election, the accrued services benefit shall also include an*  
24 *employee’s pro rata share of any actuarially determined*  
25 *excess of plan assets compared to accrued liabilities in the*  
26 *existing retirement system on the reporting date prior to*  
27 *the employer’s election to make a defined contribution*



1 *retirement plan available to a specific group of*  
2 *employees.*

3 (b) ~~“Defined contribution system” or “system” plan~~  
4 ~~or “plan”~~ means the defined contribution retirement  
5 ~~system plan~~ created and established by this chapter.

6 ~~(b)~~

7 (c) ~~“Existing retirement system”~~ means any state or  
8 local public retirement system ~~in existence on January 1,~~  
9 ~~1997.~~

10 ~~(c)~~

11 (d) ~~“Existing employer”~~ means any public employer  
12 of a member of the existing retirement system.

13 ~~(d)~~

14 (e) ~~“Board”~~ means the Public Employees’  
15 ~~Consolidated Retirement Defined Contribution~~  
16 ~~Retirement Plan~~ Board created and established to  
17 administer the provisions of this chapter.

18 ~~(e)~~

19 (f) ~~“Member” or “employee”~~ means any person  
20 employed ~~full-time~~ by the state or any local public agency  
21 that elects to be included in the ~~system plan~~.

22 ~~(f) “Year of employment service” means full-time~~  
23 ~~employment for at least 10 months, a month being~~  
24 ~~defined as 20 employment days. No more than one year~~  
25 ~~of service may be accumulated in any 12-month period.~~

26 (g) ~~“Employer”~~ means the state or local public agency  
27 that employs a member.

28 (h) ~~“Compensation”~~ means the full compensation  
29 actually received by members for service provided by the  
30 state or local public agency.

31 (i) ~~“Member contribution”~~ means an amount reduced  
32 from the employee’s regular pay periods, and deposited  
33 into the member’s individual ~~annuity~~ account within the  
34 defined contribution ~~system plan~~.

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

39 (k) ~~“Annuity account” or “annuity”~~ *Individual*  
40 *account” or “account”* means an account *in the defined*



1 *contribution plan* established for each member to record  
2 the deposit of member and employer contributions and  
3 ~~interest, dividends, or other accumulations credited~~  
4 *earnings there on* on behalf of the member.

5 (l) "Retirement" means a member's withdrawal from  
6 the active employment of a participating employer and  
7 completion of all conditions precedent to retirement.

8 (m) "Permanent, total disability" means a mental or  
9 physical incapacity requiring the absence from  
10 employment service for at least six months.

11 (n) "Fund" means the Public Employees' Defined  
12 Contribution Retirement ~~System~~ *Plan* Fund.

13 7522.2. The Public Employees' Defined Contribution  
14 Retirement ~~System~~ *Plan* is hereby created and  
15 established to ~~provide for the secure, fair, and orderly~~  
16 ~~retirement of the state and local public agency employees~~  
17 ~~in this state.~~ *provide state and other public agency*  
18 *employees with the opportunity for retirement savings*  
19 *and for the orderly administration of the defined*  
20 *contribution retirement plan.*

21 7522.3. The provisions of this chapter shall be liberally  
22 construed to provide a ~~general annuity based retirement~~  
23 ~~system~~ *an alternative retirement plan* for state and local  
24 public agency employees. The purpose of this chapter is  
25 to provide a defined contribution retirement program  
26 that is fully funded on a current basis from employer and  
27 employee contributions.

28 7522.4. (a) The Public Employees' ~~Consolidated~~  
29 ~~Retirement~~ *Defined Contribution Retirement Plan*  
30 Board is hereby established to administer the ~~system~~ *plan*.

31 (b) It consists of:

- 32 \_\_\_\_\_
- 33 (1) *Two local government officials appointed by the*
- 34 *Governor.*
- 35 (2) *The Director of the Department of Personnel*
- 36 *Administration.*
- 37 (3) *The Controller.*
- 38 (4) *The Treasurer.*



1 (5) *One person from the active or retired membership*  
2 *of the defined contribution retirement plan appointed by*  
3 *the Speaker of the Assembly.*

4 (6) *One person from the active or retired membership*  
5 *of the defined contribution retirement plan appointed by*  
6 *the Senate Committee On Rules.*

7 (c) The board may sue and be sued, contract and be  
8 contracted with, and conduct all the business of the  
9 ~~system~~ plan.

10 7522.5. (a) The board has all powers necessary to  
11 effectuate the purposes of this chapter. The board shall  
12 determine and charge reasonable costs of administering  
13 the system. The board shall contract with a private  
14 pension, insurance, annuity, mutual fund, or other  
15 qualified company or companies to administer the  
16 day-to-day operations of the ~~system~~ plan.

17 (b) The Public Employees' Defined Contribution  
18 Retirement ~~System~~ Plan Fund is hereby created and is a  
19 trust fund in the State Treasury administered by the  
20 board in accordance with this chapter and Section 17 of  
21 Article XVI of the California Constitution.  
22 Notwithstanding Section 13340, all moneys in the fund are  
23 continuously appropriated, without regard to fiscal years,  
24 for administrative costs and payments which shall be  
25 made upon warrants drawn by the Controller upon  
26 demands made by the board.

27 7522.6. *Any state or other public agency employee*  
28 *who is a member of any existing retirement system on the*  
29 *effective date specified in an agreement between the*  
30 *employees' bargaining unit and the employer may, in lieu*  
31 *of continued or exclusive participation in an existing*  
32 *retirement system and upon written election, voluntarily*  
33 *and irrevocably elect membership in a defined*  
34 *contribution retirement plan offered by the employer.*  
35 *The administrator of the defined contribution retirement*  
36 *plan shall notify the existing retirement system of the*  
37 *employee's election and of the employee's service record*  
38 *and compensation history within 45 days of that election,*  
39 *and the existing retirement system, within 45 days, shall*  
40 *transfer to the plan administrator a payment equal to the*



1 actuarial present value of the employee's accrued service  
2 benefit on the date of the transfer. The amount so  
3 transferred shall be credited to the employee's individual  
4 account.

5 7522.7. (a) On or after January 1, 1997, any  
6 bargaining unit representing new state employees upon  
7 reaching an agreement with the employer may elect to  
8 have those employees participate in the defined  
9 contribution retirement plan.

10 (b) The governing body of any local public agency and  
11 the Regents of the University of California may elect at  
12 any time to permit some or all of their employees to  
13 participate in the defined contribution retirement plan  
14 either as an alternative or as a supplement to an existing  
15 retirement system. Those employers may contract with  
16 an existing retirement system for elective partial defined  
17 benefit options in order to facilitate retirement or benefit  
18 plans through which employees may elect to receive a  
19 reduced defined benefit option and a supplemental  
20 complementary defined contribution retirement plan.  
21 Those employers may require new employees to  
22 participate in the defined contribution retirement plan,  
23 provided that no employee covered by a bargaining  
24 agreement shall be required to participate if the  
25 participation would be in contravention of the terms of  
26 that agreement. Any plan provided by a local agency shall  
27 include more than one employee-directed investment  
28 fund appropriate for investment by public employees,  
29 and an educational program, approved by the board or  
30 the employer, that explains to employees considering  
31 their elections the probable and possible benefits and  
32 risks of defined benefit and defined contribution  
33 retirement plans, and alternative investment strategies  
34 suitable for public employees.

35 (c) Any bargaining unit representing state members  
36 of the Public Employees' Retirement System who are not  
37 state miscellaneous members upon reaching an  
38 agreement with the employer may elect to participate in  
39 the defined contribution retirement plan rather than the  
40 Public Employees' Retirement System.



1 (d) The Department of Personnel Administration  
2 shall provide for the participation in the defined  
3 contribution retirement plan by state employees who are  
4 excluded from, or otherwise not subject to, collective  
5 bargaining.

6 (e) Notwithstanding any other provision of law, any  
7 employee whose employment terminates after January 1,  
8 1997, and is later reemployed by an employer shall be  
9 eligible for membership only in this plan unless that  
10 participation would be in contravention of a bargaining  
11 agreement.

12 (f) An employee whose employment with a former  
13 employer or an existing employer is suspended as a result  
14 of an approved leave of absence, approved maternity or  
15 paternity break in service, or any other approved break  
16 in service authorized by the board, is eligible for  
17 readmission to the existing retirement system in which he  
18 or she was a member.

19 (g) In all cases where a question exists as to  
20 readmission to membership in the existing retirement  
21 system, the board shall decide the question.

22 7522.8. The board or the local agency employer or its  
23 agent in conjunction with this plan, may purchase group  
24 annuity contracts, individual retirement annuities,  
25 disability insurance investment contracts, securities,  
26 interest in trusts and other financial instruments, health  
27 care benefit plans, and group insurance as necessary or  
28 appropriate for the plan to provide retirement and  
29 related benefits comparable to those provided under an  
30 existing retirement system. Selections of plan  
31 administrators, annuities, and insurance products shall be  
32 conducted through a competitive selection process. If  
33 requested by a participating employer, an existing  
34 retirement system shall provide an actuarially  
35 determined optional disability benefit option and  
36 employer contribution rate for employees who elect to  
37 participate in a defined contribution retirement plan.

38 7522.9. The board or the plan administrator shall  
39 prepare, or cause to be prepared, at least quarterly a  
40 statement for each member's individual account. The



1 statement shall include the current market value of the  
2 account, including self-directed investment options, an  
3 itemization of changes in the account, the amount vested,  
4 and other information as may be required by the board  
5 or the participating employer. The board or the employer  
6 shall arrange for an independent audit of the plan's assets  
7 unless the audit is provided for by a third party  
8 organization.

9 ~~7522.6. Any state employee who is a member of any~~  
10 ~~existing retirement system may, upon written election,~~  
11 ~~voluntarily elect membership in the defined contribution~~  
12 ~~system, on a prospective basis, on or after July 1, 1997, in~~  
13 ~~lieu of continued membership in the retirement system.~~  
14 ~~All benefits earned by any employee making that~~  
15 ~~voluntary election under the existing retirement system~~  
16 ~~prior to a voluntary election shall be made available to~~  
17 ~~that employee upon retirement as provided by the~~  
18 ~~existing retirement system. A member of the existing~~  
19 ~~retirement system who has less than five years of service~~  
20 ~~in an existing retirement system may irrevocably elect to~~  
21 ~~withdraw his or her contributions plus interest thereon as~~  
22 ~~if the member is terminating employment and upon~~  
23 ~~withdrawal transfer the funds to the defined contribution~~  
24 ~~system. The member's years of contributing service in the~~  
25 ~~existing system shall be applied for the years of~~  
26 ~~employment service required under this chapter. After~~  
27 ~~having made an election, the employee may not change~~  
28 ~~that election or again become a member of the existing~~  
29 ~~retirement system.~~

30 ~~7522.7. (a) On and after July 1, 1997, the Public~~  
31 ~~Employees' Defined Contribution Retirement System,~~  
32 ~~rather than the Public Employees' Retirement System,~~  
33 ~~shall be the retirement program for new state employees~~  
34 ~~whose employment commences on or after that date and~~  
35 ~~who would have become state miscellaneous members of~~  
36 ~~the Public Employees' Retirement System. No additional~~  
37 ~~new state employees except as may be provided in this~~  
38 ~~chapter may be admitted as state miscellaneous members~~  
39 ~~of the Public Employees' Retirement System. Members~~  
40 ~~of the Public Employees' Retirement System whose~~



1 ~~employment continues beyond July 1, 1997, shall not be~~  
2 ~~affected by this chapter and may continue to contribute~~  
3 ~~and participate in the existing system.~~

4 ~~(b) The governing body of any local public agency and~~  
5 ~~the Board of Regents of the University of California may~~  
6 ~~elect at any time to have all or part of their employees~~  
7 ~~participate in this system.~~

8 ~~(c) Any state member of the Public Employees'~~  
9 ~~Retirement System who is not a state miscellaneous~~  
10 ~~member may elect to participate in this system rather~~  
11 ~~than the Public Employees' Retirement System.~~

12 ~~(d) Notwithstanding any other provision of law, any~~  
13 ~~employee whose employment terminates after June 30,~~  
14 ~~1997, and is later reemployed by an employer shall be~~  
15 ~~eligible for membership only this system.~~

16 ~~(e) An employee whose employment with a former~~  
17 ~~employer or an existing employer is suspended as a result~~  
18 ~~of an approved leave of absence, approved maternity or~~  
19 ~~paternity break in service, or any other approved break~~  
20 ~~in service authorized by the board, is eligible for~~  
21 ~~readmission to the existing retirement system in which he~~  
22 ~~or she was a member.~~

23 ~~(f) In all cases where a question exists as to readmission~~  
24 ~~to membership in the existing retirement system, the~~  
25 ~~board shall decide the question.~~

26 ~~7522.8. (a) Each employee who is a member of the~~  
27 ~~defined contribution system shall contribute 4<sup>1</sup>/<sub>2</sub> percent~~  
28 ~~of his or her monthly gross compensation by salary~~  
29 ~~reduction. Those salary reductions shall be made by the~~  
30 ~~employer at the normal payroll intervals and shall be~~  
31 ~~remitted within five working days to the private pension,~~  
32 ~~insurance, annuity, mutual fund, or other qualified~~  
33 ~~company or companies designated by the board to~~  
34 ~~administer the day-to-day operations of the system.~~

35 ~~(b) All member contributions shall be immediately~~  
36 ~~deposited in the fund to an account or accounts~~  
37 ~~established in the name of the member and held in trust~~  
38 ~~for the benefit of the member. An account agreement~~  
39 ~~shall be issued to each member setting forth the terms~~  
40 ~~and conditions under which contributions are received;~~



1 and the investment and retirement options available to  
2 the member. The board, on or before June 30, 1997, shall  
3 adopt rules defining the minimum requirements for the  
4 investment and retirement options to be provided to the  
5 members. The adoption, repeal, amendment, or  
6 modification of the rules shall not be subject to the  
7 Administrative Procedure Act (Chapter 3.5  
8 (commencing with Section 11340) of Part 1 of Division 3  
9 of Title 2).

10 (e) The rules, to the extent not inconsistent with the  
11 applicable provisions of the Internal Revenue Code of the  
12 United States, shall provide for varied retirement options  
13 including, but not limited to:

14 (1) Lump sum distributions.

15 (2) Joint and survivor annuities.

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

17 (4) Variable annuities that gradually increase monthly  
18 retirement payments. Those increased payments shall be  
19 funded solely by the existing current value of the  
20 member's account at the time of the member's  
21 retirement payments commence and not, to any extent,  
22 in a manner that would require additional employer or  
23 employee contributions to any member's account after  
24 retirement or after the cessation of employment.

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

28 (d) The board shall study the feasibility of employees  
29 making personal contributions to the defined  
30 contribution system in addition to those required by this  
31 section and the impact of the United States Internal  
32 Revenue Code upon those contributions. The results of  
33 the study and recommendations for legislation to  
34 authorize additional payments shall be presented to the  
35 committee on retirement of each house of the Legislature  
36 on or before January 1, 1998.

37 7522.9. Each participating employer shall make a  
38 monthly contribution equal to  $7\frac{1}{2}$  percent of each  
39 member's gross compensation. The pro rata share of this  
40 amount shall be paid into the fund upon each date that a



1 ~~member contribution is made and shall be remitted for~~  
2 ~~credit to the member's annuity account. Each~~  
3 ~~participating employer has a fiduciary duty to its~~  
4 ~~employees to ensure that the employer contributions are~~  
5 ~~timely made.~~

6 ~~In the event that any payment is not timely made, the~~  
7 ~~participating employer shall immediately give to the~~  
8 ~~employee and the Controller notice in writing of~~  
9 ~~nonpayment, in the form and accompanied by the~~  
10 ~~documentation as may be required by the Controller and~~  
11 ~~shall be subject to an interest penalty determined by the~~  
12 ~~board.~~

13 ~~7522.10. Any member whose employment with a~~  
14 ~~participating employer terminates shall be eligible to~~  
15 ~~terminate his or her annuity account and receive a~~  
16 ~~distribution of all funds contributed and earnings~~  
17 ~~accumulated in his or her annuity account. However, on~~  
18 ~~the death or permanent, total disability of any member,~~  
19 ~~that member shall be eligible to terminate his or her~~  
20 ~~annuity account and receive all funds contributed and~~  
21 ~~earnings accumulated in his or her annuity account.~~

22 ~~7522.11. At any time after an employee reaches the~~  
23 ~~age of 55 years, he or she may elect to take retirement by~~  
24 ~~notifying the board or its designee in writing of that~~  
25 ~~intention not less than 60 days prior to the effective date~~  
26 ~~of retirement. Retirement payments shall commence~~  
27 ~~within 30 days of the retirement date under the payment~~  
28 ~~option or options as may be provided by the board and~~  
29 ~~elected by the employee.~~

30 ~~7522.12. (a) The amount of annuity payments a~~  
31 ~~retired member shall receive shall be based solely upon~~  
32 ~~the balance in the member's annuity account at the date~~  
33 ~~of retirement, the retirement option selected, or in the~~  
34 ~~event of an annuity option being selected, the actuarial~~  
35 ~~life expectancy of the member, and the other factors as~~  
36 ~~normally govern annuity payments.~~

37 ~~(b) The board, or its designee, is authorized upon~~  
38 ~~retirement of a member, with the approval of that~~  
39 ~~member, to purchase an annuity with the balance of the~~  
40 ~~member's account. Upon delivery of the annuity to the~~



1 member upon his or her retirement, the member shall  
2 execute a release surrendering any claim the member  
3 may have against the retirement trust.

4 7522.13. The board shall authorize the private  
5 pension, insurance, annuity, mutual fund, or other  
6 qualified company or companies with whom it contracts  
7 to make available to members those supplemental  
8 annuity options, disability, and other insurance or  
9 benefits as the board deems appropriate. Those  
10 supplemental annuities, insurance, and benefits shall be  
11 funded solely from employee contributions.

12 7522.14. The board shall prepare or cause to be  
13 prepared, on an annual basis, an account statement for  
14 each member's annuity account. The statement shall  
15 include, but not be limited to, a statement of the current  
16 market value of the member's account. The board shall  
17 prescribe the form and content of the account statement  
18 not inconsistent with this section.

19 7522.15. The right of any person to a benefit under  
20 this chapter and the money in any account and the fund  
21 are not be subject to execution or any process whatsoever,  
22 except to the extent permitted by Section 704.110 of the  
23 Code of Civil Procedure, and are unassignable, except as  
24 specifically provided in this chapter.

