

AMENDED IN ASSEMBLY MAY 28, 1996  
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 Plan~~ *authorize state and local agency employers to provide defined contribution retirement plans* for state and other local public agency employees ~~whose employees who~~ elect to participate in the system. The ~~system plans~~ would be administered by the ~~Public Employees' Defined Contribution Retirement Board~~ *state and local employers* and on and after January 1, 1997, bargaining units representing state employees would be authorized to reach agreement with the employer to have their members participate in the defined contribution 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 *for the state defined contribution plan* and provide that all moneys would be continuously appropriated for payments of the ~~system~~ *plan*.

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 ~~PLAN~~ *PLANS*  
7

8 7522. This chapter shall be known and may be cited  
9 as the Public Employees’ Defined Contribution  
10 Retirement 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~~ *by the actuary of the existing*  
15 *retirement system*, that represents the present value of  
16 an employee’s ~~projected~~ *accrued* retirement benefit  
17 earned through the date on which a payment is made to  
18 a defined contribution retirement plan by an existing  
19 retirement system for the benefit of an individual  
20 account. In order to determine the present value of the  
21 ~~projected~~ *accrued* benefit, the discount rate for  
22 investment earnings and the assumptions for ~~projected~~  
23 ~~salary increases~~ *current final average compensation* shall  
24 be approved by the ~~board~~ *employer*. At the employer’s  
25 written election, the accrued services benefit shall also  
26 include an employee’s pro rata share of any actuarially  
27 determined excess of plan assets compared to accrued  
28 liabilities in the existing retirement system on the



1 reporting date prior to the employer's election to make  
2 a defined contribution retirement plan available to a  
3 specific group of employees.

4 ~~(b) "Defined contribution plan" or "plan" means the~~  
5 ~~defined contribution retirement plan created and~~  
6 ~~established by this chapter.~~

7 *(b) "Defined contribution plan" or "plan" means the*  
8 *defined contribution plans authorized by this chapter as*  
9 *those plans may be established by the state or individual*  
10 *local public agencies.*

11 (c) "Existing retirement system" means any state or  
12 local public retirement system.

13 (d) "Existing employer" means any public employer  
14 of a member of the existing retirement system.

15 ~~(e) "Board" means the Public Employees' Defined~~  
16 ~~Contribution Retirement Plan Board created and~~  
17 ~~established to administer the provisions of this chapter.~~

18 ~~(f)~~

19 (e) "Member" or "employee" means any person,  
20 *other than a safety employee*, employed by the state or  
21 any local public agency that elects to be included in ~~the~~  
22 a plan.

23 ~~(g)~~

24 (f) "Employer" means the state or local public agency,  
25 *including, but not limited to, school districts*, that employs  
26 a member. "Employer" *does not include the California*  
27 *State University.*

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

31 (g) "Compensation" *means the remuneration paid by*  
32 *the employer in payment for the employee's services*  
33 *during normal working hours, but does not include the*  
34 *monetary value of any other advantages furnished to the*  
35 *employee.*

36 ~~(i)~~

37 (h) "Member contribution" means an amount  
38 reduced from the employee's regular pay periods, and  
39 deposited into the member's individual account within  
40 ~~the~~ a defined contribution plan.



1 ~~(j)~~

2 (i) "Employer contribution" means an amount  
3 deposited into the member's individual account on a  
4 periodic basis coinciding with the employee's regular pay  
5 period by an employer from its own funds.

6 ~~(k)~~

7 (j) "Individual account" or "account" means an  
8 account in ~~the~~ a defined contribution plan established for  
9 each member to record the deposit of member and  
10 employer contributions and earnings there on on behalf  
11 of the member.

12 ~~(l)~~

13 (k) "Retirement" means a member's withdrawal from  
14 the active employment of a participating employer and  
15 completion of all conditions precedent to retirement.

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

19 ~~(n)~~

20 (l) "Fund" means the Public Employees' Defined  
21 Contribution Retirement Plan Fund.

22 ~~7522.2. The Public Employees' Defined Contribution  
23 Retirement Plan is hereby created and established to  
24 provide state and other public agency employees with  
25 the opportunity for retirement savings and for the  
26 orderly administration of the defined contribution  
27 retirement plan.~~

28 ~~7522.3. The provisions of this chapter shall be liberally  
29 construed to provide an alternative retirement plan for  
30 state and local public agency employees. The purpose of  
31 this chapter is to provide a defined contribution  
32 retirement program that is fully funded on a current basis  
33 from employer and employee contributions.~~

34 *7522.2. Public employees' defined contribution plans  
35 may provide a framework under which the state and each  
36 local public agency are authorized to create defined  
37 contribution plans for their respective employees that are  
38 tailored to each employer's individual needs and that  
39 provide the opportunity for retirement savings and for  
40 the orderly administration of the plans.*



1 7522.3. (a) *This chapter shall be liberally construed*  
2 *to authorize alternative retirement plans for state and*  
3 *local public agency employees. The purpose of this*  
4 *chapter is to authorize the state and local public agencies*  
5 *to provide defined contribution retirement plans that are*  
6 *fully funded on a current basis from employer or*  
7 *employee contributions, or both.*

8 (b) *In no event may the state or any local public*  
9 *agency fail to continue to offer membership in any*  
10 *retirement system in existence on January 1, 1997, to*  
11 *current employees, new employees, or retirees.*

12 (c) *Defined contribution plans shall be established*  
13 *and administered in accordance with the requirements*  
14 *for qualified retirement or eligible deferred*  
15 *compensation plans respectively under the Internal*  
16 *Revenue Code of 1986, as amended.*

17 7522.4. (a) The Public Employees' Defined  
18 Contribution Retirement Plan Board is hereby  
19 established to administer the plan.

20 (b) It consists of:

21 (1) Two local government officials appointed by the  
22 Governor.

23 (2) The Director of the Department of Personnel  
24 Administration.

25 (3) The Controller.

26 (4) The Treasurer.

27 (5) One person from the active or retired membership  
28 of the defined contribution retirement plan appointed by  
29 the Speaker of the Assembly.

30 (6) One person from the active or retired membership  
31 of the defined contribution retirement plan appointed by  
32 the Senate Committee On Rules.

33 (c) The board may sue and be sued, contract and be  
34 contracted with, and conduct all the business of the plan.

35 7522.5. (a) The ~~board~~ employer has all powers  
36 necessary to effectuate the purposes of this chapter. The  
37 ~~board~~ employer shall determine and charge reasonable  
38 costs of administering the system. The ~~board~~—shall  
39 employer may contract with existing public retirement  
40 systems or may contract with a private pension,



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

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

14 7522.6. Any state or other public agency employee  
15 who is a member of any existing retirement system on the  
16 effective date specified in an agreement between the  
17 employees' bargaining unit and the employer may, in lieu  
18 of continued or exclusive participation in an existing  
19 retirement system and upon written election, voluntarily  
20 ~~and irrevocably~~ elect membership in a defined  
21 contribution retirement plan offered by the employer.  
22 The administrator of the defined contribution retirement  
23 plan shall notify the existing retirement system of the  
24 employee's election and of the employee's service record  
25 and compensation history within 45 days of that election,  
26 and the existing retirement system, within 45 days, shall  
27 transfer to the plan administrator a payment equal to the  
28 actuarial present value of the employee's accrued service  
29 benefit on the date of the transfer. The amount so  
30 transferred shall be credited to the employee's individual  
31 account.

32 7522.7. (a) On or after January 1, 1997, any  
33 bargaining unit representing new state employees upon  
34 reaching an agreement with the employer may elect to  
35 ~~have those employees participate in the defined~~  
36 ~~contribution retirement plan.~~ *offer participation in the*  
37 *defined contribution plan to those employees.*

38 (b) The governing body of any local public agency and  
39 the Regents of the University of California may elect at  
40 any time to permit some or all of their employees to



1 participate in ~~the~~ a defined contribution retirement plan  
2 either as an alternative or as a supplement to an existing  
3 retirement system. Those employers may contract with  
4 an existing retirement system for elective partial defined  
5 benefit options in order to facilitate retirement or benefit  
6 plans through which employees may elect to receive a  
7 reduced defined benefit option and a supplemental  
8 complementary defined contribution retirement plan.  
9 ~~Those employers may require new employees to~~  
10 ~~participate in the defined contribution retirement plan,~~  
11 ~~provided that no employee covered by a bargaining~~  
12 ~~agreement shall be required to participate if the~~  
13 ~~participation would be in contravention of the terms of~~  
14 ~~that agreement.~~ Any plan provided by a local agency shall  
15 include more than one employee-directed investment  
16 fund appropriate for investment by public employees,  
17 and an educational program, approved by the ~~board~~  
18 *employer* or the employer, that explains to employees  
19 considering their elections the probable and possible  
20 benefits and risks of defined benefit and defined  
21 contribution retirement plans, and alternative  
22 investment strategies suitable for public employees.

23 ~~(e) Any bargaining unit representing state members~~  
24 ~~of the Public Employees' Retirement System who are not~~  
25 ~~state miscellaneous members upon reaching an~~  
26 ~~agreement with the employer may elect to participate in~~  
27 ~~the defined contribution retirement plan rather than the~~  
28 ~~Public Employees' Retirement System.~~

29 ~~(d)~~

30 (c) The Department of Personnel Administration  
31 shall provide for the participation in the defined  
32 contribution retirement plan by state employees who are  
33 excluded from, or otherwise not subject to, collective  
34 bargaining. *Those employees shall be given the right to*  
35 *voluntarily elect membership in a defined contribution*  
36 *plan.*

37 ~~(e) Notwithstanding any other provision of law, any~~  
38 ~~employee whose employment terminates after January 1,~~  
39 ~~1997, and is later reemployed by an employer shall be~~  
40 ~~eligible for membership only in this plan unless that~~



1 ~~participation would be in contravention of a bargaining~~  
2 ~~agreement.~~

3 ~~(f)~~

4 *(d) Any employee whose employment terminates*  
5 *after January 1, 1997, and is later reemployed by an*  
6 *employer shall be eligible for membership in either the*  
7 *existing retirement system or the defined contribution*  
8 *plan, unless the latter participation would be in*  
9 *contravention of a bargaining agreement.*

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

17 ~~*(g) readmission to the plan in which he or she was a*~~  
18 ~~*member at the time the break in service began.*~~

19 *(f) In all cases where a question exists as to readmission*  
20 ~~*to membership in the existing retirement system, the*~~  
21 ~~*board shall decide the question. the readmission to*~~  
22 ~~*membership in a plan, the employer shall decide the*~~  
23 ~~*question.*~~

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



1 7522.9. The ~~board or the~~ plan administrator shall  
2 prepare, or cause to be prepared, at least quarterly a  
3 statement for each member's individual account. The  
4 statement shall include the current market value of the  
5 account, including self-directed investment options, an  
6 itemization of changes in the account, the amount vested,  
7 and other information as may be required by the board  
8 or the participating employer. The board or the employer  
9 shall arrange for an independent audit of the plan's assets  
10 unless the audit is provided for by a third party  
11 organization.

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