

AMENDED IN SENATE JUNE 5, 1996  
AMENDED IN ASSEMBLY MAY 28, 1996  
AMENDED IN ASSEMBLY APRIL 22, 1996

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3252**

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**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 authorize state and local agency employers to provide defined contribution retirement plans for state and other local public agency employees who elect to participate in the system. The plans would be administered by the 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 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 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 by the actuary of the existing retirement  
15 system, that represents the present value of an  
16 employee’s accrued retirement benefit earned through  
17 the date on which a payment is made to a defined  
18 contribution retirement plan by an existing retirement  
19 system for the benefit of an individual account. In order  
20 to determine the present value of the accrued benefit, the  
21 discount rate for investment earnings and the  
22 assumptions for current final average compensation shall  
23 be approved by the employer. At the employer’s written  
24 election, the accrued services benefit shall also include an  
25 employee’s pro rata share of any actuarially determined  
26 excess of plan assets compared to accrued liabilities in the  
27 existing retirement system on the reporting date prior to  
28 the employer’s election to make a defined contribution  
29 retirement plan available to a specific group of  
30 employees.



1 (b) “Defined contribution plan” or “plan” means the  
2 defined contribution plans authorized by this chapter as  
3 those plans may be established by the state or individual  
4 local public agencies.

5 (c) “Existing retirement system” means any state or  
6 local public retirement system.

7 (d) “Existing employer” means any public employer  
8 of a member of the existing retirement system.

9 (e) “Member” or “employee” means any person,  
10 other than a safety employee, employed by the state or  
11 any local public agency that elects to be included in a  
12 plan.

13 (f) “Employer” means the state or local public agency,  
14 including, but not limited to, school districts, that employs  
15 a member. “Employer” does not include the California  
16 State University.

17 (g) “Compensation” means the remuneration paid by  
18 the employer in payment for the employee’s services  
19 during normal working hours, but does not include the  
20 monetary value of any other advantages furnished to the  
21 employee.

22 (h) “Member contribution” means an amount  
23 reduced from the employee’s regular pay periods, and  
24 deposited into the member’s individual account within a  
25 defined contribution plan.

26 (i) “Employer contribution” means an amount  
27 deposited into the member’s individual account on a  
28 periodic basis coinciding with the employee’s regular pay  
29 period by an employer from its own funds.

30 (j) “Individual account” or “account” means an  
31 account in a defined contribution plan established for  
32 each member to record the deposit of member and  
33 employer contributions and earnings there on on behalf  
34 of the member.

35 (k) “Retirement” means a member’s withdrawal from  
36 the active employment of a participating employer and  
37 completion of all conditions precedent to retirement.

38 (l) “Fund” means the Public Employees’ Defined  
39 Contribution Retirement Plan Fund.



1 7522.2. Public employees' defined contribution plans  
 2 may provide a framework under which the state and each  
 3 local public agency are authorized to create defined  
 4 contribution plans for their respective employees that are  
 5 tailored to each employer's individual needs and that  
 6 provide the opportunity for retirement savings and for  
 7 the orderly administration of the plans.

8 7522.3. (a) This chapter shall be liberally construed  
 9 to authorize alternative retirement plans for state and  
 10 local public agency employees. The purpose of this  
 11 chapter is to authorize the state and local public agencies  
 12 to provide defined contribution retirement plans that are  
 13 fully funded on a current basis from employer or  
 14 employee contributions, or both.

15 (b) In no event may the state or any local public  
 16 agency fail to continue to offer membership in any  
 17 retirement system in existence on January 1, 1997, to  
 18 current employees, new employees, or retirees.

19 (c) Defined contribution plans shall be established  
 20 and administered in accordance with the requirements  
 21 for qualified retirement or eligible deferred  
 22 compensation plans respectively under the Internal  
 23 Revenue Code of 1986, as amended.

24 ~~7522.4. (a) The Public Employees' Defined~~  
 25 ~~Contribution Retirement Plan Board is hereby~~  
 26 ~~established to administer the plan.~~

27 ~~(b) It consists of:~~

28 ~~(1) Two local government officials appointed by the~~  
 29 ~~Governor.~~

30 ~~(2) The Director of the Department of Personnel~~  
 31 ~~Administration.~~

32 ~~(3) The Controller.~~

33 ~~(4) The Treasurer.~~

34 ~~(5) One person from the active or retired membership~~  
 35 ~~of the defined contribution retirement plan appointed by~~  
 36 ~~the Speaker of the Assembly.~~

37 ~~(6) One person from the active or retired membership~~  
 38 ~~of the defined contribution retirement plan appointed by~~  
 39 ~~the Senate Committee on Rules.~~



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

3 7522.5. (a) The employer has all powers necessary to  
4 effectuate the purposes of this chapter. The employer  
5 shall determine and charge reasonable costs of  
6 administering the system. The employer may contract  
7 with existing public retirement systems or may contract  
8 with a private pension, insurance, annuity, mutual fund,  
9 or other qualified company or companies to administer  
10 the day-to-day operations of the plan.

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

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

39 7522.7. (a) On or after January 1, 1997, any  
40 bargaining unit representing new state employees upon



1 reaching an agreement with the employer may elect to  
2 offer participation in the defined contribution plan to  
3 those employees.

4 (b) The governing body of any local public agency and  
5 the Regents of the University of California may elect at  
6 any time to permit some or all of their employees to  
7 participate in a defined contribution retirement plan  
8 either as an alternative or as a supplement to an existing  
9 retirement system. Those employers may contract with  
10 an existing retirement system for elective partial defined  
11 benefit options in order to facilitate retirement or benefit  
12 plans through which employees may elect to receive a  
13 reduced defined benefit option and a supplemental  
14 complementary defined contribution retirement plan.  
15 Any plan provided by a local agency shall include more  
16 than one employee-directed investment fund  
17 appropriate for investment by public employees, and an  
18 educational program, approved by the employer or the  
19 employer, that explains to employees considering their  
20 elections the probable and possible benefits and risks of  
21 defined benefit and defined contribution retirement  
22 plans, and alternative investment strategies suitable for  
23 public employees.

24 (c) The Department of Personnel Administration  
25 shall provide for the participation in the defined  
26 contribution retirement plan by state employees who are  
27 excluded from, or otherwise not subject to, collective  
28 bargaining. Those employees shall be given the right to  
29 voluntarily elect membership in a defined contribution  
30 plan.

31 (d) Any employee whose employment terminates  
32 after January 1, 1997, and is later reemployed by an  
33 employer shall be eligible for membership in either the  
34 existing retirement system or the defined contribution  
35 plan, unless the latter participation would be in  
36 contravention of a bargaining agreement.

37 (e) An employee whose employment with a former  
38 employer or an existing employer is suspended as a result  
39 of an approved leave of absence, approved maternity or  
40 paternity break in service, or any other approved break



1 in service authorized by the ~~board~~ employer, is eligible  
2 for readmission to the plan in which he or she was a  
3 member at the time the break in service began.

4 (f) In all cases where a question exists as to the  
5 readmission to membership in a plan, the employer shall  
6 decide the question.

7 7522.8. The employer or its agent in conjunction with  
8 this plan, may purchase group annuity contracts,  
9 individual retirement annuities, disability insurance  
10 investment contracts, securities, interest in trusts and  
11 other financial instruments, health care benefit plans, and  
12 group insurance as necessary or appropriate for the plan  
13 to provide retirement and related benefits comparable to  
14 those provided under an existing retirement system.  
15 Selections of plan administrators, annuities, and  
16 insurance products shall be conducted through a  
17 competitive selection process. If requested by a  
18 participating employer, an existing retirement system  
19 shall provide an actuarially determined optional  
20 disability benefit option and employer contribution rate  
21 for employees who elect to participate in a defined  
22 contribution retirement plan.

23 7522.9. The plan administrator shall prepare, or cause  
24 to be prepared, at least quarterly a statement for each  
25 member's individual account. The statement shall  
26 include the current market value of the account,  
27 including self-directed investment options, an  
28 itemization of changes in the account, the amount vested,  
29 and other information as may be required by the ~~board~~  
30 plan administrator or the participating employer. The  
31 ~~board~~ plan administrator or the employer shall arrange  
32 for an independent audit of the plan's assets unless the  
33 audit is provided for by a third party organization.

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