

AMENDED IN SENATE JUNE 26, 1996

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

Introduced by Assembly Member Kaloogian

February 23, 1996

An act to amend Section 22955 of, and to add Section 22207.5 to, the Education Code, and 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~~

(1) 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.

(2) The State Teachers' Retirement Law requires the Teachers' Retirement Board to administer the system.

The bill would authorize the board to develop one or more alternative defined benefit plans.

(3) The State Teachers' Retirement Law continuously appropriates a specified percentage of total salaries from the General Fund to the Teachers' Retirement Fund.

The bill would revise that computation and require annual actuarial adjustment of the amount of appropriation.

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. Section 22207.5 is added to the
2 Education Code, to read:

3 22207.5. (a) The board may develop one or more
4 alternative defined benefit plans, defined contribution
5 plans, or combined defined benefit and defined
6 contribution plans that an employer may choose to
7 establish and offer to its employees.

8 (b) In the event that an employer adopts an
9 alternative retirement plan developed by the board
10 pursuant to subdivision (a) both of the following shall
11 apply:

12 (1) The employer shall enter into a written
13 contractual arrangement with the system under which
14 the system shall provide investment, recordkeeping, and
15 administrative services on behalf of the plan.



1 (2) *The initial period of the contractual arrangement*
2 *described in paragraph (1) shall be for a term of five*
3 *years.*

4 (c) *The plans developed pursuant to this section are*
5 *alternatives to the defined contribution retirement plans*
6 *established pursuant to Chapter 21.6 (commencing with*
7 *Section 7522) of Division 7 of Title 1 of the Government*
8 *Code.*

9 *SEC. 2. Section 22955 of the Education Code is*
10 *amended to read:*

11 22955. (a) *Notwithstanding Section 13340 of the*
12 *Government Code, ~~commencing October 1, 1991~~*
13 *commencing with the 1995-96 fiscal year and annually on*
14 *July 1, thereafter, a continuous appropriation is hereby*
15 *made from the General Fund to the Controller, pursuant*
16 *to this section, for transfer to the Teachers' Retirement*
17 *Fund. The total amount of the appropriation for each*
18 *year shall be equal to 4.3 percent of the total of the salaries*
19 *of the immediately preceding calendar year upon which*
20 *members' contributions are based, to be calculated*
21 *annually on October 1, and shall be divided into the*
22 *1996-97 fiscal year shall be five hundred fifty million*
23 *dollars (\$550,000,000) and transferred in four equal*
24 *quarterly payments. The General Fund appropriation*
25 *shall be adjusted annually by the actuarially assumed*
26 *wage assumption as recommended by the system's*
27 *consulting actuary and adopted by the board. The*
28 *percentage annual appropriation shall be adjusted to*
29 *reflect the contribution required to fund the normal cost*
30 *deficit when the unfunded obligation has been deemed*
31 *to be eliminated by the board based upon a*
32 *recommendation from its actuary. If a rate increase or*
33 *decrease is required, the adjustment may be for no more*
34 *than 0.25 percent per year and in no case may the transfer*
35 *exceed 4.3 percent of the total of the salaries of the*
36 *immediately preceding calendar year upon which*
37 *members' contributions are based.*

38 (b) *The funds transferred pursuant to subdivision (a)*
39 *shall first be applied to meeting the normal cost deficit,*
40 *if any, for that fiscal year.*



1 (c) The transfers made pursuant to this section are in
2 lieu of the state contributions formerly made pursuant to
3 Sections 23401 and 23402.

4 (d) For the purposes of this section, the term “normal
5 cost deficit” means the difference between the normal
6 cost rate as determined in the actuarial valuation
7 required by Section 22226 and the total of the member
8 contribution rate required under Section 22804 and the
9 employer contribution rate required under Section
10 23400, and shall exclude (1) the portion for unused sick
11 leave service granted pursuant to Section 22719, and (2)
12 the cost of benefit increases which occur after July 1, 1990.
13 The contribution rates prescribed in Section 22804 and
14 Section 23400 on July 1, 1990, shall be utilized to make the
15 calculations. The normal cost deficit shall then be
16 multiplied by the total of the salaries upon which member
17 contributions are based to determine the dollar amount
18 of the normal cost deficit for the year.

19 (e) Pursuant to Section 22001 and the case law, the
20 members are entitled to a financially sound retirement
21 system. The Legislature recognizes that the system shall,
22 pursuant to this act, receive less funds in the short term
23 than it would have received under former Sections 23401
24 and 23402 (Chapter 282 of the Statutes of 1979). However,
25 it is the intent of the Legislature that this section shall
26 provide the retirement fund stable and full funding over
27 the long term.

28 (f) This section continues in effect but in a somewhat
29 different form, fully performs, and does not in any way
30 unreasonably impair, the contractual obligations
31 determined by the court in *California Teachers’*
32 *Association v. Cory*, 155 Cal. App. 3d 494.

33 (g) This section shall not be construed to be applicable
34 to any unfunded liability resulting from any benefit
35 increase or change in contribution rate that occurs after
36 July 1, 1990.

37 (h) The amendments to this section during the
38 1991–92 Regular Session shall be construed and
39 implemented to be in conformity with the judicial intent



1 expressed by the court in California Teachers' Association
2 v. Cory, 155 Cal. App. 3d 494.

3 SEC. 3. Chapter 21.6 (commencing with Section
4 7522) is added to Division 7 of Title 1 of the Government
5 Code, to read:

6
7 CHAPTER 21.6. PUBLIC EMPLOYEES' DEFINED
8 CONTRIBUTION RETIREMENT PLANS
9

10 7522. This chapter shall be known and may be cited
11 as the Public Employees' Defined Contribution
12 Retirement Plan Law.

13 7522.1. As used in this chapter, unless the context
14 clearly requires a different meaning:

15 (a) "Accrued service benefit" means the amount,
16 determined by the actuary of the existing retirement
17 system, that represents the present value of an
18 employee's accrued retirement benefit earned through
19 the date on which a payment is made to a defined
20 contribution retirement plan by an existing retirement
21 system for the benefit of an individual account. In order
22 to determine the present value of the accrued benefit, the
23 discount rate for investment earnings and the
24 assumptions for current final average compensation shall
25 be approved by the employer. At the employer's written
26 election, the accrued services benefit shall also include an
27 employee's pro rata share of any actuarially determined
28 excess of plan assets compared to accrued liabilities in the
29 existing retirement system on the reporting date prior to
30 the employer's election to make a defined contribution
31 retirement plan available to a specific group of
32 employees.

33 (b) "Defined contribution plan" or "plan" means the
34 defined contribution plans authorized by this chapter as
35 those plans may be established by the state or individual
36 local public agencies.

37 (c) "Existing retirement system" means any state or
38 local public retirement system.

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

1 (e) “Member” or “employee” means any person,
2 other than a safety employee, employed by the state or
3 any local public agency that elects to be included in a
4 plan.

5 (f) “Employer” means the state or local public agency,
6 including, but not limited to, school districts, that employs
7 a member. “Employer” does not include the California
8 State University.

9 (g) “Compensation” means the remuneration paid by
10 the employer in payment for the employee’s services
11 during normal working hours, but does not include the
12 monetary value of any other advantages furnished to the
13 employee.

14 (h) “Member contribution” means an amount
15 reduced from the employee’s regular pay periods, and
16 deposited into the member’s individual account within a
17 defined contribution plan.

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

22 (j) “Individual account” or “account” means an
23 account in a defined contribution plan established for
24 each member to record the deposit of member and
25 employer contributions and earnings there on on behalf
26 of the member.

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

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

32 (m) “Administrator” means an employee of an
33 employer who has been designated by the employer as
34 plan administrator of the plan, or the service provider
35 hired by the employer to provide plan administration
36 services to the plan.

37 7522.2. Public employees’ defined contribution plans
38 may provide a framework under which the state and each
39 local public agency are authorized to create defined
40 contribution plans for their respective employees that are



1 tailored to each employer's individual needs and that
2 provide the opportunity for retirement savings and for
3 the orderly administration of the plans.

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

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

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

20 7522.5. (a) The employer has all powers necessary to
21 effectuate the purposes of this chapter. The employer
22 shall determine and charge reasonable costs of
23 administering the system. The employer may contract
24 with existing public retirement systems or may contract
25 with a private pension, insurance, annuity, mutual fund,
26 *bank, savings association*, or other qualified company or
27 companies, *or any combination of these entities*, to
28 administer the day-to-day operations of the plan.

29 (b) The Public Employees' Defined Contribution
30 Retirement Plan Fund is hereby created for the state
31 defined contribution plan and is a trust fund in the State
32 Treasury administered by the employer in accordance
33 with this chapter and Section 17 of Article XVI of the
34 California Constitution. Notwithstanding Section 13340,
35 all moneys in the fund are continuously appropriated,
36 without regard to fiscal years, for administrative costs and
37 payments which shall be made upon warrants drawn by
38 the Controller upon demands made by the employer.

39 7522.6. Any state or other public agency employee
40 who is a member of any existing retirement system on the



1 effective date specified in an agreement between the
2 employees' bargaining unit and the employer may, in lieu
3 of continued or exclusive participation in an existing
4 retirement system and upon written election, voluntarily
5 elect membership in a defined contribution retirement
6 plan offered by the employer. The administrator of the
7 defined contribution retirement plan shall notify the
8 existing retirement system of the employee's election and
9 of the employee's service record and compensation
10 history within 45 days of that election, and the existing
11 retirement system, within 45 days, shall transfer to the
12 plan administrator a payment equal to the actuarial
13 present value of the employee's accrued service benefit
14 on the date of the transfer. The amount so transferred
15 shall be credited to the employee's individual account.

16 7522.7. (a) On or after January 1, 1997, any
17 bargaining unit representing new state employees upon
18 reaching an agreement with the employer may elect to
19 offer participation in the defined contribution plan to
20 those employees.

21 (b) The governing body of any local public agency and
22 the Regents of the University of California may elect at
23 any time to permit some or all of their employees to
24 participate in a defined contribution retirement plan
25 either as an alternative or as a supplement to an existing
26 retirement system. Those employers may contract with
27 an existing retirement system for elective partial defined
28 benefit options in order to facilitate retirement or benefit
29 plans through which employees may elect to receive a
30 reduced defined benefit option and a supplemental
31 complementary defined contribution retirement plan.
32 Any plan provided by a local agency shall include more
33 than one employee-directed investment fund
34 appropriate for investment by public employees, and an
35 educational program, approved by the employer ~~or the~~
36 ~~employer~~, that explains to employees considering their
37 elections the probable and possible benefits and risks of
38 defined benefit and defined contribution retirement
39 plans, and alternative investment strategies suitable for
40 public employees.



1 (c) 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. Those employees shall be given the right to
6 voluntarily elect membership in a defined contribution
7 plan.

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

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

21 (f) In all cases where a question exists as to the
22 readmission to membership in a plan, the employer shall
23 decide the question.

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

1 7522.9. The plan administrator shall prepare, or cause
2 to be prepared, at least quarterly a statement for each
3 member's individual account. The statement shall
4 include the current market value of the account,
5 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 plan
8 administrator or the participating employer. The plan
9 administrator or the employer shall arrange for an
10 independent audit of the plan's assets unless the audit is
11 provided for by a third party organization.

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