

Introduced by Senator Craven

February 23, 1996

An act to *amend Sections 21670, 21672, 21674, 21675, 21677, and 21679 of, and to add Section 20486 to, the Government Code, relating to public employees.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1945, as amended, Craven. Public employees: retirement.

~~The~~

(1) *The Public Employees' Retirement Law authorizes local government and public agencies to contract for retirement benefits for local employees.*

This bill would prohibit contracting agencies and public agencies that become subject to federal bankruptcy proceedings from rejecting retirement coverage contracts or assuming or assigning those contracts without the prior consent of the retirement board.

(2) *Existing law authorizes the establishment of a deferred compensation program for members of the system.*

This bill would permit that program to be offered to all public employees.

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

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

1 SECTION 1. Section 20486 is added to the
2 Government Code, to read:

3 20486. Notwithstanding any other provision of law, no
4 contracting agency or public agency that becomes the
5 subject of a case under the bankruptcy provisions of
6 Chapter 9 (commencing with Section 901) of Title 11 of
7 the United States Code, shall reject any contract or
8 agreement between that agency and the board pursuant
9 to Section 365 of Title 11 of the United States Code or
10 similar provision of law; nor shall the agency, without the
11 prior written consent of the board, assume or assign any
12 contract or agreement between that agency and the
13 board pursuant to Section 365 of Title 11 of the United
14 States Code or similar provision of law.

15 *SEC. 2. Section 21670 of the Government Code is*
16 *amended to read:*

17 21670. The board may establish a deferred
18 compensation program for ~~the members of this system~~
19 *public employees*. The program shall be made available
20 to all employees of an employer under procedures
21 established by the board unless participation is subject to
22 the terms of any memorandums of understanding
23 between the employer and the employees.

24 *SEC. 3. Section 21672 of the Government Code is*
25 *amended to read:*

26 21672. The deferred compensation program may
27 include any or all of the following components:

28 (a) Investment fund options for state ~~members~~
29 *employees*, as part of the deferred compensation
30 program administered for state employees by the
31 Department of Personnel Administration.

32 (b) Investment fund options for local ~~members~~
33 *employees* and school ~~members~~ *employees*.

34 (c) Annuity contracts on behalf of all ~~members~~
35 *participating employees*.

36 *SEC. 4. Section 21674 of the Government Code is*
37 *amended to read:*



1 21674. (a) Investment fund options under
2 subdivision (a) of Section 21672 shall be provided through
3 a written interagency agreement between the board and
4 the Department of Personnel Administration that shall
5 be binding on both parties for a minimum term of 36
6 months.

7 (b) Participating employers shall enter into a written
8 contractual agreement with the board that shall be
9 binding for a minimum term of 36 months. *“Participating*
10 *employer” means any school employer and any public*
11 *agency that meets the criteria for becoming a contracting*
12 *agency and elects to contract with the board for coverage*
13 *under this chapter.*

14 (c) Employees participating under the deferred
15 compensation program shall enter into written salary
16 reduction agreements with their employers, for the
17 purpose of making deferrals or for annuity contracts.

18 *SEC. 5. Section 21675 of the Government Code is*
19 *amended to read:*

20 21675. All development and administration costs of
21 the deferred compensation program shall be paid by
22 employers and ~~participating members~~ *plan participants.*

23 *SEC. 6. Section 21677 of the Government Code is*
24 *amended to read:*

25 21677. The Public Employees’ Deferred
26 Compensation Fund shall consist of the following sources
27 and receipts and disbursements shall be accounted for as
28 set forth below:

29 (a) Premiums determined by the board and paid by
30 employers and ~~members~~ *plan participants* for the cost of
31 administering the deferred compensation program.

32 (b) Asset management fees as determined by the
33 board assessed against investment earnings of investment
34 options or other investments funds provided by the board
35 to either the state or other public employers. Asset
36 management fees shall be disclosed to plan participants.

37 (c) Deferrals or contributions to be paid monthly by
38 participating employers or ~~members~~ *plan participants* for
39 investment by the board pursuant to this article. The
40 moneys shall be deposited in the investment corpus



1 account within the Public Employees' Deferred
2 Compensation Fund, and invested in accordance with
3 the fund option or fund selected by the ~~members~~ *plan*
4 *participants*.

5 (d) Disbursements to ~~participating members~~ *plan*
6 *participants* shall be paid from a disbursement account
7 within the Public Employees' Deferred Compensation
8 Fund, in accordance with current federal law pertaining
9 to tax-deferred savings plans.

10 (e) The board shall offer a savings account equivalent
11 plan among those deferred compensation accounts made
12 payable to plan participants.

13 (f) Income, of whatever nature, earned on the Public
14 Employees' Deferred Compensation Fund shall be
15 credited to the appropriate account. ~~Member~~ *Participant*
16 accounts shall be individually posted to reflect net asset
17 value for each fund in which the ~~member~~ *participates*
18 *participant invests*.

19 (g) The board has the exclusive control of the
20 administration and investment of the Public Employees'
21 Deferred Compensation Fund.

22 *SEC. 7. Section 21679 of the Government Code is*
23 *amended to read:*

24 21679. The officers and employees of this system shall
25 discharge their duties with respect to the deferred
26 compensation plan solely in the interest of the ~~members~~
27 ~~participating in the plan~~ *participants* in the following
28 manner:

29 (a) For the exclusive purpose of providing deferred
30 compensation to ~~members~~ *plan participants* and
31 defraying reasonable expenses of administering the plan.

32 (b) In the selection of investment options with the
33 care, skill, prudence, and diligence under the
34 circumstances then prevailing that a prudent person
35 acting in a like capacity and familiar with those matters
36 would use in the conduct of an enterprise of a like
37 character and with like aims.

38 (c) By diversifying the investment options available to
39 participants of the plan so as to minimize the risk of large
40 losses and by using reasonable diligence to accurately



1 inform all employees and participants as to all plan
2 options.
3 (d) In accordance with the documents and
4 instruments governing the plan insofar as those
5 documents and instruments are consistent with this
6 article.

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