

AMENDED IN ASSEMBLY AUGUST 5, 1996

AMENDED IN ASSEMBLY JULY 10, 1996

AMENDED IN ASSEMBLY JUNE 26, 1996

**SENATE BILL**

**No. 1945**

---

---

**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~~ *Sections 20486 and 21685* to, the Government Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

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

(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 *state and local* 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 *California* public employees.  
19 The program shall be made available to all employees of  
20 an employer under procedures established by the board  
21 unless participation is subject to the terms of any  
22 memorandums of understanding between the employer  
23 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—employees~~  
29 *participants*, 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—employees—and~~  
33 ~~school—employees~~ *other participants*.  
34 (c) Annuity contracts on behalf of all ~~participating~~  
35 ~~employees~~ *participants*.

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.

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

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

16 SEC. 5. Section 21675 of the Government Code is  
17 amended to read:

18 21675. All development and administration costs of  
19 the deferred compensation program shall be paid by  
20 employers and plan participants.

21 SEC. 6. Section 21677 of the Government Code is  
22 amended to read:

23 21677. The Public Employees’ Deferred  
24 Compensation Fund shall consist of the following sources  
25 and receipts and disbursements shall be accounted for as  
26 set forth below:

27 (a) Premiums determined by the board and paid by  
28 employers and plan participants for the cost of  
29 administering the deferred compensation program.

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

35 (c) Deferrals or contributions to be paid monthly by  
36 participating employers or plan participants for  
37 investment by the board pursuant to this article. The  
38 moneys shall be deposited in the investment corpus  
39 account within the Public Employees’ Deferred



1 Compensation Fund, and invested in accordance with  
2 the fund option or fund selected by the plan participants.

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

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

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

16 (g) The board has the exclusive control of the  
17 administration and investment of the Public Employees'  
18 Deferred Compensation Fund.

19 SEC. 7. Section 21679 of the Government Code is  
20 amended to read:

21 21679. The officers and employees of this system shall  
22 discharge their duties with respect to the deferred  
23 compensation plan solely in the interest of the plan  
24 participants in the following manner:

25 (a) For the exclusive purpose of providing deferred  
26 compensation to plan participants and defraying  
27 reasonable expenses of administering the plan.

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

34 (c) By diversifying the investment options available to  
35 participants of the plan so as to minimize the risk of large  
36 losses and by using reasonable diligence to accurately  
37 inform all employees and participants as to all plan  
38 options.

39 (d) In accordance with the documents and  
40 instruments governing the plan insofar as those



1 documents and instruments are consistent with this  
2 article.

3 *SEC. 8. Section 21685 is added to the Government*  
4 *Code, to read:*

5 *21685. Notwithstanding any other provision of this*  
6 *part, the following definitions govern the construction of*  
7 *this chapter:*

8 (a) *“Participating employer” means any California*  
9 *public agency, including, but not limited to, any office of*  
10 *the county superintendent of schools, school district,*  
11 *community college district, or public agency defined by*  
12 *Section 20056.*

13 (b) *“Employer” means any city, county, city and*  
14 *county, district, school district, community college*  
15 *district, county superintendent of schools, and other*  
16 *public authority or body within this state.*

17 (c) *“Plan participant” means any person enrolled in*  
18 *the deferred compensation program established by this*  
19 *chapter.*

