

An act to amend and repeal Section 22826 of the Education Code, and to amend Sections 20899.5 and 31485.7 of, to amend and repeal Sections 20909, 31486.35, and 31658 of, and to add Sections 1244, 1245, 7503.71, 7503.72, 7503.73, 7503.74, and 7503.75 to, the Government Code, relating to public employees' retirement, and declaring the urgency thereof, to take effect immediately.



THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 22826 of the Education Code is amended to read:

22826. (a) A member, other than a retired member, may request, before July 1, 2011, to purchase up to five years of nonqualified service credit provided the member is vested in the Defined Benefit Program as provided in Section 22156.

(b) A member who requests to purchase nonqualified service credit as provided in this chapter shall contribute to the retirement fund the actuarial cost of the service, including interest as appropriate, as determined by the board based on the most recent valuation of the plan with respect to the Defined Benefit Program in effect on the date of the request, in accordance with subdivisions (a), (f), (g), and (h) of Section 22801.

(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 1244 is added to the Government Code, to read:

1244. (a) If a public officer or public employee is convicted of any felony for conduct arising directly out of, or in the performance of, his or her official duties on or after July 1, 2011, he or she shall forfeit the rights and benefits to which he or she is entitled and shall not accrue further benefits in any public retirement system in which he or she is a member, effective on the date of conviction.

(b) If a public officer or public employee is convicted of any felony for conduct relating to his or her salary or retirement benefits in that office on or after July 1, 2011, he or she shall forfeit the rights and benefits to which he or she is entitled and shall



not accrue further benefits in any public retirement system in which he or she is a member, effective on the date of conviction.

(c) (1) Any contributions to the public retirement system made by the public officer or public employee described in subdivision (a) on or after the first date of commission of the felony of which he or she is convicted shall be returned, without interest, to the public officer or public employee.

(2) Any contributions to the public retirement system made in connection with the felony by the public officer or public employee described in subdivision (b) on or after the first date of commission of the felony of which he or she is convicted shall be returned, without interest, to the public agency.

(d) The public agency that employs a public officer or public employee described in subdivision (a) or (b) and that public officer or public employee shall notify the public retirement system in which the person is a member of the person's conviction within 60 days of the conviction. The public agency's notification obligations, as described in this subdivision, shall not apply if the public officer's or public employee's felony conviction occurs after the public employee separates his or her employment from the public agency. Operation of this section shall not be dependent upon the notification obligations outlined in this subdivision.

(e) For purposes of this section, the following definitions shall apply:

(1) "Public agency" means the state or a county, city, city and county, district, school district, authority, university, or any public or municipal corporation, political subdivision, or other public agency of the state, or any department, division, bureau, board, commission, agency, or instrumentality of any of these entities.



(2) "Public officer" means an officer of the state, or an officer of a county, city, city and county, district, school district, authority, university, or any public or municipal corporation, political subdivision, or other public agency of the state, or any department, division, bureau, board, commission, agency, or instrumentality of any of these entities.

(3) "Public employee" means any person employed by any public agency.

(4) "Public retirement system" means all state and local public retirement systems, including, but not limited to, the Public Employees' Retirement System, the State Teachers' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the University of California Retirement System, and county and district retirement systems created pursuant to the County Employees Retirement Law of 1937.

(f) This section shall apply to a public officer or a public employee who first becomes a member of a retirement system on or after July 1, 2011. This section shall also apply to any elected public officer who takes public office on or after July 1, 2011.

(g) A public retirement system may assess a public agency a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that the public agency failed to comply with this section.

SEC. 3. Section 1245 is added to the Government Code, to read:

1245. (a) If a public officer or public employee is convicted of any felony for conduct arising directly out of, or in the performance of, his or her official duties, including, but not limited to, conduct relating to his or her salary or benefits, in that office on or after July 1, 2011, he or she shall forfeit the rights and benefits to which



he or she is entitled, as described in subdivision (b), in any public retirement system in which he or she is a member, effective on the date of conviction.

(b) The public officer or employee described in subdivision (a) shall forfeit that portion of his or her rights and benefits that accrued on or after July 1, 2011, and shall not accrue further benefits.

(c) Any contributions to the public retirement system made by the public officer or public employee described in subdivision (a) on or after the first date of commission of the felony of which he or she is convicted shall be returned, without interest, to the public officer or public employee.

(d) The public agency that employs a public officer or public employee described in subdivision (a) and that public officer or public employee shall notify the public retirement system in which the person is a member of the person's conviction within 60 days of the conviction. The public agency's notification obligations, as described in this subdivision, shall not apply if the public officer's or public employee's felony conviction, as described in subdivision (a), occurs after the public employee separates his or her employment from the public agency. Operation of this section shall not be dependent upon the notification obligations outlined in this subdivision.

(e) For purposes of this section, the following definitions shall apply:

(1) "Public agency" means the state or a county, city, city and county, district, school district, authority, university, or any public or municipal corporation, political subdivision, or other public agency of the state, or any department, division, bureau, board, commission, agency, or instrumentality of any of these entities.



(2) "Public officer" means an officer of the state, or an officer of a county, city, city and county, district, school district, authority, university, or any public or municipal corporation, political subdivision, or other public agency of the state, or any department, division, bureau, board, commission, agency, or instrumentality of any of these entities. "Public officer" shall also include an elected public officer.

(3) "Public employee" means any person employed by any public agency.

(4) "Public retirement system" means all state and local public retirement systems, including, but not limited to, the Public Employees' Retirement System, the State Teachers' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the University of California Retirement System, and county and district retirement systems created pursuant to the County Employees Retirement Law of 1937.

(f) This section shall apply to a public officer or a public employee who first became a member of a retirement system before July 1, 2011.

(g) A public retirement system may assess a public agency a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that the public agency failed to comply with this section.

SEC. 4. Section 7503.71 is added to the Government Code, to read:

7503.71. (a) Notwithstanding any other law, except as provided in subdivision (b), on and after July 1, 2011, a public employer shall not increase or otherwise improve a retirement formula for current employees or retired members and require or allow that increase or improvement to apply to service performed prior to the increase.



(b) (1) Notwithstanding subdivision (a), a public retirement system may approve the application of a benefit increase to prior service if an official public resolution, a signed tentative memorandum of understanding, or a ratified memorandum of understanding, that is made or entered into prior to July 1, 2011, applies that benefit increase to prior service.

(2) If a memorandum of understanding, entered into prior to July 1, 2011, would preclude application of this section with regard to particular employment classifications, this section shall not apply to a person to be employed in those classifications governed by the memorandum of understanding, provided that upon expiration of the memorandum of understanding this section shall apply. A renewal or continuation of an existing memorandum of understanding shall be considered a new agreement for purposes of this section and shall not supersede the requirements of subdivision (a).

(c) This section shall apply to all state and local public retirement systems, including, but not limited to, the Public Employees' Retirement System, the State Teachers' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the University of California Retirement System, and county and district retirement systems created pursuant to the County Employees Retirement Law of 1937.

(d) A public retirement system may assess a public employer a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.

SEC. 5. Section 7503.72 is added to the Government Code, to read:



7503.72. (a) Notwithstanding Section 20816 or any other law, on and after July 1, 2011, an employer shall not contribute less than the plan normal cost offset by the employee contribution towards the plan normal cost.

(b) This section shall apply to all state and local public retirement systems, including, but not limited to, the Public Employees' Retirement System, the State Teachers' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the University of California Retirement System, and county and district retirement systems created pursuant to the County Employees Retirement Law of 1937.

(c) For the purposes of this section, the following definitions shall apply:

(1) "Employee contribution" means the contributions required to be paid by a member as fixed by law, by contract, or by contract amendment.

(2) "Normal cost" means the portion of the present value of future benefits that is attributed to the current year of service, as determined by the public retirement system's actuary according to the most recently completed valuation.

(d) A public retirement system may assess a public employer a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.

SEC. 6. Section 7503.73 is added to the Government Code, to read:

7503.73. (a) The public employer shall be prohibited from paying on behalf of a member any of the member's share of the required employee contributions.

(b) This section shall apply to all state and local public retirement systems, including, but not limited to, the Public Employees' Retirement System, the State



Teachers' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the University of California Retirement System, and county and district retirement systems created pursuant to the County Employees Retirement Law of 1937.

(c) For the purposes of this section, "employee contribution" means the contributions required to be paid by a member as fixed by law, by contract, or by contract amendment.

(d) If a memorandum of understanding, entered into prior to July 1, 2011, would preclude application of this section with regard to particular employment classifications, this section shall not apply to a person to be employed in those classifications governed by the memorandum of understanding, provided that upon expiration of the memorandum of understanding this section shall apply. A renewal or continuation of an existing memorandum of understanding shall be considered a new agreement for purposes of this section and shall not supersede the requirements of subdivision (a).

(e) A public retirement system may assess a public employer a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.

SEC. 7. Section 7503.74 is added to the Government Code, to read:

7503.74. (a) On and after July 1, 2011, a public retirement system shall not allow the purchase of nonqualified, additional retirement service credit, however that may be denominated.



(b) This prohibition shall not apply to an official application to purchase additional retirement service credit that was received by the retirement system prior to July 1, 2011.

(c) This section shall apply to all state and local public retirement systems, including, but not limited to, the Public Employees' Retirement System, the State Teachers' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the University of California Retirement System, and county and district retirement systems created pursuant to the County Employees Retirement Law of 1937.

(d) For the purposes of this section, "additional retirement service credit" means service credit for time that does not otherwise qualify as public service, military service, leave of absence, or other time recognized for service by a public retirement system.

(e) If a memorandum of understanding, entered into prior to July 1, 2011, would preclude application of this section with regard to particular employment classifications, this section shall not apply to a person to be employed in those classifications governed by the memorandum of understanding, provided that upon expiration of the memorandum of understanding this section shall apply. A renewal or continuation of an existing memorandum of understanding shall be considered a new agreement for purposes of this section and shall not supersede the requirements of subdivision (a).

SEC. 8. Section 7503.75 is added to the Government Code, to read:

7503.75. (a) Notwithstanding any other provision of law, for the purpose of determining any pension or benefit with respect to service with a public employer that



has a retirement system that provides a defined benefit for which final compensation is an element, both of the following shall apply:

(1) "Final compensation" shall mean the highest average annual compensation earned by the member during the consecutive 36-month period immediately preceding his or her retirement or last separation from state service if earlier, or during any other period of 36 consecutive months during his or her public retirement system membership that the member designates on the application for retirement.

(2) "Final compensation" shall not include any compensation for accrued leave of any form or compensation for overtime work or special compensation and shall only include the member's rate of base pay.

(b) This section shall apply to a person who first becomes a member of a retirement system on or after July 1, 2011.

(c) As used in this section, "retirement system" means any state or local public retirement systems, including, but not limited to, the Public Employees' Retirement System, the State Teachers' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the University of California Retirement System, and county and district retirement systems created pursuant to the County Employees Retirement Law of 1937.

(d) If a memorandum of understanding, entered into prior to July 1, 2011, would preclude application of this section with regard to particular employment classifications, this section shall not apply to a person to be employed in those classifications governed by the memorandum of understanding, provided that upon expiration of the memorandum of understanding this section shall apply. A renewal or continuation of



an existing memorandum of understanding shall be considered a new agreement for purposes of this section and shall not supersede the requirements of subdivision (a).

(e) A public retirement system may assess a public employer a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.

SEC. 9. Section 20899.5 of the Government Code is amended to read:

20899.5. ~~(a)~~ An elective officer of a contracting agency that is a city, county, or city and county shall not receive credit for service or contributions for credit for service in violation of the prohibitions provided in Section 23007.5, 34095, or 50033.

~~(b) Nothing in this section shall prohibit an elective officer from purchasing service credit pursuant to Section 20909.~~

SEC. 10. Section 20909 of the Government Code is amended to read:

20909. (a) A member who has at least five years of credited state service, may elect, by written notice filed with the board before July 1, 2011, to make contributions pursuant to this section and receive not less than one year, nor more than five years, in one-year increments, of additional retirement service credit in the retirement system.

(b) A member may elect to receive this additional retirement service credit at any time prior to retirement by making the contributions as specified in Sections 21050 and 21052. A member may not elect additional retirement service credit under this section more than once.

(c) For purposes of this section, "additional retirement service credit" means time that does not qualify as public service, military service, leave of absence, or any other time recognized for service credit by the retirement system.



(d) Additional retirement service credit elected pursuant to this section may not be counted to meet the minimum qualifications for service or disability retirement or for health care benefits, or any other benefits based upon years of service credited to the member.

(e) This section only applies to the following members:

(1) A member while he or she is employed in state service at the time of the additional retirement service credit election.

(2) A member of the system defined in Section 20324.

(f) For purposes of this section, "state service" means service as defined in Section 20069.

(g) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 11. Section 31485.7 of the Government Code is amended to read:

31485.7. (a) Notwithstanding any other provision of this chapter, a member who elects to purchase retirement service credit under Section 31486.3, ~~31486.35~~, 31499.3, 31499.13, 31641.1, 31641.5, 31641.55, 31646, or 31652, ~~or 31658~~, or under the regulations adopted by the board pursuant to Section 31643 or 31644 shall complete that purchase within 120 days after the effective date of his or her retirement.

(b) This section is not operative in any county until the board of supervisors, by resolution, makes this section applicable in the county.

SEC. 12. Section 31486.35 of the Government Code is amended to read:



31486.35. (a) An active member may elect, by written notice filed with the board before July 1, 2011, to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service retirement or for purposes of establishing eligibility for benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) A member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of commencement of purchase, in the opinion of the board and the actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for additional retirement credit that he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.7. Subject to the limitations of United States Internal Revenue



Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative in a county until the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

(h) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 13. Section 31658 of the Government Code is amended to read:

31658. (a) An active member may elect, by written notice filed with the board before July 1, 2011, to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service or disability retirement or for purposes of establishing eligibility for any



benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) Any member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of commencement of purchase, in the opinion of the board and the actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for any additional retirement credit for which he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement. Subject to the limitations of United States Internal Revenue Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Any sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative in any county until the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

(h) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 14. The Legislature finds and declares the following:



(a) To ensure the integrity and security of the University of California retirement system and its funds, it is necessary for this act to apply to the University of California.

(b) The security of public moneys and the fiscal integrity of local governmental agencies in this state, including charter cities, have a direct impact on the long-term well-being of all residents of this state. Further, local governments that are impacted by unsustainable pension obligations have difficulty providing sufficient public safety services and place additional resourcing burdens on the state. Accordingly, the Legislature finds and declares that ensuring the statewide integrity and security of local government pension systems and ensuring the sufficiency of local public safety services are matters of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to all cities, including charter cities.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible for the 2011–12 fiscal year, and thereby facilitate the orderly administration of state government at the earliest time possible, it is necessary that this act take effect immediately.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Public employees' retirement.

(1) Existing law establishes the Public Employees' Retirement System and the State Teachers' Retirement System for the purpose of providing pension benefits to their employees. Existing law also establishes the Judges' Retirement System II which provides pension benefits to elected judges and the Legislators' Retirement System which provides pension benefits to elective officers of the state other than judges and to legislative statutory officers. The County Employees Retirement Law of 1937 authorizes counties, cities, and districts to establish retirement systems pursuant to its provisions in order to provide pension benefits to employees. The Regents of the University of California have established the University of California Retirement System as a trust for this purpose. Existing law provides that any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006, who is convicted of any specified felony arising directly out of his or her official duties,



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forfeits all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction, as specified.

This bill would require that a public officer, including an elected public officer, or a public employee who is convicted of any felony for conduct arising directly out of, or in the performance of, his or her official duties on or after July 1, 2011, forfeit rights and benefits in any public retirement system in which he or she is a member that accrued on or after July 1, 2011, and shall not accrue further benefits, as specified.

(2) Existing state and local public retirement systems provide defined benefits based on age at retirement, service credit, and final compensation. Existing law defines final compensation for various employment classifications in connection with the benefits provided by these systems. Existing law permits increases in retirement benefits for employees.

The bill, for the purposes of determining a retirement benefit paid to a person who first becomes a member of a public retirement system, on or after July 1, 2011, would require that final compensation be defined as the average annual compensation earnable during a consecutive 36-month period, as specified. The bill would also prohibit a public employer from increasing or allowing a retirement formula for current employees or retired members to apply to service performed prior to the increase, unless an agreement in this regard was made prior to July 1, 2011.

(3) Existing state and local public employee retirement systems are funded by investment returns and employer and employee contributions. The California Constitution provides that the retirement board of a public pension or retirement system has the exclusive power to provide for actuarial services in order to assure the



competency of the assets of the system. Existing law, with respect to the Public Employees' Retirement System, requires the Governor to include in the annual Budget Act the contribution rates submitted by the system actuary of the liability on account of employees of the state.

This bill, on and after July 1, 2011, would prohibit an employer from contributing less than the plan normal cost, as defined, offset by the employee's contribution towards the normal cost. The bill would also prohibit an employer from paying the member's share of the employee contribution.

(4) Existing law permits members of the Public Employees' Retirement System, the State Teachers' Retirement System, and county, city, and district retirement systems that have adopted specified provisions, to purchase up to 5 years of additional retirement service credit by contributing an amount that, at the time of purchase, provides for the resulting increase in employer liability.

This bill, on and after July 1, 2011, would prohibit a public retirement system from allowing the purchase of additional retirement service credit, as described above. The bill would except from this prohibition an official application to purchase this type of service credit received by the retirement system prior to July 1, 2011. The bill would repeal provisions of the Public Employees' Retirement Law, the State Teachers' Retirement Law, and the County Employees Retirement Law of 1937 that permit these purchases.

(5) The bill would also declare that ensuring the statewide integrity of local government pension systems and ensuring the sufficiency of local public safety services are matters of statewide concern and not a municipal affair, and that therefore, all cities,



including charter cities, would be subject to the provisions of the bill. The bill would also declare that these provisions apply to the University of California to ensure the integrity and security of the University retirement system and its funds.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

