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SB-84 Public Employees' Retirement Fund: state employer contributions: supplemental payment. (2017-2018)

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Senate Bill No. 84

CHAPTER 50

An act to amend Sections 16475 and 16480.6 of, and to add Section 20825 to, the Government Code, relating to state employees' retirement, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor July 10, 2017. Filed with Secretary of State July 10, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 84, Committee on Budget and Fiscal Review. Public Employees' Retirement Fund: state employer contributions: supplemental payment.

(1) The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS) for the purpose of providing pension and benefits to state employees and employees of contracting agencies and prescribes the rights and duties of employers participating in the system. Under PERL, benefits are funded by employer and employee contributions and investment income, which are deposited into the Public Employees' Retirement Fund, a continuously appropriated trust fund administered exclusively by the system's board of administration. PERL prescribes methods for the calculation and payment of the state employer contribution for its employees who are PERS members. PERL provides for an annual adjustment of the state's contribution in the budget and quarterly appropriations to the Public Employees' Retirement Fund from the General Fund and other funds that are responsible for payment of the employer contribution.

Existing law requires the Pooled Money Investment Board to determine whether money on deposit in the State Treasury, exclusive of the General Fund and other specified funds, is not necessary for immediate use and, if so, to determine the amount which is then designated as surplus money. Existing law creates the Surplus Money Investment Fund and requires the Controller to transfer surplus money to it, provided that moneys from a special fund are not to be transferred if that will interfere with carrying out the purposes that the special fund supports. Existing law requires that moneys in the Surplus Money Investment Fund be invested by the Treasurer as part of the Pooled Money Investment Account. Moneys in the Surplus Money Investment Fund are continuously appropriated.

This bill would require the Controller, by a specified deadline, to transfer up to \$6,000,000,000 from the Surplus Money Investment Fund and other funds in the Pooled Money Investment Account that accrue interest to the General Fund as a cash loan, the proceeds of which would supplement the state's employer contributions for the 2017–18 fiscal year. The bill would prescribe how the payment is to be applied with respect to specified employee categories. The bill would require the Department of Finance to provide the Controller a schedule of the timing and amounts to be transferred to the Public Employees' Retirement Fund. By providing that money in a continuously appropriated fund may be used for a new purpose, and by depositing new moneys into a continuously appropriated fund, this bill would make an appropriation. The bill would require that repayment of the loan principal and the payment of interest be made from the General Fund and other funds and accounts that are required by law to fund the state's employer contribution to the Public Employees' Retirement Fund and would continuously appropriate funds for

this purpose. The bill would require the Department of Finance to devise a tracking mechanism and maintain records of payment by each fund, as specified, and develop a repayment schedule that allocates the amount to each fund after evaluation of its share of costs and its fund availability. The bill also would require the department to ensure each fund pays its proportionate share of the loan principal and interest.

The bill would identify the repayment of principal and payment of interest as an obligation pursuant to specified constitutional provisions. The bill would require the Department of Finance to certify to the Controller, and include in the published fund condition statement of the applicable funds and accounts, the amount determined to be the share of the loan principal and interest due and payable from each fund for the fiscal year and would require the timing and amounts of transfers to be pursuant to calculations provided by the Department of Finance. The bill would calculate interest on outstanding amounts of the loan based on the 2-year constant maturity United States Treasury rate, as specified. The bill would require interest payments to be made quarterly and that the principal and interest be fully repaid by June 30, 2030. The bill would provide that interest payments are Pooled Money Investment Account interest earnings to be apportioned as directed in provisions related to that account, unless modified by a specified agreement, and would make conforming changes in this regard. The bill would require the Controller, upon notification of the Department of Finance, to transfer the amount of the loan principal repayment or interest payment, as applicable, from all funds to the Surplus Money Investment Fund or to the General Fund if repayment or payments are made in advance from the General Fund. If a fund has an insufficient fund balance for the repayment of loan principal or payment of interest, the bill would require the Controller to request the Department of Finance for direction in this regard. The bill would prohibit the implementation of these provisions from obstructing any of the trust purposes of the programs supported by funds on deposit in the Surplus Money Investment Fund and other funds in the Pooled Money Investment Account that accrue interest to the General Fund. The bill would require the Department of Finance, within one month after each calendar quarter is concluded, to submit a report to the Joint Legislative Budget Committee identifying funds or accounts with an insufficient fund balance and the direction provided to the Controller on these funds.

The bill additionally would require the Department of Finance, by September 1, 2017, to submit a report to the Joint Legislative Budget Committee that describes the actuarial impact on contribution rates for each state employee member category receiving a supplemental payment under the bill's provisions.

(2) Existing law requires that interest and other increment derived from investments with moneys from the Surplus Money Investment Fund be deposited in that fund each calendar quarter, on the order of the Controller. Existing law requires the Controller, after deducting reasonable administrative costs, to then apportion, quarterly, interest and other increment derived from investments to specified funds. Existing law requires similar quarterly distributions of interest earned and increment derived from investments in securities, time deposits and loans of money that has been designated as available by the Pooled Money Investment Board, as specified.

This bill would provide that interest earnings from demand accounts are also subject to the provisions described above.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 16475 of the Government Code is amended to read:

16475. At the conclusion of each calendar quarter, all interest earned and other increment derived from investments made pursuant to this article, interest earnings from demand accounts, and interest earnings pursuant to Section 20825 shall, on order of the Controller, be deposited in the Surplus Money Investment Fund. The Controller, after deducting an amount equal to the reasonable costs incurred by the Treasurer, the Controller, and the Department of Finance in carrying out this article, shall apportion, quarterly, to the following funds in the Treasury, interest earned or increment derived for the three calendar months ending with those dates:

(a) The General Fund.

(b) Each fund into which are deposited or which contains moneys collected from any tax now or hereafter imposed by the state upon the manufacture, sale, distribution, or use of motor vehicle fuel, for use in motor vehicles upon the public streets and highways.

(c) Each fund into which are deposited or which contains moneys collected from motor vehicle and other vehicle registration license fees or from any other tax or license fee now or hereafter imposed by the state upon vehicles, motor vehicles or the operation thereof, except those taxes and license fees that, by the provisions of Section 7 of Article XIX of the California Constitution, are exempted from the provisions of Section 2 of Article XIX.

(d) Each fund into which are deposited or that contains moneys collected under any law of this state relating to the protection, conservation, propagation, or preservation of fish, game, mollusks, or crustaceans, and fines imposed by any court for the violation of any of those laws.

(e) Each fund into which are deposited or that contains moneys available for construction, repair, replacement, maintenance or operation of public works of the state, including, but not limited to, the facilities of the State Water Resources Development System, as defined in Section 12931 of the Water Code, toll facilities financed, built, or acquired pursuant to the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000) of Division 17 of the Streets and Highways Code), or moneys available for the payment of principal or interest on bonds issued to provide for the construction of those facilities.

(f) Every other fund in respect to which the Director of Finance on the advice of the Attorney General determines that the operation of the California Constitution or the United States Constitution prohibits the expenditure of interest received under this article and allocated on the basis of amounts in that fund for General Fund purposes.

(g) Each fund not included within subdivisions (a) to (f), inclusive.

The apportionments shall be made by the Controller in the following manner:

(1) All money not apportioned to the funds referred to in subdivisions (b), (c), (d), (e), (f), and (g) shall be apportioned to the General Fund.

(2) There shall be apportioned to each of the funds referred to in subdivisions (b), (c), (d), (e), (f), and (g), an amount directly proportionate to the respective amounts transferred from those funds to the Surplus Money Investment Fund and the length of time the amounts remained therein.

(3) Interest accrued or paid to the Pooled Money Investment Account from the proceeds of tax-exempt obligations on loans made pursuant to Section 16312 or 16313, to the extent thereof, shall be deemed apportioned to the State Highway Account or any other accounts that may be designated by the Controller pursuant to Section 16654, but only to the extent of its proportionate earnings as determined under paragraph (2). This paragraph shall neither increase nor decrease the amount of earnings apportioned to any fund or account in accordance with this section. These moneys shall be deemed expended, or applied to reimburse expenditures previously paid, first following the allocation of these interest earnings of the Surplus Money Investment Fund to the State Highway Account or any other accounts that may be designated by the Controller pursuant to Section 16654. It is the intent of the Legislature that this paragraph shall authorize the Treasurer and the Controller to monitor the expenditure of the proceeds of tax-exempt obligations in order to comply with federal tax laws and shall neither increase nor decrease the amount of bonds, notes, or other obligations to be issued by the state or any subdivision thereof, nor shall this paragraph be interpreted to indicate that the allocation is contrary to any bond act.

SEC. 2. Section 16480.6 of the Government Code is amended to read:

16480.6. (a) At the conclusion of each calendar quarter, all interest earned and increment derived from investments in securities, time deposits and loans made pursuant to this article, interest earnings from demand accounts, and interest earnings pursuant to Section 20825 shall upon order of the Controller be distributed to the General Fund and the Surplus Money Investment Fund. The basis for distribution to the Surplus Money Investment Fund shall be the ratio that the total dollar day designated surplus balance in the Surplus Money Investment Fund bears to the total dollar day investments of the Pooled Money Investment Account.

(b) On the effective date of the amendment of this section at the 1967 Regular Session, the Controller shall exchange the securities held as investments in the Surplus Money Investment Fund for money available for investment under this article, the securities to be exchanged at their values as they appear on the accounts of the Surplus Money Investment Fund at the time of exchange. Upon order of the Controller, the Treasurer shall make the corresponding transfers of the securities.

SEC. 3. Section 20825 is added to the Government Code, to read:

20825. (a) (1) Notwithstanding any other law, in accordance with a schedule provided by the Department of Finance, the Controller shall, in accordance with paragraph (2), transfer up to six billion dollars (\$6,000,000,000) to the Public Employees' Retirement Fund from the Surplus Money Investment Fund and other funds in the Pooled Money Investment Account that accrue interest to the General Fund as a cash loan to supplement the state's employer contributions for the 2017–18 fiscal year. The schedule provided by the Department of Finance shall specify the timing and amounts of transfers to the Public Employees' Retirement Fund.

(2) Notwithstanding any other law, no sooner than 30 calendar days after the Department of Finance has provided the schedule of payments described in paragraph (1) to the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine, the Controller shall transfer funds pursuant to the payment schedule established by the Department of Finance described in paragraph (1).

(3) The supplemental payment to the Public Employees' Retirement Fund described in paragraph (1) shall be apportioned to the following state employee member categories, as directed by the Department of Finance, not to exceed the following amounts:

- (A) Three billion six hundred million dollars (\$3,600,000,000) to the state miscellaneous member category.
- (B) One hundred million dollars (\$100,000,000) to the state industrial member category.
- (C) Three hundred million dollars (\$300,000,000) to the state safety member category.
- (D) One billion five hundred million dollars (\$1,500,000,000) to the state peace officer/firefighter member category.
- (E) Five hundred million dollars (\$500,000,000) to the patrol member category.

(b) The supplemental payment to the Public Employees' Retirement Fund described in subdivision (a) is to be applied to unfunded liabilities for state-level pensions in excess of current base amounts for the 2017–18 fiscal year, and the repayment of the loan principal and the payment of interest from the General Fund constitutes an obligation described in subclause (IV) of clause (ii) of subparagraph (B) of paragraph (1) of subdivision (c) of Section 20 of Article XVI of the California Constitution.

(c) (1) Interest payments on outstanding loan amounts shall be calculated using the quarter to date yield at the two-year constant maturity United States Treasury rate for the calendar quarter concluded directly prior to the calculation. The interest payments shall be paid on a quarterly basis beginning in the 2017–18 fiscal year and shall continue until the loan has been fully repaid. The loan principal and interest shall be fully repaid on or before June 30, 2030. The interest payments are interest earnings of the Pooled Money Investment Account and shall be apportioned pursuant to Sections 16475 and 16480.6, unless modified by an agreement among the Department of Finance, the Controller, and the Treasurer, to comply with other laws or regulations.

(2) Repayment of the loan principal and the payment of interest shall be made from the General Fund and other funds and accounts that are required by law to fund the state's employer contribution to the Public Employees' Retirement Fund. Notwithstanding Section 13340, moneys for the repayment of the loan principal and payment of interest are hereby continuously appropriated for this purpose, and the timing and amounts to be transferred shall be pursuant to calculations provided by the Department of Finance. The Department of Finance shall devise a tracking mechanism and maintain records of payment by each fund in each fiscal year. The Department of Finance shall develop a repayment schedule that allocates the amount to each fund after evaluation of its share of costs and its fund availability. The Department of Finance shall ensure each fund pays its proportionate share of the loan principal and interest over the course of the loan.

(3) The Department of Finance shall certify to the Controller, and shall include in the published fund condition statement of the applicable funds and accounts, the amount determined to be the share of the loan principal and interest due and payable from each fund for the fiscal year described in paragraph (2). The Department of Finance may determine and direct the Controller to advance from the General Fund an amount up to the equivalent of the non-General Fund portion of the payment in each fiscal year for the repayment of the loan principal or payment interest. Upon notification by the Department of Finance of the timing and the amounts to be transferred, the Controller shall transfer the amount of the loan principal repayment or interest payment, as applicable, from all funds to the Surplus Money Investment Fund or to the General Fund if repayment or payments are made in advance from the General Fund.

(d) If a fund has an insufficient fund balance for the repayment of loan principal or payment of interest, the Controller shall request that the Department of Finance provide direction on effecting the transfer and its timing. The implementation of this section shall not obstruct any of the trust purposes of the programs supported by funds on deposit in the Surplus Money Investment Fund and other funds in the Pooled Money Investment Account that accrue interest to the General Fund. Within one month after each calendar quarter is concluded, the Department of Finance shall submit a report to the Joint Legislative Budget Committee identifying funds or accounts with an insufficient fund balance and the direction provided to the Controller on these funds.

(e) On or before September 1, 2017, the Department of Finance shall submit a report to the Joint Legislative Budget Committee that describes the actuarial impact on contribution rates for each state employee member category receiving a supplemental payment under this section. The report shall describe the economic risks and benefits associated with making the cash loan provided by this section, including, but not limited to, a discussion of mechanisms available to adjust the repayment schedule and cost-allocation methodology.

SEC. 4. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.