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SB-782 Public employees' and judges' retirement: administration. (2019-2020)

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Date Published: 09/23/2019 09:00 PM

Senate Bill No. 782

CHAPTER 330

An act to amend Sections 6508.2, 20057, 20161, 20430, 20444, 20630, 20636, 20636.1, 20691, 20963, 20965, 21464, 21482, 21710, 22850, 22852, 22866, 22910, 22911, 22913, 22946, 75071, 75109.1, and 75611.5 of, to repeal Section 20837 of, and to repeal and add Section 20963.5 of, the Government Code, relating to public retirement systems, and making an appropriation therefor.

[Approved by Governor September 20, 2019. Filed with Secretary of State September 20, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 782, Committee on Labor, Public Employment and Retirement. Public employees' and judges' retirement: administration.

The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides defined benefits to members of the system based on final compensation, credited service, and age at retirement, subject to certain variations. PERL vests management and control of PERS in its board of administration. Existing law also creates the Judges' Retirement System (JRS) and the Judges' Retirement System II (JRS II) for the provision of benefits to judges, both of which the Board of Administration of the Public Employees' Retirement System administers.

(1) Existing law, the Joint Exercise of Powers Act, generally authorizes 2 or more public agencies to agree to jointly exercise a common power. Existing law requires member agencies of an agency established pursuant to a joint powers agreement that participates in a public retirement system, prior to filing a notice of termination, or upon notice of potential termination by the Board of Administration of the Public Employees' Retirement System (board), to account for the apportionment of the agency's retirement obligations and prescribes a process in this regard. Existing law applies these provisions to a member agency, or current and former member agency, that has an agreement in existence with the board on or before January 1, 2019.

This bill would make technical changes to these provisions to specify that they apply to current and former member agencies of an agency that has an agreement with the board of administration in existence as of January 1, 2019.

(2) PERL authorizes specified agencies, including school districts and community college districts, to contract for the provisions of benefits to their employees and defines "public agency" and related member classifications in this context.

This bill would correct obsolete cross-references regarding the definition of school districts and community college districts that have established police departments and associated member classifications.

(3) PERL authorizes the board to refrain from collecting specified underpayments if the amount to be collected is \$250 or less. PERL authorizes the board to dispense with returning specified excess balances or payments of \$50 or less. PERL also permits the system to dispense with specified recalculations and adjustments of benefit payments in connection with certain small amounts. PERL requires that these dollar amounts be adjusted in accordance with provisions that authorize state agencies

generally to forego collection of taxes, licenses, fees, or money owed to the state for any reason if the amount to be collected is \$500 or less. JRS and JRS II contain analogous provisions.

This bill would correct an obsolete cross-reference to the above-described provisions relating to the general authorization granted to state agencies to forego collection, as described above.

(4) PERL prescribes requirements for the computation of service credit in connection with the sick leave that are applicable to a state, school, and school safety member, if the effective date of retirement is within 4 months of separation from employment with the employer that granted the sick leave credit.

This bill would remove school and school safety members from the application of the provisions described above. The bill would prescribe separate, similar requirements for school members, school safety members, and local members employed by a contracting agency that is a school district, county office of education, or community college district, to be effective on and after January 1, 2020. These provisions would require that employer certifications report only those days of unused sick leave that were accrued by the member during the normal course of the member's employment and would prohibit the inclusion of additional sick leave reported for the purpose of increasing the member's retirement benefit. The bill would provide that reports of unused days of sick leave are subject to audit and retirement benefits may be adjusted if improper reporting is found. The bill would specify the types of sick leave to which these provisions apply. The bill would provide that a contracting agency that is a school district, county office of education, or community college district, which elects to contract for unused sick leave conversion, as specified, or that participates in a risk pool, as specified, is subject to the provisions.

(5) Existing law defines compensation for the purpose of calculating pension benefits. Existing law requires participating employers to report compensation in accordance with specified provisions and prohibits compensation from exceeding compensation earnable, which is defined separately for members and for school members of PERS.

This bill would specify that compensation is prohibited from exceeding compensation earnable, as defined for a school member, when applicable, and that payrate, in connection with compensation earnable, is calculated with reference to publicly available pay schedules.

(6) Existing law defines compensation earnable for members and for school members to be the payrate and special compensation of the member, as specified. Existing law limits increases in the compensation earnable granted to an employee who is not in a group or class during the final compensation period, and the 2 years prior, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification. Existing law authorizes a contracting agency or school employer to pay all or a portion of the normal contributions required to be paid by a member or a school member. These payments are special compensation for purposes of calculating compensation earnable, subject to certain limitations, including the limitation described above on increases in compensation earnable during the final compensation period.

This bill would require the limitation on increases in compensation earnable during the final compensation period to also apply to payments made by a school employer who pays all or a portion of a school member's normal contributions.

(7) PERL permits a member of PERS to elect from among various optional settlements for the purpose of structuring the member's retirement allowance, which may result in a reduction of the allowance paid to the member in relation to the payments to the member's beneficiary after the member's death. Existing law permits a member who chose no optional settlement, or who chose other certain optional settlements, at retirement to elect to have the settlement modified to provide for payment of a lesser payment during the member's lifetime and a subsequent payment to the member's spouse beneficiary.

This bill would revise the requirements for modification of optional settlements, as described above, to also require that the member marries after retirement.

(8) Existing law establishes the California Employers' Pension Prefunding Trust Fund as a special trust fund for the purpose of allowing state and local public agency employers that provide a defined benefit pension plan to their employees to prefund their required pension contributions. Existing law prescribes certain definitions in this regard, including "required pension contributions," which means future required contributions to a defined benefit pension as defined in a specified Governmental Accounting Standards Board statement.

This bill would define "required pension contributions," for purposes of the provisions described above, to instead refer to contributions required to fund the present value of plan benefits, calculated in compliance with Actuarial Standards of Practice of the American Academy of Actuaries.

(9) Existing law creates the Public Employees' Medical and Hospital Care Act, which is administered by the Board of Administration of the Public Employees' Retirement System. Existing law authorizes the board to contract for health benefit plans for employees and annuitants, as defined. Existing law authorizes specified public entities to contract with the board for the

provision of benefits. Existing law authorizes the board to administer self-funded or minimum funded premium plan and provides that every contract for administrative services with respect to a self-funded health benefit plan administered by the board be on the terms the board deems necessary. Existing law requires the board to report to the Legislature regarding the health benefits program, including a description of risk assessment and risk mitigation in connection with flex-funded plan offerings. Existing law creates the Public Employees' Health Care Fund to fund health benefit plans administered or approved by the board and continuously appropriates the fund to pay benefits and claims costs for self-funded or minimum premium health benefit plans and refunds to those who made direct premium payments. Existing law provides a statement of legislative purpose in connection with this fund. Existing law requires the Controller to suitably identify and remit the state's contribution for each employee or annuitant monthly to the Public Employees' Contingency Reserve Fund, together with amounts authorized by the employees and annuitants, as specified. Existing law requires contributions of employees and annuitants of contracting agencies, and those of contracting agency employers, to be suitably identified and remitted monthly to the Public Employees' Contingency Reserve Fund by warrant of the Controller upon claims filed by the board. Existing law defines specified peace officer health benefit trusts for the purpose of establishing their rights to recover medical costs paid to a participant for injuries, as specified.

This bill would specifically authorize the Board of Administration of the Public Employees' Retirement System to administer partially self-funded health benefit plans and would generally extend the duties and authorizations described above to apply to partially self-funded plans. The bill would replace the term "flex-funded" with "partially self-funded" for purposes of the above-described reporting requirement. Because the bill would specifically provide for the deposit of additional premiums from partially self-funded health benefit plans into the Public Employees' Health Care Fund, the bill would make an appropriation. The bill would revise the statement of legislative purpose in connection with this fund. This bill would replace the term "rate" with the term "premium" in various provisions.

The bill would recast provisions regarding the Controller's duties to suitably identify and remit contributions to the Public Employees' Contingency Reserve Fund to provide that the contributions at issue are monthly.

The bill would revise the definition of a health benefits trust, as described above, to include partially self-funded and minimum premium plans.

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

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

SECTION 1. Section 6508.2 of the Government Code is amended to read:

6508.2. (a) (1) Prior to filing a notice of termination pursuant to Section 20570 or 20571, or a decision by the governing body of an agency that does not contract with the California Public Employees' Retirement System to dissolve or to cease the operations of the agency, member agencies of an agency established by agreement under this chapter that participates in, or contracts with, a public retirement system, shall mutually agree as to the apportionment of the agency's retirement obligations among themselves, provided that the agreement equals 100 percent of the retirement liability of the agency. A copy of this mutual agreement, signed by all parties thereto, shall be provided to the board, which shall be reflected in the agreement with the board. If the member agencies are unable to mutually agree, the board shall apportion the retirement liability of the agency to each member agency based on the share of service received from the agency, or population of each member agency, such that the apportionment equals 100 percent of the retirement liability of the agency, which shall be reflected in the agreement with the board.

(2) A member agency may challenge the determination by the board to apportion the retirement liability of the agency within 30 calendar days of the determination. However, a member, or a former member, that is not identified by the board pursuant to subdivision (a) shall not be permitted to challenge a determination by the board.

(A) A challenge pursuant to this paragraph shall be referred by the member agency or agencies that challenge a determination by the board to an arbitrator who shall, at the arbitrator's discretion, apportion the liability among the current and former member agencies such that the apportionment equals 100 percent of the retirement liability of the agency. The arbitrator shall make a decision as to the apportionment of liability no later than 60 calendar days following referral of a challenge.

(B) The final decision by the arbitrator shall be binding on all current and former member agencies, and all costs of arbitration shall be equally shared among the member agencies that are identified by the arbitrator to share in the apportioned liability. The arbitrator shall submit an official copy of their final decision to the board within seven calendar days of the decision.

(b) An agency shall not be permitted to terminate pursuant to Section 20570 or 20571, nor shall a decision by the governing body of an agency that does not contract with the California Public Employees' Retirement System to dissolve or cease to operate, become effective until a final determination or decision, pursuant to paragraph (1) or paragraph (2) of subdivision (a), is final.

(c) Upon notice by the board of a potential termination pursuant to Section 20572, an agency established by agreement under this chapter shall, within 60 calendar days, provide to the board a copy of an agreement, signed by all parties thereto, that sets forth the apportionment of 100 percent of the retirement obligations of the agency. If the agency does not timely provide a copy of the mutual agreement, the board shall in its sole discretion apportion the retirement liability of the agency among the current or former member agencies, such that the apportionment equals 100 percent of the retirement liability of the agency.

(1) A member agency may challenge the determination by the board to apportion the retirement liability of the agency within 30 calendar days of the determination. However, a member, or a former member, that is not identified by the board pursuant to subdivision (a) shall not be permitted to challenge a determination by the board.

(2) A challenge pursuant to paragraph (1) shall be referred by the member agency or agencies that challenge a determination by the board to an arbitrator who shall, at the arbitrator's discretion, apportion the liability among the current and former member agencies such that the apportionment equals 100 percent of the retirement liability of the agency.

(3) The arbitrator shall make a decision as to the apportionment of liability no later than 60 calendar days following referral of a challenge and shall submit an official copy of their final decision to the board within seven calendar days of the decision. The final decision by the arbitrator shall be binding on all current and former member agencies, and all costs of arbitration shall be equally shared among the member agencies that are identified by the arbitrator to share in the apportioned liability. The board may take action to terminate the agency's contract no earlier than 30 calendar days following the final decision by the arbitrator.

(d) Mutual agreement among the member agencies, or a determination by the board, as to the apportionment of the retirement liability of the agency pursuant to paragraph (1) of subdivision (a), or a decision by the arbitrator pursuant to paragraph (2) of subdivision (a), may include the apportionment of retirement liability to a former member of the agency.

(e) This section shall apply retroactively to current and former member agencies of an agency that has an agreement in existence with the board as of January 1, 2019. In addition, this section shall apply to a new agreement between an agency and the board on or after January 1, 2019. However, this section shall not apply to an agency established pursuant to this chapter that has dissolved prior to January 1, 2019.

(f) For purposes of this section, "board" means the board of any pension or retirement system of a public employer, including, but not limited to, an independent retirement plan offered by a public employer that the public employer participates in or offers to its employees for the purpose of providing retirement benefits, or a system of benefits for public employees that is governed by Section 401(a) of Title 26 of the United States Code.

(g) Notwithstanding any other law, if a judgment is rendered against an agency or a party to the agreement for a breach to its obligations to the public retirement system, the time within which a claim for injury may be presented or an action commenced against any other party that is subject to the liability determined by the judgment begins to run when the judgment is rendered.

SEC. 2. Section 20057 of the Government Code is amended to read:

20057. "Public agency" also includes the following:

(a) The Commandant, Veterans' Home of California, with respect to employees of the Veterans' Home Exchange and other post fund activities whose compensation is paid from the post fund of the Veterans' Home of California.

(b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with Section 89900) of Part 55 of Division 8 of Title 3 of the Education Code and in conformity with regulations adopted by the Trustees of the California State University and any auxiliary organization operating pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of Division 7 of Title 3 of the Education Code and in conformity with regulations adopted by the Board of Governors of the California Community Colleges.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20056.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of this

system or the State Teachers' Retirement Plan, and their immediate families, and employees of any credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of this system or the State Teachers' Retirement Plan. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All the payments made by the credit union that are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of this system. For purposes of this subdivision, a credit union is not deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 5 (commencing with Section 20460) prior to January 1, 1988. After January 1, 1988, the board may not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools that was a contracting agency on July 1, 1983, and any school district or community college district that was a contracting agency with respect to local police officers, as defined in Section 20430, on July 1, 1983.

(i) Any school district or community college district that has established a police department, pursuant to Section 38000 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20444.

(j) A nonprofit corporation formed for the primary purpose of assisting the development and expansion of the educational, research, and scientific activities of a district agricultural association formed pursuant to Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code, and the nonprofit corporation described in the California State Exposition and Fair Law (former Article 3 (commencing with Section 3551) of Chapter 3 of Part 2 of Division 3 of the Food and Agricultural Code, as added by Chapter 15 of the Statutes of 1967).

(k) (1) A public or private nonprofit corporation that operates a regional center for the developmentally disabled in accordance with Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(2) A public or private nonprofit corporation, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, that operates a rehabilitation facility for the developmentally disabled and provides services under a contract with either (A) a regional center for the developmentally disabled, pursuant to paragraph (3) of subdivision (a) of Section 4648 of the Welfare and Institutions Code, or (B) the Department of Rehabilitation, pursuant to Chapter 4.5 (commencing with Section 19350) of Part 2 of Division 10 of the Welfare and Institutions Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(3) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the regional center or the rehabilitation facility described in this subdivision. Notwithstanding any other provision of this part, the agency may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(l) Independent data-processing centers formed pursuant to former Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of the Education Code, as it read on December 31, 1990. An agency included pursuant to this subdivision shall only provide benefits that are identical to those provided to a school member.

(m) Any local agency formation commission.

(n) A nonprofit corporation organized for the purpose of and engaged in conducting a citrus fruit fair as defined in Section 4603 of the Food and Agricultural Code.

(o) (1) A public or private nonprofit corporation that operates an independent living center providing services to severely handicapped people and established pursuant to federal Public Law 93-112, that receives the approval of the board, and that provides at least three of the following services:

(A) Assisting severely handicapped people to obtain personal attendants who provide in-home supportive services.

(B) Locating and distributing information about housing in the community usable by severely handicapped people.

(C) Providing information about financial resources available through federal, state, and local government, and private and public agencies to pay all or part of the cost of the in-home supportive services and other services needed by severely handicapped people.

(D) Counseling by people with similar disabilities to aid the adjustment of severely handicapped people to handicaps.

(E) Operation of vans or buses equipped with wheelchair lifts to provide accessible transportation to otherwise unreachable locations in the community where services are available to severely handicapped people.

(2) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the independent living center.

(3) Notwithstanding any other provisions of this part, the public or private nonprofit corporation may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(p) A hospital that is managed by a city legislative body in accordance with Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4.

(q) The Tahoe Transportation District that is established by Article IX of Section 66801.

(r) The California Firefighter Joint Apprenticeship Program formed pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(s) A public health department or district that is managed by the governing body of a county of the 15th class, as defined by Sections 28020 and 28036, as amended by Chapter 1204 of the Statutes of 1971.

(t) A nonprofit corporation or association conducting an agricultural fair pursuant to Section 25905 may enter into a contract with the board for the participation of its employees as members of this system, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The nonprofit corporation or association shall be deemed a "public agency" only for this purpose.

(u) An auxiliary organization established pursuant to Article 2.5 (commencing with Section 69522) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The auxiliary organization is a "public agency" only for this purpose.

(v) The Western Association of Schools and Colleges upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The association shall be deemed a "public agency" only for this purpose.

(w) The State Assistance Fund for Enterprise, Business and Industrial Development Corporation upon obtaining a written opinion from the United States Department of Labor as described in Section 20057.1.

(x) (1) A private nonprofit area agency on aging as described in Section 9006 of the Welfare and Institutions Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(2) The area agency on aging shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the agency.

(3) Notwithstanding any other provision of this part, the area agency on aging may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(y) (1) A nonprofit mutual water company operating pursuant to Chapter 1 (commencing with Section 14300) of Part 7 of Division 3 of Title 1 of the Corporations Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1, if both of the following requirements are satisfied:

(A) More than 50 percent of the company's shares are owned by a municipality.

(B) The governing body of the company is a local public agency, as defined in Section 6252, and a legislative body, as defined in Section 54952.

(2) A nonprofit mutual water company that meets the requirements specified in paragraph (1) shall be deemed a "public agency" only for the purposes of this part and only with respect to the employees of the agency.

(3) A nonprofit mutual water company that meets the requirements specified in paragraph (1) shall be deemed a "public agency" for purposes of this part only if it complies with the provisions of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

SEC. 3. Section 20161 of the Government Code is amended to read:

20161. Notwithstanding any other provision of this part or of Section 12438 or 16302.1 to the contrary, the following shall apply:

(a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars (\$250) or less.

(b) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars (\$50) or less remaining posted to a member's individual account, or an overpayment of fifty dollars (\$50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars (\$250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars (\$250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars (\$5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 12438.

SEC. 4. Section 20430 of the Government Code is amended to read:

20430. "Local police officer" also includes any officer or employee of a school district or a community college district that has established a police department pursuant to Section 38000 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement. This section shall only apply to any school district or community college district that prior to June 30, 1982, had amended its contract to provide membership for local police officers.

SEC. 5. Section 20444 of the Government Code is amended to read:

20444. "School safety member" includes any officer or employee of a school district or a community college district that has established a police department pursuant to Section 38000 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement.

This section shall only apply to a school district or a community college district that, pursuant to subdivision (i) of Section 20057, entered into a contract with the board on or after January 1, 1990.

SEC. 6. Section 20630 of the Government Code is amended to read:

20630. (a) As used in this part, "compensation" means the remuneration paid out of funds controlled by the employer in payment for the member's services performed during normal working hours or for time during which the member is excused from work because of any of the following:

(1) Holidays.

(2) Sick leave.

(3) Industrial disability leave, during which, benefits are payable pursuant to Sections 4800 and 4850 of the Labor Code, Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6, or Section 44043 or 87042 of the Education Code.

(4) Vacation.

(5) Compensatory time off.

(6) Leave of absence.

(b) When compensation is reported to the board, the employer shall identify the pay period in which the compensation was earned regardless of when reported or paid. Compensation shall be reported in accordance with Section 20636, or in accordance with Section 20636.1 for school members, and shall not exceed compensation earnable, as defined in Sections 20636 and 20636.1, respectively.

SEC. 7. Section 20636 of the Government Code is amended to read:

20636. (a) "Compensation earnable" by a member means the payrate and special compensation of the member, as defined by subdivisions (b), (c), and (g), and as limited by Section 21752.5.

(b) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. "Payrate," for a member who is not in a group or class, means the monthly rate of pay or base

pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(2) "Payrate" shall include an amount deducted from a member's salary for any of the following:

(A) Participation in a deferred compensation plan.

(B) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(C) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(D) Participation in a flexible benefits program.

(3) The computation for a leave without pay of a member shall be based on the compensation earnable by the member at the beginning of the absence.

(4) The computation for time before entering state service shall be based on the compensation earnable by the member in the position first held by the member in state service.

(c) (1) Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall do all of the following:

(A) Identify the pay period in which the special compensation was earned.

(B) Identify each item of special compensation and the category under which that item is listed, as described in regulations promulgated by the board pursuant to paragraph (6), for example, the item of Uniform Allowance would be reported under the category of Statutory Items.

(C) Report each item of special compensation separately from payrate.

(4) Special compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20691, if the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation earnable.

(5) The monetary value of a service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, is not special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 and following of Title 29 of the United States Code shall be included as special compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

(B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.

(C) Other payments the board has not affirmatively determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) (1) As used in this part, "group or class of employment" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping. A single employee is not a group or class.

(2) Increases in compensation earnable granted to an employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(f) As used in this part, "final settlement pay" means pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with, or in anticipation of, a separation from employment. The board shall promulgate regulations that delineate more specifically what constitutes final settlement pay.

(g) (1) Notwithstanding subdivision (a), "compensation earnable" for state members means the average monthly compensation, as determined by the board, upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, and is composed of the payrate and special compensation of the member. The computation for an absence of a member shall be based on the compensation earnable by the member at the beginning of the absence and for time before entering state service shall be based on the compensation earnable by the member in the position first held by the member in that state service.

(2) Notwithstanding subdivision (b), "payrate" for state members means the average monthly remuneration paid in cash out of funds paid by the employer to similarly situated members of the same group or class of employment, in payment for the member's services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence, pursuant to publicly available pay schedules. "Payrate" for state members shall include:

(A) An amount deducted from a member's salary for any of the following:

(i) Participation in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6.

(ii) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(iv) Participation in a flexible benefits program.

(B) A payment in cash by the member's employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan that meets the requirements of Section 403(b) of Title 26 of the United States Code.

(C) Employer "pick up" of member contributions that meets the requirements of Section 414(h)(2) of Title 26 of the United States Code.

(D) Disability or workers' compensation payments to safety members in accordance with Section 4800 of the Labor Code.

(E) Temporary industrial disability payments pursuant to Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.

(F) Other payments the board may determine to be within "payrate."

(3) Notwithstanding subdivision (c), "special compensation" for state members shall mean all of the following:

(A) The monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry, and other advantages of any nature furnished to a member by their employer in payment for the member's services.

(B) Compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, Peace Officer Standards and Training (POST) certificate pay, and split shift differential.

(C) Compensation for uniforms, except as provided in Section 20632.

(D) Other payments the board may determine to be within "special compensation."

(4) "Payrate" and "special compensation" for state members do not include any of the following:

(A) The provision by the state employer of a medical or hospital service or care plan or insurance plan for its employees (other than the purchase of annuity contracts as described below in this subdivision), a contribution by the employer to meet the premium or charge for that plan, or a payment into a private fund to provide health and welfare benefits for employees.

(B) A payment by the state employer of the employee portion of taxes imposed by the Federal Insurance Contributions Act.

(C) Amounts not available for payment of salaries and that are applied by the employer for the purchase of annuity contracts including those that meet the requirements of Section 403(b) of Title 26 of the United States Code.

(D) Benefits paid pursuant to Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6.

(E) Employer payments that are to be credited as employee contributions for benefits provided by this system, or employer payments that are to be credited to employee accounts in deferred compensation plans. The amounts deducted from a member's wages for participation in a deferred compensation plan are not "employer payments."

(F) Payments for unused vacation, annual leave, personal leave, sick leave, or compensating time off, whether paid in lump sum or otherwise.

(G) Final settlement pay.

(H) Payments for overtime, including pay in lieu of vacation or holiday.

(I) Compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobiles, and bonuses for duties performed after the member's regular work shift.

(J) Amounts not available for payment of salaries and that are applied by the employer for any of the following:

(i) The purchase of a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(ii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(K) Payments made by the employer to or on behalf of its employees who have elected to be covered by a flexible benefits program, where those payments reflect amounts that exceed the employee's salary.

(L) Other payments the board may determine are not "payrate" or "special compensation."

(5) If the provisions of this subdivision, including the board's determinations pursuant to subparagraph (F) of paragraph (2) and subparagraph (D) of paragraph (3), are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or 3560, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act. A memorandum of understanding reached pursuant to Section 3517.5 or 3560 shall not exclude from the definition of either "payrate" or "special compensation" a member's base salary payments or payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. If items of compensation earnable are included by memorandum of understanding as "payrate" or "special compensation" for retirement purposes for represented and higher education employees pursuant to this paragraph, the Department of Human Resources or the Trustees of the California State University shall obtain approval from the board for that inclusion.

(6) (A) Subparagraph (B) of paragraph (3) prescribes that compensation earnable includes compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, and split shift differential; and includes compensation for uniforms, except as provided in Section 20632; and subparagraph (I) of paragraph (4) excludes from compensation earnable compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, and bonuses for duties performed after regular work shift.

(B) Notwithstanding subparagraph (A), the Department of Human Resources shall determine which payments and allowances that are paid by the state employer shall be considered compensation for retirement purposes for an employee

who either is excluded from the definition of state employee in Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(C) Notwithstanding subparagraph (A), the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees shall be considered compensation for retirement purposes for a managerial employee, as defined in Section 3562, or supervisory employee as defined in Section 3580.3.

(7) Notwithstanding subdivision (c), a state employer shall, when reporting payrate and special compensation, do all of the following:

(A) Identify the pay period in which the special compensation was earned.

(B) Identify each item of special compensation, as permitted pursuant to paragraphs (3) and (5).

(C) Report each item of special compensation separately from payrate.

(h) This section does not apply to a new member, as defined in Section 7522.04.

SEC. 8. Section 20636.1 of the Government Code is amended to read:

20636.1. (a) Notwithstanding Section 20636, and Section 45102 of the Education Code, "compensation earnable" by a school member means the payrate and special compensation of the member, as defined by subdivisions (b) and (c), and as limited by Section 21752.5.

(b) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. For purposes of this part, for classified members, full-time employment is 40 hours per week, and payments for services rendered, not to exceed 40 hours per week, shall be reported as compensation earnable for all months of the year in which work is performed. "Payrate," for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(A) "Payrate" shall include an amount deducted from a member's salary for any of the following:

(i) Participation in a deferred compensation plan.

(ii) Payment for participation in a retirement plan that meets the requirements of Section 401(k) or 403(b) of Title 26 of the United States Code.

(iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(iv) Participation in a flexible benefits program.

(B) For the purposes of this section, "classified members" shall mean members who retain membership under this system while employed with a school employer in positions not subject to coverage under the Defined Benefit Program under the State Teachers' Retirement System.

(C) For the purposes of this section, and Sections 20962 and 20966, "certificated members" shall mean members who retain membership under this system while employed in positions subject to coverage under the Defined Benefit Program under the State Teachers' Retirement System.

(2) The computation for any leave without pay of a member shall be based on the compensation earnable by the member at the beginning of the absence.

(3) The computation for time before entering state service shall be based on the compensation earnable by the member in the position first held by the member in state service.

(c) (1) Special compensation of a school member includes any payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall:

(A) Identify the pay period in which the special compensation was earned.

(B) Identify each item of special compensation and the category under which that item is listed, as described in regulations promulgated by the board pursuant to paragraph (6) of subdivision (c), for example, the item of Uniform Allowance would be reported under the category of Statutory Items.

(C) Report each item of special compensation separately from payrate.

(4) Special compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20691, provided that the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation earnable.

(5) The monetary value of any service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, shall not be special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 and following of Title 29 of the United States Code shall be included as special compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

(B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.

(C) Other payments the board has not affirmatively determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) (1) As used in this part, "group or class of employment" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping. A single employee is not a group or class.

(2) Increases in compensation earnable granted to any employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(f) As used in this part, "final settlement pay" means any pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with or in anticipation of a separation from employment. The board shall promulgate regulations that delineate more specifically what constitutes final settlement pay.

(g) This section does not apply to a new member, as defined in Section 7522.04.

SEC. 9. Section 20691 of the Government Code is amended to read:

20691. (a) (1) Except as provided in subdivision (b), notwithstanding any other law, a contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. Where the member is included in a group or class of employment, the payment shall be for all members in the group or class of employment. If an individual is not part of a group or class, the payment shall be limited to the amount that the board determines is payable to similarly situated members in the closest related group or class, subject to the limitations of paragraph (2) of subdivision (e) of Section 20636 and paragraph (2) of subdivision (e) of Section 20636.1, as applicable. The payments shall be reported simply as normal contributions and shall be credited to member accounts.

(2) Nothing in this subdivision shall be construed to limit the authority of a contracting agency or school employer to periodically increase, reduce, or eliminate the payment by the contracting agency or school employer of all or a portion of the normal

contributions required to be paid by members, as authorized by this section.

(b) Notwithstanding subdivision (a), employers shall not pay a portion of the normal contributions for members who are subject to subdivision (c) of Section 7522.30, except where authorized pursuant to subdivision (f) of Section 7522.30.

SEC. 10. Section 20837 of the Government Code is repealed.

SEC. 11. Section 20963 of the Government Code is amended to read:

20963. (a) A state member, whose effective date of retirement is within four months of separation from employment with the state, shall be credited at the member's retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by the state. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of the member's employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found. For purposes of this subdivision, sick leave shall not include sick leave earned as a National Guard member as described in Section 20380.5.

(b) This section shall not apply to a state employee, with respect to sick leave credits earned as a state member under Section 21353.5, except that the member shall be entitled to receive credit under this section for the sick leave the member has earned as a state member subject to any other retirement formula, provided the member has a sick leave credit balance remaining at the time of retirement.

(c) For the purposes of this section, sick leave benefits provided to state employees pursuant to the state sick leave system shall be construed to mean compensation paid to employees on approved leaves of absence because of sickness.

SEC. 12. Section 20963.5 of the Government Code is repealed.

SEC. 13. Section 20963.5 is added to the Government Code, to read:

20963.5. On and after January 1, 2020, a school member, a school safety member, or a local member employed by a contracting agency that is a school district, county office of education, or community college district, whose effective date of retirement is within four months of separation from employment with the employer subject to this section that granted the sick leave credit, shall be credited at the member's retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by the employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of the member's employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found. For purposes of this subdivision, sick leave shall include sick leave granted by the employer subject to this section and any sick leave transferred to that employer pursuant to Section 44979, 45202, 87783, or 88202 of the Education Code.

SEC. 14. Section 20965 of the Government Code is amended to read:

20965. (a) A local miscellaneous member and a local safety member, whose effective date of retirement is within four months of separation from employment with the employer that granted the sick leave credit, shall be credited at the member's retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by the member's employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of the member's employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found.

(b) (1) This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or, in the case of contracts made after September 26, 1974, by express provision in the contract making the contracting agency subject to this section.

(2) This section shall only apply to members who retire after the effective date of the contract amendments.

(c) Any contracting agency that is a school district, county office of education, or community college district that elects to contract for unused sick leave conversion under this section or participates in a risk pool pursuant to Section 20840 shall be subject to the provisions of Section 20963.5.

SEC. 15. Section 21464 of the Government Code is amended to read:

21464. Notwithstanding any provision of this part, a retired member who chose no optional settlement or optional settlement one at retirement and who marries after retirement may elect to have the actuarial equivalent, as of the date of the election, of the allowance payable for the remainder of the member's lifetime applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name the member's spouse as beneficiary.

The election provided by this section is irrevocable and shall be made within 12 months following a member's marriage if the spouse is named as beneficiary. The election shall become effective on the date specified on the election, provided that this date is not earlier than the day following receipt of the election in this system pursuant to this section.

A member who married prior to or after January 1, 1988, who fails to elect within 12 months, shall retain the right to make an election under this section. However, the election shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die prior to the effective date of the election.

This section shall not be construed to mean that designation of a new beneficiary causes the selection of an optional settlement. An optional settlement shall be selected by a member in a writing filed by the member with the board.

This section shall apply to any member who retires on or before December 31, 2017.

SEC. 16. Section 21482 of the Government Code is amended to read:

21482. (a) Notwithstanding any provision of this part, a retired member who chose no optional settlement or the optional settlement in Section 21474 at retirement and who marries after retirement may elect to have the actuarial equivalent, as of the date of the election, of the allowance payable for the remainder of the member's lifetime applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name the member's spouse as beneficiary.

(b) The election provided by this section is irrevocable and shall be made within 12 months following a member's marriage if the spouse is named as beneficiary. The election shall become effective on the date specified on the election, provided that this date is not earlier than the day following receipt of the election in this system pursuant to this section.

(c) A member who married prior to or after January 1, 1988, who fails to elect within 12 months, shall retain the right to make an election under this section. However, the election shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die prior to the effective date of the election.

(d) This section shall not be construed to mean that designation of a new beneficiary causes the selection of an optional settlement. An optional settlement shall be selected by a member in a writing filed by the member with the board.

(e) This section shall apply to any member who retires on or after January 1, 2018.

SEC. 17. Section 21710 of the Government Code is amended to read:

21710. For purposes of this chapter, the following definitions shall apply:

(a) "Participating employer" means an employer that is authorized and has elected to participate in the prefunding plan.

(b) "Prefunding plan" means the California Employers' Pension Prefunding Trust Fund, a trust fund administered by the board, for the purpose of investing employer payments toward their required pension contributions to a defined benefit pension plan and that is intended to meet the requirements of Section 115 of the Internal Revenue Code.

(c) "Required pension contributions" means future contributions to a defined benefit pension plan required to fund the present value of plan benefits, calculated in compliance with Actuarial Standards of Practice of the American Academy of Actuaries.

SEC. 18. Section 22850 of the Government Code is amended to read:

22850. (a) The board may, without compliance with any provision of law relating to competitive bidding, enter into contracts with carriers offering health benefit plans or with entities offering services relating to the administration of health benefit plans.

(b) The board may contract with carriers for health benefit plans or approve health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the hospital and medical care fields prior to the contracting for or approval thereof. The plans may include hospital benefits, surgical benefits, inpatient medical benefits, outpatient benefits, obstetrical benefits, and benefits offered by a bona fide church, sect, denomination, or organization whose principles include healing entirely by prayer or spiritual means.

(c) Notwithstanding any other provision of this part, the board may contract with health benefit plans offering unique or specialized health services.

(d) The board may administer self-funded, partially self-funded, or minimum premium health benefit plans.

(e) The board may contract for or implement employee cost containment and cost reduction incentive programs that involve the employee, the annuitant, and family members as active participants, along with the carrier and the provider, in a joint effort toward containing and reducing the cost of providing medical and hospital health care services to public employees. In developing these plans, the board, in cooperation with the Department of Human Resources, may request proposals from carriers and certified public employee representatives.

(f) Notwithstanding any other provision of this part, the board may do any of the following:

(1) Contract for, or approve, health benefit plans that charge a contracting agency and its employees and annuitants rates based on regional variations in the costs of health care services.

(2) Contract for, or approve, health benefit plans exclusively for the employees and annuitants of contracting agencies. State employees and annuitants may not enroll in these plans. The board may provide health benefit plans exclusively for employees and annuitants of contracting agencies in addition to or in lieu of other health benefit plans offered under this part pursuant to Section 22922.

(3) Implement and administer risk adjustment procedures consistent with Section 22864 that require health benefit plans to adjust premiums and authorize the system to redistribute premiums based on rules and regulations established by the board for this purpose.

(g) (1) The board shall approve any employee association health benefit plan that was approved by the board in the 1987–88 contract year or prior, provided the plan continues to meet the minimum standards prescribed by the board. The trustees of an employee association health benefit plan are responsible for providing health benefit plan administration and services to its enrollees.

(2) Notwithstanding any other provision of this part, the California Correctional Peace Officer Association Health Benefits Trust and the Peace Officers Research Association of California Insurance and Benefits Trust may offer different health benefit plan designs with varying premiums in different areas of the state. The trustees of these health benefit plan trusts shall not use geographic regions that are different from the geographic regions established by the board for the regional premiums of contracting agencies, as authorized in paragraph (1) of subdivision (f), except that these trusts may use a north or south geographic region of the state that is different from the regions established by the board.

(h) Irrespective of any other provision of law, the sponsors of a health benefit plan approved under this section may reinsure the operation of the plan with an admitted insurer authorized to write disability insurance, if the premium includes the entire prepayment fee.

SEC. 19. Section 22852 of the Government Code is amended to read:

22852. (a) A contract for a health benefit plan shall be for a uniform term of at least one year and may be made automatically renewable in the absence of notice of termination by either party. Every contract for administrative services with respect to the operation of a self-funded, partially self-funded, or minimum premium health benefit plan administered by the board shall be on terms as the board deems necessary or desirable.

(b) The board shall determine the beginning and ending dates of a contract with the carrier of a health benefit plan and with an entity providing services in connection with the administration of a health benefit plan.

(c) Irrespective of an agreed upon termination date, the board may extend a contract for a reasonable period of time, subject to agreed upon terms and conditions.

SEC. 20. Section 22866 of the Government Code is amended to read:

22866. (a) The board shall report to the Legislature and the Director of Finance on or before November 1, 2016, and annually thereafter, regarding the health benefits program. The report shall include, but not be limited to the following:

(1) General overview of the health benefits program, including, but not limited to, the following:

(A) Description of health plans and benefits provided, including essential and nonessential benefits as required by state and federal law, member expected out-of-pocket expenses, and actuarial value by metal tier as defined by the federal Patient

Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(B) Geographic coverage.

(C) Historic enrollment information by basic and Medicare plans, by state and contract agencies, by active and retired membership, and by subscriber and dependent tier.

(D) Historic expenditures by basic and Medicare plans, by state and contract agencies, by active and retired membership, and by subscriber and dependent tier.

(2) Reconciliation of premium increases or decreases from the prior plan year, and the reasons for those changes.

(A) Description of benefit design and benefit changes, including prescription drug coverage, by plan. The description shall detail whether benefit changes were required by statutory mandate, federal law, or an exercise of the board's discretion, the costs or savings of the benefit change, and the impact of how the changes fit into a broader strategy.

(B) Discussion of risk.

(C) Description of medical trend changes in aggregate service categories for each plan. The aggregate service categories used shall include the standard categories of information collected by the board, consisting of the following: inpatient, emergency room, ambulatory surgery, office, ambulatory radiology, ambulatory lab, mental health and substance abuse, other professional, prescriptions, and all other service categories.

(D) Reconciliation of past year premiums against actual enrollments, revenues, and accounts receivables.

(3) Overall member health as reflected by data on chronic conditions.

(4) The impact of federal subsidies or contributions to the health care of members, including Medicare Part A, Part B, Part C, or Part D, low-income subsidies, or other federal program.

(5) The cost of benefits beyond Medicare contained in the board's Medicare supplemental plans.

(6) A description of plan quality performance and member satisfaction, including, but not limited to, the following:

(A) The Healthcare Effectiveness Data and Information Set, referred to as HEDIS.

(B) The Medicare star rating for Medicare supplemental plans.

(C) The degree of satisfaction of members and annuitants with the health benefit plans and with the quality of the care provided, to the extent the board surveys participants.

(D) The level of accessibility to preferred providers for rural members who do not have access to health maintenance organizations.

(E) Other applicable quality measurements collected by the board as part of the board's health plan contracts.

(7) A description of risk assessment and risk mitigation policy related to the board's self-funded and partially self-funded plan offerings, including, but not limited to the following:

(A) Reserve levels and their adequacy to mitigate plan risk.

(B) The expected change in reserve levels and the factors leading to this change.

(C) Policies to reduce excess reserves or rebuild inadequate reserves.

(D) Decisions to lower premiums with excess reserves.

(E) The use of reinsurance and other alternatives to maintaining reserves.

(8) Description and reconciliation of administrative expenditures, including, but not limited to, the following:

(A) Organization and staffing levels, including salaries, wages, and benefits.

(B) Operating expenses and equipment expenditure items, including, but not limited to, internal and external consulting and intradepartmental transfers.

(C) Funding sources.

(D) Investment strategies, historic investment performance, and expected investment returns of the Public Employees' Contingency Reserve Fund and the Public Employees' Health Care Fund.

(9) Changes in strategic direction and major policy initiatives.

(b) A report submitted pursuant to subdivision (a) shall be provided in compliance with Section 9795.

SEC. 21. Section 22910 of the Government Code is amended to read:

22910. (a) There shall be maintained in the State Treasury the Public Employees' Contingency Reserve Fund. The board may invest funds in the Public Employees' Contingency Reserve Fund in accordance with the law governing its investment of the retirement fund.

(b) (1) An account shall be maintained within the Public Employees' Contingency Reserve Fund with respect to the health benefit plans the board has approved or that have entered into a contract with the board. The account shall be credited, from time to time and in amounts as determined by the board, with moneys contributed under Section 22885 or 22901 to provide an adequate contingency reserve. The income derived from any dividends, premium adjustments, or other funds received from a health benefit plan shall be credited to the account. The board may deposit, in the same manner as provided in paragraph (4), up to one-half of 1 percent of premiums in the account for purposes of cost containment programs, subject to approval as provided in paragraph (2) of subdivision (c).

(2) The account for health benefit plans may be utilized to defray increases in future premiums, to reduce the contributions of employees and annuitants and employers, to implement cost containment programs, or to increase the benefits provided by a health benefit plan, as determined by the board. The board may use penalties and interest deposited pursuant to subdivision (c) of Section 22899 to pay any difference between the adjusted premium set by the board pursuant to Section 22864 and the applicable health benefit plan contract premiums.

(3) The total credited to the account for health benefit plans at any time shall be limited, in the manner and to the extent the board may find to be most practical, to a maximum of 10 percent of the total of the contributions of the employers and employees and annuitants in any fiscal year. The board may undertake any action to ensure that the maximum amount prescribed for the fund is approximately maintained.

(4) Board rules and regulations adopted pursuant to Section 22831 to minimize the impact of adverse selection or contracts entered into pursuant to Section 22864 to implement health benefit plan performance incentives may provide for deposit in and disbursement to carriers or to Medicare from the account the portion of the contributions otherwise payable directly to the carriers by the Controller under Section 22913 as may be required for that purpose. The deposits shall not be included in applying the limitations, prescribed in paragraph (3), on total amounts that may be deposited in or credited to the fund.

(5) Notwithstanding Section 13340, all moneys in the account for health benefit plans are continuously appropriated without regard to fiscal year for the purposes provided in this subdivision.

(c) (1) An account shall also be maintained in the Public Employees' Contingency Reserve Fund for administrative expenses consisting of funds deposited for this purpose pursuant to Sections 22885 and 22901.

(2) The moneys deposited pursuant to Sections 22885 and 22901 in the Public Employees' Contingency Reserve Fund may be expended by the board for administrative purposes, provided that the expenditure is approved in the annual Budget Act.

(d) An account shall be maintained in the Public Employees' Contingency Reserve Fund for the contributions required pursuant to Section 22870. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, for the payment of premiums or other charges to carriers or the Public Employees' Health Care Fund. This subdivision shall not apply to state administrative costs, which shall continue to be subject to Section 13340.

(e) An account shall be maintained in the Public Employees' Contingency Reserve Fund for the contributions required pursuant to Section 22890 and for payments made pursuant to subdivision (f) of Section 22850. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, for the payment of premiums or other charges to carriers or the Public Employees' Health Care Fund. Penalties and interest paid pursuant to subdivision (c) of Section 22899 shall be deposited in the account pursuant to paragraphs (1) and (2) of subdivision (b).

(f) Accounts shall be maintained in the Public Employees' Contingency Reserve Fund for complementary annuitant premiums and related administrative expenses paid by annuitants pursuant to Section 22802. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, to reimburse the Public Employees' Retirement Fund, the Judges' Retirement Fund, the Judges' Retirement Fund II, and the Legislators' Retirement Fund, as applicable, for payment of annuitant health premiums, and for the payment of premiums and other charges to carriers or to the Public Employees' Health Care Fund. Administrative expenses deposited in this account shall be credited to the account provided by subdivision (c).

(g) Amounts received by the board for retiree drug subsidy payments that are attributed to contracting agencies and their annuitants and employees pursuant to subdivision (c) of Section 22910.5 shall be deposited in the Public Employees' Contingency Reserve Fund. Notwithstanding Section 13340, these amounts are continuously appropriated, without regard to fiscal year, for the payment of premiums, costs, contributions, or other benefits related to contracting agencies and their employees and annuitants, and as consistent with the Medicare Prescription Drug Improvement and Modernization Act of 2003, as amended.

(h) The Account for Retiree Drug Subsidy Payments is hereby established in the Public Employees' Contingency Reserve Fund and funds in that account shall, upon appropriation by the Legislature, be used for the purposes described in Section 22910.5.

(i) Notwithstanding any other law, the Controller may use the moneys in the Public Employees' Contingency Reserve Fund for loans to the General Fund as provided in Sections 16310 and 16381. However, interest shall be paid on all moneys loaned to the General Fund from the Public Employees' Contingency Reserve Fund. Interest payable shall be computed at a rate determined by the Pooled Money Investment Board to be the current earning rate of the fund from which loaned. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which the Public Employees' Contingency Reserve Fund was created.

SEC. 22. Section 22911 of the Government Code is amended to read:

22911. (a) There shall be maintained in the State Treasury the Public Employees' Health Care Fund to fund the health benefit plans administered or approved by the board. The board may invest funds in the Public Employees' Health Care Fund in accordance with the provisions of law governing its investment of the retirement fund.

(b) The Public Employees' Health Care Fund shall consist of the following:

(1) Any self-funded, partially self-funded, or minimum premium plan premiums paid by contracting agencies, the state and enrolled employees, annuitants, and family members, including premiums paid directly for continuation coverage authorized under the Consolidated Omnibus Budget Reconciliation Act, and as authorized by this part.

(2) Any reserve moneys from terminated health benefit plans designated by the board.

(3) Any moneys from a health benefit plan for risk adjustment pursuant to Section 22864.

(c) Income earned on the Public Employees' Health Care Fund shall be credited to the fund.

(d) Notwithstanding Section 13340, the Public Employees' Health Care Fund is continuously appropriated, without regard to fiscal years, to pay benefits and claims costs for self-funded, partially self-funded, or minimum premium health benefit plans, and refunds to those who made direct premium payments.

(e) The moneys deposited in the Public Employees' Health Care Fund may be expended by the board for administrative purposes provided that the expenditure is approved in the annual Budget Act.

(f) The Legislature finds and declares that the Public Employees' Health Care Fund is a trust fund held for the exclusive benefit of enrolled employees, annuitants, and family members.

(g) Notwithstanding subdivisions (d) and (f), the board may use reserves generated by one or more self-funded health benefit plans for risk adjustment programs and procedures pursuant to paragraph (3) of subdivision (f) of Section 22850 and paragraph (5) of subdivision (b) of Section 22864.

SEC. 23. Section 22913 of the Government Code is amended to read:

22913. (a) The Controller shall suitably identify and remit the state's monthly contribution, as required by Section 22870, and the monthly amounts authorized to be deducted from the salaries or retirement allowances of state employees and annuitants for payment of their contributions, as required by Section 22870, to the Public Employees' Contingency Reserve Fund.

(b) The Controller shall suitably identify and remit the monthly contracting agency employer, employee, and annuitant contributions, as required by Section 22890, to the Public Employees' Contingency Reserve Fund by warrant of the Controller upon claims filed by the board.

SEC. 24. Section 22946 of the Government Code is amended to read:

22946. As used in this chapter:

(a) "Health benefits trust" means the California Association of Highway Patrolmen Health Benefits Trust, the Peace Officers Research Association of California Health Benefits Trust, the California Correctional Peace Officers Association Health Benefits Trust, or a self-funded, partially self-funded, or minimum premium plan administered by the board under this part.

(b) "Participant" means an employee, annuitant, or family member who is a member of a health benefits trust and who is injured by, or due to the actions or inactions of, a third person, and includes any other person to whom a claim accrues by reason of the injury or death of the employee, annuitant, or family member.

(c) "Third party" means any tortfeasor or alleged tortfeasor against whom the participant asserts a claim for injury or death.

SEC. 25. Section 75071 of the Government Code is amended to read:

75071. This section shall apply to any judge who retires on or before December 31, 2017.

(a) Optional settlement one consists of the right to have a retirement allowance paid to the judge for life and if the judge dies before receiving the amount of the judge's accumulated contributions at retirement, to have the balance at death paid to the judge's designated beneficiary or, if no beneficiary designation is in effect on the date of death, to the judge's estate.

(b) (1) Optional settlement two consists of the right to have a retirement allowance paid to the judge for life and thereafter to the judge's designated beneficiary for life.

(2) If the judge's designated beneficiary predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, the judge's allowance shall be adjusted effective the first day of the month following the death of the beneficiary to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(3) If the designated beneficiary is a spouse and the marriage is dissolved or a legal separation filed, and the judgment dividing the community property between the judge and the beneficiary awards the total interest in this system to the retired judge, or the marriage is annulled and confirmed by a court, and the judge elected this optional settlement to be effective on or after January 1, 2002, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(c) (1) Optional settlement three consists of the right to have a retirement allowance paid to the judge for life, and thereafter to have one-half of the judge's retirement allowance paid to the judge's designated beneficiary for life.

(2) If the judge's designated beneficiary predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, the judge's allowance shall be adjusted effective the first day of the month following the death of the beneficiary to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(3) If the designated beneficiary is a spouse and the marriage is dissolved or a legal separation filed, and the judgment dividing the community property between the judge and the beneficiary awards the total interest in this system to the retired judge, or the marriage is annulled and confirmed by a court, and the retired judge elected this optional settlement to be effective on or after January 1, 2002, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(d) Optional settlement four consists of other benefits that are the actuarial equivalent of the judge's retirement allowance, that the judge may select subject to the approval of the Judges' Retirement System.

(e) When a judge elects, on or after January 1, 2003, to receive benefits provided by paragraph (2) of subdivision (b) or paragraph (2) of subdivision (c), and the judge and judge's optional settlement beneficiary both die before receiving in annuity payments the full amount of the judge's accumulated contributions at retirement, the balance of the judge's accumulated contributions shall be paid to the beneficiary designated by the judge. If the judge had no designated beneficiary in effect on the date of death, payment shall be made to the judge's estate.

SEC. 26. Section 75109.1 of the Government Code is amended to read:

75109.1. (a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars (\$250) or less.

(b) Notwithstanding Section 75109, when there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars (\$50) or less remaining posted to a member's individual account, or an overpayment of fifty dollars (\$50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars (\$250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars (\$250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars (\$5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 12438.

SEC. 27. Section 75611.5 of the Government Code is amended to read:

75611.5. (a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars (\$250) or less.

(b) Notwithstanding Section 75611, when there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars (\$50) or less remaining posted to a member's individual account, or an overpayment of fifty dollars (\$50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars (\$250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars (\$250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars (\$5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 12438.