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AB-1246 Public employees' retirement: Public Employees' Retirement System optional settlements.
(2023-2024)

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Assembly Bill No. 1246

CHAPTER 350

An act to amend Sections 21462 and 21481 of the Government Code, relating to retirement.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1246, Stephanie Nguyen. Public employees' retirement: Public Employees' Retirement System optional settlements.

The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS) to provide pension and other benefits to members of PERS. Existing law permits a member of PERS who retires on or before December 31, 2017, to elect from among several optional settlements for the purpose of structuring the member's retirement allowance. Existing law also permits a member of PERS who retires on or after January 1, 2018, to elect from among several other optional settlements for the purpose of structuring their retirement allowance. Existing law prohibits a member who elects to receive specified optional settlements from changing the member's optional settlement and designated beneficiary after election of an optional settlement unless a specified event occurs, including the death of a beneficiary who predeceased the member, a dissolution of marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, or in an annulment of marriage in which the court confirms the annulment.

This bill would, commencing January 1, 2026, permit a member who elected to receive a specified optional settlement at retirement, if the member's former spouse was named as beneficiary and a legal judgment awards only a portion of the interest in the retirement system to the retired member, to elect to add their new spouse as the beneficiary of the member's interest, subject to meeting certain conditions.

This bill would authorize a member to elect this option only once and would preclude elections that would be in derogation of the former spouse's interest in the retirement system. The bill would preclude elections that would result in additional costs to the employer.

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

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

SECTION 1. Section 21462 of the Government Code is amended to read:

21462. (a) (1) Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4 at retirement, involving a life contingency of the beneficiary, may, if the beneficiary predeceases the member or if the member marries and the former spouse was not named as beneficiary, or, if a former spouse was named, in the event of a dissolution of marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement

system to the retired member, or in an annulment of marriage in which the court confirms the annulment, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary.

(2) Notwithstanding paragraph (1), a member who elected to receive optional settlement 2, 3, or 4 at retirement, involving a life contingency of the beneficiary, may, if the member marries and a former spouse was named as beneficiary, in the event of a dissolution of marriage or a legal separation in which the judgment dividing the community property awards only a portion of the interest in the retirement system to the retired member, elect to convert to a multiple life contingency option to add their new spouse and have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime consisting of the right to have a retirement allowance paid to the member until their death and thereafter to have a monthly allowance paid to their new spouse for life for the remaining interest in the retirement system available to be allocated. Notwithstanding the foregoing, the combined allowance payable to the member's named beneficiary or beneficiaries and the member's survivor pursuant to Section 21624, 21629, or 21630, if applicable, shall not exceed the amount of the member's allowance. The member may elect this option only once. No election shall be made in derogation of the former spouse's interest in the retirement system. This paragraph shall become operative on January 1, 2026.

(3) Notwithstanding paragraph (1), for an election under this section that occurs on or after January 1, 2014, a member may name the same beneficiary as previously designated, provided that the resulting benefit to the member and the named beneficiary otherwise meets the requirements of this section.

(b) The election provided by this section is irrevocable and shall be made within 12 months following the death of the beneficiary who predeceased the member, within 12 months of the date of entry of the annulment of marriage or judgment dividing the community property of the parties, or within 12 months following 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 under this section.

(c) A member who has a qualifying event prior to January 1, 1988, and who fails to elect by January 1, 1989, or a member who has a qualifying event on or after January 1, 1988, and who fails to elect within 12 months, shall retain the right to make an election under this section. However, this 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) Nothing in this section shall be construed to permit any election that will result in additional costs to the employer.

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

SEC. 2. Section 21481 of the Government Code is amended to read:

21481. (a) (1) Notwithstanding any other provision of this part, a member who elected the optional settlement in Section 21475, 21475.5, 21476, 21476.5, or 21477 at retirement, may, if the beneficiary predeceases the member or if the member marries and the former spouse was not named as beneficiary, or, if a former spouse was named, in the event of a dissolution of marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, or in an annulment of marriage in which the court confirms the annulment, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary.

(2) Notwithstanding paragraph (1), a member who elected to receive the optional settlement in Section 21475, 21475.5, 21476, 21476.5, or 21477 at retirement, may, if the member marries and a former spouse was named as beneficiary, in the event of a dissolution of marriage or a legal separation in which the judgment dividing the community property awards only a portion of the interest in the retirement system to the retired member, elect to convert to a multiple life contingency option to add their new spouse and have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime consisting of the right to have a retirement allowance paid to the member until their death and thereafter to have a monthly allowance paid to their new spouse for life for the remaining interest in the retirement system available to be allocated. Notwithstanding the foregoing, the combined allowance payable to the member's named beneficiary or beneficiaries and the member's survivor pursuant to Section 21624, 21629, or 21630, if

applicable, shall not exceed the amount of the member's allowance. The member may elect this option only once. No election shall be made in derogation of the former spouse's interest in the retirement system. This paragraph shall become operative on January 1, 2026.

(3) Notwithstanding paragraph (1), for an election under this section that occurs on or after January 1, 2014, a member may name the same beneficiary as previously designated, provided that the resulting benefit to the member and the named beneficiary otherwise meets the requirements of this section.

(b) The election provided by this section is irrevocable and shall be made within 12 months following the death of the beneficiary who predeceased the member or within 12 months of the date of entry of the annulment of marriage or judgment dividing the community property of the parties, or within 12 months following 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 under this section.

(c) A member who has a qualifying event and who fails to elect within 12 months, shall retain the right to make an election under this section. However, this 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) Nothing in this section shall be construed to permit any election that will result in additional costs to the employer.

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