Assembly Bill No. 340

CHAPTER 296

An act to amend Sections 24214 and 24214.5 of, and to add Sections 22119.3, 22164.5, 24202.6, 24202.7, and 24202.8 to, the Education Code, to amend Sections 9355.4, 9355.41, 9355.45, 20281.5, 20516, 21076, and 31461 of, to amend and renumber Section 1243 of, to add Sections 20516.5, 20677.96, 20683.2, 20791, 21076.5, 31542, 31542.5, 31543, 31631, and 31631.5 to, to add Article 4 (commencing with Section 7522) to Chapter 21 of Division 7 of Title 1 of, to add a heading to Article 1 (commencing with Section 7500), to add a heading to Article 2 (commencing with Section 7515), and to add a heading to Article 3 (commencing with Section 7520) of Chapter 21 of Division 7 of Title 1 of, to add and repeal Sections 7522.66 and 21400 of, and to repeal the headings of Chapter 21.4 (commencing with Section 7515) and Chapter 21.5 (commencing with Section 7520) of Division 7 of Title 1 of, the Government Code, relating to public employees' retirement, and making an appropriation therefor.

[Approved by Governor September 12, 2012. Filed with Secretary of State September 12, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 340, Furutani. Public employees' retirement.

(1) The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS) and the Teachers' Retirement Law establishes the State Teachers' Retirement System (STRS) for the purpose of providing pension benefits to specified public employees. Existing law also establishes the Judges' Retirement System II which provides pension benefits to elected judges and the Legislators' Retirement System which provides pension benefits to elective officers of the state other than judges and to legislative statutory officers. The County Employees Retirement Law of 1937 authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to county, city, and district employees.

This bill would require a public retirement system, as defined, to modify its plan or plans to comply with this act. The bill would establish new retirement formulas that could not be exceeded by a public employer offering a defined benefit pension plan, setting the maximum benefit allowable for employees first hired on or after January 1, 2013, as a formula commonly known as 2.5% at age 67 for nonsafety members, one of 3 formulas for safety members, 2% at age 57, 2.5% at age 57, or 2.7% at age 57, and 1.25% at age 67 for new state miscellaneous or industrial members who elect to be in Tier 2. The amount of pensionable compensation upon which a defined benefit for new members, as defined, could be based would be limited to

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an amount determined under a specified provision of federal law for an employee whose service is included in the federal system, which is $110,100 for 2012, and 120% of that amount for an employee whose service is not included in the federal system. Those amounts would be adjusted annually, as specified. The bill would authorize an employer to contribute to a defined contribution plan, as specified.

The bill would prohibit a public employer from making contributions on behalf of a person who first becomes a member on or after January 1, 2013, to any qualified retirement plan based on any portion of compensation that exceeds an amount specified in federal law, which is $250,000 for 2012. The bill would also prohibit, for the purposes of determining a retirement benefit paid to a new member of a public retirement system, the maximum salary, compensation, or payrate taken into account under the retirement plan for any year from exceeding the amount specified in that federal provision, and would prohibit a public employer from seeking an exception to that prohibition.

The bill would prohibit a public employer from offering a plan of replacement benefits for a person who is first hired on or after January 1, 2013, and any survivors or beneficiaries whose retirement benefits are limited by a specified provision of federal law.

The bill would prohibit a public employer from providing a retirement health benefit vesting schedule or other specified retirement benefits to a manager or an employee or officer who is excluded from collective bargaining that is more advantageous than that provided generally to other public employees of the same employer who are in related membership classifications.

Under existing law, state miscellaneous and industrial employees first hired on or after August 11, 2004, who qualify for membership in PERS do not make contributions to the system or receive service credit for their service and the state employer does not make contributions on their behalf during their first 24 months of employment. These members are instead required to contribute into a tax-deferred savings account, commonly known as the alternate retirement program.

This bill would end that program and instead provide that new members immediately make their contributions to the system.

(2) Existing law defines final compensation for various employment classifications in connection with the benefits provided by the retirement systems.

This bill, for the purposes of determining a retirement benefit paid to a person who first becomes a member of a public retirement system on or after January 1, 2013, would require that final compensation mean the member's highest average annual pensionable compensation earned, as defined, during a period of at least 36 consecutive months, or at least 3 school years, as specified.

(3) Existing state and local public employee retirement systems are funded by investment returns and employer and employee contributions. The California Constitution provides that the retirement board of a public pension

or retirement system has the exclusive power to provide for actuarial services in order to ensure the competency of the assets of the system. Existing law, with respect to PERS, requires the Governor to include in the annual Budget Act the contribution rates submitted by the system actuary of the liability on account of employees of the state.

This bill would require public employees who are first employed on and after January 1, 2013, and who contribute to a defined benefit plan to contribute at least ½ of the annual actuarially determined normal costs, and would prohibit a public employer from contributing in any fiscal year, in combination with employee contributions, less than the plan normal cost, except as specified. The bill would authorize employee contributions to be more than ½ of the normal costs if agreed to through collective bargaining, but would prohibit the employer from using impasse procedures to increase an employee rate. The bill would also state that equal sharing of the normal cost between the employer and employees shall be the standard and would prescribe specified increases in employee contribution rates for existing employees. By increasing the contribution to continuously appropriated funds, this bill would make an appropriation.

(4) The Teachers' Retirement Law establishes the Defined Benefit Program of STRS, which provides a defined benefit to members of the system based on final compensation, credited service, and age at retirement, subject to certain variations. The Teachers' Retirement Law also establishes the Defined Benefit Supplement Program, which provides supplemental retirement, disability, and other benefits, payable either in a lump-sum payment or an annuity, or both, to members of the State Teachers' Retirement Plan. The Teachers' Retirement Law defines creditable compensation for these purposes as remuneration that is payable in cash to all persons in the same class of employees, as specified, for performing creditable service.

This bill would revise the definition of creditable compensation for these purposes and would identify certain payments, reimbursements, and compensation that are creditable compensation to be applied to the Defined Benefit Supplement Program. The bill would prohibit an employer from offering a supplemental defined benefit plan unless it offered one before January 1, 2013.

The bill would establish a retirement formula of 2.4% at age 65 and set a minimum retirement age of 55 for a member of STRS who is hired on or after January 1, 2013. The bill would state the intent of the Legislature that STRS propose statutory changes to fully effectuate those changes by June 30, 2013.

(5) Existing law permits members of PERS, STRS, and county, city, and district retirement systems that have adopted specified provisions, to purchase up to 5 years of nonqualified service credit by making specified contributions to the system.

This bill, on and after January 1, 2013, would prohibit a public retirement system from allowing the purchase of nonqualified service credit, as described above, except as specified.

Under existing law, retirement benefits may be increased retroactively or prospectively.

This bill would provide that any enhancement to a public retirement system's retirement formula or benefit that is adopted on or after January 1, 2013, would apply only to service performed on or after the operative date of the enhancement. The bill would also provide that, if a change to a member's classification or employment results in an increase in the retirement formula or benefit applicable to that member, the increase would apply only to service performed on or after the operative date of the change. The bill would also, until January 1, 2018, specify the benefit amount for industrial disability retirement.

(6) Existing law requires the final compensation of a local member for the purpose of determining any pension or benefit resulting from state service as an elective or appointed officer on a city council or a county board of supervisors accrued while in membership, to be based on the highest average annual compensation earnable by the member during the period of state service in each elective or appointed office.

This bill, for the purpose of determining any pension or benefit resulting from the local service, would require final compensation to be based on the highest average annual pensionable compensation earned.

(7) Existing law provides that any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006, who is convicted of any specified felony arising directly out of his or her official duties, forfeits all rights and benefits accrued on and after January 1, 2006, under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction, as specified.

This bill would instead require that a public employee, including one who is elected or appointed to a public office, who is convicted of any state or federal felony for conduct arising out of, or in the performance of, his or her official duties in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, forfeit retirement benefits earned or accrued from the earliest date of the commission of the felony to the forfeiture date, as specified. The bill would also require any contributions to the public retirement system made by the public employee on or after the earliest date of commission of the felony to be returned, without interest, to the public employee upon the occurrence of a distribution event, as defined, unless otherwise ordered by a court or determined by the pension administrator. The bill would also make related, conforming changes.

(8) PERL establishes the circumstances in which a retired person may serve without reinstatement from retirement or loss or interruption of benefits, including as a member of a board, commission, or advisory committee, upon appointment by certain state officials, by the director of a state department, or by the governing board of a contracting agency. Existing law generally prohibits any person who has been retired from being employed in any capacity with the same public employer unless he or she is first reinstated from retirement, except as authorized.

This bill would authorize a retired person, who is first appointed on or after January 1, 2013, to a part-time or nonsalaried position on a state board or commission, to serve without reinstatement, as specified. The bill would prohibit a retired person who retires from a public employer from serving, being employed by, or being employed through a contract directly by a public employer in the same retirement system from which the retiree receives a pension benefit without reinstatement, except as specified.

(9) The Teachers' Retirement Law limits the amount of compensation for certain creditable service activities by a retired member to be $22,000 adjusted by the percentage change in the average compensation earnable by active members of the Defined Benefit Program, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

The bill would change that limit in the Teachers' Retirement Law to be ½ of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year and would define those activities as retired member activities.

(10) The Legislators' Retirement Law (LRL) provides pension benefits based in part upon credited service. The LRL also authorizes the Insurance Commissioner and every legislative statutory officer and every elective officer of the state whose office is provided for by the California Constitution, except judges, to become a member of the Legislators' Retirement System (LRS). PERL authorizes legislative statutory officers and elective officers, as defined, to elect to become members of PERS.

This bill would prohibit anyone who first becomes, on or after January 1, 2013, the Insurance Commissioner, a legislative statutory officer, or an elective officer of the state whose office is provided for by the California Constitution from becoming a member of the LRS but would continue to provide optional membership in PERS.

(11) Existing law authorizes any public agency to participate in, and make its employees members of, PERS by contract. In the case of an employee who has been employed by one or more contracting public agencies, retirement benefits distributed to that employee are based on the highest final compensation under any system, and each system makes a separate retirement payment to the employee based upon the number of years that the employee worked for each of those agencies.

The bill would require the Board of Administration of PERS to implement program changes to ensure that a contracting agency that creates a significant increase in actuarial liability bears the associated liability. The bill would require the system actuary to assess an increase in liability in this regard to the employer that created it at the time the increase is determined and to make adjustments to that employer's rates to account for the increased liability. The bill would apply these requirements to any significant increase in actuarial liability due to increased compensation paid to a nonrepresented employee regardless of when the increase in compensation occurred.

(12) The County Employees Retirement Law of 1937 (CERL) authorizes counties and districts, as defined, to provide a system of retirement benefits to their employees. CERL defines compensation earnable for the purpose

of calculating benefits as the average compensation for the period under consideration with respect to the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay, as determined by the retirement board.

This bill would prohibit a variety of payments, including unscheduled overtime, payments for unused vacation, sick leave, or compensatory time off, exceeding what may be earned and payable in each 12-month period during the final average salary period, and specified payments made at the termination of employment from being included in compensation earnable. The bill would require the board to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit and would prohibit that compensation from being included in compensation earnable.

The bill would require the board to provide notice to the member and employer upon a final determination that compensation was paid to enhance a member's retirement benefit. The bill would authorize the member or employer to obtain judicial review of the board's action by filing a petition for writ of mandate, as specified.

The bill would authorize the board to assess a county or district a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that a county or district knowingly failed to comply with specified reporting requirements.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 22119.3 is added to the Education Code, to read:

22119.3. (a) "Creditable compensation" for members who are subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1 of the Government Code) shall not mean and shall not include any compensation that is excluded from the definition of pensionable compensation pursuant to Section 7522.34 of the Government Code.

(b) Creditable compensation credited to the Defined Benefit Plan shall be consistent with requirements for pensionable compensation pursuant to Section 7522.34 of the Government Code.

(c) Notwithstanding subdivision (a), member and employer contributions, exclusive of contributions pursuant to Section 22951, on creditable compensation for creditable service that exceeds one year in a school year shall be credited to the Defined Benefit Supplement Program.

SEC. 2. Section 22164.5 is added to the Education Code, to read:

22164.5. (a) "Retired member activities" means one or more activities identified in subdivision (a) or (b) of Section 22119.5 or subdivision (a) or (b) of Section 26113 within the California public school system and performed by a member retired for service under this part as one of the following:

(1) An employee of an employer.
(2) An employee of a third party, except as specified in subdivision (b).
(3) An independent contractor.
(b) The activities of an employee of a third party shall not be included in the definition of "retired member activities" if all of the following conditions apply:
(1) The employee performs a limited-term assignment.
(2) The third-party employer does not participate in a California public pension system.
(3) The activities performed by the individual are not normally performed by employees of an employer, as defined in Section 22131.
SEC. 3. Section 24202.6 is added to the Education Code, to read:
24202.6. (a) A member who is first hired on or after January 1, 2013, shall receive a retirement allowance consisting of all of the following:
(1) (A) An annual allowance payable in monthly installments upon retirement equal to the percentage of the final compensation set forth opposite the member's age at retirement in the following table multiplied by each year of credited service:

Age at Retirement	Percentage
62	2.000
62 1/4	2.033
62 1/2	2.067
62 3/4	2.100
63	2.133
63 1/4	2.167
63 1/2	2.200
63 3/4	2.233
64	2.267
64 1/4	2.300
64 1/2	2.333
64 3/4	2.367
65	2.400

(B) If a member retires after attaining early retirement age but before attaining normal retirement age, the member's allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month, that will elapse until the member will attain normal retirement age.
(2) An annuity that shall be the actuarial equivalent of the member's accumulated annuity deposit contributions at the time of retirement.
(3) An annuity based on the balance of credits in the member's Defined Benefit Supplement account, pursuant to Section 25012, if elected by the member pursuant to Section 25011 or 25011.1.
(b) In computing the amounts described in paragraph (1) of subdivision (a), the age of the member on the last day of the month in which the retirement allowance begins to be payable or the later date as described in Section 24204 shall be used.

(c) Pensionable compensation used to calculate the defined benefit shall be limited as described in Section 7522.10 of the Government Code.

SEC. 4. Section 24202.7 is added to the Education Code, to read:

24202.7. Notwithstanding any other provision of this part, for any member who is first hired on or after January 1, 2013, the minimum retirement age shall be 55 years of age, the early retirement age shall be 55 years of age, and the normal retirement age shall be 62 years of age.

SEC. 5. Section 24202.8 is added to the Education Code, to read:

24202.8. It is the intent of the Legislature that the system identify and propose all statutory changes necessary to fully effectuate the implementation of the changes established in Sections 24202.6 and 24202.7 in all relevant statutes by June 30, 2013.

SEC. 6. Section 24214 of the Education Code, as amended by Section 3 of Chapter 135 of the Statutes of 2012, is amended to read:

24214. (a) A member retired for service under this part may perform retired member activities, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for retired member activities, performed by that member shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part shall not be required to reinstate for performing retired member activities.

(d) A member retired for service under this part may earn compensation for performing retired member activities in any one school year up to the limitation specified in subdivision (f) without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of retired member activities for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of retired member activities shall, in any one school year, be an amount calculated by the board each July 1 equal to one-half of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing retired member activities, in excess of the limitation specified in subdivision (f), and if that compensation is not exempt from that limitation under subdivision (h) or any other law, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but shall not exceed the amount of the annual allowance payable under this part for the

fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (b) of Section 24214.5.

(h) The limitation specified in this section is not applicable to compensation paid to a member retired for service under this part who has returned to work after the date of retirement as a trustee, fiscal adviser, fiscal expert, receiver, or special trustee appointed by the Superintendent of Public Instruction, the State Board of Education, the Board of Governors of the California Community Colleges, or a county superintendent of schools to address academic or financial weaknesses in a school district pursuant to any of the following provisions:

(1) Section 41320.1.

(2) Article 2 (commencing with Section 42122) of Chapter 6 of Part 24 of Division 3 of Title 2.

(3) Article 3.1 (commencing with Section 52055.57) of Chapter 6.1 of Part 28 of Division 4 of Title 2.

(4) Section 84040.

(i) The Superintendent of Public Instruction, the Executive Director of the State Board of Education, the Chancellor of the California Community Colleges, or the county superintendent of schools exercising the exemption pursuant to subdivision (h) shall submit all documentation required by the system to substantiate the eligibility of the retired member for the exemption, including compliance with subdivisions (j) and (k). The documentation shall be received by the system prior to the retired member's performance of retired member activities.

(j) Subdivision (h) shall not apply to a member who has not attained normal retirement age at the time the compensation is earned by the member, received additional service credit pursuant to Section 22714 or 22715, or received from any public employer any financial inducement to retire in the previous six months. For purposes of this section and Section 24214.5, "financial inducement to retire" includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the member, even if not in cash, either before or after retirement, if the member retires for service on or before a specific date or specific range of dates established by the public employer on or before the date the inducement is offered. The system shall liberally interpret this subdivision to further the Legislature's intent to make subdivision (h) inapplicable to members if the member received a financial incentive from any public employer to retire or otherwise terminate employment with the public employer.

(k) The documentation required for subdivision (i) shall include certification of the following:

(1) The position was first advertised for appointment to current active or inactive members of the program with the necessary qualifications to perform the requirements of the position and no qualified current active or inactive member was available to be appointed.

(2) The appointing authority made a good faith effort to hire a retired member who reinstated to active membership for the position at the same salary that was offered as first advertised pursuant to paragraph (1).

(3) The appointing authority, having tried and failed to hire a current active or inactive member or a reinstated retired member, hired a retired member and the salary offered to the retired member subject to this paragraph does not exceed the salary that was offered as first advertised pursuant to paragraph (1).

(4) The salary paid shall be no greater than the salary offered to current active members for the appointed position.

(*l*) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

(m) This section shall apply to compensation paid during the 2012–13 and 2013–14 fiscal years.

(n) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 24214 of the Education Code, as amended by Section 4 of Chapter 135 of the Statutes of 2012, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor within the California public school system shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part shall not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor shall, in any one school year, be an amount calculated by the board each July 1 equal to one-half of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (b) of Section 24214.5.

(h) An employee of a third party shall not be subject to this section if he or she meets all of the following conditions:

(1) He or she performs a limited-term assignment.

(2) The third-party employer does not participate in a California public pension system.

(3) The activities performed by the individual are not normally performed by employees of the employer, as defined in Section 22131.

(i) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995–96 Regular Session, is deemed to have become operative on July 1, 1996.

(j) This section shall become operative on July 1, 2014.

SEC. 8. Section 24214.5 of the Education Code is amended to read:

24214.5. (a) Notwithstanding subdivision (f) of Section 24214, the postretirement compensation limitation shall be zero dollars ($0) in either of the following circumstances:

(1) During the first 180 days after the most recent retirement of a member retired for service under this part.

(2) During the first six consecutive months after the most recent retirement if the member received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire, as defined by subdivision (j) of Section 24214.

(b) If the member has attained normal retirement age at the time the compensation is earned, subdivision (a) shall not apply and Section 24214 shall apply if the appointment has been approved by the governing body of the employer in a public meeting, as reflected in a resolution adopted by the governing body of the employer prior to the performance of retired member activities, expressing its intent to seek an exemption from the limitation specified in subdivision (a). Approval of the appointment may not be placed on a consent calendar. Notwithstanding any other provision of Article 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code or any state or federal law incorporated by subdivision (k) of Section 6254 of the Government Code, the resolution shall be subject to disclosure by the entity adopting the resolution and the system. The resolution shall include the following specific information and findings:

(1) The nature of the employment.

(2) A finding that the appointment is necessary to fill a critically needed position before 180 days have passed.

(3) A finding that the member is not ineligible for application of this subdivision pursuant to subdivision (d).

(4) A finding that the termination of employment of the retired member with the employer is not the basis for the need to acquire the services of the member.

(c) Subdivision (b) shall not apply to a retired member whose termination of employment with the employer is the basis for the need to acquire the services of the member.

(d) Subdivision (b) shall not apply if the member received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire.

(e) The Superintendent, the county superintendent of schools, or the chief executive officer of a community college shall submit all documentation required by the system to substantiate the eligibility of the retired member for application of subdivision (b), including, but not limited to, the resolution adopted pursuant to that subdivision.

(f) If a member will be receiving compensation for performance of retired member activities before 180 days after the most recent retirement, the Superintendent, the county superintendent of schools, or the chief executive officer of a community college shall submit all documentation required by the system that certifies that the member did not receive from any public employer any financial inducement to retire.

(g) The documentation required by this section shall be received by the system prior to the retired member's performance of retired member activities.

(h) Within 30 calendar days after the receipt of all documentation required by the system pursuant to this section, the system shall inform the entity seeking application of the exemption specified in subdivision (b), or seeking to employ a retired member pursuant to subdivision (f), and the retired member whether the compensation paid to the member will be subject to the limitation specified in subdivision (a).

(i) If a member retired for service under this part earns compensation for performing retired member activities in excess of the limitation specified in subdivision (a), the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the allowance payable during the first 180 days, in accordance with subdivision (a), after a member retired for service under this part.

SEC. 9. Section 1243 of the Government Code is amended and renumbered to read:

7522.70. (a) This section shall apply to any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006.

(b) If an elected public officer is convicted during or after holding office of any felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her official duties as an elected public officer, he or she shall forfeit all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction.

(c) The elected public officer described in subdivision (b) shall forfeit only that portion of his or her rights and benefits that accrued on or after January 1, 2006, on account of his or her service in the elected public office held when the felony occurred.

(d) Any contributions made by the elected public officer described in subdivision (b) to the public retirement system that arose directly from or accrued solely as a result of his or her forfeited service as an elected public officer shall be returned, without interest, to the public officer.

(e) The public agency that employs an elected public officer described in subdivision (b) shall notify the public retirement system in which the officer is a member of the officer's conviction.

(f) An elected public officer shall not forfeit his or her rights and benefits pursuant to subdivision (b) if the governing body of the elected public officer's employer, including, but not limited to, the governing body of a city, county, or city and county, authorizes the public officer to receive those rights and benefits.

(g) For purposes of this section, "public officer" means an officer of the state, or an officer of a county, city, city and county, district, or authority, or any department, division, bureau, board, commission, agency, or instrumentality of any of these entities.

(h) This section applies to any person appointed to service for the period of an elected public officer's unexpired term of office.

(i) On and after January 1, 2013, this section shall not apply in any instance in which Section 7522.72 or 7522.74 applies.

SEC. 10. The heading of Article 1 (commencing with Section 7500) is added to Chapter 21 of Division 7 of Title 1 of the Government Code, to read:

Article 1. General Provisions

SEC. 11. The heading of Chapter 21.4 (commencing with Section 7515) of Division 7 of Title 1 of the Government Code is repealed.

SEC. 12. The heading of Article 2 (commencing with Section 7515) is added to Chapter 21 of Division 7 of Title 1 of the Government Code, to read:

Article 2. Joint Retirement System Investment Information Sharing

SEC. 13. The heading of Chapter 21.5 (commencing with Section 7520) of Division 7 of Title 1 of the Government Code is repealed.

SEC. 14. The heading of Article 3 (commencing with Section 7520) is added to Chapter 21 of Division 7 of Title 1 of the Government Code, to read:

Article 3. Deposits of Public Pension and Retirement Funds

SEC. 15. Article 4 (commencing with Section 7522) is added to Chapter 21 of Division 7 of Title 1 of the Government Code, to read:

Article 4. California Public Employees' Pension Reform Act of 2013

7522. This article shall be known as the California Public Employees' Pension Reform Act of 2013.

7522.02. (a) (1) Notwithstanding any other law, except as provided in this article, on and after January 1, 2013, this article shall apply to all state and local public retirement systems and to their participating employers, including the Public Employees' Retirement System, the State Teachers' Retirement System, the Legislators' Retirement System, the Judges' Retirement System I, the Judges' Retirement System II, county and district retirement systems created pursuant to the County Employees Retirement Law of 1937, independent public retirement systems, and to individual retirement plans offered by public employers. However, this article shall be subject to the Internal Revenue Code and Section 17 of Article XVI of the California Constitution. The administration of the requirements of this article shall comply with applicable provisions of the Internal Revenue Code and the Revenue and Taxation Code.

(2) Notwithstanding paragraph (1), this article shall not apply to the entities described in Section 9 of Article IX of, and Sections 4 and 5 of Article XI of, the California Constitution, except to the extent that these entities continue to be participating employers in any retirement system governed by state statute. Accordingly, any retirement plan approved before January 1, 2013, by the voters of any entity excluded from coverage by this section shall not be affected by this article.

(b) The benefit plan required by this article shall apply to public employees who are new members as defined in Section 7522.04.

(c) Individuals who were employed by any public employer before January 1, 2013, and who became employed by a subsequent public employer for the first time on or after January 1, 2013, shall be subject to the retirement plan that would have been available to employees of the subsequent employer who were first employed by the subsequent employer on or before December 31, 2012, if the individual was subject to reciprocity established under any of the following provisions:

(1) Article 5 (commencing with Section 20350) of Chapter 3 of Part 3 of Division 5 of Title 2.

(2) Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3.

(3) Any agreement between public retirement systems to provide reciprocity to members of the systems.

(d) If a public employer, before January 1, 2013, offers a defined benefit pension plan that provides a defined benefit formula with a lower benefit factor at normal retirement age and results in a lower normal cost than the defined benefit formula required by this article, that employer may continue to offer that defined benefit formula instead of the defined benefit formula required by this article, and shall not be subject to the requirements of Section 7522.10 for pensionable compensation subject to that formula. However, if the employer adopts a new defined benefit formula on or after January 1, 2013, that formula must conform to the requirements of this article or must be determined and certified by the retirement system's chief actuary and the retirement board to have no greater risk and no greater cost to the employer than the defined benefit formula required by this article and must be approved by the Legislature. New members of the defined benefit plan may only participate in the lower cost defined benefit formula that was in place before January 1, 2013, or a defined benefit formula that conforms to the requirements of this article or is approved by the Legislature as provided in this subdivision.

(e) If a public employer, before January 1, 2013, offers a retirement benefit plan that consists solely of a defined contribution plan, that employer may continue to offer that plan instead of the defined benefit pension plan required by this article. However, if the employer adopts a new defined benefit pension plan or defined benefit formula on or after January 1, 2013, that plan or formula must conform to the requirements of this article or must be determined and certified by the retirement system's chief actuary and the system's board to have no greater risk and no greater cost to the employer than the defined benefit formula required by this article and must be approved by the Legislature. New members of the employer's plan may only participate in the defined contribution plan that was in place before January 1, 2013, or a defined contribution plan or defined benefit formula that conforms to the requirements of this article.

(f) The Judges' Retirement System I and the Judges' Retirement System II shall not be required to adopt the defined benefit formula required by

Section 7522.25 or 7522.30 or the compensation limitations defined in Section 7522.10.

(g) This article shall not be construed to provide membership in any public retirement system for an individual who would not otherwise be eligible for membership under that system's applicable rules or laws.

7522.04. For the purposes of this article:

(a) "Defined benefit formula" means a formula used by the retirement system to determine a retirement benefit based on age, years of service, and pensionable compensation earned by an employee up to the limit defined in Section 7522.10.

(b) "Employee contributions" means the contributions to a public retirement system required to be paid by a member of the system, as fixed by law, regulation, administrative action, contract, contract amendment, or other written agreement recognized by the retirement system as establishing an employee contribution.

(c) "Federal system" means the old age, survivors, disability, and health insurance provisions of the federal Social Security Act (42 U.S.C. Sec. 301 et seq.).

(d) "Member" means a public employee who is a member of any type of a public retirement system or plan.

(e) "New employee" means either of the following:

(1) An employee, including one who is elected or appointed, of a public employer who is employed for the first time by any public employer on or after January 1, 2013, and who was not employed by any other public employer prior to that date.

(2) An employee, including one who is elected or appointed, of a public employer who is employed for the first time by any public employer on or after January 1, 2013, and who was employed by another public employer prior to that date, but who was not subject to reciprocity under subdivision (c) of Section 7522.02.

(f) "New member" means any of the following:

(1) An individual who becomes a member of any public retirement system for the first time on or after January 1, 2013, and who was not a member of any other public retirement system prior to that date.

(2) An individual who becomes a member of a public retirement system for the first time on or after January 1, 2013, and who was a member of another public retirement system prior to that date, but who was not subject to reciprocity under subdivision (c) of Section 7522.02.

(3) An individual who was an active member in a retirement system and who, after a break in service of more than six months, returned to active membership in that system with a new employer. For purposes of this subdivision, a change in employment between state entities or from one school employer to another shall not be considered as service with a new employer.

(g) "Normal cost" means the portion of the present value of projected benefits under the defined benefit that is attributable to the current year of

service, as determined by the public retirement system's actuary according to the most recently completed valuation.

(h) "Public employee" means an officer, including one who is elected or appointed, or an employee of a public employer.

(i) "Public employer" means:

(1) The state and every state entity, including, but not limited to, the Legislature, the judicial branch, including judicial officers, and the California State University.

(2) Any political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, a charter city, a charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district.

(3) Any charter school that elects or is required to participate in a public retirement system.

(j) "Public retirement system" means 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.

7522.10. (a) On and after January 1, 2013, each public retirement system shall modify its plan or plans to comply with the requirements of this section for each public employer that participates in the system.

(b) Whenever pensionable compensation, as defined in Section 7522.34, is used in the calculation of a benefit, the pensionable compensation shall be subject to the limitations set forth in subdivision (c).

(c) The pensionable compensation used to calculate the defined benefit paid to a new member who retires from the system shall not exceed the following applicable percentage of the contribution and benefit base specified in Section 430(b) of Title 42 of the United States Code on January 1, 2013:

(1) One hundred percent for a member whose service is included in the federal system.

(2) One hundred twenty percent for a member whose service is not included in the federal system.

(d) (1) The retirement system shall adjust the pensionable compensation described in subdivision (c) following each actuarial valuation based on changes to the Consumer Price Index for All Urban Consumers. The adjustment shall be effective annually on January 1 following the annual valuation.

(2) The Legislature reserves the right to modify the requirements of this subdivision with regard to all public employees subject to this section, except that the Legislature may not modify these provisions in a manner that would result in a decrease in benefits accrued prior to the effective date of the modification.

(e) A public employer shall not offer a defined benefit or any combination of defined benefits, including a defined benefit offered by a private provider, on compensation in excess of the limitation in subdivision (c).

(f) (1) A public employer may provide a contribution to a defined contribution plan for compensation in excess of the limitation in subdivision (c) provided the plan and the contribution meet the requirements and limits of federal law.

(2) A public employee who receives an employer contribution to a defined contribution plan shall not have a vested right to continue receiving the employer contribution.

(g) Any employer contributions to any employee defined contribution plan above the pensionable compensation limits in subdivision (c) shall not, when combined with the employer's contribution to the employee's retirement benefits below the compensation limit, exceed the employer's contribution level, as a percentage of pay, required to fund the retirement benefits of employees with income below the compensation limits.

7522.15. Except as provided in subdivisions (d) and (e) of Section 7522.02, each public employer and each public retirement system that offers a defined benefit plan shall offer only the defined benefit formulas established pursuant to Sections 7522.20 and 7522.25 to new members.

7522.18. (a) A public employer that does not offer a supplemental defined benefit plan before January 1, 2013, shall not offer a supplemental defined benefit plan for any employee on or after January 1, 2013.

(b) A public employer that provides a supplemental defined benefit plan, including a defined benefit plan offered by a private provider, before January 1, 2013, shall not offer a supplemental defined benefit plan to any additional employee group to which the plan was not provided before January 1, 2013.

(c) Except as provided in Chapter 38 (commencing with Section 25000) of Article 1 of Part 13 of Title 1 of the Education Code, a public employer shall not offer or provide a supplemental defined benefit plan, including a defined benefit plan offered by a private provider, to any employee hired on or after January 1, 2013.

7522.20. (a) Each retirement system that offers a defined benefit plan for nonsafety members of the system shall use the formula prescribed by this section. The defined benefit plan shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a nonsafety member. A member may retire for service under this section after five years of service and upon reaching 52 years of age.

Age of Retirement	Fraction
52	1.00
52 ¼	1.025
52 ½	1.050
52 ¾	1.075
53	1.100

53 ¼	1.125
53 ½	1.150
53 ¾	1.175
54	1.200
54 ¼	1.225
54 ½	1.250
54 ¾	1.275
55	1.300
55 ¼	1.325
55 ½	1.350
55 ¾	1.375
56	1.400
56 ¼	1.425
56 ½	1.450
56 ¾	1.475
57	1.500
57 ¼	1.525
57 ½	1.550
57 ¾	1.575
58	1.600
58 ¼	1.625
58 ½	1.650
58 ¾	1.675
59	1.700
59 ¼	1.725
59 ½	1.750
59 ¾	1.775
60	1.800
60 ¼	1.825
60 ½	1.850
60 ¾	1.875
61	1.900
61 ¼	1.925
61 ½	1.950
61 ¾	1.975
62	2.000
62 ¼	2.025
62 ½	2.050
62 ¾	2.075
63	2.100
63 ¼	2.125
63 ½	2.150
63 ¾	2.175
64	2.200
64 ¼	2.225
64 ½	2.250
64 ¾	2.275

65	2.300
65 ¼	2.325
65 ½	2.350
65 ¾	2.375
66	2.400
66 ¼	2.425
66 ½	2.450
66 ¾	2.475
67	2.500

(b) Pensionable compensation used to calculate the defined benefit shall be limited as described in Section 7522.10.

(c) A new member of the State Teachers' Retirement System shall be subject to the formula established pursuant to Section 24202.6 of the Education Code.

7522.25. (a) Each retirement system that offers a defined benefit plan for safety members of the system shall use one or more of the defined benefit formulas prescribed by this section. A member may retire for service under any of the formulas in this section after five years of service and upon reaching 50 years of age.

(b) The Basic Safety Plan shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	Fraction
50	1.426
50 ¼	1.447
50 ½	1.467
50 ¾	1.488
51	1.508
51 ¼	1.529
51 ½	1.549
51 ¾	1.570
52	1.590
52 ¼	1.611
52 ½	1.631
52 ¾	1.652
53	1.672
53 ¼	1.693
53 ½	1.713
53 ¾	1.734
54	1.754
54 ¼	1.775
54 ½	1.795
54 ¾	1.816

55	1.836
55 1/4	1.857
55 1/2	1.877
55 3/4	1.898
56	1.918
56 1/4	1.939
56 1/2	1.959
56 3/4	1.980
57 and over	2.000

(c) The Safety Option Plan One shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	Fraction
50	2.000
50 1/4	2.018
50 1/2	2.036
50 3/4	2.054
51	2.071
51 1/4	2.089
51 1/2	2.107
51 3/4	2.125
52	2.143
52 1/4	2.161
52 1/2	2.179
52 3/4	2.196
53	2.214
53 1/4	2.232
53 1/2	2.250
53 3/4	2.268
54	2.286
54 1/4	2.304
54 1/2	2.321
54 3/4	2.339
55	2.357
55 1/4	2.375
55 1/2	2.393
55 3/4	2.411
56	2.429
56 1/4	2.446
56 1/2	2.464
56 3/4	2.482
57 and over	2.500

(d) The Safety Option Plan Two shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	Fraction
50	2.000
50 ¼	2.025
50 ½	2.050
50 ¾	2.075
51	2.100
51 ¼	2.125
51 ½	2.150
51 ¾	2.175
52	2.200
52 ¼	2.225
52 ½	2.250
52 ¾	2.275
53	2.300
53 ¼	2.325
53 ½	2.350
53 ¾	2.375
54	2.400
54 ¼	2.425
54 ½	2.450
54 ¾	2.475
55	2.500
55 ¼	2.525
55 ½	2.550
55 ¾	2.575
56	2.600
56 ¼	2.625
56 ½	2.650
56 ¾	2.675
57 and over	2.700

(e) On and after January 1, 2013, an employer shall offer one or more of the safety formulas prescribed by this section to new employees who are safety employees eligible for membership in the system. The formula offered shall be the formula that is closest to, and provides a lower benefit at 55 years of age than, the formula provided to members in the same retirement classification offered by the employer on December 31, 2012.

(f) On and after January 1, 2013, an employer and its employees subject to Safety Option Plan One or Safety Option Plan Two may agree in a memorandum of understanding to be subject to Safety Option Plan One or the Basic Safety Plan, subject to the following:

(1) The lower plan shall apply to members first employed on or after the effective date of the lower plan, and shall be agreed to in a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(2) A retirement plan contract amendment with a public retirement system to alter a retirement formula pursuant to this subdivision shall not be implemented by the employer in the absence of a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(3) An employer shall not use impasse procedures to impose the lower plan.

(4) An employer shall not provide a different defined benefit for nonrepresented, managerial, or supervisory employees than the employer provides for other public employees, including represented employees, of the same employer who are in the same membership classifications.

(g) Pensionable compensation used to calculate the defined benefit shall be limited as described in Section 7522.10.

7522.30. (a) This section shall apply to all public employers and to all new members. Equal sharing of normal costs between public employers and public employees shall be the standard. The standard shall be that employees pay at least 50 percent of normal costs and that employers not pay any of the required employee contribution.

(b) The "normal cost rate" shall mean the annual actuarially determined normal cost for the defined benefit plan of an employer expressed as a percentage of payroll.

(c) New employees employed on and after January 1, 2013, by those public employers defined in paragraphs (2) and (3) of subdivision (i) of Section 7522.04, the California State University, and the judicial branch who participate in a defined benefit plan shall have an initial contribution rate of at least 50 percent of the normal cost rate for that defined benefit plan, rounded to the nearest quarter of 1 percent, or the current contribution rate of similarly situated employees, whichever is greater. This contribution shall not be paid by the employer on the employee's behalf.

(d) Notwithstanding subdivision (c), once established, the employee contribution rate described in subdivision (c) shall not be adjusted on account of a change to the normal cost rate unless the normal cost rate increases or decreases by more than 1 percent of payroll above or below the normal cost rate in effect at the time the employee contribution rate is first established or, if later, the normal cost rate in effect at the time of the last adjustment to the employee contribution rate under this section.

(e) Notwithstanding subdivision (c), employee contributions may be more than one-half of the normal cost rate if the increase has been agreed to through the collective bargaining process, subject to the following conditions:

(1) The employer shall not contribute at a greater rate to the plan for nonrepresented, managerial, or supervisory employees than the employer contributes for other public employees, including represented employees,

of the same employer who are in related retirement membership classifications.

(2) The employer shall not increase an employee contribution rate in the absence of a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(3) The employer shall not use impasse procedures to increase an employee contribution rate above the rate required by this section.

(f) If the terms of a contract, including a memorandum of understanding, between a public employer and its public employees, that is in effect on January 1, 2013, would be impaired by any provision of this section, that provision shall not apply to the public employer and public employees subject to that contract until the expiration of that contract. A renewal, amendment, or any other extension of that contract shall be subject to the requirements of this section.

7522.32. For the purposes of determining a retirement benefit to be paid to a new member of a public retirement system, the following shall apply:

(a) Final compensation shall mean the highest average annual pensionable compensation earned by the member during a period of at least 36 consecutive months, or at least three school years if applicable, immediately preceding his or her retirement or last separation from service if earlier, or during any other period of at least 36 consecutive months during the member's applicable service that the member designates on the application for retirement.

(b) On or after January 1, 2013, an employer shall not modify a benefit plan to permit a calculation of final compensation on a basis of less than the average annual compensation earned by the member during a consecutive 36-month period, or three school years if applicable, for members who have been subject to at least a 36-month or three-school-year calculation prior to that date.

7522.34. (a) "Pensionable compensation" of a new member of any public retirement system 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.

(b) Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid.

(c) "Pensionable compensation" does not include the following:

(1) Any compensation determined by the board to have been paid to increase a member's retirement benefit under that system.

(2) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.

(3) Any one-time or ad hoc payments made to a member.

(4) Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

(5) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.

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

(7) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.

(8) Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code.

(9) Employer contributions to deferred compensation or defined contribution plans.

(10) Any bonus paid in addition to the compensation described in subdivision (a).

(11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a).

(12) Any other form of compensation a public retirement board determines should not be pensionable compensation.

7522.40. A public employer shall not provide to a public employee who is elected or appointed, a trustee, excluded from collective bargaining, exempt from civil service, or a manager any health benefit vesting schedule that is more advantageous than that provided generally to other public employees, including represented employees, of the same public employer who are in related retirement membership classifications.

7522.42. (a) In addition to any other benefit limitation prescribed by law, for the purposes of determining a public retirement benefit paid to a new member of a public retirement system, the maximum salary, compensation, or payrate taken into account under the plan for any year shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of Title 26 of the United States Code or its successor.

(b) A public employer shall not seek an exception to the prohibition in subdivision (a) on or after January 1, 2013.

(c) For employees first hired on or after January 1, 2013, a public employer shall not make employer contributions to any qualified retirement plan or plans on behalf of an employee based on that portion of the amount of total pensionable compensation that exceeds the amount specified in Section 401(a)(17) of Title 26 of the United States Code, or its successor.

(d) This section shall not apply to salary, compensation, or payrate paid to individuals who, due to their dates of hire, are not subject to the limits specified in subdivision (a).

7522.43. (a) A public employer shall not offer a plan of replacement benefits for members and any survivors or beneficiaries whose retirement benefits are limited by Section 415 of Title 26 of the United States Code. This section shall apply to new employees.

(b) A public retirement system may continue to administer a plan of replacement benefits for employees first hired prior to January 1, 2013.

(c) A public employer that does not offer a plan of replacement benefits prior to January 1, 2013, shall not offer such a plan for any employee on or after January 1, 2013.

(d) A public employer that offers a plan of replacement benefits prior to January 1, 2013, shall not offer such a plan to any additional employee group to which the plan was not provided prior to January 1, 2013.

7522.44. This section shall apply to all public employers and to all public employees:

(a) Any enhancement to a public employee's retirement formula or retirement benefit adopted on or after January 1, 2013, shall apply only to service performed on or after the operative date of the enhancement and shall not be applied to any service performed prior to the operative date of the enhancement.

(b) If a change to a member's retirement membership classification or a change in employment results in an enhancement in the retirement formula or retirement benefit applicable to that member, that enhancement shall apply only to service performed on or after the operative date of the change and shall not be applied to any service performed prior to the operative date of the change.

(c) For purposes of this section, "operative date" in a collective bargaining agreement means one of the following:

(1) The date that the agreement is signed by the parties.

(2) A date agreed to by the parties that will occur after the date that the agreement is signed by the parties.

(3) A date designated by the parties that occurred prior to the date the agreement was signed if the most recent collective bargaining contract was expired at the time of the agreement and the date designated is not earlier than 12 months prior to the date of the agreement or the day after the last day of the expired bargaining contract, whichever occurred later.

(d) For purposes of this section, an increase to a retiree's annual cost-of-living adjustment within existing statutory limits shall not be considered to be an enhancement to a retirement benefit.

7522.46. (a) A public retirement system shall not allow the purchase of nonqualified service credit, as defined by Section 415(n)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 415(n)(3)(C)).

(b) Subdivision (a) shall not apply to an official application to purchase nonqualified service credit that is received by the public retirement system prior to January 1, 2013, that is subsequently approved by the system.

7522.48. (a) Final compensation of a member for the purpose of determining any pension or benefit resulting from service as an elective or appointed officer on a city council or a county board of supervisors accrued while in membership of a public retirement system shall be based on the highest average annual pensionable compensation earned by the member during the period of service in each elective or appointed office. Where that elective or appointed service is a consideration in the computation of any pension or benefit, the member may have more than one final compensation.

(b) Any final compensation calculation shall otherwise be subject to this article except that if any individual period of elective service is less than 36 months or three years, then the entire period of that individual's elected service shall be used to determine the final compensation for that period of service.

(c) This section shall apply to a member first elected or appointed to a city council or a county board of supervisors on or after January 1, 2013.

7522.52. (a) In any fiscal year, a public employer's contribution to a defined benefit plan, in combination with employee contributions to that defined benefit plan, shall not be less than the normal cost rate, as defined in Section 7522.30, for that defined benefit plan for that fiscal year.

(b) The board of a public retirement system may suspend contributions when all of the following apply:

(1) The plan is funded by more than 120 percent, based on a computation by the retirement system actuary in accordance with the Governmental Accounting Standards Board requirements that is included in the annual valuation.

(2) The retirement system actuary, based on the annual valuation, determines that continuing to accrue excess earnings could result in disqualification of the plan's tax-exempt status under the provisions of the federal Internal Revenue Code.

(3) The board determines that the receipt of any additional contributions required under this section would conflict with its fiduciary responsibility set forth in Section 17 of Article XVI of the California Constitution.

7522.56. (a) This section shall apply to any person who is receiving a pension benefit from a public retirement system and shall supersede any other provision in conflict with this section.

(b) A retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement, except as permitted by this section.

(c) A person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment by the appointing power of a public employer either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration.

(d) Appointments of the person authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending on the administrator of the system. The rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. A retired person whose employment without reinstatement is authorized by this section shall acquire no service credit or retirement rights under this section with respect to the employment unless he or she reinstates from retirement.

(e) (1) Notwithstanding subdivision (c), any retired person shall not be eligible to serve or be employed by a public employer if, during the 12-month period prior to an appointment described in this section, the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with a public employer. A retiree shall certify in writing to the employer upon accepting an offer of employment that he or she is in compliance with this requirement.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

(f) A retired person shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement unless he or she meets one of the following conditions:

(1) The employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days has passed and the appointment has been approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.

(2) The state employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed state employment position before 180 days has passed and the appointment has been approved by the Department of Human Resources. The department may establish a process to delegate appointing authority to individual state agencies, but shall audit the process to determine if abuses of the system occur. If necessary, the department may assume an agency's appointing authority for retired workers and may charge the department an appropriate amount for administering that authority.

(3) The retiree is eligible to participate in the Faculty Early Retirement Program pursuant to a collective bargaining agreement with the California State University that existed prior to January 1, 2013, or has been included in subsequent agreements.

(4) The retiree is a public safety officer of firefighter.

(g) A retired person who accepted a retirement incentive upon retirement shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement and subdivision (f) shall not apply.

(h) This section shall not apply to a person who is retired from the State Teachers' Retirement System, and who is subject to Section 24214, 24214.5, or 26812 of the Education Code.

(i) This section shall not apply to (1) a subordinate judicial officer whose position, upon retirement, is converted to a judgeship pursuant to Section 69615, and he or she returns to work in the converted position, and the employer is a trial court, or (2) a retiree who takes office as a judge of a court of record pursuant to Article VI of the California Constitution or a retiree of the Judges' Retirement System I or the Judges' Retirement System II who is appointed to serve as a retired judge.

7522.57. (a) This section shall apply to any retired person who is receiving a pension benefit from a public retirement system and is first appointed on or after January 1, 2013, to a salaried position on a state board or commission. This section shall supersede any other provision in conflict with this section.

(b) A person who is retired from a public retirement system may serve without reinstatement from retirement or loss or interruption of benefits provided that appointment is to a part-time state board or commission. A retired person whose employment without reinstatement is authorized by this subdivision shall acquire no benefits, service credit, or retirement rights with respect to the employment. Unless otherwise defined in statute, for the purpose of this section, a part-time appointment shall mean an appointment with a salary of no more than $60,000 annually, which shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) A person who is retired from the Public Employees' Retirement System shall not serve on a full-time basis on a state board or commission without reinstatement unless that person serves as a nonsalaried member of the board or commission and receives only per diem authorized to all members of the board or commission. A person who serves as a nonsalaried member of a board or commission shall not earn any service credit or benefits in the Public Employees' Retirement System or make contributions with respect to the service performed.

(d) A person retired from a public retirement system other than the Public Employees' Retirement System who is appointed on a full-time basis to a state board or commission shall choose one of the following options:

(1) The person may serve as a nonsalaried member of the board or commission and continue to receive his or her retirement allowance, in addition to any per diem authorized to all members of the board or commission. The person shall not earn service credit or benefits in the Public Employees' Retirement System and shall not make contributions with respect to the service performed.

(2) (i) The person may suspend his or her retirement allowance or allowances and instate as a new member of the Public Employees' Retirement System for the service performed on the board or commission. The pensionable compensation earned pursuant to this paragraph shall not be eligible for reciprocity with any other retirement system or plan.

(ii) Upon retiring for service after serving on the board or commission, the appointee shall be entitled to reinstatement of any suspended benefits, including employer provided retiree health benefits, that he or she was entitled to at the time of being appointed to the board or commission.

(e) Notwithstanding subdivisions (c) and (d), a person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon

appointment to a full-time state board pursuant to Section 5075 of the Penal Code.

7522.66. (a) A safety member of a public retirement system who retires for industrial disability shall receive an industrial disability retirement benefit equal to the greater of the following:

(1) Fifty percent of his or her final compensation attributable to the defined benefit plan, plus an annuity purchased with his or her accumulated contributions, if any.

(2) A service retirement allowance, if he or she is qualified for service retirement.

(3) An actuarially reduced factor, as determined by the actuary, for each quarter year that his or her service age is less than 50 years of age, multiplied by the number of years of safety service subject to the applicable formula, if he or she is not qualified for service retirement.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

7522.72. (a) This section shall apply to a public employee first employed by a public employer or first elected or appointed to an office before January 1, 2013, and, on and after that date, Section 7522.70 shall not apply.

(b) (1) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(2) If a public employee who has contact with children as part of her official duties is convicted of a felony that was committed within the scope of his or her official duties against or involving a child who he or she has contact with as part of his or her official duties, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(c) (1) A public employee shall forfeit all the retirement benefits earned or accrued from the earliest date of the commission of any felony described in subdivision (b) to the forfeiture date, inclusive. The retirement benefits shall remain forfeited notwithstanding any reduction in sentence or expungement of the conviction following the date of the public employee's conviction. Retirement benefits attributable to service performed prior to the date of the first commission of the felony for which the public employee was convicted shall not be forfeited as a result of this section.

(2) For purposes of this subdivision, "forfeiture date" means the date of the conviction.

(d) (1) Any contributions to the public retirement system made by the public employee described in subdivision (b) on or after the earliest date of the commission of any felony described in subdivision (b) shall be returned, without interest, to the public employee upon the occurrence of a distribution event unless otherwise ordered by a court or determined by the pension administrator.

(2) Any funds returned to the public employee pursuant to subdivision (d) shall be disbursed by electronic funds transfer to an account of the public employee, in a manner conforming with the requirements of the Internal Revenue Code, and the public retirement system shall notify the court and the district attorney at least three business days before that disbursement of funds.

(3) For the purposes of this subdivision, a "distribution event" means any of the following:

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

(e) (1) Upon conviction, a public employee as described in subdivision (b) and the prosecuting agency shall notify the public employer who employed the public employee at the time of the commission of the felony within 60 days of the felony conviction of all of the following information:

(A) The date of conviction.

(B) The date of the first known commission of the felony.

(2) The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(f) The public employer that employs or employed a public employee described in subdivision (b) and that public employee shall each notify the public retirement system in which the public employee is a member of that public employee's conviction within 90 days of the conviction. The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

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

(h) If a public employee's conviction is reversed and that decision is final, the employee shall be entitled to do either of the following:

(1) Recover the forfeited retirement benefits as adjusted for the contributions received pursuant to subdivision (d).

(2) Redeposit those contributions and interest, as determined by the system actuary, and then recover the full amount of the forfeited benefits.

(i) A public employee first employed by a public employer or first elected or appointed to an office on or after January 1, 2013, shall be subject to Section 7522.74.

7522.74. (a) This section shall apply to a public employee first employed by a public employer or first elected or appointed to an office on or after January 1, 2013, and on and after that date, Section 7522.70 shall not apply.

(b) (1) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(2) If a public employee who has contact with children as part of his or her official duties is convicted of a felony that was committed within the scope of his or her official duties against or involving a child who he or she has contact with as part of his or her official duties, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(c) (1) A public employee shall forfeit all the retirement benefits earned or accrued from the earliest date of the commission of any felony described in subdivision (b) to the forfeiture date, inclusive. The retirement benefits shall remain forfeited notwithstanding any reduction in sentence or expungement of the conviction following the date of the public employee's conviction. Retirement benefits attributable to service performed prior to the date of the first commission of the felony for which the public employee was convicted shall not be forfeited as a result of this section.

(2) For purposes of this subdivision, "forfeiture date" means the date of the conviction.

(d) (1) Any contributions to the public retirement system made by the public employee described in subdivision (b) on or after the earliest date of the commission of any felony described in subdivision (b) shall be returned, without interest, to the public employee upon the occurrence of a distribution event unless otherwise ordered by a court or determined by the pension administrator.

(2) Any funds returned to the public employee pursuant to subdivision (d) shall be disbursed by electronic funds transfer to an account of the public employee, in a manner conforming with the requirements of the Internal Revenue Code, and the public retirement system shall notify the court and the district attorney at least three business days before that disbursement of funds.

(3) For the purposes of this subdivision, a "distribution event" means any of the following:

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

(e) (1) Upon conviction, a public employee as described in subdivision (b) and the prosecuting agency shall notify the public employer who employed the public employee at the time of the commission of the felony within 60 days of the felony conviction of all of the following information:

(A) The date of conviction.

(B) The date of the first known commission of the felony.

(2) The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(f) The public employer that employs or employed a public employee described in subdivision (b) and that public employee shall each notify the public retirement system in which the public employee is a member of that public employee's conviction within 90 days of the conviction. The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

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

(h) If a public employee's conviction is reversed and that decision is final, the employee shall be entitled to do either of the following:

(1) Recover the forfeited retirement benefits as adjusted for the contributions received pursuant to subdivision (d).

(2) Redeposit those contributions and interest, as determined by the system actuary, and then recover the full amount of the forfeited benefits.

(i) A public employee first employed by a public employer or first elected or appointed to an office before January 1, 2013, shall be subject to Section 7522.72.

SEC. 16. Section 9355.4 of the Government Code is amended to read:

9355.4. (a) Every elective officer of the state whose office is provided for by the California Constitution, except judges, may become a member of this system. Except for judges, every elective officer in office at the time this section becomes effective may, within 90 days after the effective date, file with the board a written election to become a member of this system. Except for judges, every elective officer elected after the effective date of this section may file an election within 90 days after the commencement of the first term of office for which he or she is elected. Upon the filing of the election he or she becomes a member of this system on the first day of the month following the filing of the election.

(b) This section shall not apply to any person who first becomes an elective officer of the state on or after January 1, 2013.

SEC. 17. Section 9355.41 of the Government Code is amended to read:

9355.41. (a) The Insurance Commissioner may become a member of this system as provided in this section. An Insurance Commissioner who is elected after January 1, 1994, may file an election within 90 days after the commencement of the term of office for which he or she is elected. Upon the filing of the election he or she becomes a member of this system on the first day of the month following the filing of the election.

(b) This section shall not apply to an Insurance Commissioner who is first elected on or after January 1, 2013.

SEC. 18. Section 9355.45 of the Government Code is amended to read:

9355.45. (a) Every legislative statutory officer may become a member of this system. Every such officer in office at the time this section becomes

effective may, within 90 days after the effective date, file with the board a written election to become a member of this system. Every such officer, elected after the effective date of this section, may file an election within 90 days after the commencement of the first term of office for which he or she is elected after attaining status as a legislative statutory officer. Upon the filing of the election he or she becomes a member of this system on the first day of the month following the filing of the election.

(b) This section shall not apply to any person who first becomes a legislative statutory officer on or after January 1, 2013.

SEC. 19. Section 20281.5 of the Government Code is amended to read:

20281.5. (a) Notwithstanding Section 20281, a person who becomes a state miscellaneous member or state industrial member of the system on or after the effective date of this section because the person is first employed by the state and qualifies for membership shall be subject to the provisions of this section.

(b) Members subject to this section shall not accrue credit for service in the system and shall not make employee contributions to the system, including the contributions set forth in Section 20677.4, for employment with the state until the first day of the first pay period commencing 24 months after becoming a member of the system.

(c) Notwithstanding subdivision (a), this section shall not apply to any of the following:

(1) Persons who are already members or annuitants of the system at the time they are first employed by the state.

(2) Employees of the California State University, or the legislative or judicial branch of state government.

(3) Members of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the State Teachers' Retirement System, or the University of California Retirement Plan.

(4) Persons who are members of a reciprocal retirement system and whose employment was subject to a reciprocal retirement system within the six months prior to membership in this system.

(5) Persons whose service is not included in the federal system.

(6) Persons who are employed by the Department of the California Highway Patrol as students at the department's training school established pursuant to Section 2262 of the Vehicle Code.

(7) Persons who had ceased to be members pursuant to Section 20340 or 21075.

(8) Persons who are National Guard members pursuant to Section 20380.5.

(d) A separation of employment does not alter the 24-month period described by subdivision (b). A member who separates from state employment shall remain subject to this section if he or she returns to state employment as a state miscellaneous or state industrial member within that 24-month period.

(e) Any regulations adopted by the board to implement the requirements of this section shall not be subject to the review and approval of the Office

of Administrative Law, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3. The regulations shall become effective immediately upon filing with the Secretary of State.

(f) This section shall not apply to any person who first becomes a state miscellaneous member or a state industrial member on or after July 1, 2013.

SEC. 20. Section 20516 of the Government Code is amended to read:

20516. (a) Notwithstanding any other provision of this part, with or without a change in benefit a contracting agency and its employees may agree, in writing, to share the costs of the employer contribution. The cost sharing pursuant to this section shall also apply for related nonrepresented employees as approved in a resolution passed by the contracting agency.

(b) The collective bargaining agreement shall specify the exact percentage of member compensation that shall be paid toward the current service cost of the benefits by members. The member contributions shall be contributions over and above normal contributions otherwise required by this part and shall be treated as normal contributions for all purposes of this part. The contributions shall be uniform, except as described in subdivision (c), with respect to all members within each of the following classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, and all local safety members other than local police officers, local firefighters, and county peace officers. The balance of any costs shall be paid by the contracting agency and shall be credited to the employer's account. An employer shall not use impasse procedures to impose member cost sharing on any contribution amount above that which is required by law.

(c) Member cost sharing may differ by classification for groups of employees subject to different levels of benefits pursuant to Sections 7522.20, 7522.25, and 20475, or by a recognized collective bargaining unit if agreed to in a memorandum of understanding reached pursuant to the applicable collective bargaining laws.

(d) 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. Contributions provided by this section shall be withheld from member compensation or otherwise collected when the contract amendment becomes effective.

(e) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under this system.

(f) Nothing in this section shall preclude a contracting agency and its employees from independently agreeing in a memorandum of understanding to share the costs of any benefit, in a manner inconsistent with this section. However, any agreement in a memorandum of understanding that is inconsistent with this section shall not be part of the contract between this system and the contracting agency.

(g) If, and to the extent that, the board determines that a cost-sharing agreement under this section would conflict with Title 26 of the United States Code, the board may refuse to approve the agreement.

(h) Nothing in this section shall require a contracting agency to enter into a memorandum of understanding or collective bargaining agreement with a bargaining representative in order to increase the amount of member contributions when such a member contribution increase is authorized by other provisions under this part.

SEC. 21. Section 20516.5 is added to the Government Code, to read:

20516.5. (a) Equal sharing of normal costs between a contracting agency or school employer and their employees shall be the standard. It shall be the standard that employees pay at least 50 percent of normal costs and that employers not pay any of the required employee contribution.

(b) Notwithstanding any other provision of this part, a contracting agency or a school district may require that members pay 50 percent of the normal cost of benefits. However, that contribution shall be no more than 8 percent of pay for local miscellaneous or school members, no more than 12 percent of pay for local police officers, local firefighters, and county peace officers, and no more than 11 percent of pay for all local safety members other than police officers, firefighters, and county peace officers.

(c) Before implementing any change pursuant to subdivision (b), for any represented employees, the employer shall complete the good faith bargaining process as required by law, including any impasse procedures requiring mediation and factfinding. Subdivision (b) shall become operative on January 1, 2018. Subdivision (b) shall not apply to any bargaining unit when the members of that contracting agency or school district are paying for at least 50 percent of the normal cost of their pension benefit or the contribution rates specified in subdivision (b) under an agreement reached pursuant to Section 20516.

SEC. 22. Section 20677.96 is added to the Government Code, to read:

20677.96. (a) Notwithstanding Sections 20677.95 and 20687, beginning July 1, 2013, the normal rate of contribution for employees subject to subdivision (a) of Section 20677.95 shall be the contribution established pursuant to Section 20677.95, as adjusted by Section 7522.30, in excess of the compensation identified in subdivision (c) of Section 20677.95 and effective July 1, 2014, the normal rate of contribution for employees subject to subdivision (a) of Section 20677.95 shall be the contribution established pursuant to Section 20677.95, as adjusted by Section 7522.30, in excess of the compensation identified in subdivision (b) of Section 20677.95.

(b) The contribution rate for a related state employee who is exempted from the definition of "state employee," or an officer or employee of the executive branch who is not a member of the civil service, shall be adjusted accordingly.

SEC. 23. Section 20683.2 is added to the Government Code, to read:

20683.2. Equal sharing of normal costs between the state employer and public employees shall be the standard. It shall be the standard that employees pay at least 50 percent of normal costs and that employers not

pay any of the required employee contribution. Equal sharing of normal costs is currently the standard for most state employees.

(a) Notwithstanding any other section of this code, or other provision of law in conflict with this section, except as provided in Section 7522.30, normal contribution rates for defined benefit plans for state employees of public employers as defined in paragraph (1) of subdivision (i) of Section 7522.04, excluding the California State University, shall be determined as follows:

(1) Normal cost contribution rates shall increase as follows:

(A) The contribution rate for State Peace Officer/Firefighter members in State Bargaining Unit 6 and for State Safety members in State Bargaining Units 1, 3, 4, 7, 9, 10, 11, 14, 15, 17, 20, and 21 will increase by 1.0 percentage point on July 1, 2013, and will increase by an additional 1.0 percentage point on July 1, 2014.

(B) The contribution rate for State Peace Officer/Firefighter members in State Bargaining Units 7 and 8 will increase by 1.5 percentage points on July 1, 2013, and will increase by an additional 1.5 percentage points on July 1, 2014.

(C) The contribution rate for state industrial members in State Bargaining Units 1, 3, 4, 6, 9, 10, 11, 14, 15, 17, and 20 will increase by 1.0 percentage point on July 1, 2013.

(D) The contribution rate for state miscellaneous and industrial members that have elected the Second Tier benefit formula will increase by 1.5 percentage points annually starting July 1, 2013. The final annual increase in the contribution rate shall be adjusted as appropriate.

(E) The contribution rate for State Safety members in State Bargaining Unit 2 and state miscellaneous members in State Bargaining Unit 5 will increase by 1.0 percentage point on July 1, 2013.

(F) The contribution rate for Patrol members in State Bargaining Unit 5 will increase by 1.5 percentage points on July 1, 2013.

(2) Consistent with paragraph (1), the normal rate of contribution shall be adjusted accordingly for related state employees who are exempted from the definition of "state employee," or officers and employees of the executive, legislative, or judicial branch of state government who are not members of the civil service.

(b) Calculation of employee contribution rate increases pursuant to this section shall be based upon compensation calculations established pursuant to Sections 20671 to 20694, inclusive.

(c) In addition to the actuarially required contribution, savings realized by the state employer as a result of the employee contribution rate increases required by this section shall be allocated to any unfunded liability, subject to appropriation in the annual Budget Act.

SEC. 24. Section 20791 is added to the Government Code, to read:

20791. (a) The board shall define a significant increase in actuarial liability due to increased compensation paid to a nonrepresented employee and shall implement program changes to ensure that a contracting agency that creates the significant increase in actuarial liability bears the increased

liability, including any portion of that liability that otherwise would be borne by another contracting agency or agencies.

(b) Upon determining the significant increase in actuarial liability, the system actuary shall assess the increase to the employer that created it and adjust that employer's rates to account for the increased liability.

(c) This section shall not apply to compensation paid to an employee for service performed while covered by a memorandum of understanding or to compensation paid for service performed while a member of a recognized employee organization as that term is defined in Section 3501.

(d) This section shall apply to any significant increase in actuarial liability, due to increased compensation paid to a nonrepresented employee, that is determined after January 1, 2013, regardless of when that increase in compensation occurred.

SEC. 25. Section 21076 of the Government Code is amended to read:

21076. (a) The service retirement allowance for a state miscellaneous or state industrial member who has elected the benefits of this section is a pension equal to the fraction of one-hundredth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year in the following table, multiplied by the member's number of years of state miscellaneous service:

Age at Retirement	Fraction
50	0.5000
50 ¼	0.5125
50 ½	0.5250
50 ¾	0.5375
51	0.5500
51 ¼	0.5625
51 ½	0.5750
51 ¾	0.5875
52	0.6000
52 ¼	0.6125
52 ½	0.6250
52 ¾	0.6375
53	0.6500
53 ¼	0.6625
53 ½	0.6750
53 ¾	0.6875
54	0.7000
54 ¼	0.7125
54 ½	0.7250
54 ¾	0.7375
55	0.7500
55 ¼	0.7625
55 ½	0.7750
55 ¾	0.7875

56	0.8000
56 ¼	0.8125
56 ½	0.8250
56 ¾	0.8375
57	0.8500
57 ¼	0.8625
57 ½	0.8750
57 ¾	0.8875
58	0.9000
58 ¼	0.9125
58 ½	0.9250
58 ¾	0.9375
59	0.9500
59 ¼	0.9625
59 ½	0.9750
59 ¾	0.9875
60	1.0000
60 ¼	1.0125
60 ½	1.0250
60 ¾	1.0375
61	1.0500
61 ¼	1.0625
61 ½	1.0750
61 ¾	1.0875
62	1.1000
62 ¼	1.1125
62 ½	1.1250
62 ¾	1.1375
63	1.1500
63 ¼	1.1625
63 ½	1.1750
63 ¾	1.1875
64	1.2000
64 ¼	1.2125
64 ½	1.2250
64 ¾	1.2375
65	1.2500

(b) This section shall not apply to a National Guard member.

(c) This section shall not apply to anyone who first becomes a member on or after January 1, 2013.

SEC. 26. Section 21076.5 is added to the Government Code, to read:

21076.5. (a) The service retirement allowance for a state miscellaneous or state industrial member who first becomes a member on or after January 1, 2013, who has elected the benefits of this section is a pension equal to the fraction of one-hundredth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed

quarter year in the following table, multiplied by the member's number of years of state miscellaneous service:

Age of Retirement	Fraction
52	0.6500
52 1/4	0.6600
52 1/2	0.6700
52 3/4	0.6800
53	0.6900
53 1/4	0.7000
53 1/2	0.7100
53 3/4	0.7200
54	0.7300
54 1/4	0.7400
54 1/2	0.7500
54 3/4	0.7600
55	0.7700
55 1/4	0.7800
55 1/2	0.7900
55 3/4	0.8000
56	0.8100
56 1/4	0.8200
56 1/2	0.8300
56 3/4	0.8400
57	0.8500
57 1/4	0.8600
57 1/2	0.8700
57 3/4	0.8800
58	0.8900
58 1/4	0.9000
58 1/2	0.9100
58 3/4	0.9200
59	0.9300
59 1/4	0.9400
59 1/2	0.9500
59 3/4	0.9600
60	0.9700
60 1/4	0.9800
60 1/2	0.9900
60 3/4	1.0000
61	1.0100
61 1/4	1.0200
61 1/2	1.0300
61 3/4	1.0400
62	1.0500
62 1/4	1.0600
62 1/2	1.0700

62 3/4	1.0800
63	1.0900
63 1/4	1.1000
63 1/2	1.1100
63 3/4	1.1200
64	1.1300
64 1/4	1.1400
64 1/2	1.1500
64 3/4	1.1600
65	1.1700
65 1/4	1.1800
65 1/2	1.1900
65 3/4	1.2000
66	1.2100
66 1/4	1.2200
66 1/2	1.2300
66 3/4	1.2400
67	1.2500

(b) This section shall not apply to a National Guard member.

SEC. 27. Section 21400 is added to the Government Code, to read:

21400. (a) A safety member who retires on or after January 1, 2013, for industrial disability shall receive a disability retirement benefit equal to the greater of the following:

(1) Fifty percent of his or her final compensation, plus an annuity purchased with his or her accumulated contributions, if any.

(2) A service retirement allowance, if he or she is qualified for service retirement.

(3) An actuarially reduced factor, as determined by the actuary, for each quarter year that his or her service age is less than 50 years, multiplied by the number of years of safety service subject to the applicable formula, if he or she is not qualified for service retirement.

(4) Nothing in this section shall require a member to receive a lower benefit than he or she would have received prior to January 1, 2013, as the law provided prior to that date.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 28. Section 31461 of the Government Code is amended to read:

31461. (a) "Compensation earnable" by a member means the average compensation as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay. The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence. Compensation, as defined in Section 31460, that has been deferred

shall be deemed "compensation earnable" when earned, rather than when paid.

(b) "Compensation earnable" does not include, in any case, the following:

(1) Any compensation determined by the board to have been paid to enhance a member's retirement benefit under that system. That compensation may include:

(A) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.

(B) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.

(C) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned in each 12-month period during the final average salary period regardless of when reported or paid.

(2) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned in each 12-month period during the final average salary period, regardless of when reported or paid.

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

(4) Payments made at the termination of employment, except those payments that do not exceed what is earned in each 12-month period during the final average salary period, regardless of when reported or paid.

SEC. 29. Section 31542 is added to the Government Code, to read:

31542. (a) The board shall establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. If the board determines that compensation was paid to enhance a member's benefit, the member or the employer may present evidence that the compensation was not paid for that purpose. Upon receipt of sufficient evidence to the contrary, a board may reverse its determination that compensation was paid to enhance a member's retirement benefits.

(b) Upon a final determination by the board that compensation was paid to enhance a member's retirement benefit, the board shall provide notice of that determination to the member and employer. The member or employer may obtain judicial review of the board's action by filing a petition for writ of mandate within 30 days of the mailing of that notice.

(c) Compensation that a member was entitled to receive pursuant to a collective bargaining agreement that was subsequently deferred or otherwise modified as a result of a negotiated amendment of that agreement shall be considered compensation earnable and shall not be deemed to have been paid to enhance a member's retirement benefit.

SEC. 30. Section 31542.5 is added to the Government Code, to read:

31542.5. (a) When a county or district reports compensation to the board, it shall identify the pay period in which the compensation was earned regardless of when it was reported or paid. Compensation shall be reported in accordance with Section 31461 and shall not exceed compensation earnable, as defined in Section 31461.

(b) The board may assess a county or district a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that a county or district knowingly failed to comply with subdivision (a). A county or district shall be found to have knowingly failed to comply with subdivision (a) if the board determines that either of the following applies:

(1) The county or district knew or should have known that the compensation reported was not compensation earnable, as defined in Section 31461.

(2) The county or district failed to identify the pay period in which compensation earnable was earned, as required by this section.

(c) A county or district shall not pass on to an employee any costs assessed pursuant to subdivision (b).

SEC. 31. Section 31543 is added to the Government Code, to read:

31543. The board may audit a county or district to determine the correctness of retirement benefits, reportable compensation, and enrollment in, and reinstatement to, the system. During an audit, the board may require a county or district to provide information, or make available for examination or copying at a specified time and place, books, papers, data, or records, including, but not limited to, personnel and payroll records, as deemed necessary by the board.

SEC. 32. Section 31631 is added to the Government Code, to read:

31631. (a) Notwithstanding any other law, a board of supervisors or the governing body of a district may, by resolution, ordinance, contract, or contract amendment under this chapter, without a change in benefits, require that members pay all or part of the contributions of a member or employer, or both, for any retirement benefits provided under this chapter. All of those payments are hereby designated as employee contributions. For members who are represented in a bargaining unit, the payment requirement shall be approved in a memorandum of understanding executed by the board of supervisors or the governing body of a district and the employee collective bargaining representative. The contributions shall be uniform either (1) with respect to all members of a recognized bargaining unit or (2) within each of the following classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, and all local safety members other than local police officers, local firefighters, and county peace officers and classifications covered pursuant to Sections 7522.20 and 7522.25.

(b) Nothing in this section shall modify a board of supervisors' or the governing body of a district's authority under law as it existed on December 31, 2012, including any restrictions on that authority, to change the amount of member contributions.

SEC. 33. Section 31631.5 is added to the Government Code, to read:

31631.5. (a) (1) Notwithstanding any other provision of this chapter, a board of supervisors or the governing body of a district may require that members pay 50 percent of the normal cost of benefits. However, that contribution shall be no more than 14 percent above the applicable normal rate of contribution of members established pursuant to this article for local general members, no more than 33 percent above the applicable normal rate of contribution of members established pursuant to Article 6.8 (commencing with Section 21639) for local police officers, local firefighters, county peace officers, and no more than 37 percent above the applicable normal rate of contribution of members established pursuant to Article 6.8 (commencing with Section 31639) for all local safety members other than police officers, firefighters, and county peace officers.

(2) Before implementing any change pursuant to this subdivision for any represented employees, the public employer shall complete the good faith bargaining process as required by law, including any impasse procedures requiring mediation and factfinding. This subdivision shall become operative on January 1, 2018. This subdivision shall not apply to any bargaining unit when the members of that unit are paying at least 50 percent of the normal cost of their pension benefit or are subject to an agreement reached pursuant to paragraph (1). Applicable normal rate of contribution of members means the statutorily authorized rate applicable to the member group as the statutes read on December 31, 2012.

(b) Nothing in this section shall modify a board of supervisors' or the governing body of a district's authority under law as it existed on December 31, 2012, including any restrictions on that authority, to change the amount of member contributions.

SEC. 34. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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