

AMENDED IN ASSEMBLY MARCH 20, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2310**

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**Introduced by Assembly Member Aguiar-Curry**

February 13, 2018

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An act to amend ~~Section 20469~~ *Section 20516* of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2310, as amended, Aguiar-Curry. Public Employees' Retirement System: contracting members.

Existing law, the Public Employees' Retirement Law (PERL), establishes the Public Employees' Retirement System (PERS), which provides a defined benefit to members of the system, based on final compensation, credited service, and age at retirement, subject to certain variations. PERL authorizes a public agency to contract to make its employees members of PERS, and prescribes a process for this. ~~PERL authorizes a public agency wishing to participate in PERS to request a quotation of the approximate contributions that would be required in this regard. If the governing body intends to approve the proposed contract, PERL requires the body to adopt a resolution giving notice of that intention and prohibits approval of the contract until an election has been held that permits the employees to be included in PERS to express their approval or disapproval. Under PERL, a contracting agency and its employees may agree in writing to share the costs of the employer contribution in accordance with specified procedures. Existing law requires, in these circumstances, the collective bargaining agreement for a contracting agency and its employees to specify the~~

*exact percentage of member compensation that is to be paid toward the current service costs of the benefits by members.*

*This bill would ~~make nonsubstantive changes to the provisions requiring a governing body to adopt a resolution and conditioning contract approval on holding an election, as described above.~~ revise that provision to also refer to a memorandum of understanding ratified by the employee bargaining unit and the governing body of the contracting agency. The bill would require these agreements, as an alternative to specifying the exact percentage of member compensation to be paid toward the current service cost of the benefit by members, to specify the methodology for calculating that cost-sharing rate.*

*Under PERL, the above-described provision regarding cost sharing does not apply to a contracting agency or its employees until the agency elects to be subject to this provision by contract or contract amendment. Existing law further specifies that contributions are withheld from member compensation or otherwise collected when the contract amendment becomes effective.*

*This bill would specify that once a contracting agency elects to be subject to the cost-sharing provision, contract amendments are not required to effectuate cost sharing in subsequent collective bargaining agreements or memoranda of understanding ratified by the employee bargaining unit and the governing body of the agency. The bill would, however, further require the contracting agency, if a collective bargaining agreement or memorandum of understanding sets forth a methodology for calculating the cost-sharing rate instead of an exact percentage, to provide the retirement system with a signed side letter ratified by the employee bargaining unit and the agency indicating the exact percentage at least 90 days prior to the effective date of the cost-sharing rate as set forth in the signed side letter.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

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

- 1     SECTION 1. Section 20516 of the Government Code is
- 2     amended to read:
- 3     20516. (a) Notwithstanding any other provision of this part,
- 4     with or without a change in benefits, a contracting agency and its
- 5     employees may agree, in writing, to share the costs of the employer
- 6     contribution. The cost sharing pursuant to this section shall also

1 apply for related nonrepresented employees as approved in a  
2 resolution passed by the contracting agency.

3 (b) The collective bargaining agreement *or memorandum of*  
4 *understanding ratified by the employee bargaining unit and the*  
5 *governing body of the contracting agency* shall specify the exact  
6 percentage of member compensation that shall be paid toward the  
7 current service cost of the benefits by ~~members~~. *members or the*  
8 *methodology for calculating that cost-sharing rate.* The member  
9 contributions shall be contributions over and above normal  
10 contributions otherwise required by this part and shall be treated  
11 as normal contributions for all purposes of this part. The  
12 contributions shall be uniform, except as described in subdivision  
13 (c), with respect to all members within each of the following  
14 classifications: local miscellaneous members, local police officers,  
15 local firefighters, county peace officers, and all local safety  
16 members other than local police officers, local firefighters, and  
17 county peace officers. The balance of any costs shall be paid by  
18 the contracting agency and shall be credited to the employer's  
19 account. An employer shall not use impasse procedures to impose  
20 member cost sharing on any contribution amount above that which  
21 is authorized by law.

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

28 (d) This section shall not apply to any contracting agency nor  
29 to the employees of a contracting agency until the agency elects  
30 to be subject to this section by contract or by amendment to its  
31 contract made in the manner prescribed for approval of contracts.  
32 Contributions provided by this section shall be withheld from  
33 member compensation or otherwise collected when the contract  
34 amendment becomes effective. *Once the contracting agency elects*  
35 *to be subject to this section, contract amendments shall not be*  
36 *required to effectuate cost sharing in subsequent collective*  
37 *bargaining agreements or memoranda of understanding ratified*  
38 *by the employee bargaining unit and the governing body of the*  
39 *agency; provided, however, that if a collective bargaining*  
40 *agreement or memorandum of understanding sets forth a*

1 *methodology for calculating the cost-sharing rate instead of an*  
 2 *exact percentage, the contracting agency shall provide the*  
 3 *retirement system with a signed side letter ratified by the employee*  
 4 *bargaining unit and the agency indicating the exact percentage*  
 5 *at least 90 days prior to the effective date of the cost-sharing rate*  
 6 *as set forth in the signed side letter.*

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

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

19 (g) If, and to the extent that, the board determines that a  
 20 cost-sharing agreement under this section would conflict with Title  
 21 26 of the United States Code, the board may refuse to approve the  
 22 agreement.

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

29 ~~SECTION 1. Section 20469 of the Government Code is~~  
 30 ~~amended to read:~~

31 ~~20469. If, after receiving the approximate contribution~~  
 32 ~~quotation, the governing body intends to approve the proposed~~  
 33 ~~contract, it shall adopt a resolution giving notice of that intention.~~  
 34 ~~The resolution shall contain a summary of the major provisions~~  
 35 ~~of the proposed retirement plan. The contract shall not be approved~~  
 36 ~~unless an election has been held to permit the employees proposed~~  
 37 ~~to be included in this system to express by secret ballot their~~  
 38 ~~approval or disapproval of the retirement proposal. Prior to the~~  
 39 ~~election, each governing body shall be furnished with a schedule~~  
 40 ~~of rates of contribution of members, which shall be made available~~

1 by the governing body to each employee proposed to be included  
2 in this system. The ballot at the election shall include the summary  
3 of the retirement plan as set forth in the resolution. The election  
4 shall be conducted in the manner prescribed by the governing body  
5 and shall be such as to permit the firefighters, the police officers,  
6 the county peace officers, and the other employees proposed to be  
7 included in this system to express separately their approval or  
8 disapproval.

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