

SA2005RF0061

January 26, 2005

VIA MESSENGER

The Honorable Bill Lockyer
Attorney General, State of California
ATTN.: Ms. Tricia Knight
Initiative Coordinator
1300 I Street, Suite 125
Sacramento, CA 94244-2500

RECEIVED
JAN 26 2005

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

RE: Request for Title and Summary - "The ~~California Secure Retirement Portability~~ ^{PORTABLE RETIREMENT SECURITY}
Act of 2005."

Dear Ms. Knight:

I hereby request that the Attorney General prepare a title and summary for the attached proposed initiative entitled, "The ~~California Secure Retirement Portability~~ ^{PORTABLE RETIREMENT SECURITY} Act of 2005." Enclosed please find the text of the measure and my check for \$200.00. My residence address, at which I am registered to vote, is listed below.

Sincerely,

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

SECTION 1.

(a) The People of the State of California find and declare all of the following:

(1) Social Security was designed to be a safety net for workers and was not intended to meet all of the retirement needs of our work force.

(2) Between ongoing efforts to privatize Social Security in Washington, and increasing pressure from federal budget deficits, there is a very real chance that even the modest Social Security safety net that is available today may not be there for working Californians in the future.

(3) The retirement benefits of a working Californian should not be put at risk by any employer's bankruptcy or risky investment scheme.

(4) While tax-sheltered, individual retirement account investments may provide some opportunity for personal enrichment, they are risky and should not be made at the expense of defined retirement benefits that don't expose any working Californian to investment losses.

(5) Working Californians should have adequate and portable retirement benefits, based on the length of their employment, not on the ups and downs of the stock market.

(6) An increasing number of employers are abandoning their basic responsibility to help working Californians retire with dignity and security.

(7) Working Californians who earn the state average weekly wage would each need to save approximately three-quarters of a million dollars by the date of their retirement in order to fund a monthly retirement benefit that is equal to the retirement benefit they would receive if the Portable Retirement Security Act of 2005 were approved.

(8) People who change employers without portable retirement benefits are not only at risk of personal financial ruin in their old age, but also impose a burden on California's social and economic well-being.

(9) When a retired person's retirement check is insufficient to provide for their basic needs, such as health care, housing or groceries, their reliance on public assistance programs places an additional burden on California taxpayers to provide a retiree with these necessities.

(b) It is therefore the intent of the People of the State of California:

(1) That the retirement program proposed by the Portable Retirement Security Act be initially managed by the Public Employees' Retirement System, which, through its thoroughly demonstrated exercise of sound judgment, keen management skills, and investment prudence, has presided over a steady growth of the Public Employees' Retirement Fund to its current asset value of more than \$175 billion dollars.

(2) To ensure that working Californians have reliable and portable retirement benefits.

(3) That people who work on a seasonal basis, for multiple employers, or who work multiple jobs for the same employer, should have the same retirement benefits as those people who work full-time for a single employer.

(4) That employers pay a user fee into the California Employee Retirement

Fund and that those fees be invested in order to provide retirement benefits for all working Californians that are portable.

(5) That employers who voluntarily provide acceptable levels of retirement benefits to their employees, will not pay the user fee.

SEC.2. Part 8.7 (commencing with Section 2120) is added to Division 2 of the Labor Code, to read:

PART 8.7. PORTABLE RETIREMENT SECURITY ACT

CHAPTER 1. TITLE AND PURPOSE

2120. This part shall be known and may be cited as the Portable Retirement Security Act of 2005.

2120.2. It is the purpose of this part to ensure that retirement funds for working Californians are secure, and to assure that adequate retirement benefits are provided to them and their beneficiaries.

2120.3. This part shall not be construed to diminish any protection already provided pursuant to collective bargaining agreements, or employer-sponsored retirement plans that are more favorable to the employees than the retirement benefits required by this part.

CHAPTER 2. DEFINITIONS

2122. Unless the context requires otherwise, the definitions set forth in this Chapter shall govern the construction and meaning of the terms and phrases used in this part.

2122.1. "Beneficiary" means the spouse, domestic partner, minor child of a covered enrollee, or child 18 years of age and over who is dependent on the enrollee, as specified by the board.

2122.3. "Board" means the California Employee Retirement Board.

2122.5. "Compensation" means, for the purposes of calculating retirement benefits under this part, the same as is defined in Section 20630 of the Government Code, except that for the purposes of reporting compensation to the board, the rate of pay, as that term is used in Section 20636 of the Government Code, paid in cash for services rendered during normal working hours shall not exceed ten-thousand dollars (\$10,000) per month, or as indexed under paragraph (2) of subdivision (c) of Section 2150.

2122.7. "Employer" means an employing unit, as defined in Section 135 of the Unemployment Insurance Code that annually receives gross revenue of more than two million dollars (\$2,000,000). For purposes of this part, an employer shall include all of the members of a controlled group of corporations. A "controlled group of corporations" means controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code and the determination shall be made without regard to Sections 1563(a)(4) and 1563(e)(3)(C) of the Internal Revenue Code.

2122.9. "Enrollee" means a person who works at least 40 hours per month for any individual employer and has worked for that employer for one day. The term includes sole proprietors or partners of a partnership, if they are actively engaged at least 40 hours per month with that employer.

2122.11. "Fee" means the fee imposed upon employers, as determined in Chapter 4 (commencing with Section 2140).

2122.13. "Final compensation" means the highest twelve-month average compensation of an enrollee received from any or all employers during any consecutive twelve-month period of employment.

2122.15. "Fund" means the California Employee Retirement Fund created pursuant to Section 2210.

2122.17. "Principal employer" means the employer for whom an enrollee works the greatest number of hours in any month.

2122.19. "Program" means the California Employee Retirement Program, which includes a trust fund providing retirement benefits for enrollees and their beneficiaries, which will be financed by fees paid by employers and voluntary contributions by enrollees.

2122.21. "Regular member" means any member other than a safety member.

2122.23. "Retirement benefit" means a "fixed benefit" pension plan, as opposed to a "fixed contribution" annuity plan.

2122.25. "Safety Member" means any person working in a job classification that is primarily required to protect the public or any segment thereof. "Safety member" also means any person whose occupation is physically demanding and regularly requires the use of a hardhat or other protective headgear, or a safety harness. Job classifications that meet this definition include, but are not limited to, firefighter, police officer, deputy sheriff, highway patrol officer, lifeguard, bodyguard, mine worker, utility line person, heavy construction workers, highway repair worker, mobile intensive care nurse, paramedic, and ski patrol member.

2122.27. "Service credit" means credit for work:

(a) in this State with all employers, and

(b) outside this State, where the employment domicile is within this State.

2122.29. "Wages" means wages as defined in subdivision (a) of Section 200 paid directly to an individual by his or her employer, as limited by subdivision (c) of Section 2150.

2122.31. Definitions contained in Chapter 1 of Part 3 of Division 5 of Title 2, (commencing with section 20000 of the Government Code) that are not inconsistent with this chapter shall also apply to this part.

CHAPTER 3. CALIFORNIA EMPLOYEE RETIREMENT PROGRAM

2125. The California Employee Retirement Program is hereby created.

2126. The program shall be managed by the California Employee Retirement Board, which is hereby created, as follows:

(a) The board shall initially be composed of seven members, two of whom serve as ex-officio members, and five of whom are appointed and serve five-year terms, staggered in the order as they appear in this section.

(1) The Governor shall appoint three members of the board, who are knowledgeable about retirement matters, and are subject to confirmation by the Senate:

(A) One representative from a small business.

(B) One representative of organized labor, nominated by the California Labor Federation.

(C) One representative of retirees, nominated by AARP California.

(2) The Senate Committee on Rules shall appoint one member.

(3) The Speaker of the Assembly shall appoint one member.

(4) The following constitutional officers shall serve on the board as ex-officio voting members:

(A) The State Controller

(B) The State Treasurer

(5) Except as otherwise provided in paragraph (1) of subdivision (b), the board members shall serve without compensation, but shall be reimbursed for expenses incurred.

(6) The board members shall annually designate one of their members as chair of the board.

(b) After the fund balance exceeds eight billion dollars (\$8,000,000,000):

(1) board members other than ex-officio members shall receive a salary established by The Department of Personnel Administration for exempt officials; and

(2) the board shall be increased to fifteen members, four of whom shall be elected at-large by all of the enrollees, and four of whom shall be elected by district, one of whom shall be from, and elected by, the enrollees from each of the four Board of Equalization Districts.

2127. The board shall contract with the Public Employees' Retirement Board for administration of the program until the fund balance exceeds ten billion dollars (\$10,000,000,000). The board may thereafter assume any of the administrative functions that it deems prudent to do so. Upon assumption of the actuarial functions, the board shall appoint a chief actuary and an administrator, both of whom shall report directly to and serve at the pleasure of the board.

2128. The administrator and the chief actuary shall receive a salary established by the Department of Personnel Administration for exempt officials. The administrator shall manage the affairs of the board as directed, and shall direct the staff of the board. The administrator may appoint, with the approval of the board, the staff necessary to carry out the provisions of this part.

2129. (a) The members of the board shall discharge their duties with respect to the program solely in the interest of, and for the exclusive purposes of, providing benefits to enrollees and their beneficiaries, and defraying reasonable expenses of administering the program. The board's duty to its enrollees and their beneficiaries shall take precedence over any other duty.

(b) The members of the board shall discharge their duties with respect to the program with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and

with like aims.

(c) The members of the board shall diversify the investments of the fund so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.

2130. (a) The board shall have all the powers necessary to carry out the Program, including but not limited to those powers as are currently vested in the Public Employees' Retirement Board with respect to administration of the Public Employees' Retirement System.

(b) The board shall also have the power to adopt regulations as may be necessary to implement this part. The regulations may initially be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, but those emergency regulations shall remain in effect only from the effective date of this part until three years after the requirements of this program are in effect.

(c) Except as otherwise provided in this chapter, and subject to clarifying regulations adopted by the board that delineate in what manner, and to what extent, the provisions of Part 3 of Division 5 of Title 2, (commencing with section 20000 of the Government Code), that are not inconsistent with this part shall be applicable to this program.

2130.1. (a) Notwithstanding any other provisions of law to the contrary, the board shall have plenary authority and fiduciary responsibility for the investment of moneys and administration of the program, including sole and exclusive fiduciary responsibility over the assets of the fund. The board shall also have sole and exclusive responsibility to administer the program in a manner that will assure prompt delivery of benefits and related services to the enrollees and their beneficiaries, including sole and exclusive responsibility over contract, budget, and personnel matters.

(b) The board, consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the fund.

(c) The board is, for the purposes of section 17 of article XVI of the Constitution, a retirement board of a public retirement system.

(d) Nothing in this section shall preclude oversight of the program by the Auditor General.

2130.2. The board shall assure that all employees eligible under this part are enrolled in the program, and that all employers subject to this part pay the appropriate fees to the fund.

2130.3. The program shall be funded by employer fees and voluntary enrollee contributions as described in this part. The board shall administer the program in a manner that assures that the fees and enrollee contributions collected pursuant to this part are sufficient to fund the retirement program, including the cost of administration.

CHAPTER 4. EMPLOYER FEE

2140. Except as otherwise provided in this part, every employer shall pay a fee as specified by the board pursuant to this chapter.

2140.1. (a) The board shall, once each year, upon receipt of written recommendations made by the Chief Actuary, establish the level of the fee by determining the amount of fees and enrollee contributions necessary to adequately fund the accrued retirement benefits and administrative costs on an actuarial basis, for all enrollees eligible for the program. In setting the fee, the board shall include all costs associated with the administration of the fund, including those costs associated with the fee collection and enforcement of the Employment Development Department.

(b) The retirement program administered pursuant to this part shall be fully supported by the fees and enrollee contributions collected pursuant to this part. The fees and enrollee contributions collected pursuant to this part shall not be used for any purpose other than providing retirement benefits for enrollees and their beneficiaries, as well as costs associated with program administration by the board, and fee collection and enforcement by the Employment Development Department.

(c) Until the fund balance exceeds ten billion dollars (\$10,000,000,000), the duties of chief actuary created under this chapter are hereby delegated to the chief actuary of the Public Employees' Retirement System.

2140.2. The board shall provide notice to the Employment Development Department of the amount of the fee in a time and manner that permits the Employment Development Department to provide adequate notice to all employers of the estimated fee for the budget year pursuant to Section 976.7 of the Unemployment Insurance Code.

2140.3. The Employment Development Department shall waive the fee of any employer that is entitled to a credit under the terms of this part. The Employment Development Department shall specify the manner and means by which that credit may be claimed by an employer.

2140.4. Revenue from the fee and from the voluntary enrollee contributions specified in this part shall be deposited into the fund.

2140.5. The fee paid by employers shall be based on the actuarial cost of accrued retirement benefits for all enrollees and their beneficiaries. The fee to be paid by each employer shall be based on the number of potential enrollees, using the employer's own workforce on a date specified by the board as the basis for the allocation and such other factors as the board may determine in order to provide retirement benefits that meet the standards of this part. To assist the board in determining the fee, each employer shall provide to the board information as specified by the board regarding potential enrollees and beneficiaries. To the extent feasible, the board shall work with the Employment Development Department to facilitate the provision of information regarding the number of potential enrollees and beneficiaries.

2140.6. Beginning January 1, 2006, an employer shall pay a fee to the fund for the purpose of providing retirement benefits pursuant to this part. The fee paid by an employer shall be based on the number of enrollees.

2140.7. Service credit applicable to an enrollee shall not be contingent upon

payment of the fee required pursuant to this part by the employer of that enrollee. If an employer fails to pay the required fee, for whatever reason, the employer shall be responsible to the fund for payment of a penalty equal to 200 percent of the amount of any fee that would have otherwise been paid by the employer including for the period that the enrollee should have received service credit, but for the employer's conduct in violation of this section.

2140.8. All amounts due and unpaid under this part, including unpaid penalties, shall bear interest in accordance with Section 1129 of the Unemployment Insurance Code.

2140.9. Nothing in this part shall preclude an employer from providing any supplemental defined contribution annuity benefit or any additional retirement benefits, in addition to paying the fee required under this chapter.

CHAPTER 5. ENROLLEE CONTRIBUTION

2150. (a) Except as provided in subdivision (b) or (c), the applicable enrollee contribution shall be four percent of the wages paid by the employer, and shall be collected by the employer or paid by the employer on behalf of the employee concurrently with the employer fee. The employee may, in lieu of the forgoing, make a revocable written election to defer or not pay the contribution. Any employee contributions not paid prior to retirement shall require that the board reduce the employee's retirement benefit otherwise payable by an amount equal to the annuity that would otherwise be payable from the unpaid contributions and interest that would have otherwise accrued.

(b) Notwithstanding subdivision (a), with respect to an enrollee who:

(1) has a family of four, that portion of wages that are less than 200 percent of the federal poverty guidelines for a family of four, as specified annually by the United States Department of Health and Human Services, the applicable enrollee contribution shall be one percent of wages.

(2) has a family of three, that portion of wages that are less than 200 percent of the federal poverty guidelines for a family of three, as specified annually by the United States Department of Health and Human Services, the applicable enrollee contribution shall be one percent of wages.

(3) has a family of two, that portion of wages that are less than 200 percent of the federal poverty guidelines for a family of two, as specified annually by the United States Department of Health and Human Services, the applicable enrollee contribution shall be one percent of wages.

(4) is an individual, that portion of wages that are less than 200 percent of the federal poverty guidelines for an individual, the applicable enrollee contribution shall be one percent of wages.

(c) (1) Notwithstanding subdivision (a), the wage upon which the employee contribution is based shall not initially exceed ten thousand dollars (\$10,000) per month.

(2) The board shall annually adjust this wage level to reflect any change in the Consumer Price Index.

2150.2. In the event that the employer fails to collect or transmit the enrollee

contribution provided for under this part in a timely manner, the employer shall become liable for a penalty of 200 percent of the amount that the employer has failed to collect or transmit, and the employee shall be relieved of all liability for that failure. In no event shall the employer's failure to collect or transmit the required enrollee's contribution or to provide enrollment information about an employee affect the employee's retirement service credit under this part, nor may an employer withhold or collect any amount that is not withheld and transmitted in the manner and at such times as specified by the Employment Development Department pursuant to this part. An employee for whom enrollment information is not otherwise received by the board may demonstrate eligibility for retirement service credit by any reliable means of demonstrating employment as provided for in regulation. To the extent feasible, the board shall work with the Employment Development Department to facilitate the provision of information regarding the eligibility of enrollees and to provide information regarding any failure of an employer to collect or transmit employee contributions as required by this part.

CHAPTER 6. EMPLOYER FEE CREDIT

2160. Any employer required to pay a fee to the fund may apply to the Employment Development Department pursuant to Section 2140.3 for a credit against the fee by providing proof of retirement coverage for eligible enrollees.

2160.1. Proof of coverage shall be demonstrated by any of the following:

(a) Any Taft-Hartley labor-management retirement trust fund or any other lawful retirement plan administered pursuant to a collective bargaining agreement which provides for retirement benefit coverage for members of the collective bargaining unit or other employees thereby covered.

(b) Any employer sponsored retirement plan meeting the requirements of the federal Employee Retirement Income Security Act of 1974, provided that:

(1) the assets of the retirement plan are held in trust by a fiduciary that is independent of, and has no other financial relationship with the employer, and

(2) the retirement benefit level of the employer plan meets or exceeds the corresponding retirement benefit level of the California Employee Retirement Program provided in Chapter 9.

(3) the employee contributions required under the employer plan do not exceed the employee contribution levels delineated in section 2150.

(c) A multiple employer retirement plan that meets the requirements of the federal Employee Retirement Income Security Act of 1974, provided that:

(1) the assets of the retirement plan are held in trust by a fiduciary that is independent of, and has no other financial relationship with any of the participating employers, and

(2) the retirement benefit level of the multiple employer plan meets or exceeds the corresponding retirement benefit level of the California Employee Retirement Program provided in Chapter 9, and

(3) the employee contributions required under the multiple employer plan do not exceed the employee contribution levels delineated in section 2150.

(d) Retirement benefits provided under the Public Employees' Retirement Law, Part 3 of Division 5 of Title 2, (commencing with section 20000 of the Government Code), provided that the retirement benefit levels provided therein meet or exceed the retirement benefit levels applicable to that employer on August 1, 2004.

(e) Retirement benefits provided under the County Employees' Retirement Law, Chapter 3 of Part 3 of Division 4 of Title 3, (commencing with section 31450 of the Government Code), provided that the retirement benefit levels provided therein meet or exceed the retirement benefit levels applicable to that employer on August 1, 2004.

(f) Retirement benefits provided under a City Charter, provided that the retirement benefit levels provided therein meet or exceed the retirement benefit levels applicable to that employer on August 1, 2004.

(g) Retirement benefits provided by the University of California to the employees of the University of California, provided that the level of those benefits meet or exceed the retirement benefit level applicable on August 1, 2004.

(h) Retirement benefits provided under the State Teachers Retirement System, Part 13 of Division 1 of Title 1 (commencing with section 22000 of the Education Code) provided that the retirement benefit levels provided therein meet or exceed the retirement benefit levels applicable to teachers on August 1, 2004.

(i) Retirement benefits provided under the Judges' Retirement System, Chapter 11 and 11.5 of Title 8 (commencing with section 75000 of the Government Code) provided that the retirement benefit levels provided therein meet or exceed the retirement benefit levels applicable to judges on August 1, 2004.

2160.2. Nothing in this part shall preclude an employer from providing any supplemental defined contribution annuity benefit or any additional retirement benefits, in addition to paying the fee required by Chapter 4.

2160.3. It shall be unlawful for an employer to designate an employee as an independent contractor or temporary employee, reduce an employee's wages or hours of work, relocate an employee, or terminate and rehire an employee if a purpose of which is to avoid the employer's obligations under this part. Any employer that violates this section shall be responsible to the fund for a penalty of 200 percent of the amount of any fee that would have otherwise been paid by the employer, including for the period that the enrollee should have received retirement service credit, but for the employer's conduct in violation of this section. The rights established under this section shall not reduce any other rights established under any other provision of law.

2160.4. An employer shall not request or otherwise seek to obtain information concerning income or other eligibility requirements for public pension or retirement programs regarding any employee, dependent, or other family member of any employee, other than that information about the employee's employment status otherwise known to the employer consistent with existing state and federal law and regulation. For these purposes, public pension or retirement programs include, but are not limited to, any state, city, or county retirement system, or the benefit plan provided under the Social Security Act.

2160.5. The Employment Development Department shall adopt regulations to

ensure that employers abide by the provisions of this chapter. The regulations may initially be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, but those emergency regulations shall be in effect only from the effective date of this part until three years after the requirements of this program are in effect for all employers.

2160.7. (a) Any new employer or existing employer that previously was not subject to this part shall begin complying with all applicable provisions of this part within one month of the date it became subject to this part, however retirement service credit shall apply to its employees from the date that the employer became subject to this part.

(b) Any existing employer previously subject to this part but no longer subject to this part shall notify the Employment Development Department in a manner prescribed by that department within 15 days of this change before discontinuing to comply with the provisions of this part.

CHAPTER 7. ENROLLMENT

2190. (a) Employers shall provide information to the board regarding potential enrollees and their beneficiaries, as prescribed by the board to assist the board in obtaining information necessary for enrollment. In no case shall the board require the employer to obtain from the potential enrollee information about the family income or other eligibility requirements for other public programs other than that information about the enrollee's employment status otherwise known to the employer consistent with existing state and federal law and regulation.

(b) The board shall obtain enrollment information from potential enrollees to be covered by the program. The enrollee may voluntarily provide information sufficient to determine whether the enrollee may be eligible for coverage under other public programs if the enrollee chooses to seek enrollment in those programs. The board shall use a uniform enrollment form for obtaining that information.

2190.4. In implementing this part, the board shall consult with organizations representing the interests of enrollees, particularly those who may be eligible under section 2150, as well as family members, advocacy organizations, public retirement systems, and multiple employer retirement plans providing coverage under this part.

CHAPTER 8. ADMINISTRATION

2200. A contract entered into by the board pursuant to this part shall be exempt from any provision of law relating to competitive bidding, and shall be exempt from the review or approval of any division of the Department of General Services.

2210. (a) The California Employee Retirement Fund is hereby created in the State Treasury and, notwithstanding Section 13340 of the Government Code, is continuously appropriated to the board for the purposes specified in this part.

(b) The assets of the program are trust funds and shall be held in the fund for the exclusive purposes of providing benefits to participants in the program and their beneficiaries and defraying reasonable expenses of administering the program.

(c) The fund shall consist of employer fees and voluntary enrollee contributions deposited into the fund, together with investment earning thereon. The board shall approve the expenditure of all moneys from the fund.

(d) Notwithstanding Section 2130.4, the board is hereby authorized to obtain a loan from the General Fund for all necessary and reasonable expenses related to the establishment and administration of this part prior to the collection of employer fees. The proceeds of the loan are not subject to appropriation in the annual Budget Act. The board shall repay principal and interest, using the rate of interest paid under the Pooled Money Investment Account, to the General Fund no later than five years after the first year of implementation of the employer fee.

CHAPTER 9. RETIREMENT BENEFITS

2220. The retirement benefits applicable to enrollees in this program shall consist of one of the following two separate retirement benefit categories:

(a) The following regular category of benefits is applicable to all enrollees other than enrollees who meet the definition of "safety member."

(1) (A) The combined current and prior service pensions for regular members who are subject to the provisions of this section is a pension derived from the fees of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth 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 number of years of current and prior service, covered under this retirement formula with which the member is entitled to be credited at retirement:

Age at retirement	Fraction
55	1.000
55 1/4	1.008
55 1/2	1.016
55 3/4	1.024
56	1.032
56 1/4	1.040
56 1/2	1.048
56 3/4	1.055
57	1.063
57 1/4	1.071
57 1/2	1.079
57 3/4	1.086
58	1.094

58 1/4	1.102
58 1/2	1.110
58 3/4	1.118
59	1.125
59 1/4	1.134
59 1/2	1.141
59 3/4	1.149
60	1.157
60 1/4	1.165
60 1/2	1.173
60 3/4	1.180
61	1.188
61 1/4	1.196
61 1/2	1.203
61 3/4	1.211
62	1.219
62 1/4	1.227
62 1/2	1.235
62 3/4	1.243
63	1.250
63 1/4	1.258
63 1/2	1.266
63 3/4	1.274
64	1.282
64 1/4	1.290
64 1/2	1.298
64 3/4	1.306
65 and over.....	1.314

(B) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars (\$400) per month for all service of a member any of whose service has been included in the federal system.

(C) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals more than 100 percent of final compensation.

(b) The following safety plan is applicable to all enrollees who meet the definition of "safety member."

(1)(A) The combined current and prior service pensions for safety members subject to this section with respect to safety service rendered to employment that is subject to this section, is a pension derived from the fees of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the safety member at the date of his or her retirement to equal the fraction of 3 percent of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed

quarter year, in the following table, multiplied by the number of years of safety service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50 .....	.800
50 1/4 .....	.810
50 1/2 .....	.820
50 3/4 .....	.830
51 .....	.840
51 1/4 .....	.850
51 1/2 .....	.860
51 3/4 .....	.870
52 .....	.880
52 1/4 .....	.890
52 1/2 .....	.900
52 3/4 .....	.910
53 .....	.920
53 1/4 .....	.930
53 1/2 .....	.940
53 3/4 .....	.950
54 .....	.960
54 1/4 .....	.970
54 1/2 .....	.980
54 3/4 .....	.990
55 and over	1.000

(B) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars (\$400) per month for all service of a member any of whose service has been included in the federal system.

(C) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals more than 100 percent of final compensation.

(c) The retirement benefits provided to an enrollee shall, except as otherwise provided in this part, be equivalent to the retirement benefits contained in chapter 13 of part 3 of division 5 of Title 2, (commencing with section 21250 of the Government Code), applicable on August 1, 2004, for:

(1) a state miscellaneous member, in the case of an enrollee who is a regular member.

(2) a state peace officer/fighter member, in the case of an enrollee who is a safety member.

(d) The minimum age for service retirement by a regular member is fifty-five. The minimum age for service retirement by a safety member is fifty. Retirement applications and procedures that are not inconsistent with this subdivision shall

be governed where applicable by Chapter 12 of Part 3 of Division 5 of Title 2, (commencing with section 21060 of the Government Code),

(e) (1) Service credit shall be granted to an enrollee for work performed with any or all employers, up to a maximum of 2000 hours service credit per year.

(2) Service credit for prior service shall be granted to all enrollees who were employed on January 1, 2005. The number of weeks of prior service to be credited to an enrollee shall be equal to one-half of the number of weeks, exclusive of any period of unpaid leave that an enrollee worked for any or all of his or her employers prior to the effective date of this part. The provisions of Chapter 11 of Part 3 of Division 5 of Title 2, (commencing with section 20890 of the Government Code) that are not inconsistent with this subdivision shall be applicable.

(f) (1) Except as provided in paragraph (2), in order to qualify for a retirement benefit under this part, an enrollee who is a regular member must be vested with five years of service credit, other than service credit granted pursuant to paragraph (2) of subdivision (e).

(2) Notwithstanding paragraph (1), the vesting period applicable to an enrollee who is a regular member who has reached age 60 before January 1, 2006 of this part, shall be subject to the following minimum vesting schedule:

Age on 1/1/2005	Regular Member Min. Vesting Period
60 or less	Five years
61	Four years
62	Three years
63	Two years
64	One year
65	None

(g) (1) Except as provided in paragraph (2), in order to qualify for a retirement benefit under this part, an enrollee who is a safety member must be vested with five years of service credit, other than service credit granted pursuant to paragraph (2) of subdivision (e).

(2) Notwithstanding paragraph (1), the vesting period applicable to an enrollee who is a safety member who has reached age 50 before January 1, 2006 of this part, shall be subject to the following minimum vesting schedule:

Age on 1/1/2005	Safety Member Min. Vesting Period
50 or less	Five years
51	Four years
52	Three years
53	Two years
54	One year
55	None

SEC. 3. Section 131 of the Unemployment Insurance Code is amended to read:

131. "Contributions" means the money payments to the Unemployment Fund, Employment Training Fund, California Employee Retirement Fund, or Unemployment Compensation Disability Fund which are required by this division.

SEC. 4. Section 976.7 is added to the Unemployment Insurance Code to read:

976.7. (a) In addition to other contributions required by this division and consistent with the requirements of Chapter 6 (commencing with Section 2160) of Part 8.7 of Division 2 of the Labor Code, an employer shall pay to the department for deposit into the California Employee Retirement Fund a fee in the amount set by the California Employee Retirement Board for the California Employee Retirement Program in accordance with Chapter 4 (commencing with Section 2140) of Part 8.7 of Division 2 of the Labor Code. The fees shall be collected in the same manner and at the same time as any contributions required under Sections 976 and 1088.

(b) In notifying employers of the contributions required under this section, the department shall also provide notice of required employee contribution amounts consistent with Section 2150 of the Labor Code.

SEC. 5. Section 6254 of the Government Code is amended to add subdivision (bb), as follows:

(bb) (1) Records of the California Employee Retirement Board related to activities governed by Part 8.7 (commencing with Section 2120) of Division 2 of the Labor Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 8.7 (commencing with Section 2120) of Division 2 of the Labor Code on or after January 1, 2004, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract entered into pursuant to Part 8.7 (commencing with Section 2120) of Division 2 of the Labor Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

SEC. 6. (a) This act may be amended by a bill approved by the Legislature, a majority of the membership of each house concurring, and signed by the

Governor. Any amendment to this act shall be consistent with, and in furtherance of, its purpose as described in Section 2120.2 of Chapter 1 of Part 8.7 of the Labor Code.

(b) Notwithstanding subdivision (a), the retirement benefits provided under the Portable Retirement Security Act of 2005 may be reduced only by a ballot measure approved by a majority of the voters who voted on that ballot measure in a statewide election.

SEC. 7. The provisions of this act shall be deemed to be in conflict with the provisions of any other measure on the same statewide election ballot that in any manner applies a restriction on access to retirement benefits, with respect to any group or class of past, present, or future employees of any employer in California. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in the entirety, and the provisions of the other measure(s) shall be null and void.

SEC. 8. (a) 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, except as provided in subdivision (b).

(b) In the event that the provisions of Section 2160.1 of the Labor Code are held invalid and this action is affirmed on final appeal, an employer may qualify for a full credit for those amounts spent for providing retirement benefits, allowable by state law as a deductible business expense if the amount spent equals or exceeds the cost for California Employee Retirement Program coverage. In no instance shall the amount of the credit exceed the amount of the fee that would otherwise have been paid. The Employment Development Department shall specify the manner and means of submitting proof to obtain the credit.

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