

AB 197 Buchanan

Amendment 1

Government Code section 20516 as it reads currently in AB 340. Page 48, line 2, strike “required” and replace with “authorized”

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 any optional benefit that is inapplicable to a contracting agency until the agency elects to be subject to the benefit 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. The

(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 normal 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~~ authorized by law.

Amendment(s) 2

As it reads in AB 340, page 57, lines 10, 17, and 22, add the words “and payable” after the word “earned”

AND

Add subdivision (c) as it reads below

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 and payable 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 and payable 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 and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

(c) The terms of subdivision (b) are intended to be consistent with and not in conflict with the holdings in *Salus v. San Diego County Employees Retirement Ass’n* (2004) 117 Cal.App.4th 734 and *In re Retirement Cases* (2003) 110 Cal. App. 4th 426.