An act to amend Section 22324 of the Education Code, to amend Sections 7507.5, 20229, 100014, and 100032 of the Government Code, and to amend Section 220 of the Labor Code, relating to public employment, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST

SB 341, as introduced, Morrell. Public employment and retirement.

(1) Existing law requires the Board of Administration of the Public Employees’ Retirement System and the Teachers’ Retirement Board to provide annual reports to the Legislature and the Governor with regard to investment returns on assets of the Public Employees’ Retirement System and the State Teachers’ Retirement System, respectively. As part of these reports, the boards are required to calculate and report on the rate of return on investments based on different assumptions.

This bill would require the Board of Administration of the Public Employees’ Retirement System to report a calculation of liabilities based on a discount rate equal to the yield on a 10-year United States Treasury note in the year prior to the report. The bill would require the Teachers’ Retirement Board to provide a description of the discount rate the board uses for reporting liabilities, a calculation of liabilities based on a discount rate that is 2% below the long-term rate of return assumed by the board, and a calculation of liabilities based on a discount rate equal to the yield on a 10-year United States Treasury note in the year prior to the report.

Existing law states the intent of the Legislature that the Regents of the University of California provide written notice to the Legislature
of any proposed changes to retirement plan benefits, employer or employee contribution rates, or actuarial assumptions affecting the University of California Retirement System, as specified.

This bill would state the intent of the Legislature that the Regents of the University of California provide an annual written report to the Legislature regarding annual return on investments for the University of California Retirement System for the past 20 years and certain information regarding the rate of return of the system by asset type, as specified.

(2) Existing law establishes the California Secure Choice Retirement Savings Investment Board and the California Secure Choice Retirement Savings Trust, for the purpose of promoting greater savings for private employees in California. Existing law requires the board to design and implement the CalSavers Retirement Savings Program. After the board opens the program for enrollment, existing law prescribes a schedule for employer participation based on the size of the employer, unless the employer is offering its own employer-sponsored plan, as specified. Existing law requires each eligible employee to be enrolled in the program unless the employee elects not to participate.

This bill would remove the requirement that eligible employees participate in the CalSavers Retirement Savings Program and, instead, permit an employee to elect participation. The bill would make various conforming changes in this connection.

(3) Existing law, with certain exceptions, requires that employers pay wages to their employees twice per calendar month on days designated in advance as regular paydays. Existing law exempts the payment of wages of employees directly employed by the State of California from that requirement.

This bill would repeal that exemption, thereby requiring the State of California to pay wages twice per month to employees that it directly employs.

(4) Existing law creates the Defined Benefit Program of the State Teachers’ Retirement System for the purpose of providing pension benefits to members of the system. The Defined Benefit Program is funded by employer and employee contributions as well as investment returns and state appropriations.

This bill would appropriate $1,000,000,000 from the General Fund for transfer to the Teachers’ Retirement Fund to reduce the unfunded liability of the Defined Benefit Program of the State Teachers’ Retirement System. The bill would also appropriate another
$1,000,000,000 to the Teachers’ Retirement Fund if the Legislative Analyst determines in the May Revision of the 2019–20 Budget that the state has collected more than $1,000,000,000 in unanticipated General Fund revenue. The bill would require the Governor to form a working group of specified parties to propose long-term funding solutions for the unfunded liability of the Defined Benefit Program of the State Teachers’ Retirement System and to report those solutions to the Legislature by January 1, 2020. The bill would make a statement of legislative findings and declarations.


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

SECTION 1. Section 22324 of the Education Code is amended to read:

22324. The board shall file an annual report with the Governor and the Legislature by March 1 of each year on all phases of its work that could affect the need for public contributions for costs of administration of the system, including the subjects of benefits, programs, practices, procedures, comments on trends and developments in the field of retirement, and the following information on the assets of the plan:

(a) A copy of the annual audit performed pursuant to Section 22217.

(b) A certification letter from the system’s consulting actuary concerning the findings of the most recent actuarial valuation, accompanied by analysis of funding progress and summaries of the actuarial cost method, assumptions, and demographic data, including actual payroll subject to the system.

(c) A review of the system’s asset mix strategy, a market review or the economic and financial environment in which investments were made, and a summary of the system’s general investment strategy.

(d) A description of the investments of the system at cost and market value, and a summary of major changes that occurred since the previous year.

(e) The annual return on investments and the following information regarding the rate of return of the system by asset type:
(1) Time-weighted market value rate of return on a five-year, three-year, and one-year basis.

(2) Time-weighted book value rate of return on a five-year, three-year, and one-year basis.

(3) Portfolio return comparisons that compare investment returns with universes and indexes.

(f) A description of the discount rate utilized by the board for reporting liabilities, and the following:

(1) A calculation of those liabilities based upon a discount rate that is 2 percent below the long-term rate of return actually assumed by the board.

(2) A calculation of those liabilities that is based upon a discount rate that is equal to the yield on a 10-year United States Treasury note in the year prior to the report.

(g) A report on the use of outside investment advisers and managers.

(h) A report on the nature and cost of investment contract services used, including either the start date of an existing contract or, if there are multiple existing contracts with the same contractor or vendor, the earliest start date.

(i) A report on shareholder voting.

(j) A report for the prior fiscal year on the following information:

(1) The percentage of purchasing power protection and any changes adopted by the board.

(2) The extent to which inflation has eroded the purchasing power of benefits provided under the Defined Benefit Program.

(3) The amount of supplementary increases in retirement allowances required to preserve the purchasing power of benefits provided by the Defined Benefit Program.

SEC. 2. Section 7507.5 of the Government Code is amended to read:

7507.5. (a) It is the intent of the Legislature that the Regents of the University of California provide written notice to the Legislature of any proposed changes to retirement plan benefits, employer or employee contribution rates, or actuarial assumptions affecting the University of California Retirement System, at least
60 days prior to the effective date thereof. The written notice shall be provided to the Joint Legislative Budget Committee and the fiscal subcommittees and shall consist of:

(a) A description and explanation of each specific proposed change to the benefit structure, contribution rates, or actuarial assumptions.

(b) The actuarial impact upon future annual costs of each proposed change.

(b) (1) It is the intent of the Legislature that the Regents of the University of California provide an annual written report to the Legislature regarding annual return on investments for the University of California Retirement System for the past 20 years and the following information regarding the rate of return of the system by asset type:

(A) Time-weighted market value rate of return on a five-year, three-year, and one-year basis.

(B) Time-weighted book value rate of return on a five-year, three-year, and one-year basis.

(C) Portfolio return comparisons that compare investment returns with universes and indexes.

(D) A description of the discount rate utilized by the system for reporting liabilities.

(i) A calculation of those liabilities based upon a discount rate that is 2 percent below the long-term rate of return actually assumed by the system.

(ii) A calculation of those liabilities that is based upon a discount rate that is equal to the yield on a 10-year United States Treasury note in the year previous to the report.

(2) It is the intent of the Legislature that the report described in paragraph (1) be submitted in compliance with Section 9795.

SEC. 3. Section 20229 of the Government Code is amended to read:

20229. (a) The board, notwithstanding Section 10231.5, shall provide the Legislature, the Governor, and the Chair of the California Actuarial Advisory Panel, established pursuant to Section 7507.2, with an annual report that includes all of the following, as these items apply to state employee retirement plans:
(1) (A) A description of the investment return assumption utilized by the board when determining the contribution rates.

(B) A calculation of the contribution rates utilizing an investment return assumption 2 percentage points above and 2 percentage points below the investment return assumption utilized by the board.

(2) (A) A description of the amortization period for any unfunded liabilities utilized by the board when determining the contribution rates.

(B) A calculation of the contribution rates based on an amortization period equal to the estimated average remaining service periods of employees covered by the contributions.

(3) (A) A description of the discount rate utilized by the board for reporting liabilities.

(B) A calculation of those liabilities based upon a discount rate that is 2 percent below the long-term rate of return actually assumed by the board.

(C) A calculation of those liabilities that is based upon a discount rate that is equal to the yield on a 10-year United States Treasury note in the year prior to the report.

(4) The market value of the assets controlled by the board and an explanation of how the actuarial value assigned to those assets differs from the market value of those assets.

(b) Each legislative session, the Chair of the California Actuarial Advisory Panel, or his or her designee, shall, during a publicly noticed joint hearing of the Senate Committee on Public Employment and Retirement and the Assembly Committee on Public Employees, Retirement and Social Security, do all of the following based on information received in the report required by subdivision (a):

(1) Explain the role played by the investment return assumption and amortization period in the calculation of the contribution rates.

(2) Describe the consequences for future state budgets should the investment return assumption not be realized.

(3) Report whether the board’s amortization period exceeds the estimated average remaining service periods of employees covered by the contributions.

(c) The report required by subdivision (a) shall be submitted in compliance with Section 9795.
SEC. 4. Section 100014 of the Government Code is amended to read:

100014. (a) Prior to opening the CalSavers Retirement Savings Program for enrollment, the board shall design and disseminate to employers through the Employment Development Department (EDD) an employee information packet that shall be available in an electronic format. The packet shall include background information on the program and appropriate disclosures for employees.

(b) The disclosure form shall include, but not be limited to, all of the following:

(1) The benefits and risks associated with making contributions to the program.

(2) The mechanics of how to make contributions to the program.

(3) How to elect to participate in the program.

(4) The process for withdrawal of retirement savings.

(5) How to obtain additional information on the program.

(c) In addition, the disclosure form shall clearly articulate the following:

(1) Employees seeking financial advice should contact financial advisors, that employers do not provide financial advice, that employees are not to contact their employers for financial advice, and that employers are not liable for decisions employees make pursuant to Section 100034.

(2) This retirement program is not sponsored by the employer, and therefore the employer is not responsible for the plan or liable as a plan sponsor.

(3) The program fund is not guaranteed by the State of California.

(d) The disclosure form shall include a method for the employee to acknowledge that the employee has read all of the disclosures and understands their content.

(e) The employee information packet shall also include an opt-out opt-in form for an eligible employee to note his or her decision to opt out of opt in to participation in the program. The opt-out opt-in notation shall be simple and concise and drafted in a manner that the board deems necessary to appropriately evidence the employee’s understanding that he or she is choosing not to automatically deduct earnings to save for retirement.
(f) The employee information packet with the disclosure and opt-out opt-in forms shall be made available to employers through EDD and supplied to employees at the time of hiring. All new employees shall review the packet and acknowledge having received it.

(g) The employee information packet with the disclosure and opt-out opt-in forms shall be supplied to existing employees when the program is initially launched for that participating employer pursuant to Section 100032.

SEC. 5. Section 100032 of the Government Code is amended to read:

100032. (a) After the board opens the CalSavers Retirement Savings Program for enrollment, any employer may choose to have a payroll deposit retirement savings arrangement to allow employee participation in the program under the terms and conditions prescribed by the board.

(b) Within 12 months after the board opens the program for enrollment, eligible employers with more than 100 eligible employees and that do not offer a retirement savings program pursuant to subdivision (g) shall have a payroll deposit retirement savings arrangement to allow employee participation in the program.

(c) Within 24 months after the board opens the program for enrollment, eligible employers with more than 50 eligible employees and that do not offer a retirement savings program pursuant to subdivision (g) shall have a payroll deposit retirement savings arrangement to allow employee participation in the program.

(d) Within 36 months after the board opens the program for enrollment, all other eligible employers that do not offer a retirement savings program pursuant to subdivision (g) shall have a payroll deposit retirement savings arrangement to allow employee participation in the program.

(e) The board, in its discretion, may extend the time limits defined in subdivisions (b) to (d), inclusive.

(f) (1) An eligible employee shall be enrolled in the program unless only if the employee elects not to participate in the program. An eligible employee may elect to opt out of the program by making a notation on the opt-out form.
(2) Following initial implementation of the program pursuant to this section, at least once every two years, the board shall designate an open enrollment period during which eligible employees that previously opted out of the program shall be given the employee information packet with disclosure and opt-out forms, for the employee to enroll in the program or opt out of the program by making a notation on the opt-out form.

(3) An employee who elects to opt out of the program who subsequently wants to participate through the employer’s payroll deposit retirement savings arrangement may only enroll during the board’s designated open enrollment period or if permitted at an earlier time.

(g) (1) An employer that provides an employer-sponsored retirement plan, such as a defined benefit plan or a 401(k), Simplified Employee Pension (SEP) plan, or Savings Incentive Match Plan for Employees (SIMPLE) plan, or that offers an automatic enrollment payroll deduction IRA, shall be exempt from the requirements of the CalSavers Retirement Savings Program, if the plan or IRA qualifies for favorable federal income tax treatment under the federal Internal Revenue Code.

(2) An employer shall retain the option at all times to set up and offer a tax-qualified retirement plan, as described in paragraph (1), instead of having a payroll deposit retirement savings arrangement to allow employee participation in the CalSavers Retirement Savings Program.

(h) An eligible employee may also terminate his or her participation in the program at any time in a manner prescribed by the board and thereafter by making a notation on the opt-out form.

(i) Unless otherwise specified by the employee, a participating employee shall contribute 3 percent of the employee’s annual salary or wages to the program.

(j) By regulation, the board may adjust the contribution amount set in subdivision (i) to no less than 2 percent and no more than 5 percent and may vary that amount within that 2 percent to 5 percent range for participating employees according to the length of time the employee has contributed to the program.

(k) The board may implement annual automatic escalation of employee contributions.
(1) Employee contributions subject to automatic escalation shall not exceed 8 percent of salary.

(2) Automatic escalation shall result in no more than a 1-percent-of-salary increase in employee contributions per calendar year.

(3) A participating employee may elect to opt out of automatic escalation and may set his or her contribution percentage rate at a level determined by the participating employee.

SEC. 6. Section 220 of the Labor Code is amended to read:

220. (a) Sections 201.3, 201.5, 201.7, 203.1, 203.5, 204, 204a, 204b, 204c, 204.1, 205, and 205.5 do not apply to the payment of wages of employees directly employed by the State of California. Except as provided in subdivision (b), all other employment is subject to these provisions.

(b) Sections 200 to 211, inclusive, and Sections 215 to 219, inclusive, do not apply to the payment of wages of employees directly employed by any county, incorporated city, or town or other municipal corporation. All other employments are subject to these provisions.

SEC. 7. The sum of two billion dollars ($2,000,000,000) is hereby appropriated to the Controller for transfer to the Teachers’ Retirement Fund according to the following schedule:

(a) An appropriation of one billion dollars ($1,000,000,000) is hereby made from the General Fund to the Controller for transfer to the Teachers’ Retirement Fund to be applied for the purpose of reducing the unfunded liability of the Defined Benefit Program of the State Teachers’ Retirement System.

(b) If the Legislative Analyst determines in the May Revision of the 2019–20 Budget that the state has collected more than one billion dollars ($1,000,000,000) in unanticipated General Fund revenue, an appropriation of one billion dollars ($1,000,000,000) is hereby made from the General Fund to the Controller for transfer to the Teachers’ Retirement Fund to be applied for the purpose of reducing the unfunded liability of the Defined Benefit Program of the State Teachers’ Retirement System.

SEC. 8. (a) The Governor shall form a working group to propose long-term funding solutions for the unfunded liability of the Defined Benefit Program of the State Teachers’ Retirement System and to evaluate specifically the role of the state as a direct
contributor to the Teachers’ Retirement Fund for the purpose of supporting the Defined Benefit Program. The working group shall include, but not be limited to, representatives from the Governor’s office, the Legislature, school districts, teachers, and the State Teachers’ Retirement System.

(b) The solutions proposed by the working group described in subdivision (a) shall be included in a report to be submitted to the Legislature on or before January 1, 2020, so that the solutions may be included in the proposed 2020–2021 Budget. The report shall be submitted in compliance with Section 9795 of the Government Code.