



SACRS

Legislative Committee Agenda

Friday, June 18, 2010, 9 A.M.

Sacramento County Employees Retirement System

US Bank Building

980 Ninth Street, 18th Floor

Sacramento, CA 95814

Conference Call Phone Number: (916) 874-3537, Code: 601015

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1. Minutes of May 12, 2010 Meeting
2. 2009 SACRS Legislation
 - **AB 609 (Conway)**
Administrative Expenditure Cap
 - **AB 1354 (Fong)**
Heroes Earnings Assistance and Relief Tax (HEART) Act of 2008
Compliance with Final IRS Regulation on Section 415 Limits
 - **SB 1479 (Committee on PER)**
Tulare County ERA # 1: Qualifications for Reciprocal Membership
3. Other '37 Act Legislation
4. Other Retirement Legislation
5. Anti-Spiking Legislation
6. Orange County Lawsuit Update
7. Other
8. Adjournment

Minutes

May 12, 2010 Meeting

DRAFT MINUTES
SACRS Legislative Committee Meeting
Newport Beach Marriott Hotel
Newport Beach, CA
May 12, 2010
4 P.M. – 5 P.M.

Members Present

Richard Stensrud, Chair
Jerry Allen
Yves Chery
Art Goulet
Lance Kjeldgaard
Bill Pollacek
Gregg Rademacher
Annette St. Urbain
Andy Yeung
Julie Wyne

Others in Attendance

John Barger
Steve Deutch
Bob Gaumer
Dave Gaynor
Maya Gladstern
Howard Hull
Cynthia Lau
Ann McDonald
Bob Palmer
Sulema Peterson
Mike Robson
George Sands
Trent Smith
Jerry Telles
Julie Villeneuve
Rich White

1) Minutes of April 16, 2010 Meeting

Upon motion and a second, the minutes of the SACRS Legislative Committee meeting of April 16, 2010 were approved.

2) 2009 SACRS Legislation

AB 609 (Conway) – Administrative Expenditure Cap

Mr. Smith reported the bill is on hold pending the outcome of discussions on pension spiking legislation, and SACRS can determine the most appropriate administrative expenditure cap modification as it relates to potential mandates.

Mr. Stensrud indicated if the proponents of pension spiking reform legislation expect PERS-level duties, then '37 Act counties should be allowed to convert to a liability-based cap, or another more reliable predictor than assets. Improved accounting of expenditures that are included and excluded from the cap would be useful. Final form of the pension spiking legislation is still uncertain. Information from systems has been requested to see if 0.18 is the appropriate cap under the liability model.

AB 1354 (Fong) – HEART Act of 2008, Compliance of IRS Regulations on Section 415 Limits

Mr. Smith reported amendments are coming in soon on the Heart Act, as well as additional new language.

SB 1479 (Committee on PER) – Reciprocity

Mr. Smith reported most recent amendments reflect the technical submissions from SACRS.

3) Other '37 Act Legislation

AB 1667 (Swanson) – Public employment: County of Alameda

Status: Asm PERSS

SACRS Position: Watch

Mr. Lites reported the most recent amendments have corrected code section numbering error and the bill now contains an urgency clause. The proponents indicated they wanted it effective by April, 2010.

AB 1743 (Hernandez) – Political Reform Act of 1974: placement agents

Status: Asm Elections and Redistricting

SACRS Position: Watch

Mr. Lites explained amendments to AB 1743 are intended to exclude local pension plans and that in-house marketers are excluded.

Mr. Smith and Mr. Robson were told by the author's office that the bill will only apply to PERS and STRS.

Mr. Adams suggested that SACRS should revisit the SEC letter that described the poor practices versus the quality investment managers that some marketers can bring forward.

4) Other Retirement Legislation

AB 2337 (Ammiano) – Public retirement systems: investments: predatory investment practices

Status: Asm Appropriations

SACRS Position: Watch

Mr. Stensrud asked for line-by-line comments on AB 2337.

5) Anti-Spiking Legislation

AB 1987 (Ma) – Public retirement: final compensation: computation: retirees

Status: Asm PERSS

SACRS Position: Watch

Mr. Robson reported the anti-spiking bill will be heard in the Appropriations Committee next week and will go to the Suspense File, but is expected to move on later in the month. Mr. Smith added that he spoke to the committee chairman, who expressed a legislative commitment to approve some level of spiking reform this year. Mr. Robson said that they continue to remind people that there needs to be more flexibility given to the systems in order to comply with the newly mandated duties currently being sought.

Ms. Wyne expressed concern about the Ventura reference that is expected to address the vested rights issue is problematic and is not clear how it impacts a system's current Ventura interpretation.

Mr. Kjeldgaard said other interpretations exist and may be acceptable.

Mr. Stensrud indicated that existing language may continue to prohibit a class of one and added that different interpretations can prevail and find disparate treatment of the issue among SACRS systems.

Mr. Chery asked about the differing view among labor organizations on the bill. Mr. Smith indicated that the Firefighters have not taken a position on the bill, though they have been central to development of bill language.

Mr. Chery indicated that LACERA voted to support AB 1987. The Board reasoned that with heightened scrutiny for all issues related to retirement abuses, LACERA wanted to make clear that they are against spiking. Mr. Chery indicated he is not comfortable with SACRS maintaining a "watch" position.

Members also expressed concern about language in the bill relating to retroactive changes to pay elements, terminal pay and errors and omissions.

Mr. Goulet suggested consideration of a support if amended position to address the SACRS administrative issues.

The Committee agreed to pursue a meeting with Assembly Member Ma prior to finalizing a position other than watch.

6) Adjournment

With no additional business before the committee, the meeting adjourned at 5:39 P.M.

SACRS-sponsored Legislation

AMENDED IN SENATE JULY 1, 2009
AMENDED IN ASSEMBLY JUNE 2, 2009
AMENDED IN ASSEMBLY APRIL 30, 2009
AMENDED IN ASSEMBLY APRIL 13, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 609

Introduced by Assembly Member Conway

February 25, 2009

An act to amend Sections 31580.2 and 31580.3 of the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 609, as amended, Conway. County employees retirement: administrative costs.

The County Employees Retirement Law of 1937 requires a board of retirement, or a board of retirement and the board of investment, with appointed members to annually adopt a budget covering the entire expense of administration of the retirement system and prohibits the expense incurred in any year from exceeding $\frac{1}{100}$ of 1% of the total assets of the retirement system.

This bill would ~~increase that percentage to $\frac{1}{100}$ of 1%~~ *instead prohibit expenses incurred in any year from exceeding $\frac{1}{100}$ of 1% of the approved actuarial liability of the retirement system.* The bill would also make a conforming change regarding maximum expense in any year the expenditures include certain computer expenses.

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

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

1 SECTION 1. Section 31580.2 of the Government Code is
2 amended to read:

3 31580.2. In counties in which the board of retirement, or the
4 board of retirement and the board of investment, have appointed
5 personnel pursuant to Section 31522.1 or 31522.5, or both, the
6 respective board or boards shall annually adopt a budget covering
7 the entire expense of administration of the retirement system which
8 expense shall be charged against the earnings of the retirement
9 fund. Except as described in Section 31580.3, the expense incurred
10 in any year may not exceed ~~nineteen~~ *eighteen* hundredths of 1
11 percent of the ~~total assets~~ *approved actuarial liability* of the
12 retirement system.

13 SEC. 2. Section 31580.3 of the Government Code is amended
14 to read:

15 31580.3. (a) If during any year the expense of administration
16 of the retirement system includes expenditures for software,
17 hardware, and computer technology consulting services in support
18 of that software or hardware, the expense incurred may not exceed
19 the greater of the following:

20 (1) The sum of ~~nineteen~~ *eighteen* hundredths of 1 percent of the
21 ~~total assets~~ *approved actuarial liability* of the retirement system
22 plus one million dollars (\$1,000,000).

23 (2) ~~Twenty-four~~ *Twenty-three* hundredths of 1 percent of the
24 ~~total assets~~ *approved actuarial liability* of the retirement system.

25 (b) This section shall remain in effect only until January 1, 2013,
26 and as of that date is repealed, unless a later enacted statute, that
27 is enacted before January 1, 2013, deletes or extends that date.

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ASSEMBLY BILL

No. 1354

Introduced by Assembly Member Fong

February 27, 2009

An act to amend Section 31538 of the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1354, as introduced, Fong. County employees' retirement: cost-of-living adjustments.

The County Employees' Retirement Law of 1937 (CERL) provides that the management of a retirement system created pursuant to its provisions is vested in a board of retirement. CERL requires that the board of retirement adjust the payment of benefits payable pursuant to the law's provisions, including cost-of-living adjustments, as necessary, in order to maximize the benefits available to members who are subject to specified limits of the Internal Revenue Code.

This bill would prohibit the amount payable to a CERL retirement system member in a limitation year from exceeding the Internal Revenue Code limit as of the annuity starting date and as the limit may be increased in future years, as specified. The bill would specify that cost-of-living adjustments made to Internal Revenue Code limits continue to apply after a member's severance from employment or annuity starting date.

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

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

1 SECTION 1. Section 31538 of the Government Code is
2 amended to read:

3 31538. (a) The board shall adjust the payment of benefits
4 payable pursuant to this part, as necessary, in order to maximize
5 the benefits available to members who are subject to the limits of
6 Section 415 of the Internal Revenue Code. Those adjustments shall
7 include, but are not limited to, cost-of-living adjustments,
8 cost-of-living banks, temporary annuities, survivor continuance
9 benefits, or any combinations thereof.

10 (b) *The amount payable to a member in any limitation year,*
11 *including cost-of-living adjustments, shall not exceed the limit*
12 *established under Section 415(b) of the Internal Revenue Code at*
13 *the annuity starting date, and as may be increased in subsequent*
14 *years pursuant to Section 415(d) of the Internal Revenue Code*
15 *and applicable regulations.*

16 (c) *The cost-of-living adjustments made pursuant to Section*
17 *415(d) of the Internal Revenue Code to the limit established under*
18 *Section 415(b) of the Internal Revenue Code continue to apply*
19 *after a member's severance from employment or annuity starting*
20 *date.*

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AMENDED IN ASSEMBLY MAY 10, 2010

SENATE BILL

No. 1479

**Introduced by Committee on Public Employment and Retirement
(Senators Correa (Chair), Ashburn, Corbett, Cox, Ducheny, and
Liu)**

March 2, 2010

An act to amend Sections 31527 and 31582 of, and to add Section 31618.5 to, the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1479, as amended, Committee on Public Employment and Retirement. Public employment: retirement benefits: administration.

(1) The County Employees Retirement Law of 1937 (CERL) establishes retirement boards for the administration of benefits authorized under that law and authorizes the board to include specified provisions, by regulation, with respect to the administration of benefits, including the determination of when a person entering county employ becomes a member of the association. Under existing law, the board may provide that a person entering county employ, on a day other than the first *day of the calendar-day month*, becomes a member of the association on a day that occurs no later than 6 weeks after the day that person enters county employ.

This bill would authorize the establishment of the day that a person, who enters county employ on a day other than the first day of the calendar month, becomes a member of the association on a day that occurs no later than 12 weeks after the day that person enters county employ. This bill would also provide for the establishment of the day upon which a member terminates service credited by the association as

a day that occurs no earlier than 12 weeks prior to the member's termination from service.

(2) *The CERL authorizes a retirement board to include, by regulation, provisions exempting or excluding from membership persons whose tenure is temporary, seasonal or intermittent, or for part time only, persons whose rate of compensation is less than \$80 per month, and persons whose compensation is fixed at a rate of pay by the day or hour.*

This bill would delete the authorization for a retirement board to exempt or exclude from membership a person whose rate of compensation is less than \$80 per month.

(2)

(3) Under the CERL, employer contributions on behalf of members are based on the total compensation earnable by each member. Existing law authorizes a county auditor to make advance payments of all or part of the county's estimated annual contributions to the retirement fund, as provided.

This bill would also authorize specified districts to make advance payments of all or part of the district's estimated annual contributions to the retirement fund, as provided.

(3)

(4) The CERL authorizes the establishment of a Supplemental Retiree Benefits Reserve to cover costs for specified retiree benefits.

This bill would authorize a specified county employee association to transfer funds, on an annual basis, from its administrative budget to fund the administrative costs of the programs reimbursed by the Supplemental Retiree Benefits Reserve in a manner that is in compliance with procedures established by the Internal Revenue Service.

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

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

1 SECTION 1. Section 31527 of the Government Code is
2 amended to read:

3 31527. In its regulations, the board may include the following
4 provisions:

5 (a) From what warrants deductions of members' contributions
6 shall be made.

7 (b) For a period of time longer than one year during which a
8 member may redeposit in the retirement fund an amount equal to

1 all of the accumulated normal contributions which he or she has
2 withdrawn, plus regular interest thereon from the date of return to
3 service.

4 (c) For a period of time longer than one year during which a
5 member brought within the field of membership may pay into the
6 retirement fund the amount equal to the contributions he or she
7 would have made plus interest, if he or she had been a member
8 from the date of its organization, or from the date of his *or her*
9 entrance into ~~county~~ service, whichever is later.

10 (d) For a withdrawal charge against a member who withdraws
11 his or her accumulated contributions. The withdrawal charge shall
12 not exceed the interest credited to the member subsequent to the
13 effective date of the regulation.

14 (e) For the exemption or exclusion from membership as a peace
15 officer member or as a safety member or from membership
16 altogether, in the discretion of the board, of persons whose tenure
17 is temporary, seasonal, intermittent, or for part time only, or
18 ~~persons whose rate of compensation is less than eighty dollars~~
19 ~~(\$80) a month, or persons whose compensation is fixed at a rate~~
20 by the day or hour.

21 (f) For the periodic physical examination, at county expense,
22 of safety members.

23 (g) The amount of additional deductions from the salaries or
24 wages of members pursuant to Article 15.5 or 16. Such a provision
25 may be adopted in anticipation of, and prior to Article 15.5 or 16
26 becoming operative in the particular county.

27 (h) ~~The day upon which each person entering the county employ~~
28 becomes a member of the association if it is to be other than the
29 first day of the calendar month after his or her entrance into ~~the~~
30 service, provided that day shall be no later than 12 weeks after his
31 or her entrance into ~~the~~ service, or the day upon which the member
32 terminates service credited by the association, provided that the
33 day shall be no earlier ~~that~~ *than* 12 weeks prior to the member's
34 termination from ~~service~~ *employment*.

35 SEC. 2. Section 31582 of the Government Code is amended
36 to read:

37 31582. (a) The county auditor shall certify to the board at the
38 end of each month or at the end of each pay period the
39 compensation earnable, as defined in Section 31461, paid to all
40 safety members of the retirement association covered by Article

1 7.5 (commencing with Section 31662) and the compensation
2 earnable, as defined in Section 31461, paid to all other members
3 of the retirement association, and the auditor shall thereupon
4 transfer from the appropriation to the retirement fund the
5 percentage of this amount determined pursuant to Sections 31453,
6 31453.5, and 31454. Until that determination, the amount of the
7 transfer shall be 23.77 percent of the compensation earnable, as
8 defined in Section 31461, paid to all safety members covered by
9 Article 7.5 (commencing with Section 31662) and 8.85 percent of
10 the compensation earnable, as defined in Section 31461, paid to
11 all other members.

12 (b) The board of supervisors may authorize the county auditor
13 to make an advance payment of all or part of the county's estimated
14 annual contribution to the retirement fund, provided that the
15 payment is made within 30 days after the commencement of the
16 county's fiscal year. If the advance is only a partial payment of
17 the county's estimated annual contribution, transfers from the
18 appropriation to the retirement fund shall be made at the end of
19 each month or at the end of each pay period until the total amount
20 estimated for the year is contributed. This amount shall be adjusted
21 at the end of the fiscal year to reflect the actual contribution
22 required for that year.

23 (c) (1) A district subject to Section 31585 may also authorize
24 an advance payment of all or part of the district's estimated annual
25 contribution to the retirement fund, provided that the payment is
26 made within 30 days after the commencement of the district's
27 fiscal year. If the advance is only a partial payment of the district's
28 estimated annual contribution, payments to the retirement fund
29 shall be made at the end of each month or at the end of each pay
30 period until the total amount estimated for the year is contributed.
31 This amount shall be adjusted at the end of the fiscal year to reflect
32 the actual contribution required for that year.

33 (2) This subdivision shall only apply to a district that is part of
34 a retirement system in a county of the seventh class, as described
35 in Section 28020.

36 SEC. 3. Section 31618.5 is added to the Government Code, to
37 read:

38 31618.5. (a) The board shall annually transfer, from the
39 administrative budget established pursuant to Article 5
40 (commencing with Section 31580), an amount sufficient to fund

- 1 the administrative costs of the programs reimbursed by the
- 2 Supplemental *Retiree* Benefits Reserve.
- 3 (b) This section shall only apply to a county of the fourth class
- 4 as described in Section 28020.

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Other 1937 Act Legislation

AB 1987 (Ma) – Public retirement: final compensation: computation: retirees
Status: Senate Rules
Last Amended: 6/1/10

SB 414 (Correa) – County employee retirement: boards
Status: Asm PERSS 6/23
Last Amended: 5/19/10

AMENDED IN ASSEMBLY JUNE 1, 2010
AMENDED IN ASSEMBLY APRIL 29, 2010
AMENDED IN ASSEMBLY APRIL 15, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1987

Introduced by Assembly Member Ma
(Principal coauthor: Assembly Member Buchanan)
(Principal coauthors: Senators Correa and Simitian)
(Coauthors: Assembly Members ~~Furutani, Harkey,~~ Furutani and
Torrico)
(Coauthor: Senator DeSaulnier)

February 17, 2010

An act to amend Sections 31460 and 31461 of, to add Sections 7500.5, 31460.2, 31461.8, 31539.5, 31540, 31541, 31569, 31680.10, 45309.6, 45309.7, 50871.6, and 50871.7 to, and to repeal and add Section 31539 of, the Government Code, relating to public retirement systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 1987, as amended, Ma. Public retirement: final compensation: computation: retirees.

The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to its members based on age at retirement, service credit, and final compensation. PERL defines "final compensation" for purposes of calculating a member's retirement allowance. The State Teachers' Retirement Law, which applies to specified school employees, and the retirement laws for county employees and city employees also provide

for a defined benefit based on age at retirement, service credit, and final compensation.

This bill would generally provide, effective July 1, 2011, that any change in salary, compensation, or remuneration principally for the purpose of enhancing a member's benefits would not be included in the calculation of a member's final compensation for purposes of determining that member's defined benefit. The bill would require the board of each state and local public retirement system to establish, by regulation, accountability provisions that would include an ongoing audit process to ensure that a change in a member's salary, compensation, or remuneration is not made principally for the purpose of enhancing a member's retirement benefits. This bill would limit the calculation of a member's final compensation to an amount not to exceed the average increase in compensation received within the final compensation period and the 2 preceding years by employees in the same or a related group as that member. This bill would also require a board of each state and local public retirement system to establish, by regulation, a requirement that a retired person may not perform services for any employer covered by a state or local retirement system until that person has been separated from service for a period of at least 180 days. This bill would provide for the implementation of the changes under the applicable retirement laws that apply to counties and cities.

This bill includes legislative findings expressing the public purpose that would be served by the enactment of this bill.

This bill would, except as otherwise specified, provide that its provisions would become operative on July 1, 2011. This bill would further provide that its provisions would not become operative unless SB 1425 of the 2009–10 Regular Session is also enacted and takes effect on or before January 1, 2011.

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

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

- 1 SECTION 1. (a) The Legislature finds and declares that:
- 2 (1) State and local public retirement boards have been authorized
- 3 under the law to administer retirement systems that provide
- 4 adequate, secure retirement benefits to participants who dedicate
- 5 their life's work to public service, and their beneficiaries.

1 (2) Employees partner with their public agency employers to
2 fund this benefit.

3 (3) Any manipulation of those benefits creates harm for the
4 employees, beneficiaries, employers, and taxpayers and should
5 not be permitted.

6 (b) The Legislature further finds and declares that:

7 (1) The efficacy of the retirement systems is threatened by the
8 behavior of those who seek to unfairly and unjustifiably enhance
9 or "spike" their pensions.

10 (2) Neither the Legislature nor the courts ever anticipated a
11 circumstance where the application of the retirement law would
12 result in a method that permits inequitable application of
13 compensation rules in order to enhance an individual's retirement
14 allowance.

15 (3) It is the responsibility of the Legislature to provide guidance
16 to every retirement system so that each system can determine the
17 proper elements that go into calculating a member's retirement
18 benefit as recognized by the laws governing each retirement
19 system.

20 (4) Retirement systems must employ sound principles that
21 provide consistent treatment of compensation earnable throughout
22 a member's career and consistent treatment of compensation among
23 all classes of employees.

24 (5) In order to provide consistent treatment across the retirement
25 systems, the reporting procedures used by each retirement system
26 and its participating employers must be sufficiently precise so as
27 to enable the retirement system to distinguish between items of
28 remuneration that are and are not properly included in a member's
29 final compensation.

30 (c) The Legislature further finds and declares that consistent
31 administration of state and local public retirement systems is a
32 matter of statewide concern.

33 (d) The Legislature further finds and declares that the procedures
34 contained in this act provide the appropriate method for resolving
35 the inequitable application of compensation rules, and therefore,
36 provide for the consistent administration of state and local
37 retirement systems that is in the public's best interest.

38 SEC. 2. Section 7500.5 is added to the Government Code, to
39 read:

1 7500.5. (a) In order to safeguard the integrity and soundness
2 of public retirement systems, ensure prompt delivery of benefits
3 and related services to the participants and their beneficiaries, and
4 minimize employer expenses, state and local public retirement
5 systems shall administer retirement benefits in accordance with
6 the principles articulated in this section. Nothing in this section
7 shall be construed to limit the Legislature's authority to adopt more
8 restrictive benefit provisions applicable to a state or local public
9 retirement system.

10 (b) The board of each state and local public retirement system
11 shall establish, by statute or regulation, accountability provisions
12 that shall include an audit process to ensure compliance with the
13 principles articulated in the provisions of this section. The
14 accountability provisions shall be enforceable by the imposition
15 of monetary penalties or fees, including, but not limited to,
16 untimely or inaccurate submissions of any information that the
17 board may require in the administration of the system.

18 (c) Any payrate, salary, special compensation, or other
19 remuneration determined by the board of a state or local public
20 retirement system to have been paid for the principal purpose of
21 enhancing a member's retirement benefits under that system shall
22 not be included in compensation earnable. Where the board of a
23 state or local public retirement system determines that payrate,
24 salary, special compensation, or other remuneration was paid for
25 the principal purpose of enhancing a member's benefit, the member
26 or the employer may present evidence to the contrary. Upon receipt
27 of sufficient evidence to the contrary, a board may reverse its
28 determination that payrate, salary, special compensation, or other
29 remuneration was paid for the principal purpose of enhancing a
30 member's retirement benefits.

31 (d) Cash conversions of accrued employee benefits in amounts
32 that exceed the amount that is both earned and payable to the
33 member during the member's applicable final compensation
34 measurement period shall not be credited to, or included in,
35 compensation earnable by any state or local public retirement
36 system.

37 (e) Final settlement pay or any similar payment that is received
38 by a member upon retirement or separation from employment,
39 shall not be included in compensation earnable by any state or
40 local public retirement system.

1 (f) A retired person, who has not reinstated following retirement,
2 shall have a separation in service for a period of at least 180 days
3 before performing service for any employer covered by the state
4 or local retirement system from which he or she retired, whether
5 as an employee, through a third party, or as an independent
6 contractor. This requirement shall apply to all persons who retire
7 on and after January 1, 2011.

8 (g) Any increase in compensation earnable for an employee
9 who is not in a group or class shall not exceed, during the final
10 compensation period as well as two years immediately preceding
11 the final compensation period, the average increase in
12 compensation earnable during the same period for all similarly
13 situated members in the closest related group or class of that same
14 employer.

15 (h) For the purposes of implementing this section, all state or
16 local public retirement systems shall have terms or definitions
17 consistent with the following:

18 (1) "A group or class" means a number of employees of the
19 same employer considered together because they share job
20 similarities, work location, collective bargaining unit, or other
21 logical work grouping. Under no circumstance shall one employee
22 be considered a group or class.

23 (2) "Payrate" or "salary" means the normal monthly rate of pay
24 or monthly base pay of the member paid in cash and pursuant to
25 publicly available pay schedules to similarly situated members of
26 the same group or class for services rendered on a full-time basis
27 during normal working hours.

28 (3) "Payrate" or "salary" for a member who is not in a group
29 or class means the monthly rate of pay or monthly base pay, paid
30 in cash and pursuant to publicly available pay schedules, for
31 services rendered on a full-time basis during normal working hours,
32 subject to the limitations of subdivision (g).

33 (4) "Special compensation" includes a payment received for
34 special skills, knowledge, abilities, work assignment, workdays
35 or hours, or other work conditions.

36 (5) "Compensation earnable" includes payrate, salary, special
37 compensation, or other remuneration, or any combination of the
38 foregoing, of the member.

39 SEC. 3. Section 31460 of the Government Code is amended
40 to read:

1 31460. (a) "Compensation" means the remuneration paid out
2 of funds controlled by the county or district in payment for the
3 member's services performed during normal working hours or for
4 time during which the member is excused from work because of
5 any of the following:

6 (1) Sick leave.

7 (2) Industrial disability leave, during which benefits are payable
8 pursuant to Section 4850 of the Labor Code.

9 (3) Vacation.

10 (4) Compensatory time off.

11 (5) Leave of absence.

12 (b) When compensation is reported to the board, the county or
13 district shall identify the pay period in which the compensation
14 was earned regardless of when reported or paid. Compensation
15 shall be reported in accordance with Section 31461 and shall not
16 exceed compensation earnable, as defined in Section 31461.

17 (c) Compensation shall not include the monetary value of board,
18 lodging, fuel, laundry, or other advantages furnished to a member.

19 (d) The board may assess a reasonable amount to cover the cost
20 of audit, adjustment, or correction, where it determines that a
21 county or district knowingly failed to comply with subdivision
22 (b). A county or district will be found to have knowingly failed to
23 comply with subdivision (b) if the board determines that the
24 employer either:

25 (1) Knew or should have known that the compensation reported
26 was not compensation earnable, as defined in Section 31461.

27 (2) Failed to identify the pay period in which compensation
28 earnable was earned as required.

29 (e) A county or district shall not pass on to an employee any
30 costs assessed pursuant to subdivision (d).

31 SEC. 4. Section 31460.2 is added to the Government Code, to
32 read:

33 31460.2. "Labor policy or agreement" means any written
34 policy, agreement, memorandum of understanding, legislative
35 action of the board of supervisors or the district board, or any other
36 document used by the county or district to specify the payrate,
37 special compensation, and benefits of represented and
38 unrepresented employees.

39 SEC. 5. Section 31461 of the Government Code is amended
40 to read:

1 31461. (a) "Compensation earnable" by a member means the
2 payrate and special compensation of the member, as defined by
3 subdivisions (b) and (c).

4 (b) (1) "Payrate" means the normal monthly rate of pay or
5 monthly base pay of the member paid in cash to similarly situated
6 members of the same group or class of employment for services
7 rendered on a full-time basis during normal working hours.
8 "Payrate" for a member who is not in a group or class means the
9 monthly rate of pay or base pay of the member, paid in cash and
10 pursuant to publicly available pay schedules, for services rendered
11 on a full-time basis during normal working hours. "Payrate"
12 includes:

13 (A) Any amount deducted from a member's salary for any of
14 the following:

15 (i) Participation in a deferred compensation plan established
16 pursuant to Article 1.1 (commencing with Section 53212) of
17 Chapter 2 of Part 1 of Division 2 of Title 5.

18 (ii) Payment for participation in a retirement plan that meets
19 the requirements of Section 457 of the Internal Revenue Code.

20 (iii) Payment into a money purchase pension plan and trust that
21 meets the requirements of Section 401(a) of the Internal Revenue
22 Code.

23 (iv) Participation in a flexible benefits program.

24 (B) Any payment in cash by the member's employer to one
25 other than an employee for the purpose of purchasing an annuity
26 contract for a member under an annuity plan that meets the
27 requirements of Section 403(b) of the Internal Revenue Code.

28 (C) Employer ~~"pick-up"~~ of member ~~Member~~ contributions that
29 ~~meets meet~~ the requirements of Section 414(h)(2) of the Internal
30 Revenue Code.

31 (D) Any disability or workers' compensation payments to safety
32 members in accordance with Section 4850 of the Labor Code.

33 (2) The computation for any leave without pay of a member
34 shall be based on the compensation earnable by him or her at the
35 beginning of the absence.

36 (3) The computation for time prior to entering county or district
37 service shall be based on the compensation earnable by him or her
38 in the position first held by him or her in that service.

1 (c) (1) "Special compensation" of a member includes any
2 payment received for special skills, knowledge, abilities, work
3 assignment, workdays or hours, or other work conditions.

4 (2) "Special compensation" shall be limited to that cash
5 remuneration in addition to payrate received by a member pursuant
6 to a labor policy or agreement or as otherwise required by state or
7 federal law to similarly situated members of a group or class of
8 employment. If an individual is not part of a group or class, "special
9 compensation" shall be limited to that cash remuneration, in
10 addition to payrate, that the board determines is received by
11 similarly situated members in the closest related group or class,
12 subject to the limitations of paragraph (2) of subdivision (e).

13 (3) "Special compensation" shall be for services rendered during
14 normal working hours and, when reported to the board, the county
15 or district shall identify the pay period in which the special
16 compensation was earned and shall report special compensation
17 separately from payrate.

18 (4) The monetary value of any service or noncash advantage
19 furnished by the employer to the member, except as expressly and
20 specifically provided in this chapter, shall not be "special
21 compensation" unless regulations promulgated by the board
22 specifically determine that value to be "special compensation."

23 (5) (A) The board shall promulgate regulations that delineate
24 more specifically what shall be excluded from "special
25 compensation" as used in this section. A uniform allowance, the
26 monetary value of employer-provided uniforms, holiday pay, and
27 premium pay for hours worked within the normally scheduled or
28 regular working hours that are in excess of the statutory maximum
29 workweek or work period applicable to the employee under the
30 Fair Labor Standards Act (29 U.S.C.-Sees. 201 to 219, inclusive)
31 *Sec. 201 et seq.*) and those items of remuneration identified by the
32 board and consistent with Ventura County Deputy Sheriffs' Assn.
33 v. Board of Retirement (1997) 16 Cal.4th 483 and In re Retirement
34 Cases (2003) 110 Cal.App.4th 426 and any settlement agreements
35 thereto, shall be included as "special compensation."

36 (B) This paragraph shall not be construed to prevent a
37 modification of the term "special compensation," to the extent that
38 term includes county or district and a recognized bargaining unit
39 from agreeing, pursuant to a memorandum of understanding made
40 under the Meyers-Milias-Brown Act (Chapter 10 (commencing

1 with Section 3500) of Division 4 of Title 1), to eliminate, as
2 “special compensation” those items of remuneration as previously
3 identified by the board, consistent with Ventura County Deputy
4 Sheriffs’ Assn. v. Board of Retirement (1997) 16 Cal.4th 483 and
5 In re Retirement Cases (2003) 110 Cal.App.4th 426 and any
6 settlement agreements thereto, by a resolution adopted by a
7 majority vote of the board, pursuant to a memorandum of
8 understanding made under the Meyers-Milias-Brown Act (Chapter
9 10 (commencing with Section 3500) of Division 4 of Title 1):
10 thereto.

11 (6) “Special compensation” does not include any of the
12 following:

13 (A) Final settlement pay.

14 (B) Payments made for additional services rendered outside of
15 normal working hours, whether paid in lump sum or otherwise.

16 (C) Payments that exceed that which is earned and payable in
17 a 12-month period for unused vacation, annual leave, personal
18 leave, sick leave, or compensatory time off whether paid in lump
19 sum or otherwise.

20 (D) Any other payments the board has affirmatively determined
21 to be excluded from “special compensation.”

22 (d) Notwithstanding any other provision of law, payrate and
23 special compensation schedules, ordinances, or similar documents
24 shall be public records available for public scrutiny.

25 (e) (1) As used in this part, “group or class of employment”
26 means a number of employees considered together because they
27 share job similarities, work location, collective bargaining unit, or
28 other logical work-related grouping. Under no circumstances shall
29 one employee be considered a group or class.

30 (2) Increases in compensation earnable granted to any employee
31 who is not in a group or class shall be limited during the final
32 compensation period applicable to the employee, as well as the
33 two years immediately preceding the final compensation period,
34 to the average increase in compensation earnable during the same
35 period reported by the employer for all similarly situated members
36 in the closest related group or class who are in the same
37 membership classification.

38 (f) (1) As used in this part, “final settlement pay” means any
39 pay or cash conversions of employee benefits that are in excess of
40 compensation earnable, that are granted or awarded to a member

1 in connection with a separation from employment. The board shall
2 promulgate regulations to the extent necessary to delineate more
3 specifically what constitutes final settlement pay consistent with
4 the decision of the court in *Ventura County Deputy Sheriffs' Assn.*
5 *v. Board of Retirement* (1997) 16 Cal.4th 483 and *In re Retirement*
6 *Cases* (2003) 110 Cal.App.4th 426, and any settlement agreements
7 thereto.

8 (2) This subdivision shall not be construed to prevent a
9 ~~modification of the term "final settlement pay," to the extent that~~
10 ~~term includes county or district and a recognized bargaining unit~~
11 ~~from agreeing, pursuant to a memorandum of understanding made~~
12 ~~under the Meyers-Milias-Brown Act (Chapter 10 (commencing~~
13 ~~with Section 3500) of Division 4 of Title 1), to further eliminate,~~
14 ~~as "special compensation" those items of final settlement pay as~~
15 ~~previously delineated by the board, consistent with the decisions~~
16 ~~in Ventura County Deputy Sheriffs' Assn. v. Board of Retirement~~
17 ~~(1997) 16 Cal.4th 483 and In re Retirement Cases (2003) 110~~
18 ~~Cal.App.4th 426 and any settlement agreements thereto, by a~~
19 ~~resolution adopted by a majority vote of the board, pursuant to a~~
20 ~~memorandum of understanding made under the~~
21 ~~Meyers-Milias-Brown Act (Chapter 10 (commencing with Section~~
22 ~~3500) of Division 4 of Title 1). settlement agreements thereto.~~

23 SEC. 6. Section 31461.8 is added to the Government Code, to
24 read:

25 31461.8. (a) If the compensation of a member is a factor in
26 any computation to be made under this chapter, there shall be
27 excluded from those computations any compensation based on
28 overtime put in by a member whose service retirement allowance
29 is a fixed percentage of final compensation for each year of credited
30 service. For the purposes of this chapter, overtime is the aggregate
31 service performed by an employee as a member in all categories
32 of employment in excess of the hours of work considered normal
33 for employees on a full-time basis, and for which monetary
34 compensation is paid.

35 (b) If a member concurrently renders service in two or more
36 positions, one or more of which is full time, service in the part-time
37 position shall constitute overtime. If two or more positions are
38 permanent and full time, the position with the highest payrate or
39 base pay shall be reported to the retirement system. This provision
40 shall apply only to service rendered on or after January 1, 2011.

1 SEC. 7. Section 31539 of the Government Code is repealed.

2 SEC. 8. Section 31539 is added to the Government Code, to
3 read:

4 31539. (a) The obligations of the retirement system to its
5 members continue throughout their respective memberships, and
6 the obligations of the retirement system to and in respect to retired
7 members continue throughout the lives of the respective retired
8 members, and thereafter until all obligations to their respective
9 beneficiaries under optional settlements have been discharged.
10 The obligations of the county or district to the retirement system
11 in respect to members employed by them, respectively, continue
12 throughout the memberships of the respective members, and the
13 obligations of the county or district to the retirement system in
14 respect to retired members formerly employed by them,
15 respectively, continue until all of the obligations of the retirement
16 system in respect to those retired members, respectively, have been
17 discharged. The obligations of any member to the retirement system
18 continue throughout his or her membership, and thereafter until
19 all of the obligations of the retirement system to or in respect to
20 him or her have been discharged.

21 (b) For the purposes of payments into or out of the retirement
22 fund for adjustment of errors or omissions, the period of limitation
23 of actions shall be three years, and shall be applied as follows:

24 (1) In cases in which the retirement system makes an erroneous
25 payment to a member or beneficiary, the system's right to collect
26 shall expire three years from the date of payment.

27 (2) In cases in which the retirement system owes money to a
28 member or beneficiary, the period of limitations shall not apply.

29 (c) Notwithstanding subdivision (b), in cases in which payment
30 is erroneous because of the death of the retired member or
31 beneficiary or because of the remarriage of the beneficiary, the
32 period of limitation shall be 10 years and that period shall
33 commence with the discovery of the erroneous payment.

34 (d) Notwithstanding subdivision (b), where any payment has
35 been made as a result of fraudulent reports for compensation made,
36 or caused to be made, by a member for his or her own benefit or
37 the member causing his or her final compensation to be improperly
38 increased or otherwise overstated at the time of retirement, the
39 period of limitation shall be 10 years and that period shall

1 commence either from the date of payment or upon discovery of
2 the fraudulent reporting, whichever date is later.

3 (e) The board shall determine the applicability of the period of
4 limitations in any case, and its determination with respect to the
5 running of any period of limitation shall be conclusive and binding
6 for purposes of correcting the error or omission.

7 SEC. 9. Section 31539.5 is added to the Government Code, to
8 read:

9 31539.5. (a) Subject to subdivisions (c) and (d), the board
10 may, in its discretion and upon any terms it deems just, correct the
11 errors or omissions of any active or retired member, or any
12 beneficiary of an active or retired member, if all of the following
13 facts exist:

14 (1) The request, claim, or demand to correct the error or
15 omission is made by the party seeking correction within a
16 reasonable time after discovery of the right to make the correction,
17 which in no case shall exceed six months after discovery of this
18 right.

19 (2) The error or omission was the result of mistake, inadvertence,
20 surprise, or excusable neglect, as each of those terms is used in
21 Section 473 of the Code of Civil Procedure.

22 (3) The correction will not provide the party seeking correction
23 with a status, right, or obligation not otherwise available under
24 this part.

25 Failure by a member or beneficiary to make the inquiry that
26 would be made by a reasonable person in like or similar
27 circumstances does not constitute an "error or omission"
28 correctable under this section.

29 (b) Subject to subdivisions (c) and (d), the board shall correct
30 all actions taken as a result of errors or omissions of the county or
31 district, or this system.

32 (c) The duty and power of the board to correct mistakes, as
33 provided in this section, shall terminate upon the expiration of
34 obligations of this system to the party seeking correction of the
35 error or omission, as those obligations are defined by Section
36 31539.

37 (d) The party seeking correction of an error or omission pursuant
38 to this section has the burden of presenting documentation or other
39 evidence to the board establishing the right to correction pursuant
40 to subdivisions (a) and (b).

1 (e) Corrections of errors or omissions pursuant to this section
2 shall be such that the status, rights, and obligations of all parties
3 described in subdivisions (a) and (b) are adjusted to be the same
4 that they would have been if the act that would have been taken,
5 but for the error or omission, was taken at the proper time.
6 However, notwithstanding any of the other provisions of this
7 section, corrections made pursuant to this section shall adjust the
8 status, rights, and obligations of all parties described in
9 subdivisions (a) and (b) as of the time that the correction actually
10 takes place if the board finds any of the following:

11 (1) That the correction cannot be performed in a retroactive
12 manner.

13 (2) That even if the correction can be performed in a retroactive
14 manner, the status, rights, and obligations of all of the parties
15 described in subdivisions (a) and (b) cannot be adjusted to be the
16 same that they would have been if the error or omission had not
17 occurred.

18 (3) That the purposes of this part will not be effectuated if the
19 correction is performed in a retroactive manner.

20 SEC. 10. Section 31540 is added to the Government Code, to
21 read:

22 31540. (a) Each county or district, and the chief administrative
23 officer of the county or district, or any other person who its
24 governing body may designate shall report to the Retirement Board
25 in writing, in a manner prescribed by the board, within 30 days of
26 any of the following events:

27 (1) A new pay item is created.

28 (2) There has been a change in either an existing pay item or
29 the conditions under which the pay item is computed, accrued, or
30 paid.

31 (3) A change in status of any member resulting from transfer,
32 promotion, leave of absence, resignation, reinstatement, dismissal,
33 or death.

34 (4) Any other change that may impact the payrate or special
35 compensation of any member resulting from an agreement pursuant
36 to a memorandum of understanding between a county or district
37 and any of its recognized employee organizations, or a resolution
38 adopted by its board of supervisors with respect to nonrepresented
39 employees.

1 (5) Information concerning any member in the administration
2 of this system as requested by the board, or the services of the
3 county or district's officer and departments that the board may
4 request in connection with claims by members against this system.

5 (b) Upon notification pursuant to subdivision (a), the board shall
6 determine, within 90 days, whether the pay item is included in
7 compensation as defined in Section 31460 and compensation
8 earnable as defined in Section 31461. Any determination by the
9 board regarding an item of compensation may be appealed by the
10 county, district, or member.

11 (c) The board may assess a reasonable fee upon the county or
12 district that fails to provide information, as required by this section,
13 within applicable time limits.

14 SEC. 11. Section 31541 is added to the Government Code, to
15 read:

16 31541. (a) The board, during the course of an audit, may
17 require a county or district to provide information or make available
18 for examination or copying at a specified time and place, or both,
19 books, papers, any data, or records, including, but not limited to,
20 personnel and payroll records, as deemed necessary by the board
21 to determine the correctness of retirement benefits, reportable
22 compensation, and enrollment in and reinstatement to this system.

23 ~~(b) Data filed with the board by the county or district or any~~
24 ~~member or beneficiary is confidential, and no individual record~~
25 ~~shall be divulged by any official or employee having access to it~~
26 ~~to any person other than the member to whom the information~~
27 ~~relates or his or her authorized representative or the county or~~
28 ~~district by which he or she is employed. The information shall be~~
29 ~~used by the board for the sole purpose of carrying into effect the~~
30 ~~provisions of this part. Any information that is requested for~~
31 ~~retirement purposes by any public agency shall be treated as~~
32 ~~confidential by the agency.~~

33 ~~(c) For purposes of this section, "authorized representative"~~
34 ~~includes the spouse or beneficiary of a member when no contrary~~
35 ~~appointment has been made and when, in the opinion of the board,~~
36 ~~the member is prevented from appointing an authorized~~
37 ~~representative because of mental or physical incapacity or death.~~

38 SEC. 12. Section 31569 is added to the Government Code, to
39 read:

1 31569. Any county or district that fails to enroll an employee
2 into membership when he or she becomes eligible, or within 90
3 days thereof, when the employer knows or can reasonably be
4 expected to have known of that eligibility shall be required to pay
5 all arrears costs for member contributions and administrative costs
6 of five hundred dollars (\$500) per member as a reimbursement to
7 the system's current year budget.

8 SEC. 13. Section 31680.10 is added to the Government Code,
9 to read:

10 31680.10. (a) Except as provided in Section 31680.1, any
11 person, who has been retired for service on or after January 1,
12 2011, as a member of a county retirement system established under
13 this chapter, may not be reemployed in any capacity either as an
14 employee, an independent contractor, or an employee of a third
15 party without reinstatement by a district or county operating a
16 county retirement system established under this chapter unless at
17 least 180 days have elapsed since the person's date of retirement.

18 (b) *A retired person whose employment, without reinstatement,*
19 *is authorized by this article shall not acquire service credit or*
20 *retirement rights under this part with respect to that employment.*

21 (c) *Any retired member employed in violation of this article*
22 *shall:*

23 (1) *Reimburse the retirement system for any retirement*
24 *allowance received during the period or periods of employment*
25 *that are in violation of law.*

26 (2) *Pay to the retirement system an amount of money equal to*
27 *the employee contributions that would otherwise have been paid*
28 *during the period or periods of unlawful employment, plus interest*
29 *thereon.*

30 (3) *Contribute toward the reimbursement of the retirement*
31 *system for administrative expenses incurred in responding to a*
32 *violation of this article, to the extent the member is determined by*
33 *the executive officer to be at fault.*

34 (d) *Any county or district that employs a retired member in*
35 *violation of this article shall:*

36 (1) *Pay to the retirement system an amount of money equal to*
37 *employer contributions that would otherwise have been paid for*
38 *the period or periods of time that the member is employed in*
39 *violation of this article, plus interest thereon.*

1 (2) *Contribute toward the reimbursement of the retirement*
2 *system for administrative expenses incurred in responding to a*
3 *violation of this article, to the extent the county or district is*
4 *determined by the executive officer of this system to be at fault.*

5 SEC. 14. Section 45309.6 is added to the Government Code,
6 to read:

7 45309.6. (a) A city retirement board established pursuant to
8 this chapter shall be in full compliance with the provisions of
9 Section 7500.5 by July 1, 2011.

10 (b) A city retirement system established pursuant to this chapter
11 shall adopt any regulations necessary to implement the
12 requirements of Section 7500.5.

13 SEC. 15. Section 45309.7 is added to the Government Code,
14 to read:

15 45309.7. (a) A city retirement board established pursuant to
16 this chapter may adopt regulations regarding the employment of
17 retirees who were members of a retirement system established
18 pursuant to this chapter.

19 (b) Notwithstanding subdivision (a), on or after January 1, 2011,
20 a person who has been retired under a retirement system established
21 pursuant to this chapter may not be employed in any capacity by
22 the city establishing that retirement system unless one of the
23 following events has occurred:

24 (1) He or she has been reinstated from retirement.

25 (2) At least 180 days have elapsed since his or her retirement
26 date.

27 SEC. 16. Section 50871.6 is added to the Government Code,
28 to read:

29 50871.6. (a) A retirement board established pursuant to this
30 chapter shall be in full compliance with the provisions of Section
31 7500.5 by July 1, 2011.

32 (b) A retirement system established pursuant to this chapter
33 shall adopt any regulations necessary to implement the
34 requirements of Section 7500.5.

35 SEC. 17. Section 50871.7 is added to the Government Code,
36 to read:

37 50871.7. (a) A retirement board established pursuant to this
38 chapter may adopt regulations regarding the employment of retirees
39 who were members of a retirement system established pursuant
40 to this chapter.

1 (b) Notwithstanding subdivision (a), on or after January 1, 2011,
2 a person who has been retired under a retirement system established
3 pursuant to this chapter may not be employed in any capacity by
4 the city establishing that retirement system unless one of the
5 following events has occurred:

6 (1) He or she has been reinstated from retirement.

7 (2) At least 180 days have elapsed since his or her retirement
8 date.

9 SEC. 18. Except as otherwise specifically provided, the
10 provisions of this act shall become operative on July 1, 2011.

11 SEC. 19. This bill shall become operative only if Senate Bill
12 1425 of the 2009–10 Regular Session is enacted and takes effect
13 on or before January 1, 2011.

O

AMENDED IN ASSEMBLY MAY 19, 2010
AMENDED IN SENATE JANUARY 15, 2010

SENATE BILL

No. 414

Introduced by Senator Correa

February 26, 2009

An act to amend Sections 31520.1, 31520.2, 31520.3, *31520.4*, and 31520.5 of, to add Section 31523.1 to, and to repeal and add Section 31523 of, the Government Code, relating to county retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 414, as amended, Correa. County employee retirement: boards.

(1) The County Employees Retirement Law of 1937 sets forth the membership composition for boards of retirement, as specified. Under that law, the retirement board in specified counties is comprised of 9 members and an alternate member who is the candidate for the 7th member from the group of safety members, under specified provisions, that is not represented by a board member who received the highest number of votes for all candidates in that group, except as specified. The alternate member has, unless prohibited by a resolution or regulation of the board, the same rights, privileges, responsibilities, and access to closed sessions as the 2nd, 3rd, 7th, and 8th member and the right to hold positions on committees of the board independent of the 2nd, 3rd, 7th, or 8th member and to participate in the deliberations of the board or its committees, as specified.

This bill would delete the authority of the board to prohibit, by a resolution or regulation of the board, a member from having the same rights, privileges, responsibilities, and access to closed sessions as the 2nd, 3rd, 7th, or 8th member, or from holding positions on committees of the board, and participating in board or committee deliberations, as

described above. *The bill would authorize the alternate 7th member to participate in the deliberations of the board on any of its committees to which the alternate 7th member has been appointed regardless of whether the 2nd, 3rd, 7th, or 8th member is present.* The bill would ~~direct~~ require the board of supervisors to ~~hold~~ *cause an election to be held at the earliest possible date to fill a vacancy for the duration of the current term, except as specified, within 90 days of the date the vacancy occurs* if there is a vacancy in the 2nd, 3rd, 7th, 8th, or alternate 7th member ~~positions~~ *position*. It would limit candidacy to the 7th member and alternate member positions, as specified. The bill would require the board of supervisors to ~~forego~~ *forgo* an election in specified circumstances when there is only one candidate. The bill would also make various changes in terminology and delete obsolete references.

(2) Existing law prescribes the manner of appointing an alternate retired member to the office of the 8th member of the board of retirement. If there is a vacancy with respect to the 8th member, existing law requires that the alternate retired member fill the vacancy until a successor qualifies. Existing law authorizes the alternate retired member to hold positions on committees of the board independent of the 8th member and to participate in the deliberations of the board or its committees regardless of whether the 8th member is present, unless prohibited by resolution or regulation of the board.

This bill would instead require the board of retirement to, by majority vote, appoint a replacement alternate member, in the same manner as prescribed for the initial appointment of an alternate retired member, who shall serve until the expiration of the current term of the current member. The alternate retired member would have the same rights, privileges, responsibilities, and access to closed sessions as the 8th member *except as specified*. The bill would also delete the authority of the board to prohibit the alternate retired member from holding positions on committees of the board or participating in the deliberations of the board or *any of its committees to which the alternate retired member has been appointed*, as described above. The bill would also make changes in terminology.

(3) Existing law permits the board of supervisors in a county in which the assets of the retirement system exceed \$800,000,000 to establish a board of investments, to consist of 9 members of specified classifications, which is responsible for the investments of the retirement system. Existing law prescribes the terms for the members of the board of investments.

This bill would prescribe a process for filling vacancies in specified positions on a board of investments, as described above. The bill would require the board of investments to hold *cause* an election *to be held at the earliest possible date* to fill a vacancy within 90 days of the date the vacancy occurs *those vacancies, except as specified*, with a replacement member to serve for the duration of the current term, unless the remaining portion is 6 months or less, in which case concurrent elections would be authorized to be held for the vacant term position and the succeeding term position. The bill would require the board of supervisors to forego *forgo* an election in specified circumstances when there is only one candidate. The bill would also delete obsolete references and establish the initial term of a person appointed as a 9th member.

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

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

1 SECTION 1. Section 31520.1 of the Government Code is
 2 amended to read:
 3 31520.1. (a) In any county subject to Articles 6.8 (commencing
 4 with Section 31639) and 7.5 (commencing with Section 31662.2),
 5 the board of retirement shall consist of nine members and one
 6 alternate, one of whom shall be the county treasurer. The second
 7 and third members of the board shall be members of the
 8 association, other than safety members, elected by those members
 9 within 30 days after the retirement system becomes operative in
 10 a manner determined by the board of supervisors. The fourth, fifth,
 11 sixth, and ninth members shall be qualified electors of the county
 12 who are not connected with the county government in any capacity,
 13 except one may be a supervisor, and shall be appointed by the
 14 board of supervisors. A supervisor appointed as a member of the
 15 retirement board may not serve beyond his or her term of office
 16 as supervisor. The seventh member shall be a safety member of
 17 the association elected by the safety members. The eighth member
 18 shall be a retired member elected by the retired members of the
 19 association in a manner to be determined by the board of
 20 supervisors. The alternate member shall be that candidate, if any,
 21 for the seventh member from the group under Section 31470.2 or
 22 31470.4, or any other eligible safety member in a county if there

1 is no eligible candidate from the groups under Sections 31470.2
2 and 31470.4, which is not represented by a board member who
3 received the highest number of votes of all candidates in that group,
4 and shall be referred to as the alternate seventh member. If there
5 is no eligible candidate there may not be an alternate seventh
6 member. The first person chosen as the second and fourth members
7 shall serve for a term of two years beginning with the date the
8 system becomes operative, the third and fifth members shall serve
9 for a term of three years beginning with that date, and the sixth,
10 seventh and alternate seventh members shall serve for a term of
11 two years beginning on the date on which a retirement system
12 established by this chapter becomes operative. The eighth and
13 ninth members shall take office as soon as practicable for an initial
14 term to expire concurrent with the expiration of the longest
15 remaining term of an elected member. Thereafter, the terms of
16 office of the elected, appointed, and alternate seventh members
17 are three years, except as provided in Section 31523.

18 (b) The alternate seventh member provided for by this section
19 shall vote as a member of the board only if the second, third,
20 seventh, or eighth member is absent from a board meeting for any
21 cause, or if there is a vacancy with respect to the second, third,
22 seventh, or eighth member, the alternate seventh member shall fill
23 the vacancy until a successor qualifies. The alternate seventh
24 member shall sit on the board in place of the seventh member if a
25 member of the same service is before the board for determination
26 of his or her retirement.

27 (c) The alternate seventh member shall be entitled to both of
28 the following:

29 (1) The alternate seventh member shall have the same rights,
30 privileges, responsibilities, and access to closed sessions as the
31 second, third, seventh, and eighth member.

32 (2) The alternate seventh member may hold positions on
33 committees of the board independent of the second, third, seventh,
34 or eighth member and may participate in the deliberations of the
35 board or ~~its committees~~ *any of its committees to which the alternate*
36 *seventh member has been appointed* whether or not the second,
37 third, seventh, or eighth member is present.

38 SEC. 2. Section 31520.2 of the Government Code is amended
39 to read:

1 31520.2. (a) In any county in which the assets of the retirement
2 system exceed eight hundred million dollars (\$800,000,000), the
3 board of supervisors may, by resolution, establish a board of
4 investments. The board shall consist of nine members, one of
5 whom shall be the county treasurer. The second and third members
6 shall be general members of the association elected by the general
7 membership of the association for a three-year term. The fourth
8 member shall be a safety member elected by the safety membership
9 of the association for a three-year term. The eighth member shall
10 be a retired member of the association elected by the retired
11 membership of the association for a three-year term. The fifth,
12 sixth, seventh, and ninth members shall be qualified electors of
13 the county who are not connected with county government in any
14 capacity, and shall be appointed by the board of supervisors. They
15 shall also have had significant experience in institutional investing,
16 either as investment officer of a bank, or trust company; or as
17 investment officer of an insurance company, or in an active, or
18 advisory, capacity as to investments of institutional or endowment
19 funds. The first person chosen as a fifth, sixth, or seventh member,
20 shall serve for a three-year term, the second person chosen shall
21 serve a four-year term, and the third person chosen shall serve a
22 two-year term. The first person appointed as the ninth member
23 shall serve a one-year term. Thereafter, all terms of all appointed
24 members shall be three years.

25 (b) The board of investment shall be responsible for all
26 investments of the retirement system.

27 SEC. 3. Section 31520.3 of the Government Code is amended
28 to read:

29 31520.3. (a) Notwithstanding Section 31520.1, the board of
30 retirement of a county of the 16th class, as defined by Sections
31 28020 and 28037, as amended by Chapter 1204 of the Statutes of
32 1971, may, by majority vote, appoint, from a list of nominees
33 submitted by an organization consisting solely of retired members,
34 an alternate retired member to the office of the eighth member,
35 who shall serve until the expiration of the current term of the
36 current eighth member and thereafter the alternate retired member
37 shall be elected by the retired members of the association in the
38 same manner and at the same time as the eighth member is elected.

39 The

1 (b) *The term of office of the alternate retired member shall run*
 2 *concurrently with the term of office of the eighth member. The*
 3 *alternate retired member shall vote as a member of the board only*
 4 *in the event the eighth member is absent from a board meeting for*
 5 *any cause. If there is a vacancy with respect to the eighth member,*
 6 *the alternate retired member shall fill that vacancy for the*
 7 *remainder of the eighth member's term of office. ~~The alternate~~*

8 (c) *Except as provided in subdivision (b), the alternate retired*
 9 *member shall be entitled to the same rights and privileges and shall*
 10 *have the same responsibilities and access to closed sessions as the*
 11 *eighth member. ~~The alternate~~ alternate retired member may hold*
 12 *positions on committees of the board independent of the eighth*
 13 *member and may participate in the deliberations of the board or*
 14 *its committees any of its committees to which the alternate retired*
 15 *member has been appointed whether or not the eighth member is*
 16 *present.*

17 *The*

18 (d) *The alternate retired member shall be entitled to the same*
 19 *compensation as the eighth member for attending a meeting,*
 20 *pursuant to Section 31521, whether or not the eighth member is*
 21 *in attendance at those meetings. ~~It~~*

22 (e) (1) *In the event that this section is made applicable in any*
 23 *county, by the appointment of an alternate eighth member, the*
 24 *alternate seventh member shall not sit and act for the eighth retired*
 25 *member, except as described in ~~subdivision (b)~~ paragraph (2).*

26 ~~(b)~~

27 (2) *If both the eighth member and the alternate retired member*
 28 *are not attending a meeting, the alternate seventh member may sit*
 29 *and act for the eighth member as described in Section 31520.1.*

30 *SEC. 4. Section 31520.4 of the Government Code is amended*
 31 *to read:*

32 31520.4. *In any county with a board of retirement composed*
 33 *of nine members pursuant to Section 31520.1, if the second, third,*
 34 *seventh, or alternate seventh member of the board is injured or*
 35 *killed while performing his or her duties as a member of the board,*
 36 *that member shall be deemed to have been acting in the course*
 37 *and scope of his or her duties as an employee of the county or*
 38 *district employing the member, for the limited purpose of*
 39 *determining eligibility for workers' compensation benefits or*
 40 *disability or death benefits from the retirement system.*

1 This section shall not be operative in any county until the board
2 of supervisors, by resolution adopted by a majority vote, makes
3 this section operative in that county.

4 ~~SEC. 4.~~

5 *SEC. 5.* Section 31520.5 of the Government Code is amended
6 to read:

7 31520.5. (a) Notwithstanding Section 31520.1, in any county
8 subject to Articles 6.8 (commencing with Section 31639) and 7.5
9 (commencing with Section 31662), the board of retirement may,
10 by majority vote, appoint, from a list of nominees submitted by a
11 qualified retiree organization, an alternate retired member to the
12 office of the eighth member, who shall serve until the expiration
13 of the current term of the current eighth member. Thereafter, the
14 alternate retired member shall be elected separately by the retired
15 members of the association in the same manner and at the same
16 time as the eighth member is elected. An organization shall be
17 deemed to be a "qualified retiree organization" for purposes of
18 this subdivision if a majority of the members of the organization
19 are retired members of the system.

20 (b) The term of office of the alternate retired member shall run
21 concurrently with the term of office of the eighth member. The
22 alternate retired member shall vote as a member of the board only
23 in the event the eighth member is absent from a board meeting for
24 any cause. If there is a vacancy with respect to the eighth member,
25 the alternate retired member shall fill that vacancy for the
26 remainder of the eighth member's term of office. ~~The~~

27 (c) *Except as otherwise provided in this section, the alternate*
28 *retired member shall be entitled to the same rights and privileges*
29 *and shall have the same responsibilities and access to closed*
30 *sessions as the eighth member.*

31 ~~(e)~~

32 (d) The alternate retired member may hold positions on
33 committees of the board independent of the eighth member and
34 may participate in the deliberations of the board or ~~its committees~~
35 *any of its committees to which the alternate retired member has*
36 *been appointed* whether or not the eighth member is present.

37 ~~(d)~~

38 (e) The alternate retired member shall be entitled to the same
39 compensation as the eighth member for attending a meeting,

1 pursuant to Sections 31521 and 31521.1, whether or not the eighth
2 member is in attendance at those meetings.

3 ~~(e)~~

4 *(f)* (1) If this section is made applicable in any county, by the
5 appointment of an alternate eighth member, the alternate seventh
6 member shall not sit and act for the eighth member, except as
7 described in paragraph (2).

8 (2) If both the eighth member and the alternate retired member
9 are not attending a meeting, the alternate seventh member may sit
10 and act for the eighth member as described in Section 31520.1.

11 ~~SEC. 5.~~

12 *SEC. 6.* Section 31523 of the Government Code is repealed.

13 ~~SEC. 6.~~

14 *SEC. 7.* Section 31523 is added to the Government Code, to
15 read:

16 31523. (a) In the event of a vacancy in the second, third,
17 seventh, eighth, or alternate seventh member position on the board
18 of retirement, the board shall cause an election to fill the vacancy
19 to be held ~~within 90 days of the date the vacancy occurs~~ *at the*
20 *earliest possible date*, except as provided in Sections 31520.3 and
21 31520.5. The vacancy in the second, third, or eighth member
22 position on the board of retirement shall be filled for the duration
23 of the current term except that, if the remaining portion of the
24 current term is six months or less on the date of the election,
25 concurrent elections may be held to fill the vacancy for the
26 remainder of the current term and to fill the position for the
27 succeeding term. With respect to a vacancy in the seventh member
28 position, candidates shall be a safety member from a group which
29 is not represented by an incumbent alternate seventh member. With
30 respect to the alternate seventh member position, the candidates
31 shall be limited to the group under Sections 31470.2 or 31470.4,
32 or any other eligible safety member in a county if there is no
33 eligible candidate from the groups under Sections 31470.2 and
34 31470.4 that is not represented by an incumbent seventh board
35 member. The successful candidate shall serve for the duration of
36 the current term.

37 (b) If there is a vacancy with respect to the alternate retired
38 member, the board of retirement shall, by majority vote, appoint
39 a replacement alternate member in the same manner as prescribed
40 in Sections 31520.3 and 31520.5 for the initial appointment of an

1 alternate retired member, who shall serve until the expiration of
2 the current term of the current eighth member.

3 (c) If an election has been called on the expiration of the term
4 of office of any member or alternate member, or to fill a vacancy
5 for the second, third, seventh, eighth, or alternate seventh member
6 of a board of retirement, and only one candidate has been duly
7 nominated in accordance with the rules established for the holding
8 of that election, the board of supervisors shall order that no election
9 be held and shall direct the clerk to cast a unanimous ballot in
10 favor of the candidate.

11 ~~SEC. 7:~~

12 *SEC. 8.* Section 31523.1 is added to the Government Code, to
13 read:

14 31523.1. (a) In the event of a vacancy in the second, third,
15 fourth, or eighth member position on a board of investments
16 established pursuant to Section 31520.2, ~~an election shall be called~~
17 ~~within 90 days of the date the vacancy occurs~~ *the board of*
18 *investments shall cause an election to be held at the earliest*
19 *possible date* to fill the vacancy. The vacancy in the second, third,
20 fourth, or eighth member position shall be filled for the duration
21 of the current term except that, if the remaining portion of the
22 current term on the date of the election is six months or less,
23 concurrent elections may be held to fill the vacancy for the
24 remainder of the current term and to fill the position for the
25 succeeding term.

26 (b) If an election has been called on the expiration of the term
27 of office of any member, or to fill a vacancy for the second, third,
28 fourth, or eighth member position of a board of investments, and
29 only one candidate has been duly nominated in accordance with
30 the rules established for the holding of that election, the board of
31 supervisors shall order that no election be held and shall direct the
32 clerk to cast a unanimous ballot in favor of the candidate.

O

Other Retirement Legislation

AB 155 (Mendoza) – Local government: bankruptcy proceedings
Status: Sen Floor
Last Amended: 6/1/10

AB 1651 (De La Torre) – PERL: furloughs: retirement credit
Status: Sen Rules
Last Amended: 5/28/10

AB 1696 (B. Berryhill) – Death benefits: payment duration
Status: Sen Labor 6/9
Last Amended: 5/11/10

AB 1856 (Fong) – Public employees' retirement
Status: Sen PER
Last Amended 6/7/10

AB 2253 (Coto) – Workers' compensation: cancer presumption
Status: Sen Rules
Last Amended: 5/28/10

AB 2337 (Ammiano) – Public retirement system: investments: predatory investment practices
Status: Sen Rules
Last Amended: 5/28/10

AB 2742 (Blakeslee) – Public employment: retirement: survivors' benefits
Status: Sen PER
Last Amended: 6/7/10

SB 1007 (Hancock) – Political Reform Act of 1974: retirement system boards
Status: Asm Elections
Last Amended: 6/3/10

AMENDED IN SENATE JUNE 1, 2010
AMENDED IN SENATE MAY 20, 2010
AMENDED IN SENATE JULY 1, 2009
AMENDED IN ASSEMBLY JUNE 1, 2009
AMENDED IN ASSEMBLY MARCH 27, 2009
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 155

Introduced by Assembly Member Mendoza
(Principal coauthor: Assembly Member Torrico)
(Coauthors: Assembly Members Brownley, Coto, De Leon, Fuentes,
Furutani, Lieu, Ma, Nava, John A. Perez, V. Manuel Perez, Price,
and Yamada)
(Coauthors: Senators DeSaulnier, Liu, and Wiggins)

January 26, 2009

An act to amend Section 53760 of, and to add Sections 8860, 8861, 8862, 8863, 8864, and 8865 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 155, as amended, Mendoza. Local government: bankruptcy proceedings.

Under existing law, any taxing agency or instrumentality of the state may file a petition and prosecute to completion bankruptcy proceedings permitted under the laws of the United States.

This bill would provide that a local public entity may only file under federal bankruptcy law with the approval of the California Debt and Investment Advisory Commission, except as specified.

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

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

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) The California Constitution and current statutory law provide
4 for a continuity and interdependence between state and local
5 government entities. Seeking financial relief through the provisions
6 of Chapter 9 (commencing with Section 901 of Title 11) of the
7 United States Code imposes costs on a municipality, potentially
8 exceeding \$1 million. It can reduce service levels to the taxpayers
9 and residents of a municipality. In some circumstances, it can have
10 major short- and long-term fiscal consequences to the municipality,
11 the surrounding local public entities, and the state. In 2009, bond
12 counsel stated that “filing for bankruptcy protection under Chapter
13 9 should be considered a last resort, to be effected only after every
14 effort has been made to avoid it.”

15 (b) The Legislature has an interest in monitoring the conditions
16 under which local entities seek Chapter 9 protection. The relief
17 provided through the federal courts can affect state and municipal
18 government service levels, debt, and contracts. The Legislature
19 also has a strong interest in ensuring adequate disclosure of the
20 conditions under which a municipality may seek Chapter 9
21 protection.

22 (c) To the extent financial relief granted through Chapter 9 can
23 affect debt service payments, the state’s investors and bondholders
24 have a direct interest in the Bankruptcy Court’s decisions.

25 (d) The state has established a statewide system of public
26 employee collective bargaining for state and local government
27 employers and employees intended to protect the state’s interest
28 in promoting peaceful and harmonious labor relations and
29 preventing work stoppages. The validity and enforceability of
30 contracts arrived at through collective bargaining are essential to
31 maintaining labor peace and the uninterrupted delivery of vital
32 public services, and these agreements may be subject to review

1 and amendment or rescission in the event of a Chapter 9 bankruptcy
2 proceeding.

3 (e) The state has established and administers statewide pension
4 systems that provide retirement and health benefits to state and
5 local agency employees, many of whose benefits rely on contracts
6 negotiated between local agencies and the California Public
7 Employees' Retirement System, and that may be subject to review
8 and amendment or rescission in the event of a Chapter 9 bankruptcy
9 proceeding.

10 (f) California is one of only 12 states that grants blanket
11 authority for its municipalities to petition for bankruptcy and offers
12 no opportunity for its municipalities to receive state-level,
13 prebankruptcy guidance, oversight, or assistance for those
14 jurisdictions that are truly insolvent and face no other alternative
15 to bankruptcy.

16 (g) State intervention in local affairs should only occur in
17 exceptional circumstances and not without a compelling interest
18 of statewide concern.

19 (h) Given the connection between state allocations and local
20 budgets, the state has a role in mitigating possible local bankruptcy.

21 (i) It is the duty of all state and local elected officials to ensure
22 that governments provide essential services to the communities
23 they are elected to serve.

24 (j) California's taxpayers who rely on public safety, senior,
25 park, and library services, as well as those who own and operate
26 businesses in our communities, deserve every effort that state and
27 local government can make to avoid the long-term devastation of
28 bankruptcy.

29 (k) The California Debt and Investment Advisory Commission
30 is the appropriate body to provide the expert oversight and guidance
31 sought by local public agencies who find themselves in a fiscal
32 crisis, given its current statutory duties to collect municipal finance
33 data, conduct research, administer educational seminars, and
34 provide information and technical assistance on behalf of local
35 public agencies and their finance professionals, and given the
36 commission's diverse membership that includes state and local
37 government financial experts.

38 SEC. 2. Section 8860 is added to the Government Code, to
39 read:

1 8860. (a) The commission shall, upon request of a local public
2 entity, advise and, if deemed appropriate by the commission, grant
3 approval to the entity to exercise its rights pursuant to Section
4 53760, ~~which may include conditions prescribed by the~~
5 ~~commission.~~

6 (b) Upon request under subdivision (a), the local public entity
7 shall submit all of the following to the commission:

8 (1) A resolution or ordinance, adopted by that governing body
9 at a public hearing held pursuant to the Ralph M. Brown Act
10 (Chapter 9 (commencing with Section 54950) of Part 1 of Division
11 2 of Title 5), that does both of the following:

12 (A) Requests authority pursuant to Section 53760 to petition
13 the federal bankruptcy court for financial relief under the provisions
14 of Chapter 9 (commencing with Section 901 of Chapter 11) of the
15 United States Code.

16 (B) Acknowledges that the state's fiscal and financial
17 responsibilities are not changed by the application or the
18 commission's decision pursuant to Section 8861.

19 (2) A thorough analysis of the entity's request to petition under
20 Chapter 9 (commencing with Section 901 of Title 11) of the United
21 States Code. In addition to any other information it may provide,
22 the entity shall do all of the following:

23 (A) Demonstrate that it is or will be unable to pay its undisputed
24 debts.

25 (B) Demonstrate that it has exhausted all options to avoid
26 seeking relief under Chapter 9.

27 (C) Detail a specific plan for restoring the soundness of the
28 entity's financial plans.

29 (3) An itemization of creditors that may be impaired or may
30 seek damages as a result of the proposed plan.

31 (4) Evidence of irreparable harm that may result during the
32 30-day evaluation period, pursuant to subdivision (d), and the 15
33 days allotted for a hearing, pursuant to subdivision (e).

34 (c) (1) Upon receipt of the information required by subdivision
35 (b), the commission shall evaluate the information presented and
36 within 5 days, notify the local public entity of one of the following
37 results:

38 (A) Approval of the request.

1 (B) The commission intends to proceed with a further evaluation
2 based on a finding that the local public entity did not provide
3 sufficient evidence pursuant to paragraph (4) of subdivision (b).

4 (2) If the commission determines that it will proceed with a
5 further evaluation, pursuant to subparagraph (B) of paragraph (1),
6 the commission shall publish its evaluation within 30 business
7 days. If the commission does not respond to the request within
8 five days of receipt of the request, the request shall be deemed
9 approved.

10 (d) After noticing the local public agency of the commission's
11 intent to further evaluate the request, the commission staff shall
12 specifically evaluate the extent to which the local public entity has
13 done the following:

14 (1) Demonstrated that it has exhausted other remedies.

15 (2) Demonstrated that it has taken sufficient steps to reduce the
16 negative consequences of its proposed bankruptcy relief.

17 (3) Anticipated the transfer of service responsibility to other
18 governments or parties and to what extent the entity has
19 documented the consequences for the transfer of municipal and
20 other government services.

21 (4) Documented the likely effect a successful petition will have
22 on state and local finances, including the impact on credit access
23 and debt service.

24 (5) Proposed a remedy that is appropriate and proportionate to
25 the entity's fiscal problems.

26 (e) After the commission conducts the evaluation, pursuant to
27 paragraph (2) of subdivision (c) and publishes its evaluation, the
28 commission shall conduct a hearing and publish a decision within
29 15 days of, but not less than 10 days after, the publication of the
30 staff evaluation conducted pursuant to subdivision (d). The hearing
31 shall be conducted according to the provisions of Section 8861.
32 The commission hearing on the application shall be held in
33 convenient proximity of the entity filing the application.

34 (f) If the local public entity's request is denied pursuant to
35 Section 8861, the governing board of the local public entity may
36 do either of the following:

37 (1) The local public entity may reapply. In making the
38 reapplication, the local public entity shall adopt another resolution
39 and submit documentation to address the deficiencies identified
40 by the commission pursuant to Section 8861.

1 (2) Hold a public hearing to override the decision adopted by
2 the commission, and adopt a resolution to declare the public
3 entity's intent to exercise authority pursuant to applicable federal
4 bankruptcy law under Section 53760. At the public hearing, the
5 governing body shall make findings regarding the necessity to
6 override the decision of the commission. If the governing body
7 votes to exercise its authority pursuant to Section 53760 and makes
8 findings to that effect, both the commission's findings and the
9 local public entity's findings shall be submitted with any filing of
10 a petition for bankruptcy pursuant to Section 53760.

11 (g) A county that has requested approval to file under
12 subdivision (a) may require local agencies with funds invested in
13 the county treasury to provide a five-day notice of withdrawal
14 before the county is required to comply with a request for
15 withdrawal of funds by that local agency.

16 (h) As used in this chapter, "local public entity" means any city,
17 county, city and county, district public authority, public agency,
18 or other entity that is a "municipality" within the meaning of
19 paragraph (40) of Section 101 of Title 11 of the United States
20 Code, or that qualifies as a debtor under any federal bankruptcy
21 law applicable to local public entities.

22 SEC. 3. Section 8861 is added to the Government Code, to
23 read:

24 8861. (a) The commission shall hold a public hearing to
25 consider a request made pursuant to Section 8860. The hearing
26 shall provide sufficient time for public testimony.

27 (b) The commission shall, in a recorded vote on the date of the
28 hearing, approve or deny the request.

29 (c) If the commission disapproves a request, the commission
30 shall adopt specific findings that address the deficiencies of the
31 application.

32 (d) The hearing shall be subject to the provisions of the
33 Bagley-Keene Open Meeting Act (Article 9 (commencing with
34 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2). At
35 the same time that the notice and agenda for the hearing is posted
36 to comply with the requirements of the Bagley-Keene Open
37 Meeting Act, the commission shall do all of the following:

38 (1) Post the notice in a location in the local public entity that is
39 freely accessible to members of the public.

1 (2) Deliver the notice personally, by United States mail, or by
2 facsimile transmission, to each local newspaper of general
3 circulation whose circulation area reasonably includes the local
4 public entity.

5 (3) Deliver the notice by United States mail, or by facsimile
6 transmission, to each radio or television station that has requested
7 notice in writing.

8 (4) Request publication of the notice in the daily file of each
9 house of the Legislature at least 24 hours prior to the date of the
10 meeting, if the Legislature is in session.

11 SEC. 4. Section 8862 is added to the Government Code, to
12 read:

13 8862. (a) After the commission receives a request pursuant to
14 Section 8860, the executive director shall record costs incurred by
15 the commission to make and publish the evaluation pursuant to
16 Section 8860 and conduct the hearing required under Section 8861.
17 The director shall report those costs to the commission at the next
18 regularly scheduled commission hearing.

19 (b) Upon denial of the request, the executive director or
20 commission may assess the requesting entity a fee to cover some
21 or all the costs associated with making the findings and conducting
22 the hearing. Fee revenue shall be deposited in the California Debt
23 and Investment Advisory Commission Fund.

24 (c) The commission may propose regulations to govern the
25 request and review process required under Sections 8860 and 8861.

26 SEC. 5. Section 8863 is added to the Government Code, to
27 read:

28 8863. In enacting Sections 8860, 8861, 8862, and the changes
29 in Section 53760, the state assumes no new or additional fiscal
30 responsibilities for local entities that may apply to the commission
31 for review pursuant to this chapter.

32 SEC. 6. Section 8864 is added to the Government Code, to
33 read:

34 8864. This section and Sections 8860, 8861, 8862, 8863, and
35 8865 shall only apply to a local public entity on or after the
36 effective date of the act adding this section.

37 SEC. 7. Section 8865 is added to the Government Code, to
38 read:

39 8865. If a member of the California Debt and Investment
40 Advisory Commission is also employed as a local government

1 finance officer by an entity requesting approval pursuant to Section
 2 8860, the Treasurer shall replace that member, for purposes of the
 3 application of the local government that also employs the member,
 4 with a person employed by a city, county, or city and county,
 5 within the state, experienced in the issuance and sale of municipal
 6 bonds and nominated by associations affiliated with these agencies,
 7 to preside over that application.

8 SEC. 8. Section 53760 of the Government Code is amended
 9 to read:

10 53760. (a) Except as otherwise provided by statute, a local
 11 public entity in this state may, with the approval of the California
 12 Debt and Investment Advisory Commission, ~~under the terms and~~
 13 ~~conditions that the commission may impose pursuant to Section~~
 14 ~~8861~~, file a petition and exercise powers pursuant to applicable
 15 federal bankruptcy law if either of the following apply:

16 (1) The California Debt and Investment Advisory Commission
 17 has approved a request by the local public entity pursuant to
 18 Section 8860.

19 (2) The governing board of the local public entity has adopted
 20 a resolution to override the commission’s findings pursuant to
 21 Section 8860.

22 (b) As used in this section, “local public entity” means any
 23 county, city, district, public authority, public agency, or other
 24 entity, without limitation, that is a “municipality,” as defined in
 25 paragraph (40) of Section 101 of Title 11 of the United States Code
 26 (bankruptcy), or that qualifies as a debtor under any other federal
 27 bankruptcy law applicable to local public entities.

O

AMENDED IN ASSEMBLY MAY 28, 2010
AMENDED IN ASSEMBLY MARCH 2, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1651

Introduced by Assembly Member De La Torre

January 13, 2010

An act to add Section 20969.2 to the Government Code, relating to public retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1651, as amended, De La Torre. Public Employees' Retirement Law: furloughs: retirement credit.

The Public Employees' Retirement Law provides retirement benefits based upon a member's final compensation and years of credited service. That law provides that members in the personal leave program shall receive credit for service that would have been credited had the employee not been in the personal leave program.

This bill would provide that the calculations for retirement allowances, under the Public Employees' Retirement Law, for specified local safety members and ~~members~~ *persons* who are employees of specified educational entities and who are subject to mandatory furloughs shall include, as credit for service and compensation, the amount of service and compensation that would have been credited and paid had the ~~member~~ *employee* not been subject to mandatory furloughs on or after July 1, 2008, as specified.

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

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

1 SECTION 1. Section 20969.2 is added to the Government
2 Code, to read:

3 20969.2. (a) For all retirement purposes, including benefit
4 eligibility and calculations of retirement allowances *under this*
5 *part* for a ~~member~~ *person* employed by a county office of
6 education, a school district, a school district that is a contracting
7 agency, a community college district, or a local safety member,
8 as defined in Section 20420, that is subject to mandatory furloughs,
9 ~~the member's~~ *employee's* credit for service and compensation
10 earnable shall include the amount of service that would have been
11 credited and the compensation earnable that would have been
12 reported had ~~that member~~ *the employee* not been subject to a
13 mandatory furlough.

14 (b) For the purposes of this section, "mandatory furlough"
15 includes any time period on or after July 1, 2008, during which a
16 ~~member is~~ *employees are* directed to be absent from work without
17 pay on the day or days designated by their employer or by a
18 memorandum of understanding by the parties entered into on or
19 after July 1, 2008, *for purposes of achieving budgetary savings.*

20 (c) An employer of ~~a member~~ *an employee* identified in
21 subdivision (a) shall notify the board and, if applicable, the county
22 superintendent of schools of the terms and conditions of any
23 mandatory furlough, including, but not limited to, the amount of
24 mandatory furlough time imposed on ~~members~~ *employees* during
25 a reporting period, and the date on which the mandatory furlough
26 ends. The employer and, if applicable, the county superintendent
27 of schools shall provide any additional information as the board
28 may require to implement this section.

O

AMENDED IN ASSEMBLY MAY 11, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1696

Introduced by Assembly Member Bill Berryhill

January 28, 2010

An act to amend Section 4703.5 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1696, as amended, Bill Berryhill. Death benefits: payment duration.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, and in the course of, employment. Existing law provides certain methods for determining workers' compensation benefits payable to a worker or his or her dependents for purposes of temporary disability, permanent total disability, permanent partial disability, and in the case of death. Existing law provides that totally dependent minor children of ~~the~~ a deceased worker shall receive death benefits until the youngest child attains 18 years of age, or until the death of a child physically or mentally incapacitated from earning, at a weekly rate of at least \$224.

This bill would extend death benefits until *the youngest child attains* 19 years of age if the child is still attending high school and is receiving the benefits as a child of certain public employees killed in the performance of duty.

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

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

1 SECTION 1. Section 4703.5 of the Labor Code is amended to
2 read:

3 4703.5. (a) In the case of one or more totally dependent minor
4 children, as defined in Section 3501, after payment of the amount
5 specified in Section 4702, and notwithstanding the maximum
6 limitations specified in Sections 4702 and 4703, payment of death
7 benefits shall continue until the youngest child attains 18 years of
8 age, or until the death of a child physically or mentally
9 incapacitated from earning, in the same manner and amount as
10 temporary total disability indemnity would have been paid to the
11 employee, except that no payment shall be made at a weekly rate
12 of less than two hundred twenty-four dollars (\$224).

13 (b) (1) Notwithstanding *the age limitation* in subdivision (a),
14 the payment of death benefits shall continue until the youngest
15 child attains 19 years of age if the child is still attending high
16 school and is receiving the death benefits as a child of ~~a~~ *an active*
17 member of a sheriff's office, *active* member of a police or fire
18 department of a city, county, city and county, district, or other
19 public or municipal corporation or political subdivision, individual
20 described in Chapter 4.5 (commencing with Section 830) of Title
21 3 of Part 2 of the Penal Code *who is primarily engaged in active*
22 *law enforcement activities*, active firefighting member of the
23 Department of Forestry and Fire Protection, or *an active* member
24 of any county forestry or firefighting department or unit killed in
25 the performance of duty.

26 (2) *Paragraph (1) shall not apply with respect to a child of a*
27 *person whose principal duties are clerical or otherwise do not*
28 *clearly fall within the scope of active law enforcement or active*
29 *firefighting services, such as stenographers, telephone operators,*
30 *and other office workers.*

- 1
- 2 CORRECTIONS:
- 3 Text—Page 2.
- 4

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AMENDED IN SENATE JUNE 7, 2010
AMENDED IN ASSEMBLY MARCH 25, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1856

Introduced by Assembly Member Fong

February 12, 2010

An act to amend Section 21050 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1856, as amended, Fong. Public employees' retirement.

The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Under the Public Employees' Retirement Law, members may elect to receive service credit for various types of public service, and this election is effective only if an appropriate payment, or authorization for payment, of the contributions and interest required for the credit is made. That law calculates retirement benefits, in part, based on years of creditable service and authorizes a member to receive additional service credits, as specified.

This bill would authorize a member authorized to pay for credit for service in after-tax installments to elect in writing, including by verified electronic transaction, at any time prior to retirement, to suspend after-tax installment payments for a period not to exceed 12 months or to prospectively cancel payment of the remaining unpaid balance for those installment payments, as specified. The bill would require that installment payments automatically resume at the end of the suspension period, or earlier if requested by the member. The bill would prohibit

an additional suspension of those installment payments for the same service for 3 years following the resumption of installment payments. The bill would require that the balance due at the end of a suspension period be recalculated to include interest accrued during the suspension.

The bill would additionally authorize the board to cancel payment of the remaining unpaid balance for those installment payments if the member fails to make after-tax installment payments when due for a period of 12 months. The bill would authorize a member to elect to purchase that portion of the service credit not credited to the member's account as a result of cancellation, as specified.

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

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

1 SECTION 1. Section 21050 of the Government Code is
 2 amended to read:
 3 21050. (a) An election by a member to receive credit for
 4 service under this part, in addition to his or her current and prior
 5 service credit, shall be effective only if accompanied by a
 6 lump-sum payment or an authorization for payments, other than
 7 a lump-sum payment, in accordance with regulations of the board.
 8 (b) If a member electing to receive credit for service under this
 9 part is authorized to pay for that service in installment payments
 10 beginning on or after January 1, 2004, the amount of the installment
 11 payments shall include an actuarial adjustment, as determined by
 12 the chief actuary, as necessary to take into account the provisions
 13 of Section 21037. The amount of the actuarial adjustment may not
 14 exceed one-half of 1 percent of the total installment payment.
 15 (c) (1) A member authorized to pay for credit for service in
 16 after-tax installments may elect in writing, including by verified
 17 electronic transaction, at any time prior to retirement, to suspend
 18 after-tax installment payments for a period not to exceed 12
 19 months. Installment payments shall automatically resume at the
 20 end of the suspension period, or earlier if requested by the member.
 21 A member may not elect an additional suspension of those
 22 installment payments for the same service for three years following
 23 the resumption of installment payments.
 24 (2) The balance due at the end of a suspension period shall be
 25 recalculated to include interest accrued during the suspension.

1 (3) (A) A member who retires during the suspension period
2 may, prior to retirement, do either of the following:

3 ~~(A)~~

4 (i) Make a lump-sum payment for the recalculated balance due.

5 ~~(B)~~

6 (ii) Cancel installment payments in the manner specified in
7 subdivision (d).

8 ~~(4)~~

9 (B) Failure by a member to make the lump-sum payment or the
10 election to cancel installment payments, will result in the
11 resumption of installment payments as of his or her date of
12 retirement.

13 (d) A member authorized to pay for credit for service in after-tax
14 installments may elect in writing, including *by* verified electronic
15 transaction, at any time prior to retirement, to prospectively cancel
16 payment of the remaining unpaid balance for those installment
17 payments.

18 (1) An election shall be effective upon the earlier of the
19 member's retirement date, or the first day of the month following
20 approval by the system of the election.

21 (2) Service credited to the member's account will be reduced
22 in proportion to the balance of the total amount remaining unpaid
23 on the effective date of the cancellation. If the member elects to
24 cancel during or at the end of a suspension period, the balance
25 shall include any interest accrued and unpaid during the suspension
26 period.

27 (3) Installment payments ~~may~~ *shall* not be ~~cancelled~~ *canceled*
28 for any of the following:

29 (A) Contribution or service credit adjustments required by law
30 or agreement.

31 (B) A tier election pursuant to Article 2 (commencing with
32 Section 21070) of Chapter 12 of Part 3 of Division 5 of Title 2.

33 (C) The purchase of service credit subject to a community
34 property division by way of court judgment, domestic relations,
35 or other court order or settlement agreement.

36 (e) If a member who has not elected to suspend installment
37 payments pursuant to subdivision (c) fails to make after-tax
38 installment payments when due for a period of 12 months, the
39 board may cancel the remaining unpaid balance in the same manner

1 and with the same effect as if the member had elected to cancel
2 his or her installment payments pursuant to subdivision (d).

3 (f) ~~At any time prior~~ *Prior* to retirement, a member may elect
4 to purchase that portion of the service credit not credited to his or
5 her account as a result of a cancellation executed pursuant to
6 subdivision (d) or (e). ~~A member who elects to purchase that~~
7 ~~service credit shall make the contributions as specified in Section~~
8 ~~21052.~~ *A member shall not make an election for three years*
9 *following the effective date of the cancellation unless the member*
10 *retires before the conclusion of that period.*

11 (1) *A member who elects to purchase that service credit shall*
12 *contribute an amount equal to the sum of the following:*

13 (A) *The remaining unpaid balance of the canceled installment*
14 *payments.*

15 (B) *Interest from the effective date of the cancellation until the*
16 *date of completion of payment.*

17 (C) *If the member elects to contribute in installment payments,*
18 *interest on the unpaid balance of the amount payable, beginning*
19 *on the date of the election to receive credit through completion of*
20 *payments.*

21 (2) *Notwithstanding Section 575.1 of Title 2 of the California*
22 *Code of Regulations, the interest rate applicable to the amount*
23 *due for this election shall be the interest rate applicable to the*
24 *canceled installment payments.*

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AMENDED IN ASSEMBLY MAY 28, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2253

Introduced by Assembly Member Coto

(Principal coauthors: Assembly Members Jeffries and Solorio)

(Coauthors: Assembly Members Bill Berryhill, Tom Berryhill, Blumenfield, Chesbro, Cook, Fletcher, Fuentes, Hagman, Lieu, Mendoza, Nava, Portantino, Salas, and Villines)

(Coauthors: Senators Corbett, DeSaulnier, and Price)

February 18, 2010

An act to amend Section 3212.1 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2253, as amended, Coto. Workers' compensation: cancer presumption.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires an employer to provide, or pay for all reasonable costs of, medical services necessary to care for or relieve work-related injuries. Existing law further provides that in the case of active firefighting members of certain state and local fire departments and in the case of certain peace officers, a compensable injury includes cancer that develops or manifests itself during the period when the firefighter or peace officer demonstrates that he or she was exposed, while in the service of the public agency, to a known carcinogen, as defined, and the carcinogen is reasonably linked to the disabling cancer. Existing law establishes a presumption that the cancer

in these cases is presumed to arise out of, and in the course of, employment, unless the presumption is controverted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer.

Existing law extends this presumption to a member following termination of service for a period of 3 calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

This bill would, ~~instead, extend the presumption to a member following termination of service for a period of one year for each full year of the requisite service, but not to provide that the above-described presumption shall be extended to a member following termination of service for a period of 3 calendar months, but not to exceed 180~~ 120 months in any circumstance, commencing with the last date actually worked in the specified capacity.

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

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

- 1 ~~SECTION 1. The Legislature finds and declares all of the~~
- 2 ~~following:~~
- 3 ~~(a) A person's risk of developing a particular cancer is~~
- 4 ~~influenced by a combination of factors, including exposure to~~
- 5 ~~cancer-causing agents in their environment and, in particular, in~~
- 6 ~~their workplace. In many cases, these factors may act together or~~
- 7 ~~in sequence to cause cancer.~~
- 8 ~~(b) In the course of performing their job-related duties,~~
- 9 ~~firefighters and other public safety personnel routinely come into~~
- 10 ~~contact with materials known to cause various types of cancer.~~
- 11 ~~(c) California's existing public safety cancer presumption statute~~
- 12 ~~is extended for a period of three calendar months for each full year~~
- 13 ~~of service that an eligible public safety officer worked, not to~~
- 14 ~~exceed 60 months beyond the cancer-stricken officer's last day of~~
- 15 ~~service.~~
- 16 ~~(d) Since the original public safety cancer presumption statute~~
- 17 ~~was enacted nearly three decades ago, research has revealed that~~
- 18 ~~latency periods for some industrially caused cancers can be 10~~

1 years or as long as 30 years or more. Therefore, cancers diagnosed
2 today are being associated with genetic changes that occurred in
3 the cells due to cancer-causing exposures several years, if not
4 decades, prior to the diagnosis.

5 ~~(e) Other states, including New Hampshire, Rhode Island,~~
6 ~~Vermont, and Wisconsin, recognize the existence of prolonged~~
7 ~~cancer latency periods and have extended safeguards to their~~
8 ~~respective public safety personnel that more appropriately reflect~~
9 ~~these periods.~~

10 ~~(f) Given the complex synergistic effects of multiple compound~~
11 ~~exposures, as well as the rapidly growing introduction of new~~
12 ~~chemicals and industrial compounds into the environment in which~~
13 ~~our state's public safety officers work each day while protecting~~
14 ~~the lives and property of the citizens of this great state, it is most~~
15 ~~appropriate that the public safety cancer presumption statute of~~
16 ~~limitations be extended with a sense of urgency.~~

17 ~~SEC. 2:~~

18 *SECTION 1.* Section 3212.1 of the Labor Code is amended to
19 read:

20 3212.1. (a) This section applies to all of the following:

21 (1) Active firefighting members, whether volunteers, partly
22 paid, or fully paid, of all of the following fire departments:

23 (A) A fire department of a city, county, city and county, district,
24 or other public or municipal corporation or political subdivision.

25 (B) A fire department of the University of California and the
26 California State University.

27 (C) The Department of Forestry and Fire Protection.

28 (D) A county forestry or firefighting department or unit.

29 (2) Active firefighting members of a fire department that serves
30 a United States Department of Defense installation and who are
31 certified by the Department of Defense as meeting its standards
32 for firefighters.

33 (3) Peace officers, as defined in Section 830.1, subdivision (a)
34 of Section 830.2, and subdivisions (a) and (b) of Section 830.37,
35 of the Penal Code, who are primarily engaged in active law
36 enforcement activities.

37 (4) (A) Fire and rescue services coordinators who work for the
38 Office of Emergency Services.

39 (B) For purposes of this paragraph, "fire and rescue services
40 coordinator" means a coordinator with any of the following job

1 classifications: coordinator, senior coordinator, or chief
2 coordinator.

3 (b) The term “injury,” as used in this division, includes cancer,
4 including leukemia, that develops or manifests itself during a period
5 in which any member described in subdivision (a) is in the service
6 of the department or unit, if the member demonstrates that he or
7 she was exposed, while in the service of the department or unit,
8 to a known carcinogen as defined by the International Agency for
9 Research on Cancer, or as defined by the director.

10 (c) The compensation that is awarded for cancer shall include
11 full hospital, surgical, medical treatment, disability indemnity, and
12 death benefits, as provided by this division.

13 (d) The cancer so developing or manifesting itself in these cases
14 shall be presumed to arise out of and in the course of the
15 employment. This presumption is disputable and may be
16 controverted by evidence that the primary site of the cancer has
17 been established and that the carcinogen to which the member has
18 demonstrated exposure is not reasonably linked to the disabling
19 cancer. Unless so controverted, the appeals board is bound to find
20 in accordance with the presumption. This presumption shall be
21 extended to a member following termination of service for a period
22 of ~~one year~~ *three calendar months* for each full year of the requisite
23 service, but not to exceed ~~180~~ *120* months in any circumstance,
24 commencing with the last date actually worked in the specified
25 capacity.

26 (e) The amendments to this section enacted during the 1999
27 portion of the 1999–2000 Regular Session shall be applied to
28 claims for benefits filed or pending on or after January 1, 1997,
29 including, but not limited to, claims for benefits filed on or after
30 that date that have previously been denied, or that are being
31 appealed following denial.

32 (f) This section shall be known, and may be cited, as the William
33 Dallas Jones Cancer Presumption Act of 2010.

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From: sirbpalmer@aol.com

To: stensrudr@saccounty.net; Trent@edelsteingilbert.com; mike@edelsteingilbert.com; jlites@schottlites.com

Cc: Sulema@SLGS.org

Subject: AB 2337... Now Covers '37 Act Systems....

Date: Wed, Apr 28, 2010 11:01 am

Richard..

I see that the latest amendment places the '37 Act systems in with Cal PERS and Cal STRS in what pensions can invest in with regard to "rent-regulated housing"... And if this goes through it would be "the camel's nose"..

Are we under subdivision (h), of Section 17 of Article XVI of the California Constitution:

h) As used in this section, the term "retirement board" shall mean the board of administration, board of trustees, board of directors, or other governing body or board of a public employees' pension or retirement system; provided, however, that the term "retirement board" shall not be interpreted to mean or include a governing body or board created after July 1, 1991 which does not administer pension or retirement benefits, or the elected legislative body of a jurisdiction which employs participants in a public employees' pension or retirement system.

Problems:

- 1) It places SACRS Boards in the role of identifying "predatory investment practices" with regard to investment rentals and taking appropriate action. So when dealing with rentals, where does the trustees acquire the expertise in changing from investment decisions to displacement and slum lord issues? Often times, there are two sides to these stories... So how will trustees get involve and arbitrate a commingled fund?
- 2) The '37 Act systems' trustees do not have the same hold harmless and indemnification language in California law that Cal STRS and Cal PERS trustees already has. Thus, '37 Act will have another legal exposure.
- 3) If this legislation continues to carry the '37 Act, can we get a return guarantee from the state on meeting a benchmark return? That is, for full and aggressive compliance with this law, that the state will cover any short fall in the performance of the fund to the national housing rental benchmark? How about state reimbursement for additional monitoring and legal fees?
- 4) This will increase the costs of investing as trustees will need to retain separate counsel to oversee and advise them on dealing with these issues.
- 5) How about a straight out ban on investing in rental housing properties?... If the have the power to control, they have the power to ban...

Bob



Lina Bernal <lbernal@schottlites.com>

AB 2337

CYNTHIA LAU <CLAU@lacera.com>

Thu, May 27, 2010 at 2:44 PM

To: Chuck Conrad <cconrad@acera.org>, Art Goulet <artgou@aol.com>, Lance Kjeldgaard <lkjeldgaard@bor.sbcounty.gov>, GREGG RADEMACHER <GRADEMACHER@lacera.com>, Julie Wyne <jwyne@ocers.org>, Richard Stensrud <stensrud@sacounty.net>, Lina Bernal <lbernal@schottlites.com>, Jerry Allen <allenj9@schsd.org>, AYeung@segalco.com, "Annette H. St. Urbain" <annettes@sjcera.org>, Bill Pollacek <bpoll@tax.co.contra-costa.ca.us>, Tracy Towner <tracy.towner@ventura.org>, Yves Chery <dpochery@yahoo.com>

Cc: Bob Gaumer <rgaumer@acera.org>, sirbpalmer@aol.com, Mike Robson <mike@edelsteingilbert.com>, Trent Smith <Trent@edelsteingilbert.com>, NICHOLAS DINGER <NDINGER@lacera.com>, jlites@schottlites.com, sulema@slgs.org

Hello,

FYI, our Board of Investments adopted an "Oppose" position on this bill yesterday.

Some issues were: the administrative burden of taking an active role in hearing complaints alleged by tenants, actively auditing real estate practices of all companies we invest in to see if there is a prohibited activity taking place anywhere, requiring in the system's policy principles which are consistent with the UN Principles for Responsible Investment which could change in the future, lost opportunity cost, documenting a choice of non-compliance w/respect to the Constitution...

Cynthia

Cynthia Lau
Legislative Affairs Officer
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>>> "Lina Bernal" <lbernal@schottlites.com> 5/17/2010 11:53 AM >>>

SACRS Legislative Committee Members -

AB 2337 was the measure that we did not have time to discuss last week. The bill will be heard in Assembly Appropriations on the 26th. CalPERS took an opposed unless amended position this morning. We have attached a link to their agenda item analysis of the bill, which includes the amendments they would like to see in the bill. Some of these have been addressed, but not all of them. Please review the bill as soon as possible so that the Legislative Committee may consider a position via email polling. We should be on record prior to the hearing on the 26th; by the end of this week would be ideal.

<http://www.calpers.ca.gov/eip-docs/about/board-cal-agenda/agendas/invest/201005/item06a-00.pdf>

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY MAY 6, 2010

AMENDED IN ASSEMBLY APRIL 22, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2337

Introduced by Assembly Member Ammiano

February 19, 2010

An act to add Section 7513.75 to the Government Code, relating to investments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2337, as amended, Ammiano. Public retirement system: investments: predatory investment practices.

The California Constitution provides that the Legislature may by statute prohibit retirement board investments if it is in the public interest to do so, and providing that the prohibition satisfies specified fiduciary standards.

Existing law prohibits the *boards of the* Public Employees' Retirement System and the State Teachers' Retirement System from investing public employee retirement funds in a company with active business operations in Sudan and Iran, as specified. Existing law also requires *the boards of* these retirement systems to sell or transfer any investments in a company with business operations in Sudan. Existing law requires *the boards of* these retirement systems to submit an annual report to the Legislature regarding any investments in a company with business operations in Sudan and the sale or transfer of those investments. Existing law requires the state to indemnify, from the General Fund, and hold harmless the present, former, and future board members,

officers, and employees of, and investment managers under contract with, these retirement systems by reason of any decision to restrict, reduce, or eliminate investments in Sudan, as specified.

This bill would additionally prohibit the boards of public pension or retirement systems, as defined, from investing public employee retirement funds in a company with business operations engaged in predatory investment practices, as defined, that rely on, or result in, the displacement of persons residing in rent-regulated housing, converting rent-regulated housing units to market rate units, or raising rents above regulated levels as determined by the appropriate governing authority, in order to generate profits to investors and would require the boards to establish a policy in regard to investing in rent-regulated housing, as specified. This bill would make related legislative findings and declarations.

Existing law provides that a statute that imposes a requirement that a state agency submit a periodic report to the Legislature is inoperative on a date 4 years after the date the first report is due.

This bill would, notwithstanding that requirement, require these boards to report *annually* to the Legislature regarding implementation and compliance of the above-described provisions and regarding compliance with the provisions of the rent-regulated housing investment policy ~~by January 1, 2012, and by January 1 of every year thereafter.~~ The bill would also require these boards to develop and implement, on or before June 30, 2011, and thereafter maintain, a policy that prohibits the investment of public employee retirement funds in predatory investment practices, as specified.

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

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

- 1 SECTION 1. (a) The Legislature finds and declares that
- 2 investments by public retirement boards in companies that engage
- 3 in predatory investment practices, which rely on, or result in, the
- 4 displacement of persons residing in rent-regulated housing in order
- 5 to generate profits to investors, are not only harmful to the persons
- 6 displaced by these practices but also to the entire community in
- 7 which those persons reside.
- 8 (b) The Legislature further finds and declares that it is in the
- 9 public's interest to enact legislation to prohibit the investment of

1 retirement funds in companies engaged in, or investing in
2 companies engaged in, predatory investment practices that result
3 in excessive rent increases imposed upon, or the eviction or
4 displacement of, persons residing in rent-regulated housing.

5 SEC. 2. Section 7513.75 is added to the Government Code, to
6 read:

7 7513.75. (a) As used in this section, the following definitions
8 shall apply:

9 (1) "Board" means the retirement board of a public pension or
10 retirement system, as defined in subdivision (h) of Section 17 of
11 Article XVI of the California Constitution.

12 (2) (A) "Predatory investment practices" means *private real*
13 *estate* investments that rely on, or result in, the displacement of
14 persons residing in rent-regulated housing, converting
15 rent-regulated housing units to market rate units, or raising rents
16 above regulated levels as determined by the appropriate governing
17 authority, in order to generate profits to investors. "Predatory
18 investment practices" shall not include investment in strategies
19 that create new, or redevelop existing, rent-regulated housing units,
20 including strategies that include demolition of existing
21 rent-regulated housing units, provided that the following minimum
22 criteria are met:

23 (i) Any rent-regulated housing units that are demolished as part
24 of the investment or project are replaced with new rent-regulated
25 housing units.

26 (ii) Any person lawfully residing in rent-regulated units who is
27 displaced as a result of such strategies receives relocation benefits
28 in accordance with relocation requirements as mandated by the
29 local housing authority or by state or federal laws, if applicable.

30 ~~(iii) The strategy is undertaken pursuant to an agreement with~~
31 ~~a local government entity.~~

32 (B) "Predatory investment practices" shall not include the
33 exercise of the power of sale granted under Section 2924 of the
34 Civil Code.

35 (C) *For purposes of this paragraph "private real estate*
36 *investments" shall not include real estate investment trusts or*
37 *other similar securities that are publicly traded.*

38 (b) The board shall develop and implement, on or before June
39 30, 2011, and thereafter maintain, a policy that prohibits the
40 investment of public employee retirement funds in predatory

1 investment practices. The policy shall include, but not be limited
2 to, the following requirements:

3 (1) A prohibition on the investment of public employee
4 retirement funds in predatory investment practices.

5 (2) Principles that are consistent with the Principles for
6 Responsible Investment, as set forth by the United Nations, to the
7 extent those principles relate to responsible real property investing.

8 (3) A statement that requires an annual report to the board if a
9 private real estate investment is materially inconsistent with the
10 objectives of the policy, regardless of whether the investment was
11 made prior to or after the effective date of the policy. The report
12 shall describe the investment, including the impacts and anticipated
13 impacts of those investments on tenants living in rent-regulated
14 housing units, as well as any impacts on investment performance.

15 ~~(4) A statement that requires any person or entity seeking~~
16 ~~pension fund investments for a strategy that involves the acquisition~~
17 ~~of occupied, rent-regulated housing (A) to agree in writing that~~
18 ~~the proposed investment strategy complies with this policy and~~
19 ~~does not involve predatory investment practices as defined in~~
20 ~~subparagraph (A) of paragraph (2) of Subdivision (a), and (B) to~~
21 ~~describe the anticipated tenant impacts of the project, if any.~~
22 *investment manager that enters into an investment agreement with*
23 *the board, or its agents, that involves the acquisition of occupied*
24 *rent-regulated housing to agree, in writing, to abide by the board's*
25 *policy on real estate investment strategies impacting rent-regulated*
26 *housing units.*

27 (5) If, after the effective date of ~~this~~ *the* policy, an investment
28 manager makes investments that are materially inconsistent with
29 this section, the ~~pension fund~~ *board* shall not use that manager for
30 any new investments.

31 ~~(6) The pension fund shall adopt a complaint procedure for~~
32 ~~alleged violations of this policy that can be used by tenants~~
33 ~~occupying rent-regulated properties that are acquired with an~~
34 ~~investment from the pension fund.~~

35 ~~(7) The pension fund shall require that any investment partner~~
36 ~~acquiring rent-regulated property notify tenants living in the~~
37 ~~property of the existence of this policy and the complaint procedure~~
38 ~~regarding alleged violations of this policy.~~

39 (c) Notwithstanding Section 10231.5, the board shall provide
40 an annual report regarding implementation and compliance with

1 this section, and any policy adopted pursuant to this section, to the
2 Legislature ~~on or before January 1, 2012, and on or before January~~
3 ~~1 of every year thereafter.~~ Any report filed pursuant to this
4 subdivision shall comply with Section 9795.

5 (d) Nothing in this section shall require the board to take action
6 as described in this section unless the board determines, in good
7 faith, that the action described in this section is consistent with the
8 fiduciary responsibilities of the board as described in Section 17
9 of Article XVI of the California Constitution.

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AMENDED IN SENATE JUNE 7, 2010
AMENDED IN ASSEMBLY APRIL 22, 2010
AMENDED IN ASSEMBLY APRIL 13, 2010
AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2742

Introduced by Assembly Member Blakeslee
(Coauthors: Assembly Members Furutani, Harkey, Ma, and Torrico)

February 19, 2010

An act to add Section 19991.14 to the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2742, as amended, Blakeslee. Public employment: retirement: survivors' benefits.

Existing law authorizes, at the discretion of the appointing power, excluded employees to transfer eligible leave credits to an excluded employee when a catastrophic illness or injury occurs.

This bill would authorize a request to be made of the employer of a retired state employee, as defined, who died from a nonwork-related illness or injury within 12 months of retirement to allow employees to donate leave credits to a leave bank. The donated leave, not to exceed \$50,000, would be cashed out to the person designated to receive the deceased employee's leave balance. The bill would provide that donations would be accepted for 30 days following approval of the request, except as described below.

The bill would apply retroactively to *any employee who retired on or after* December 1, 2009. The bill would require any leave donations for a retired state employee who died on or before December 31, 2010, to be accepted until January 31, 2011.

The bill's provisions would apply to any retired state employee who at the time of retirement was a member of a collective bargaining unit that had bargained for a survivor's benefit that authorizes the donation of leave credits from employees to a leave bank on behalf of an employee on pay status who dies from a nonwork-related illness or injury.

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

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

1 SECTION 1. Section 19991.14 is added to the Government
2 Code, to read:
3 19991.14. (a) If a retired state employee dies from a
4 nonwork-related illness or injury within 12 months of retirement,
5 a request may be made to his or her employer to allow state
6 employees to donate leave credits to a leave bank. This donated
7 leave, not to exceed fifty thousand dollars (\$50,000), shall be
8 cashed out to the person designated to receive the deceased
9 employee's leave balance. Donations shall be accepted for 30 days
10 following approval of the request, except as specified in subdivision
11 (b).
12 (b) This section shall apply retroactively to ~~anyone~~ *any employee*
13 who retired on or after December 1, 2009. Any leave donations
14 for a retired state employee who died on or before December 31,
15 2010, shall be accepted until January 31, 2011.
16 (c) For the purposes of this section, the following definitions
17 shall apply:
18 (1) "Leave" includes annual leave, vacation, holiday, personal
19 leave, or excess leave.
20 (2) "Retired state employee" means any retired state employee
21 who at the time of retirement was a member of a collective
22 bargaining unit that had bargained for a survivor's benefit that
23 authorizes the donation of leave credits from employees to a leave

- 1 bank on behalf of an employee on pay status who dies from a
- 2 nonwork-related illness or injury.

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AMENDED IN ASSEMBLY JUNE 3, 2010

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1007

**Introduced by Senator Hancock
(Coauthors: Senators DeSaulnier, Denham, Liu, and Strickland)**

February 10, 2010

An act to amend Sections 82023, 82024, 82036, 82036.5, 84101, 84200.5, 84215, and 85204 of, to add Section 84200.9 to, and to repeal and add Section 84225 of, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 1007, as amended, Hancock. Political Reform Act of 1974: retirement system boards.

The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and requires candidates for elective office, candidates for elective state office, and committees formed or existing primarily to support or oppose those candidates to file specified reports disclosing contributions and independent expenditures made in connection with the campaigns of those candidates.

Existing law further establishes the Board of Administration of the Public Employees' Retirement System to administer the Public Employees' Retirement System and the Teachers' Retirement Board to administer the State Teachers' Retirement System. Existing law specifies the composition of those boards and requires that designated positions on the boards be filled by election. With limited exception, as specified, candidates for election to those boards are not required to comply with the various reporting requirements imposed by the Political Reform Act of 1974.

This bill would revise the definitions of “elective office” and “elective state office” for purposes of the Political Reform Act of 1974 to include membership on the boards described above and would repeal the provision that exempts from the act candidates for election to those boards, thereby subjecting those candidates, and committees formed or existing primarily to support or oppose those candidates, to the reporting requirements of the act. The bill would further make conforming changes to provisions of the act relating to the reporting of late contributions, the reporting of late independent expenditures, the filing of committee organization statements, and the filing of campaign statements and preelection statements. In addition, the bill would give the Fair Political Practices Commission the authority to adopt regulations to tailor the act’s reporting and disclosure requirements for those candidates and committees consistent with the purposes and provisions of the act.

Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties.

This bill would impose a state-mandated local program by creating additional crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

- 1 SECTION 1. Section 82023 of the Government Code is
- 2 amended to read:
- 3 82023. “Elective office” means any state, regional, county,
- 4 municipal, district or judicial office that is filled at an election.
- 5 “Elective office” also includes membership on a county central
- 6 committee of a qualified political party, and membership through

1 election on the Board of Administration of the Public Employees'
2 Retirement System or the Teachers' Retirement Board.

3 SEC. 2. Section 82024 of the Government Code is amended
4 to read:

5 82024. "Elective state office" means the office of Governor,
6 Lieutenant Governor, Attorney General, Insurance Commissioner,
7 Controller, Secretary of State, Treasurer, Superintendent of Public
8 Instruction, Member of the Legislature, member elected to the
9 Board of Administration of the Public Employees' Retirement
10 System, member elected to the Teachers' Retirement Board, and
11 member of the State Board of Equalization.

12 SEC. 3. Section 82036 of the Government Code is amended
13 to read:

14 82036. "Late contribution" means any of the following:

15 (a) Any contribution, including a loan, that totals in the
16 aggregate one thousand dollars (\$1,000) or more and is made to
17 or received by a candidate, a controlled committee, or a committee
18 formed or existing primarily to support or oppose a candidate or
19 measure before the date of the election at which the candidate or
20 measure is to be voted on but after the closing date of the last
21 campaign statement required to be filed before the election. For
22 purposes of the Board of Administration of the Public Employees'
23 Retirement System and the Teachers' Retirement Board, "the date
24 of the election" is the deadline to return ballots.

25 (b) Any contribution, including a loan, that totals in the
26 aggregate one thousand dollars (\$1,000) or more and is made to
27 or received by a political party committee, as defined in Section
28 85205, before the date of any state election but after the closing
29 date of the last campaign statement required to be filed before the
30 election.

31 SEC. 4. Section 82036.5 of the Government Code is amended
32 to read:

33 82036.5. "Late independent expenditure" means any
34 independent expenditure that totals in the aggregate one thousand
35 dollars (\$1,000) or more and is made for or against any specific
36 candidate or measure involved in an election before the date of
37 the election but after the closing date of the last campaign statement
38 required to be filed prior to the election by a candidate or
39 committee participating in the election. For purposes of the Board
40 of Administration of the Public Employees' Retirement System

1 and the Teachers' Retirement Board, "the date of the election" is
2 the deadline to return ballots.

3 SEC. 5. Section 84101 of the Government Code is amended
4 to read:

5 84101. (a) A committee that is a committee by virtue of
6 subdivision (a) of Section 82013 shall file a statement of
7 organization. The committee shall file the original of the statement
8 of organization with the Secretary of State and shall also file a
9 copy of the statement of organization with the local filing officer,
10 if any, with whom the committee is required to file the originals
11 of its campaign reports pursuant to Section 84215. The original
12 and copy of the statement of organization shall be filed within 10
13 days after the committee has qualified as a committee. The
14 Secretary of State shall assign a number to each committee that
15 files a statement of organization and shall notify the committee of
16 the number. The Secretary of State shall send a copy of statements
17 filed pursuant to this section to the county elections official of each
18 county that he or she deems appropriate. A county elections official
19 who receives a copy of a statement of organization from the
20 Secretary of State pursuant to this section shall send a copy of the
21 statement to the clerk of each city in the county that he or she
22 deems appropriate.

23 (b) In addition to filing the statement of organization as required
24 by subdivision (a), if a committee qualifies as a committee under
25 subdivision (a) of Section 82013 before the date of an election in
26 connection with which the committee is required to file preelection
27 statements, but after the closing date of the last campaign statement
28 required to be filed before the election pursuant to Section 84200.7,
29 84200.8, or 84200.9, the committee shall file, by facsimile
30 transmission, guaranteed overnight delivery, or personal delivery
31 within 24 hours of qualifying as a committee, the information
32 required to be reported in the statement of organization. The
33 information required by this subdivision shall be filed with the
34 filing officer with whom the committee is required to file the
35 originals of its campaign reports pursuant to Section 84215.

36 (c) If an independent expenditure committee qualifies as a
37 committee pursuant to subdivision (a) of Section 82013 during the
38 time period described in Section 82036.5 and makes independent
39 expenditures of one thousand dollars (\$1,000) or more to support
40 or oppose a candidate or candidates for office, the committee shall

1 file, by facsimile transmission, online transmission, guaranteed
2 overnight delivery, or personal delivery within 24 hours of
3 qualifying as a committee, the information required to be reported
4 in the statement of organization. The information required by this
5 section shall be filed with the filing officer with whom the
6 committee is required to file the original of its campaign reports
7 pursuant to Section 84215, and shall be filed at all locations
8 required for the candidate or candidates supported or opposed by
9 the independent expenditures. The filings required by this section
10 are in addition to filings that may be required by Sections 84203.5
11 and 84204.

12 (d) For purposes of this section, in calculating whether one
13 thousand dollars (\$1,000) in contributions has been received,
14 payments for a filing fee or for a statement of qualifications to
15 appear in a sample ballot shall not be included if these payments
16 have been made from the candidate's personal funds.

17 SEC. 6. Section 84200.5 of the Government Code is amended
18 to read:

19 84200.5. In addition to the campaign statements required by
20 Section 84200, elected officers, candidates, and committees shall
21 file preelection statements as follows:

22 (a) During an even-numbered year, all candidates for elective
23 state office being voted upon in the statewide direct primary
24 election or the statewide general election, their controlled
25 committees, and committees primarily formed to support or oppose
26 an elected state officer or a state candidate being voted upon shall
27 file the applicable preelection statements specified in Section
28 84200.7 or 84200.8. All elected state officers who, during the
29 applicable reporting periods covered by Section 84200.7 or
30 84200.8, contribute to any committee required to report receipts,
31 expenditures, or contributions pursuant to this title, or make an
32 independent expenditure, shall file the applicable preelection
33 statements specified in Section 84200.7 or 84200.8. However, a
34 candidate for an office that is not being voted upon in the
35 November election, his or her controlled committee, and any
36 committee primarily formed to support or oppose that candidate
37 is not required to file statements in connection with the November
38 election pursuant to subdivision (b) of Section 84200.7 unless,
39 during the reporting periods covered by Section 84200.7, the
40 candidate, his or her controlled committee, or any committee

1 primarily formed to support or oppose that candidate contributes
2 to any committee required to report receipts, expenditures, or
3 contributions pursuant to this title or makes independent
4 expenditures.

5 (b) During an even-numbered year, all candidates not specified
6 in subdivision (a) who are running for offices being voted upon
7 on the first Tuesday after the first Monday in June or November,
8 their controlled committees, and committees primarily formed to
9 support or oppose those candidates or a measure being voted upon
10 on the first Tuesday after the first Monday in June or November
11 of an even-numbered year shall file the preelection statements
12 specified in subdivision (a) of Section 84200.7 in the case of a
13 June election, or subdivision (b) of Section 84200.7 in the case of
14 a November election.

15 (c) All candidates for offices being voted upon on a date other
16 than the first Tuesday after the first Monday in June or November
17 of an even-numbered year, their controlled committees, and
18 committees primarily formed to support or oppose a candidate or
19 a measure being voted upon on a date other than the first Tuesday
20 after the first Monday in June or November of an even-numbered
21 year shall file the preelection statements specified in Section
22 84200.8.

23 (d) During an election period for the Board of Administration
24 of the Public Employees' Retirement System or the Teachers'
25 Retirement Board, all candidates for these boards, their controlled
26 committees, and committees primarily formed to support or oppose
27 the candidates shall file the preelection statements specified in
28 Section 84200.9.

29 (e) In an even-numbered year in which the statewide direct
30 primary election is held on the first Tuesday after the first Monday
31 in June, a state or county general purpose committee formed
32 pursuant to subdivision (a) of Section 82013, other than a political
33 party committee as defined in Section 85205, shall file the
34 preelection statements specified in Section 84200.7 if it makes
35 contributions or independent expenditures totaling five hundred
36 dollars (\$500) or more during the period covered by the preelection
37 statement. A state or county general purpose committee formed
38 pursuant to subdivision (b) or (c) of Section 82013 is not required
39 to file the statements specified in Section 84200.7.

1 (f) During an even-numbered year in which the statewide direct
2 primary election is held on a date other than the first Tuesday after
3 the first Monday in June, a state or county general purpose
4 committee formed pursuant to subdivision (a) of Section 82013,
5 other than a political party committee as defined in Section 85205,
6 shall file the preelection statements specified in Section 84200.8
7 if it makes contributions or independent expenditures totaling five
8 hundred dollars (\$500) or more during the period covered by the
9 preelection statement. A state or county general purpose committee
10 formed pursuant to subdivision (b) or (c) of Section 82013 is not
11 required to file the statements specified in Section 84200.8.

12 (g) During an election period for the Board of Administration
13 of the Public Employees' Retirement System or the Teachers'
14 Retirement Board, a state or county general purpose committee
15 formed pursuant to subdivision (a) of Section 82013 shall file the
16 preelection statements specified in Section 84200.9 if it makes
17 contributions or independent expenditures totaling five hundred
18 dollars (\$500) or more during the period covered by the preelection
19 statement *to support or oppose a candidate, or a committee*
20 *primarily formed to support or oppose a candidate, on the ballot*
21 *for the Board of Administration of the Public Employees'*
22 *Retirement System or the Teachers' Retirement Board.* A state or
23 county general purpose committee formed pursuant to subdivision
24 (b) or (c) of Section 82013 is not required to file the statements
25 specified in Section 84200.9.

26 (h) A political party committee as defined in Section 85205
27 shall file the applicable preelection statements specified in Section
28 84200.7 or 84200.8 in connection with a state election if the
29 committee receives contributions totaling one thousand dollars
30 (\$1,000) or more, or if it makes contributions or independent
31 expenditures totaling five hundred dollars (\$500) or more, during
32 the period covered by the preelection statement.

33 (i) City general purpose committees shall file statements as
34 follows:

35 (1) City general purpose committees in a city that has an election
36 on the first Tuesday after the first Monday in June or November
37 of an even-numbered year shall file the statements specified in
38 subdivision (a) or (b) of Section 84200.7 for the six-month period
39 in which the city election is held, if they make contributions or

1 independent expenditures totaling five hundred dollars (\$500) or
2 more during the period covered by the preelection statement.

3 (2) City general purpose committees in a city that has an election
4 on a date other than the first Tuesday after the first Monday in
5 June or November of an even-numbered year shall file the
6 preelection statements specified in Section 84200.8 if they make
7 contributions or independent expenditures totaling five hundred
8 dollars (\$500) or more during the period covered by the preelection
9 statement.

10 SEC. 7. Section 84200.9 is added to the Government Code, to
11 read:

12 84200.9. Preelection statements for an election period for the
13 Board of Administration of the Public Employees' Retirement
14 System or the Teachers' Retirement Board shall be filed as follows:

15 (a) For the period ending five days before the beginning of the
16 ballot period, as determined by the relevant board, a statement
17 shall be filed no later than two days before the beginning of the
18 ballot period.

19 (b) For the period ending five days before the deadline to return
20 ballots, as determined by the relevant board, a statement shall be
21 filed no later than two days before the deadline to return ballots.

22 (c) In the case of a runoff election, for the period ending five
23 days before the deadline to return runoff ballots, as determined by
24 the relevant board, a statement shall be filed no later than two days
25 before the deadline to return runoff ballots.

26 (d) All candidates being voted upon, their controlled committees,
27 and committees primarily formed to support or oppose a candidate
28 being voted upon in that election shall file the statements specified
29 in subdivisions (b) and (c) by guaranteed overnight delivery service
30 or by personal delivery.

31 SEC. 8. Section 84215 of the Government Code is amended
32 to read:

33 84215. All candidates and elected officers and their controlled
34 committees, except as provided in subdivisions (e) and (f), shall
35 file one copy of the campaign statements required by Section 84200
36 with the elections official of the county in which the candidate or
37 elected official is domiciled, as defined in subdivision (b) of
38 Section 349 of the Elections Code. In addition, campaign
39 statements shall be filed at the following places:

1 (a) Statewide elected officers and candidates for these offices
2 other than the Board of Equalization, Supreme Court justices, their
3 controlled committees, committees formed or existing primarily
4 to support or oppose these candidates, elected officers, Supreme
5 Court justices, or statewide measures, or the qualification of state
6 ballot measures, and all state general purpose committees and filers
7 not specified in subdivisions (b) to (f), inclusive:

8 (1) The original and one copy with the Secretary of State.

9 (2) One copy with the Registrar-Recorder of Los Angeles
10 County.

11 (3) One copy with the Registrar of Voters of the City and County
12 of San Francisco.

13 (b) Members of the Legislature or Board of Equalization, court
14 of appeal justices, superior court judges, candidates for those
15 offices, their controlled committees, and committees formed or
16 existing primarily to support or oppose these candidates or
17 officeholders:

18 (1) The original and one copy with the Secretary of State.

19 (2) One copy with the elections official of the county with the
20 largest number of registered voters in the districts affected.

21 (c) Elected officers in jurisdictions other than legislative
22 districts, Board of Equalization districts, or appellate court districts
23 that contain parts of two or more counties, candidates for these
24 offices, their controlled committees, and committees formed or
25 existing primarily to support or oppose candidates or local
26 measures to be voted upon in one of these jurisdictions shall file
27 the original and one copy with the elections official of the county
28 with the largest number of registered voters in the jurisdiction.

29 (d) County elected officers, candidates for these offices, their
30 controlled committees, committees formed or existing primarily
31 to support or oppose candidates or local measures to be voted upon
32 in any number of jurisdictions within one county, other than those
33 specified in subdivision (e), and county general purpose committees
34 shall file the original and one copy with the elections official of
35 the county.

36 (e) City elected officers, candidates for city office, their
37 controlled committees, committees formed or existing primarily
38 to support or oppose candidates or local measures to be voted upon
39 in one city, and city general purpose committees shall file the
40 original and one copy with the clerk of the city. These elected

1 officers, candidates, and committees need not file with the elections
2 official of the county in which they are domiciled.

3 (f) Elected members of the Board of Administration of the Public
4 Employees' Retirement System, elected members of the Teachers'
5 Retirement Board, candidates for these offices, their controlled
6 committees, and committees formed or existing primarily to
7 support or oppose these candidates or elected members shall file
8 the original and one copy with the Secretary of State, and a copy
9 shall be filed at the relevant board's office in Sacramento. These
10 elected officers, candidates, and committees need not file with the
11 elections official of the county in which they are domiciled.

12 (g) Notwithstanding any other provision of this section, a
13 committee, candidate, or elected officer is not required to file more
14 than the original and one copy, or one copy, of a campaign
15 statement with any one county elections official or city clerk or
16 with the Secretary of State.

17 (h) If a committee is required to file campaign statements
18 required by Section 84200 or 84200.5 in places designated in
19 subdivisions (a) to (e), inclusive,; it shall continue to file these
20 statements in those places, in addition to any other places required
21 by this title, until the end of the calendar year.

22 SEC. 9. Section 84225 of the Government Code is repealed.

23 SEC. 10. Section 84225 is added to the Government Code, to
24 read:

25 84225. The provisions of this title apply to candidates for
26 election to the Board of Administration of the Public Employees'
27 Retirement System or the Teachers' Retirement Board, and to
28 committees formed or existing primarily to support or oppose those
29 candidates. The Commission may adopt regulations to tailor the
30 reporting and disclosure requirements for these candidates and
31 committees consistent with the purposes and provisions of this
32 title.

33 SEC. 11. Section 85204 of the Government Code is amended
34 to read:

35 85204. "Election cycle," for purposes of Sections 85309 and
36 85500, means the period of time commencing 90 days prior to an
37 election and ending on the date of the election. For purposes of
38 the Board of Administration of the Public Employees' Retirement
39 System and the Teachers' Retirement Board, "the date of the
40 election" is the deadline to return ballots.

1 SEC. 12. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

10 SEC. 13. The Legislature finds and declares that this bill
11 furthers the purposes of the Political Reform Act of 1974 within
12 the meaning of subdivision (a) of Section 81012 of the Government
13 Code.

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