

AMENDED IN ASSEMBLY MARCH 29, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1254

Introduced by Assembly Member Florez

February 23, 2001

An act to amend Sections 20420 and 31470.2 of, and to add Sections 20432.5 ~~and 31469.2~~, 31469.2, 45311, and 53217.6 to, the Government Code, and to amend Section 4850 of, *and to add Section 4850.1 to*, the Labor Code, relating to local prosecutors, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1254, as amended, Florez. Local prosecutors: retirement and disability benefits.

Under existing law, employees of contracting agencies of the Public Employees' Retirement System classified as local safety members and employees of counties and districts classified as safety members under the County Employees Retirement Law of 1937 are entitled to generally higher benefits, and subject to higher contribution rates, than employees classified as miscellaneous or general members. Member contributions to the Public Employees' Retirement System are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would include local prosecutors, as defined, within the local safety member classification under the Public Employees' Retirement System and within the safety member classification under the County Employees Retirement Law of 1937. The bill would authorize those local prosecutors to elect not to become safety members and provide

that prior local prosecutor service shall be deemed safety service, at the employer’s cost, as specified. The bill would make an appropriation by increasing the amount of employee contributions to the Public Employees’ Retirement Fund. *The bill would also require other city and county retirement systems to provide local prosecutors, as defined, with benefits provided to safety members under their respective systems. The bill would declare the Legislature’s intent to recognize the public obligation to provide all local prosecutors in the state with commensurate retirement benefits.*

Under existing law, specified public employees who become disabled by injury or illness arising out of and in the course of their duties, become entitled to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments or a maintenance allowance otherwise payable under the workers’ compensation law.

This bill would extend that entitlement to local prosecutors, as defined.

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

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

- 1 SECTION 1. Section 20420 of the Government Code is
- 2 amended to read:
- 3 20420. “Local safety member” includes all local police
- 4 officers, local sheriffs, local prosecutors, local firefighters, local
- 5 safety officers, county peace officers, and school safety members,
- 6 employed by a contracting agency who have by contract been
- 7 included within this system.
- 8 SEC. 2. Section 20432.5 is added to the Government Code, to
- 9 read:
- 10 20432.5. (a) “Local prosecutor” means city or county
- 11 officers and employees who are primarily engaged in the active
- 12 enforcement of criminal laws within any court operating in a
- 13 county, and who job classification is district attorney, deputy
- 14 district attorney, chief deputy district attorney, senior deputy
- 15 district attorney, assistant district attorney, chief assistant district
- 16 attorney, senior assistant district attorney, city attorney, deputy
- 17 city attorney, chief deputy city attorney, assistant city attorney,
- 18 chief assistant city attorney, or any similar classification or title.



1 (b) Notwithstanding any other provision of this chapter, every
2 local prosecutor shall become a local safety member on the later
3 of January 1, 2002, or the first day of the calendar month following
4 his or her entrance into service, unless he or she files a written
5 election not to become a local safety member prior to July 1, 2002,
6 or within 30 days after his or her first employment in a position
7 described in this section.

8 (c) Section 20890 shall be applicable to prior local
9 miscellaneous service performed by a local prosecutor who
10 becomes a local safety member pursuant to this section. Any
11 unfunded liability resulting from this section shall be paid by the
12 employer.

13 (d) This section shall not apply to any person whose effective
14 date of retirement is prior to January 1, 2002.

15 SEC. 3. Section 31469.2 is added to the Government Code, to
16 read:

17 31469.2. (a) "Local prosecutor" means county or district
18 officers and employees who are primarily engaged in the active
19 enforcement of criminal laws within any court operating in a
20 county, and whose job classification is district attorney, deputy
21 district attorney, chief deputy district attorney, senior deputy
22 district attorney, assistant district attorney, chief assistant district
23 attorney, senior assistant district attorney, city attorney, deputy
24 city attorney, chief deputy city attorney, assistant city attorney,
25 chief assistant city attorney, or any similar classification or title.

26 (b) Notwithstanding any of the provisions of this chapter to the
27 contrary, each person employed as a local prosecutor shall become
28 a safety member on the later of January 1, 2002, or the first day of
29 the calendar month following his or her entrance into service,
30 unless he or she files a written election not to become a safety
31 member before July 1, 2002, or within 30 days after employment
32 in a position described in this section.

33 (c) Notwithstanding any other provision of this chapter,
34 including but not limited to Sections 31639.7 and 31639.75, any
35 person employed as a local prosecutor who becomes a safety
36 member pursuant to this section shall receive credit as a safety
37 member for all of the time during which he or she was employed
38 as a local prosecutor prior to becoming a safety member. Any
39 unfunded liability resulting from this section shall be paid by the
40 employer.



1 (d) This section shall not apply to any person whose effective
2 date of retirement is prior to January 1, 2002.

3 SEC. 4. Section 31470.2 of the Government Code is amended
4 to read:

5 31470.2. (a) All sheriffs, undersheriffs, chief deputies
6 sheriff, jailers, turnkeys, deputies sheriff, bailiffs, constables,
7 deputies constable, motorcycle officers, aircraft pilots, heads and
8 assistant heads of all divisions of the office of the sheriff,
9 detectives and investigators in the office of the district attorney,
10 local prosecutors, marshals, court service officers only in a county
11 of the third class, as defined in Sections 28020 and 28024, and all
12 regularly appointed deputies marshal are eligible.

13 (b) In a county of the eighth class, as defined in Sections 28020
14 and 28029, both as amended by Chapter 1204 of the Statutes of
15 1971, all peace officers in the Park Ranger class series in the
16 Department of Regional Parks, Recreation, and Open Space are
17 eligible. This subdivision shall not be operative until such time as
18 the county board of supervisors shall, by resolution adopted by a
19 majority vote, make this subdivision applicable in the county.

20 SEC. 5. *Section 45311 is added to the Government Code, to*
21 *read:*

22 *45311. (a) It is the intent of the Legislature in enacting this*
23 *section to recognize a public obligation to all those whose duties*
24 *as local prosecutors expose them to more than ordinary risks in*
25 *their contribution to an effective statewide criminal justice system*
26 *and to ensure that those who serve as local prosecutors and who*
27 *become incapacitated in the performance of their duties or by age*
28 *may be replaced by more capable employees and shall receive*
29 *pension benefits commensurate with those received by local*
30 *prosecutors in other jurisdictions within the state.*

31 *(b) The ordinance shall provide that the employees of the city*
32 *or city and county whose duties meet the requirements of a “local*
33 *prosecutor,” as defined in Section 20432.5 or 31469.2, shall be*
34 *accorded those pension benefits accorded to safety members under*
35 *the city’s or city and county’s retirement system.*

36 SEC. 6. *Section 53217.6 is added to the Government Code, to*
37 *read:*

38 *53217.6. (a) It is the intent of the Legislature in enacting this*
39 *section to recognize a public obligation to all those whose duties*
40 *as local prosecutors expose them to more than ordinary risks in*



1 *their contribution to an effective statewide criminal justice system*
2 *and to ensure that those who serve as local prosecutors and who*
3 *become incapacitated in the performance of their duties or by age*
4 *may be replaced by more capable employees and shall receive*
5 *pension benefits commensurate with those received by local*
6 *prosecutors in other jurisdictions within the state.*

7 *(b) Notwithstanding any other provision of law, the pension*
8 *trust benefits of any employee of any city, including a charter city,*
9 *county, including a charter county, or city and county whose duties*
10 *meet the requirements of a “local prosecutor,” as defined in*
11 *Section 20432.5 or 31469.2, shall be those pension trust benefits*
12 *received by safety employees of that public agency.*

13 SEC. 7. Section 4850 of the Labor Code is amended to read:

14 4850. (a) Whenever any person listed in subdivision (b) who
15 is a member of the Public Employees’ Retirement System or the
16 Los Angeles City Employees’ Retirement System or subject to the
17 County Employees Retirement Law of 1937 (Chapter 3
18 (commencing with Section 31450) of Part 3 of Division 4 of Title
19 3 of the Government Code), is disabled, whether temporarily or
20 permanently, by injury or illness arising out of and in the course
21 of his or her duties, he or she shall become entitled, regardless of
22 his or her period of service with the city, county, or district, to a
23 leave of absence while so disabled without loss of salary in lieu of
24 temporary disability payments or maintenance allowance
25 payments under Section 139.5, if any, that would be payable under
26 this chapter, for the period of the disability, but not exceeding one
27 year, or until that earlier date as he or she is retired on permanent
28 disability pension, and is actually receiving disability pension
29 payments, or advanced disability pension payments pursuant to
30 Section 4850.3.

31 (b) The persons eligible under subdivision (a) include all of the
32 following:

- 33 (1) City police officers.
- 34 (2) City, county, or district firefighters.
- 35 (3) Sheriffs.
- 36 (4) Officers or employees of any sheriff’s offices.
- 37 (5) Inspectors, investigators, detectives, or personnel with
38 comparable titles in any district attorney’s office.
- 39 (6) County probation officers, group counselors, or juvenile
40 services officers.



1 (7) Officers or employees of a probation office.

2 (8) Peace officers under Section 830.31 of the Penal Code
3 employed on a regular, full-time basis by a county of the first class.

4 (9) Lifeguards employed year round on a regular, full-time
5 basis by a county of the first class.

6 (10) Airport law enforcement officers under subdivision (d) of
7 Section 830.33 of the Penal Code.

8 (11) Harbor or port police officers, wardens, or special officers
9 of a harbor or port district or city or county harbor department
10 under subdivision (a) of Section 830.1 or subdivision (b) of
11 Section 830.33 of the Penal Code.

12 (12) Police officers of the Los Angeles Unified School District.

13 (13) Local prosecutors as defined in Section ~~20432.5~~ or
14 ~~31469.2~~ of the Government Code. 4850.1.

15 (c) This section shall apply only to persons listed in subdivision
16 (b) who meet the requirements of subdivision (a) and does not
17 include any of the following:

18 (1) Employees of a police department whose principal duties
19 are those of a telephone operator, clerk, stenographer, machinist,
20 mechanic, or otherwise, and whose functions do not clearly fall
21 within the scope of active law enforcement service.

22 (2) Employees of a county sheriff’s office whose principal
23 duties are those of a telephone operator, clerk, stenographer,
24 machinist, mechanic, or otherwise, and whose functions do not
25 clearly come within the scope of active law enforcement service.

26 (3) Employees of a county probation office whose principal
27 duties are those of a telephone operator, clerk, stenographer,
28 machinist, mechanic, or otherwise, and whose functions do not
29 clearly come within the scope of active law enforcement service.

30 (4) Employees of a city fire department, county fire
31 department, or fire district whose principal duties are those of a
32 telephone operator, clerk, stenographer, machinist, mechanic, or
33 otherwise, and whose functions do not clearly fall within the scope
34 of active firefighting and prevention service.

35 (d) If the employer is insured, the payments which, except for
36 this section, the insurer would be obligated to make as disability
37 indemnity to the injured, the insurer may pay to the insured.

38 (e) No leave of absence taken pursuant to this section by a peace
39 officer, as defined by Chapter 4.5 (commencing with Section 830)
40 of Title 3 of Part 2 of the Penal Code, shall be deemed to constitute



1 family care and medical leave, as defined in Section 12945.2 of the
2 Government Code, or to reduce the time authorized for family care
3 and medical leave by Section 12945.2 of the Government Code.

4 *SEC. 8. Section 4850.1 is added to the Labor Code, to read:*
5 *4850.1. For purposes of Section 4850, “local prosecutor”*
6 *means:*

7 *(a) A local prosecutor as defined in Section 20432.5 or 31469.2*
8 *of the Government Code.*

9 *(b) An employee of a city, city and county, or county whose*
10 *employer does not offer retirement benefits under the Part 3*
11 *(commencing with Section 20000) of Division 5 of Title 2 of the*
12 *Government Code or Chapter 3 (commencing with Section 31450)*
13 *of Part 3 of Division 4 of Title 3 of the Government Code, but whose*
14 *duties meet the requirements of a “local prosecutor” as defined in*
15 *Section 20432.5 or 31469.2 of the Government Code.*

