

Assembly Bill No. 398

CHAPTER 96

An act to amend Sections 31496.3 and 31621.9 of, and to add Section 31485.10 to, the Government Code, relating to county employees' retirement.

[Approved by Governor July 22, 2003. Filed with
Secretary of State July 22, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 398, Mullin. County employees' retirement: San Mateo County.

The County Employees Retirement Law of 1937 authorizes counties to provide retirement benefits to general members and safety members of a county.

This bill would authorize the Board of Supervisors of San Mateo County, by resolution, ordinance, contract, or contract amendment, to provide retirement benefits for some, but not all, general members or safety members of that county. The bill would specify that the board of supervisors may provide a different formula for calculation of retirement benefits for any subgroup of members within a classification, including bargaining units or unrepresented groups. These provisions would not be operative until adoption by the Board of Supervisors of San Mateo County.

Existing law establishes an alternative retirement plan for San Mateo County known as Retirement Plan 3. Existing law provides that a member who has elected or transferred to Plan 3 and is terminated but is later reemployed will receive credit for service rendered prior to termination, if the reemployment occurs within 2 years of termination.

This bill would eliminate the provision requiring that reemployment occur within 2 years of termination and would also make technical, nonsubstantive changes to that provision.

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

SECTION 1. Section 31485.10 is added to the Government Code, to read:

31485.10. (a) Notwithstanding any other provision of law, in a county of the 10th class, as defined in Sections 28020 and 28031, the board of supervisors may, by resolution, ordinance, contract, or contract



amendment under this chapter, provide any retirement benefits for some, but not all, general members or safety members of a county.

(b) The resolution, ordinance, contract, or contract amendment described in subdivision (a) may provide a different formula for calculation of retirement benefits, by making any section of this chapter applicable to any subgroup of members within a membership classification, including, but not limited to, bargaining units, or unrepresented groups, applicable to service credit earned on and after the date specified in the resolution, which date may be earlier than the date the resolution is adopted.

(c) A resolution adopted pursuant to this section may require members to pay all or part of the contributions by a member or employer, or both, that would have been required if the section or sections specified in subdivision (b), as adopted by the board or governing body, had been in effect during the period of time designated in the resolution. The payment by a member shall become part of the accumulated contributions of the member. For those members who are represented by a bargaining unit, the payment requirement shall be approved in a memorandum of understanding executed by the board of supervisors and the employee representatives.

(d) This section shall only apply to members who retire on or after the effective date of the resolution described in subdivision (a) or (b).

(e) This section shall not become operative unless and until the county board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county.

SEC. 2. Section 31496.3 of the Government Code is amended to read:

31496.3. Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) "Board" means the board of retirement.

(b) "Employer" means the county or district or agency whose employees are members of the retirement system of the county.

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) "Final compensation" means the average annual compensation earnable by a general member during any three years, whether or not consecutive, elected by the member at or before the time an application for retirement is filed or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final



compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) “Member” or “general member” means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety membership.

(f) “Primary insurance amount” means the monthly retirement benefit payable under the federal system at the age of 65.

(g) “Service” means the period of uninterrupted employment of a member and the time in which a member or former member (1) is totally disabled, and (2) is receiving disability benefits or is eligible to receive disability benefits either during or after any elimination or qualifying period, under a disability plan provided by the employer.

Except as provided, a member may not be credited with service for any period of time in which the member is absent from work without pay.

Unless otherwise provided, service may not include military service or public service other than service with the employer.

Notwithstanding any other provision of this chapter, a member who has elected or transferred to the plan created by this article and who terminates for any reason and is later reemployed shall receive Plan 3 credit for his or her service rendered prior to termination.

SEC. 3. Section 31621.9 of the Government Code is amended to read:

31621.9. In counties adopting Section 31676.14, the normal rates of contribution, except for members covered by Article 6.8 (commencing with Section 31639), shall be that which will provide an average annuity at age 55 equal to $\frac{1}{120}$ of the final compensation of members not covered by Article 6.8 (commencing with Section 31639), according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

This section may be made applicable in counties on the first day of the month after the board of supervisors of the county adopts, by majority vote, a resolution adopting this section.

This section shall apply only to a county of the 10th or 20th class, as provided by Sections 28020, 28031, and 28041.

