Senate Bill No. 1123

CHAPTER 371

An act to add Section 7507.2 to, and to repeal and add Section 7507 of, the Government Code, relating to public employee benefits.

[Approved by Governor September 27, 2008. Filed with Secretary of State September 27, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1123, Wiggins. Public employee benefits.

(1) Existing law requires a state or local retirement system to secure, not less than triennially, the services of an enrolled actuary, who is to perform a valuation of the system. Existing law requires the Legislature and local legislative bodies to secure the services of an enrolled actuary to provide a statement of the actuarial impact upon future annual costs before authorizing increases in public retirement plan benefits. Existing law requires the future annual costs of the public retirement plan benefits, as determined by the actuary, to be made public at a public meeting at least 2 weeks prior to the adoption of any increases in the benefits.

This bill would revise and recast provisions regarding the services of an enrolled actuary and the disclosure of public retirement plan benefits, as described above. The bill would redefine the qualifications of actuaries for these purposes. The bill would include other postretirement benefits, with specified exceptions, within the subject matter of the actuary's statement that is provided before the Legislature or a local legislative body may authorize an increase in benefits. The bill would require the future annual costs of other postemployment benefits to be made public, as specified, and would require local legislative bodies to have an actuary present to provide information at the meeting where the adoption of a new benefit will be considered, subject to certain exceptions. The bill would prohibit the adoption of any benefit to which its provisions apply by means of a consent calendar. The bill would require, upon the adoption of any benefit change to which its provisions apply, that the person with the responsibilities of a chief executive officer acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary, and would specify that the Director of the Department of Personnel Administration perform this function for the adoption of benefit changes by the state. By increasing the duties of local entities, this bill would impose a state-mandated local program. The bill would except from these provisions a school district or a county office of education and specify that these entities remain subject to other regulations.

The bill would also create the California Actuarial Advisory Panel, which would be required to provide impartial and independent information on pensions, other postemployment benefits, and best practices to public agencies. The bill would specify various responsibilities of the panel, including defining actuarial model policies and best practices for public retirement plan benefits and postemployment benefits, developing pricing and disclosure standards for California public sector benefit improvements, and developing quality control standards for California public sector actuaries. The panel would consist of 8 actuaries who would be appointed by specified entities and parties and who would serve terms of 3 years, except as specified. The bill would provide that the panel be located in the Controller's office, which would be required to provide support staff to the panel. The bill would provide that the opinions of the panel are nonbinding and advisory only and would prohibit the opinions of the panel from being used as the basis of litigation. The bill would require that a member of the panel receive reimbursement for expenses, to be paid by the authority that appointed the member. The bill would require the panel to report to the Legislature on or before February 1 of each year.

(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. The Legislature finds and declares the following:

(a) The Public Employee Post-Employment Benefits Commission was jointly formed by the Governor and the Legislature to determine how best to fund postemployment benefits for the employees and retirees of California's state and local governments.

(b) The Public Employee Post-Employment Benefits Commission concluded that the best way to ensure that these benefits are delivered as promised is to prefund them.

(c) The Public Employee Post-Employment Benefits Commission further concluded that in order to gain and maintain public support for these benefits, the benefits should be adopted in well-noticed public hearings, with their costs clearly and publicly reported annually, and any fraud or abuse addressed directly.

SEC. 2. Section 7507 of the Government Code is repealed.

SEC. 3. Section 7507 is added to the Government Code, to read:

7507. (a) For the purpose of this section:

(1) "Actuary" means an actuary who is an associate or fellow of the Society of Actuaries.

(2) "Future annual costs" includes, but is not limited to, annual dollar changes, or the total dollar changes involved when available, as well as normal cost and any change in accrued liability.

(b) (1) Except as provided in paragraph (2), the Legislature and local legislative bodies, including community college district governing boards, when considering changes in retirement benefits or other postemployment benefits, shall secure the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal cost and any additional accrued liability, before authorizing changes in public retirement plan benefits or other postemployment benefits.

(2) The requirements of this subdivision do not apply to:

(A) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(B) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(c) (1) (A) With regard to local legislative bodies, including community college district governing boards, the future costs of changes in retirement benefits or other postemployment benefits, as determined by the actuary, shall be made public at a public meeting at least two weeks prior to the adoption of any changes in public retirement plan benefits or other postemployment benefits. If the future costs of the changes exceed one-half of 1 percent of the future annual costs, as defined in paragraph (2) of subdivision (a), of the existing benefits for the legislative body, an actuary shall be present to provide information as needed at the public meeting at which the adoption of a benefit change shall be considered. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(B) The requirements of this paragraph do not apply to:

(i) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(ii) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(2) With regard to the Legislature, the future costs as determined by the actuary shall be made public at the policy and fiscal committee hearings to consider the adoption of any changes in public retirement plan benefits or other postemployment benefits. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(d) Upon the adoption of any benefit change to which this section applies, the person with the responsibilities of a chief executive officer in an entity providing the benefit, however that person is denominated, shall acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary. For the adoption of benefit changes by the state, this person shall be the director of the Department of Personnel Administration.

(e) The requirements of this section do not apply to a school district or a county office of education, which shall instead comply with requirements regarding public notice of, and future cost determination for, benefit changes that have been enacted to regulate these entities. These requirements include, but are not limited to, those enacted by Chapter 1213 of the Statutes of 1991 and by Chapter 52 of the Statutes of 2004.

SEC. 4. Section 7507.2 is added to the Government Code, to read:

7507.2. (a) There is hereby enacted the California Actuarial Advisory Panel. The panel shall provide impartial and independent information on pensions, other postemployment benefits, and best practices to public agencies and shall meet quarterly.

(b) The responsibilities of the California Actuarial Advisory Panel shall include, but are not limited to:

(1) Defining the range of actuarial model policies and best practices for public retirement plan benefits, including pensions and other postemployment benefits.

(2) Developing pricing and disclosure standards for California public sector benefit improvements.

(3) Developing quality control standards for California public sector actuaries.

(4) Gathering model funding policies and practices.

(5) Replying to policy questions from public retirement systems in California.

(6) Providing comment upon request by public agencies.

(c) The California Actuarial Advisory Panel shall consist of eight members. Each member shall be an actuary, as defined in Section 7507, with public sector clients. Members shall be appointed by the entities listed below, and each member shall serve a three-year term, provided that, in the initial appointments only, the panelists named by the University of California, the Senate, and one of the panelists named by the Governor shall serve two-year terms. The Governor shall appoint two panelists, and one panelist shall be appointed by each of the following:

(1) The Teachers' Retirement Board.

(2) The Board of Administration of the Public Employees' Retirement System.

(3) The State Association of County Retirement Systems.

(4) The Board of Regents of the University of California.

(5) The Speaker of the Assembly.

(6) The Senate Committee on Rules.

(d) The California Actuarial Advisory Panel shall be located in the Controller's office, which shall provide support staff to the panel.

(e) The opinions of the California Actuarial Advisory Panel are nonbinding and advisory only. The opinions of the panel shall not, in any case, be used as the basis for litigation.

(f) A member of the California Actuarial Advisory Panel shall receive reimbursement for expenses that shall be paid by the authority that appointed the member.

(g) The California Actuarial Advisory Panel shall report to the Legislature on or before February 1 of each year.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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