

AMENDED IN SENATE AUGUST 23, 2010

AMENDED IN SENATE AUGUST 17, 2010

AMENDED IN SENATE AUGUST 2, 2010

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 and Torrico)

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.

(1) 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 *who retires on or after January 1, 2012*, 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.

(2) 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:

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

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

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

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

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

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

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

24 (4) Retirement systems must employ sound principles that
25 provide consistent treatment of compensation earnable throughout
26 a member's career and consistent treatment of compensation among
27 all classes of employees.

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

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

37 (d) The Legislature further finds and declares that the procedures
38 contained in this act provide the appropriate method for resolving
39 the inequitable application of compensation rules, and therefore,

1 provide for the consistent administration of state and local
2 retirement systems that is in the public's best interest.

3 *(e) The Legislature finds and declares that the amendments*
4 *made to the County Employees' Retirement Law of 1937 by this*
5 *act are intended to achieve the following reforms:*

6 *(1) To give the retirement boards the authority and the*
7 *responsibility to audit and deny compensation items that are*
8 *identified as being paid for the principal purpose of enhancing a*
9 *member's retirement benefit.*

10 *(2) To require each retirement system to establish accountability*
11 *provisions for participating employers that include an ongoing*
12 *audit process and allow the retirement system to assess penalties*
13 *on employers for noncompliance.*

14 *(3) To prohibit final settlement pay and multiyear accruals of*
15 *vacation time, annual leave, personal leave, or sick leave from*
16 *being included in retirement calculations.*

17 *(4) To eliminate the practice of double-dipping by prohibiting*
18 *a retiree from returning to work as a retired annuitant or as a*
19 *contract employee until at least 180 days have elapsed since that*
20 *person's retirement.*

21 *(5) To prevent items of compensation that are not consistent*
22 *with the court decisions in Ventura County Deputy Sheriffs' Assn.*
23 *v. Board of Retirement (1997) 16 Cal.4th 483 and In re Retirement*
24 *Cases (2003) 110 Cal.App.4th 426 from being included as*
25 *compensation for retirement purposes.*

26 SEC. 2. Section 7500.5 is added to the Government Code, to
27 read:

28 7500.5. (a) In order to safeguard the integrity and soundness
29 of public retirement systems, ensure prompt delivery of benefits
30 and related services to the participants and their beneficiaries, and
31 minimize employer expenses, state and local public retirement
32 systems shall administer retirement benefits in accordance with
33 the principles articulated in this section. Nothing in this section
34 shall be construed to limit the Legislature's authority to adopt more
35 restrictive benefit provisions applicable to a state or local public
36 retirement system.

37 (b) The board of each state and local public retirement system
38 shall establish, by statute or regulation, accountability provisions
39 that shall include an audit process to ensure compliance with the
40 principles articulated in the provisions of this section. The

1 accountability provisions shall be enforceable by the imposition
2 of monetary penalties or fees, including, but not limited to,
3 untimely or inaccurate submissions of any information that the
4 board may require in the administration of the system.

5 (c) Any payrate, salary, special compensation, or other
6 remuneration determined by the board of a state or local public
7 retirement system to have been paid for the principal purpose of
8 enhancing a member's retirement benefits under that system shall
9 not be included in compensation earnable. Where the board of a
10 state or local public retirement system determines that payrate,
11 salary, special compensation, or other remuneration was paid for
12 the principal purpose of enhancing a member's benefit, the member
13 or the employer may present evidence to the contrary. Upon receipt
14 of sufficient evidence to the contrary, a board may reverse its
15 determination that payrate, salary, special compensation, or other
16 remuneration was paid for the principal purpose of enhancing a
17 member's retirement benefits.

18 (d) Cash conversions of accrued employee benefits in amounts
19 that exceed the amount that is both earned and payable to the
20 member during the member's applicable final compensation
21 measurement period shall not be credited to, or included in,
22 compensation earnable by any state or local public retirement
23 system.

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

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

35 (g) Any increase in compensation earnable for an employee
36 who is not in a group or class shall not exceed, during the final
37 compensation period as well as two years immediately preceding
38 the final compensation period, the average increase in
39 compensation earnable during the same period for all similarly

1 situated members in the closest related group or class of that same
2 employer.

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

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

11 (2) "Payrate" or "salary" means the normal rate of pay or base
12 pay of the member paid in cash and pursuant to publicly available
13 pay schedules to similarly situated members of the same group or
14 class for services rendered on a full-time basis during normal
15 working hours.

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

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

24 (5) "Compensation earnable" includes payrate, salary, special
25 compensation, or other remuneration, or any combination of the
26 foregoing, of the member.

27 SEC. 3. Section 31460 of the Government Code is amended
28 to read:

29 31460. (a) "Compensation" means the remuneration paid out
30 of funds controlled by the county or district in payment for the
31 member's services performed during normal working hours or for
32 time during which the member is excused from work because of
33 any of the following:

34 (1) Sick leave.

35 (2) Service connected disability leave, during which benefits
36 are payable pursuant to Section 4850 of the Labor Code.

37 (3) Vacation.

38 (4) Compensatory time off.

39 (5) Leave of absence.

1 (b) When compensation is reported to the board, the county or
2 district shall identify the pay period in which the compensation
3 was earned regardless of when reported or paid. Compensation
4 shall be reported in accordance with Section 31461 and shall not
5 exceed compensation earnable, as defined in Section 31461.

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

8 (d) The board may assess a reasonable amount to cover the cost
9 of audit, adjustment, or correction, where it determines that a
10 county or district knowingly failed to comply with subdivision
11 (b). A county or district will be found to have knowingly failed to
12 comply with subdivision (b) if the board determines that the
13 employer either:

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

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

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

20 SEC. 4. Section 31460.2 is added to the Government Code, to
21 read:

22 31460.2. "Labor policy or agreement" means any written
23 policy, agreement, memorandum of understanding, legislative
24 action of the board of supervisors or the district board, or any other
25 document used by the county or district to specify the payrate,
26 special compensation, and benefits of represented and
27 unrepresented employees.

28 SEC. 5. Section 31461 of the Government Code is amended
29 to read:

30 31461. (a) "Compensation earnable" by a member means the
31 payrate and special compensation of the member, as defined by
32 subdivisions (b) and (c).

33 (b) (1) "Payrate" or "salary" means the normal rate of pay or
34 base pay of the member paid in cash to similarly situated members
35 of the same group or class of employment for services rendered
36 on a full-time basis during normal working hours. "Payrate" or
37 "salary" for a member who is not in a group or class means the
38 rate of pay or base pay of the member, paid in cash and pursuant
39 to publicly available pay schedules, for services rendered on a

1 full-time basis during normal working hours. “Payrate” or “salary”
2 includes:

3 (A) Any amount deducted from a member’s salary for any of
4 the following:

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

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

10 (iii) Payment into a money purchase pension plan and trust that
11 meets the requirements of Section 401(a) of the Internal Revenue
12 Code.

13 (iv) Participation in a flexible benefits program.

14 (B) Member contributions that meet the requirements of Section
15 414(h)(2) of the Internal Revenue Code.

16 (C) Any disability or workers’ compensation payments to safety
17 members in accordance with Section 4850 of the Labor Code.

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

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

24 (c) (1) “Special compensation” of a member includes any
25 payment received for special skills, knowledge, abilities, work
26 assignment, workdays or hours, or other work conditions.

27 (2) “Special compensation” shall be limited to that cash
28 remuneration in addition to payrate received by a member pursuant
29 to a labor policy or agreement or as otherwise required by state or
30 federal law to similarly situated members of a group or class of
31 employment. If an individual is not part of a group or class, “special
32 compensation” shall be limited to that cash remuneration, in
33 addition to payrate, that the board determines is received by
34 similarly situated members in the closest related group or class,
35 subject to the limitations of paragraph (2) of subdivision (e).

36 (3) “Special compensation” shall be for services rendered during
37 normal working hours and, when reported to the board, the county
38 or district shall identify the pay period in which the special
39 compensation was earned and shall report special compensation
40 separately from payrate.

1 (4) The monetary value of any service or noncash advantage
2 furnished by the employer to the member, except as expressly and
3 specifically provided in this chapter, shall not be “special
4 compensation.”

5 (5) (A) The board shall promulgate regulations that delineate
6 more specifically what shall be excluded from “special
7 compensation” as used in this section. ~~A~~

8 (B) A Uniform allowance, the monetary value of
9 employer-provided uniforms, holiday pay, and premium pay for
10 hours worked within the normally scheduled or regular working
11 hours that are in excess of the statutory maximum workweek or
12 work period applicable to the employee under the Fair Labor
13 Standards Act (29 U.S.C. Sec. 201 et seq.) ~~and those shall be~~
14 ~~included as “special compensation.”~~

15 (C) *Those items of remuneration that were previously identified*
16 *by the board and that are consistent with Ventura County Deputy*
17 *Sheriffs’ Assn. v. Board of Retirement (1997) 16 Cal.4th 483 and*
18 *In re Retirement Cases (2003) 110 Cal.App.4th 426 and any*
19 ~~settlement agreements thereto~~, shall be included as “special
20 compensation.”

21 (D) *Those items of remuneration that were previously identified*
22 *by the board, pursuant to a settlement agreement, that are*
23 *consistent with Ventura County Deputy Sheriffs’ Assn. v. Board*
24 *of Retirement (1997) 16 Cal.4th 483 and In re Retirement Cases*
25 *(2003) 110 Cal.App.4th 426 shall be included as “special*
26 *compensation.”*

27 ~~(B)~~

28 (E) This paragraph shall not be construed to prevent a county
29 or district and a recognized bargaining unit from agreeing, pursuant
30 to a memorandum of understanding made under the
31 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
32 3500) of Division 4 of Title 1), to eliminate, as “special
33 compensation” those items of remuneration, as previously
34 identified by the board, *that were* consistent with Ventura County
35 Deputy Sheriffs’ Assn. v. Board of Retirement (1997) 16 Cal.4th
36 483 and In re Retirement Cases (2003) 110 Cal.App.4th 426 and
37 any settlement agreements thereto.

38 (6) “Special compensation” does not include any of the
39 following:

40 (A) Final settlement pay.

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

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

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

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

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

17 (2) Increases in compensation earnable granted to any employee
18 who is not in a group or class shall be limited during the final
19 compensation period applicable to the employee, as well as the
20 two years immediately preceding the final compensation period,
21 to the average increase in compensation earnable during the same
22 period reported by the employer for all similarly situated members
23 in the closest related group or class who are in the same
24 membership classification.

25 (f) (1) As used in this part, “final settlement pay” means any
26 pay or cash conversions of employee benefits that are in excess of
27 compensation earnable, that are granted or awarded to a member
28 in connection with a separation from employment. The board shall
29 promulgate regulations to the extent necessary to delineate more
30 specifically what constitutes final settlement pay consistent with
31 the decision of the court in *Ventura County Deputy Sheriffs’ Assn.*
32 *v. Board of Retirement* (1997) 16 Cal.4th 483 and *In re Retirement*
33 *Cases* (2003) 110 Cal.App.4th 426, and any settlement agreements
34 ~~thereto~~ *consistent with these decisions.*

35 (2) This subdivision shall not be construed to prevent a county
36 or district and a recognized bargaining unit from agreeing, pursuant
37 to a memorandum of understanding made under the
38 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
39 3500) of Division 4 of Title 1), to further eliminate, as “special
40 compensation” those items of final settlement pay, as previously

1 delineated by the board, *that were* consistent with the decisions in
2 Ventura County Deputy Sheriffs' Assn. v. Board of Retirement
3 (1997) 16 Cal.4th 483 and In re Retirement Cases (2003) 110
4 Cal.App.4th 426 and any settlement agreements thereto.

5 (g) Nothing in this section shall be construed to require a county
6 or district to include as compensation earnable any remuneration,
7 whether payrate or special compensation, that the county or district
8 did not include prior to January 1, 2011.

9 SEC. 6. Section 31461.8 is added to the Government Code, to
10 read:

11 31461.8. (a) Consistent with Section 31461.6, if the
12 compensation of a member is a factor in any computation to be
13 made under this chapter, there shall be excluded from those
14 computations any compensation based on overtime put in by a
15 member whose service retirement allowance is a fixed percentage
16 of final compensation for each year of credited service. For the
17 purposes of this chapter, overtime is the aggregate service
18 performed by an employee as a member in all categories of
19 employment in excess of the hours of work considered normal for
20 employees on a full-time basis, and for which monetary
21 compensation is paid.

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

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

29 SEC. 8. Section 31539 is added to the Government Code, to
30 read:

31 31539. (a) The obligations of the retirement system to its
32 members continue throughout their respective memberships, and
33 the obligations of the retirement system to and in respect to retired
34 members continue throughout the lives of the respective retired
35 members, and thereafter until all obligations to their respective
36 beneficiaries under optional settlements have been discharged.
37 The obligations of the county or district to the retirement system
38 in respect to members employed by them, respectively, continue
39 throughout the memberships of the respective members, and the
40 obligations of the county or district to the retirement system in

1 respect to retired members formerly employed by them,
2 respectively, continue until all of the obligations of the retirement
3 system in respect to those retired members, respectively, have been
4 discharged. The obligations of any member to the retirement system
5 continue throughout his or her membership, and thereafter until
6 all of the obligations of the retirement system to or in respect to
7 him or her have been discharged.

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

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

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

16 (c) Notwithstanding subdivision (b), in cases in which payment
17 is erroneous because of the death of the retired member or
18 beneficiary or because of the remarriage of the beneficiary, the
19 period of limitation shall be 10 years and that period shall
20 commence with the discovery of the erroneous payment.

21 (d) Notwithstanding subdivision (b), where any payment has
22 been made as a result of fraudulent reports for compensation made,
23 or caused to be made, by a member for his or her own benefit or
24 the member causing his or her final compensation to be improperly
25 increased or otherwise overstated at the time of retirement, the
26 period of limitation shall be 10 years and that period shall
27 commence either from the date of payment or upon discovery of
28 the fraudulent reporting, whichever date is later.

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

33 SEC. 9. Section 31539.5 is added to the Government Code, to
34 read:

35 31539.5. (a) Subject to subdivisions (c) and (d), the board
36 may, in its discretion and upon any terms it deems just, correct the
37 errors or omissions of any active or retired member, or any
38 beneficiary of an active or retired member, if all of the following
39 facts exist:

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

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

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

12 Failure by a member or beneficiary to make the inquiry that
13 would be made by a reasonable person in like or similar
14 circumstances does not constitute an “error or omission”
15 correctable under this section.

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

19 (c) The duty and power of the board to correct mistakes, as
20 provided in this section, shall terminate upon the expiration of
21 obligations of this system to the party seeking correction of the
22 error or omission, as those obligations are defined by Section
23 31539.

24 (d) The party seeking correction of an error or omission pursuant
25 to this section has the burden of presenting documentation or other
26 evidence to the board establishing the right to correction pursuant
27 to subdivisions (a) and (b).

28 (e) Corrections of errors or omissions pursuant to this section
29 shall be such that the status, rights, and obligations of all parties
30 described in subdivisions (a) and (b) are adjusted to be the same
31 that they would have been if the act that would have been taken,
32 but for the error or omission, was taken at the proper time.
33 However, notwithstanding any of the other provisions of this
34 section, corrections made pursuant to this section shall adjust the
35 status, rights, and obligations of all parties described in
36 subdivisions (a) and (b) as of the time that the correction actually
37 takes place if the board finds any of the following:

38 (1) That the correction cannot be performed in a retroactive
39 manner.

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

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

8 SEC. 10. Section 31540 is added to the Government Code, to
9 read:

10 31540. (a) Each county or district, and the chief administrative
11 officer of the county or district, or any other person who its
12 governing body may designate shall report to the Retirement Board
13 in writing, in a manner prescribed by the board, within 30 days of
14 any of the following events:

15 (1) A new pay item is created.

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

19 (3) A change in status of any member resulting from transfer,
20 promotion, leave of absence, resignation, reinstatement, dismissal,
21 or death.

22 (4) Any other change that may impact the payrate or special
23 compensation of any member resulting from an agreement pursuant
24 to a memorandum of understanding between a county or district
25 and any of its recognized employee organizations, or a resolution
26 adopted by its board of supervisors with respect to nonrepresented
27 employees.

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

32 (b) Upon notification pursuant to subdivision (a), the board shall
33 determine, within 90 days, whether the pay item is included in
34 compensation as defined in Section 31460 and compensation
35 earnable as defined in Section 31461. Any determination by the
36 board regarding an item of compensation may be appealed within
37 30 days by the county, district, or member.

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

1 SEC. 11. Section 31541 is added to the Government Code, to
2 read:

3 31541. The board, during the course of an audit, may require
4 a county or district to provide information or make available for
5 examination or copying at a specified time and place, or both,
6 books, papers, any data, or records, including, but not limited to,
7 personnel and payroll records, as deemed necessary by the board
8 to determine the correctness of retirement benefits, reportable
9 compensation, and enrollment in and reinstatement to this system.

10 SEC. 12. Section 31569 is added to the Government Code, to
11 read:

12 31569. Any county or district that fails to enroll an employee
13 into membership when he or she becomes eligible, or within 90
14 days thereof, when the employer knows or can reasonably be
15 expected to have known of that eligibility shall be required to pay
16 all arrears costs for member contributions and administrative costs
17 of five hundred dollars (\$500) per member as a reimbursement to
18 the system's current year budget.

19 SEC. 13. Section 31680.10 is added to the Government Code,
20 to read:

21 31680.10. (a) Except as provided in Section 31680.1, any
22 person, who has been retired for service on or after January 1,
23 ~~2011~~, 2012, as a member of a county retirement system established
24 under this chapter, may not be reemployed in any capacity either
25 as an employee, an independent contractor, or an employee of a
26 third party without reinstatement by a district or county operating
27 a county retirement system established under this chapter unless
28 at least 180 days have elapsed since the person's date of retirement.

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

32 (c) Any retired member employed in violation of this article
33 shall:

34 (1) Reimburse the retirement system for any retirement
35 allowance received during the period or periods of employment
36 that are in violation of law.

37 (2) Contribute toward the reimbursement of the retirement
38 system for administrative expenses incurred in responding to a
39 violation of this article, to the extent the member is determined by
40 the executive officer to be at fault.

(d) Any county or district that employs a retired member in violation of this article shall contribute toward the reimbursement of the retirement system for administrative expenses incurred in responding to a violation of this article, to the extent the county or district is determined by the executive officer of this system to be at fault.

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

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

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

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

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

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

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

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

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

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

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

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

50871.7. (a) A retirement board established pursuant to this chapter may adopt regulations regarding the employment of retirees

1 who were members of a retirement system established pursuant
2 to this chapter.

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

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

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

11 SEC. 18. (a) Except as otherwise specifically provided, the
12 provisions of this act regarding the determination of a person's
13 final compensation shall become operative on July 1, 2011.

14 (b) It is the intent of the Legislature that the provisions of this
15 act shall not be interpreted or applied to reduce the pension of any
16 person who has retired prior to July 1, 2011.

17 SEC. 19. This bill shall become operative only if Senate Bill
18 1425 of the 2009–10 Regular Session is enacted and takes effect
19 on or before January 1, 2011.