

AMENDED IN SENATE JUNE 23, 2011

AMENDED IN ASSEMBLY MAY 9, 2011

AMENDED IN ASSEMBLY APRIL 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 89

Introduced by Assembly Member Hill

January 6, 2011

An act to amend Section 31485.10 of, and to add Section 7503.5 to, the Government Code, relating to retirement and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 89, as amended, Hill. Retirement: public employees.

~~The Public Employees' Retirement Law creates the Public Employees' Retirement System, which provides a defined benefit to its members based on age at retirement, service credit, and final compensation, as defined. The State Teachers' Retirement Law 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.~~

(1) Existing law establishes the Public Employees' Retirement System and the State Teachers' Retirement System for the purpose of providing pension benefits to their members. Existing law also establishes the Judges' Retirement System II which provides pension benefits to elected judges and the Legislators' Retirement System which provides pension benefits to elective officers of the state other than judges and to legislative statutory officers. The County Employees Retirement Law of 1937 authorizes counties, and districts to establish retirement systems

pursuant to its provisions in order to provide pension benefits to employees.

This bill would specify that, in addition to any other benefit limitations prescribed by law, for the purposes of determining a retirement benefit paid to a person who first becomes a member of a public retirement system on or after January 1, 2012, to the extent that the benefits payable under the system are subject to the compensation limits prescribed by a specified provision of the Internal Revenue Code, the maximum salary, compensation, or payrate taken into account under the plan for any year shall not exceed the amount permitted to be taken into account under that provision of federal law. The bill would also prohibit a public employer from making contributions to any qualified public retirement plan based on any portion of compensation that exceeds the amount specified in that federal provision.

(2) The County Employees Retirement Law of 1937 authorizes the Board of Supervisors of the County of San Mateo to provide any retirement benefits for some, but not all, general members or safety members of a county. The law authorizes a resolution adopted pursuant to these provisions to require members to pay all or part of the contributions by a member or employer, or both, that would have been required if specified provisions relating to the calculation of retirement benefits, as adopted by the board or governing body, had been in effect during the period of time designated in the resolution.

This bill would authorize a resolution adopted pursuant to the provisions described above to require safety members hired on and after the effective date of this measure to pay all or part of the contributions by a member or employer, or both. The bill would require in this instance that payment by a safety member would become part of the accumulated contributions of the safety member. The bill would require, for those safety members who are represented by a bargaining unit, that the payment requirement be approved in a memorandum of understanding executed by the board of supervisors and the employee representatives.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. 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 7503.5 is added to the Government Code,
2 to read:

3 7503.5. (a) In addition to any other benefit limitations
4 prescribed by law, for the purposes of determining a retirement
5 benefit paid to a person who first becomes a member of a public
6 retirement system on or after January 1, 2012, to the extent the
7 benefits payable under the system are subject to the compensation
8 limits prescribed by Section 401(a)(17) of Title 26 of the United
9 States Code, the maximum salary, compensation, or payrate taken
10 into account under the plan for any year shall not exceed the
11 amount permitted to be taken ~~into~~ into account under Section
12 401(a)(17) of Title 26 of the United States Code, or its successor.

13 (b) A public employer shall not make employer contributions
14 to any qualified public retirement plan or plans on behalf of an
15 employee who first becomes a member of the retirement system
16 on or after January 1, 2012, based on that portion of the amount
17 of total compensation that exceeds the amount specified in Section
18 401(a)(17) of Title 26 of the United States Code, or its successor.

19 *SEC. 2. Section 31485.10 of the Government Code is amended*
20 *to read:*

21 31485.10. (a) Notwithstanding any other provision of law, in
22 a county of the 10th class, as defined in Sections 28020 and 28031,
23 the board of supervisors may, by resolution, ordinance, contract,
24 or contract amendment under this chapter, provide any retirement
25 benefits for some, but not all, general members or safety members
26 of a county.

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

35 (c) A resolution adopted pursuant to this section may require
36 members to pay all or part of the contributions by a member or
37 employer, or both, that would have been required if the section or
38 sections specified in subdivision (b), as adopted by the board or

1 governing body, had been in effect during the period of time
 2 designated in the resolution. The payment by a member shall
 3 become part of the accumulated contributions of the member. For
 4 those members who are represented by a bargaining unit, the
 5 payment requirement shall be approved in a memorandum of
 6 understanding executed by the board of supervisors and the
 7 employee representatives.

8 *(d) A resolution adopted pursuant to this section may require*
 9 *safety members hired on and after the effective date of the act*
 10 *adding this subdivision to pay all or part of the contributions by*
 11 *a member or employer, or both. The payment by a safety member*
 12 *shall become part of the accumulated contributions of the safety*
 13 *member. For those safety members who are represented by a*
 14 *bargaining unit, the payment requirement shall be approved in a*
 15 *memorandum of understanding executed by the board of*
 16 *supervisors and the employee representatives.*

17 ~~(d)~~

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

21 ~~(e)~~

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

25 *SEC. 3. This act is an urgency statute necessary for the*
 26 *immediate preservation of the public peace, health, or safety within*
 27 *the meaning of Article IV of the Constitution and shall go into*
 28 *immediate effect. The facts constituting the necessity are:*

29 *In order to implement the terms of a negotiated memorandum*
 30 *of understanding, it is necessary that this act take effect*
 31 *immediately.*