

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE AUGUST 22, 2011

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,~~ of the Government Code, relating to *county employees'* retirement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 89, as amended, Hill. ~~Retirement: public employees. County employees' retirement.~~

~~(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 counties and districts to establish retirement systems pursuant to its provisions in order to provide pension benefits to employees. 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 specify, for those safety members who are represented by a bargaining unit, that the payment requirement and any changes to it ~~are not~~ *would not be* effective until 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: $\frac{2}{3}$. Appropriation: no. Fiscal committee: *yes-no*.
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 account under Section 401(a)(17)~~
12 ~~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.~~

20 ~~SECTION 1.~~ Section 31485.10 of the Government Code is
21 amended to read:

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

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

36 ~~(c) A resolution adopted pursuant to this section may require~~
37 ~~members to pay all or part of the contributions by a member or~~
38 ~~employer, or both, that would have been required if the section or~~

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

9 (d) A resolution adopted pursuant to this section may require
 10 safety members hired on and after the effective date of the act
 11 adding this subdivision to pay all or part of the contributions by a
 12 member or employer, or both. The payment by a safety member
 13 shall become part of the accumulated contributions of the safety
 14 member. For those safety members who are represented by a
 15 bargaining unit, the payment requirement and any changes to the
 16 payment requirement shall not be effective until approved in a
 17 memorandum of understanding executed by the board of
 18 supervisors and the employee representatives.

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

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.~~

26 *SEC. 2.* This act is an urgency statute necessary for the
 27 immediate preservation of the public peace, health, or safety within
 28 the meaning of Article IV of the Constitution and shall go into
 29 immediate effect. The facts constituting the necessity are:

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