

ASSEMBLY BILL

No. 769

Introduced by Assembly Member Hueso

February 17, 2011

An act to add Sections 22119.8 and 22605 to the Education Code, and to amend Sections 20305 and 20320 of, and to add Sections 11142, 20308, and 20890.4 to, the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 769, as introduced, Hueso. Public employment: benefits.

Existing law authorizes the creation of retirement systems for public employees by counties, cities, and districts. Existing law creates the Public Employees' Retirement System (PERS) and the State Teachers Retirement System (STRS), which provide a defined benefit to their members based on age at retirement, service credit, and final compensation. Existing law establishes the criteria for membership in the various public employee retirement systems and may exclude certain employment classifications from membership. Existing law excludes board members of the State Compensation Insurance Fund from membership in PERS. Existing law also provides optional membership in PERS to people who are appointed by the Governor, Attorney General, Controller, Secretary of State, Treasurer, or Superintendent of Public Instruction who are exempt from civil service, as specified.

This bill would prohibit a person who is appointed to any state board or commission, on and after January 1, 2012, from becoming a member of PERS or STRS by virtue of that service and from acquiring any retirement right or benefit for serving on that board or commission. That provision would not apply to a person who obtained membership

by virtue of being appointed to a state board or commission prior to January 1, 2012, for so long as he or she holds that position or shall be reappointed to that position. The bill would also prohibit a person appointed to any state board or commission on and after January 1, 2012, from earning service credit for any services performed on that state board or commission. The bill would make related conforming changes.

The California Constitution requires the California Citizens Compensation Commission to establish the annual salary and the medical, dental, insurance, and other similar benefits of state officers.

This bill would prohibit the maximum compensation level for a member of a state board or commission from exceeding 100% of the salary recommended by the California Citizens Compensation Commission to be paid to a Member of the Legislature in the State of California who is not receiving any additional compensation due to holding a leadership position in the Legislature.

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. Section 22119.8 is added to the Education Code,
- 2 to read:
- 3 22119.8. Notwithstanding any other law, “creditable service”
- 4 does not include service by a person described in Section 22605
- 5 performed on that state board or commission.
- 6 SEC. 2. Section 22605 is added to the Education Code, to read:
- 7 22605. (a) Notwithstanding any other law, a person who is
- 8 appointed to any state board or commission, on and after January
- 9 1, 2012, shall not become a member of the system by virtue of that
- 10 service and shall not acquire any retirement right or benefit for
- 11 serving on that board or commission.
- 12 (b) This section shall not apply to a person who obtained
- 13 membership by virtue of being appointed to a state board or
- 14 commission prior to January 1, 2012, for so long as he or she holds
- 15 that position or is reappointed to that position.
- 16 SEC. 3. Section 11142 is added to the Government Code, to
- 17 read:
- 18 11142. Notwithstanding any other law, the maximum
- 19 compensation level for an appointed member of a state board or

1 commission shall not exceed 100 percent of the salary
2 recommended by the California Citizens Compensation
3 Commission to be paid to a Member of the Legislature in the State
4 of California who is not receiving any additional compensation
5 due to holding a leadership position in the Legislature.

6 SEC. 4. Section 20305 of the Government Code is amended
7 to read:

8 20305. (a) An employee whose appointment or employment
9 contract does not fix a term of full-time, continuous employment
10 in excess of six months is excluded from this system unless:

11 (1) He or she is a member at the time he or she renders that
12 service and is not otherwise excluded pursuant to this article or by
13 a provision of a contract.

14 (2) His or her position requires regular, part-time service for
15 one year or longer for at least an average of 20 hours a week, or
16 requires service that is equivalent to at least an average of 20 hours
17 a week for one year or longer, unless he or she elects membership
18 pursuant to Section 20325.

19 (3) His or her employment is, in the opinion of the board, on a
20 seasonal, limited-term, on-call, emergency, intermittent, substitute,
21 or other irregular basis, and is compensated and meets one of the
22 following conditions:

23 (A) The appointment or employment contract does not fix a
24 term of full-time, continuous employment in excess of six months,
25 but full-time employment continues for longer than six months,
26 in which case membership shall be effective not later than the first
27 day of the first pay period of the seventh month of employment.

28 (B) The person completes 125 days, if employed on a per diem
29 basis or, if employed on other than a per diem basis, completes
30 1,000 hours within the fiscal year, in which case, membership shall
31 be effective not later than the first day of the first pay period of
32 the month following the month in which 125 days or 1,000 hours
33 of service were completed. For purposes of this subdivision, "day"
34 means each eight-hour period of employment worked by an
35 employee paid on a per diem basis so that membership is effective
36 after he or she has completed 1,000 hours of compensated service
37 in a fiscal year.

38 (C) The person is employed by the Department of Forestry and
39 Fire Protection in one of the positions that provide state safety

1 membership pursuant to Section 20400 or state peace
2 officer/firefighter membership pursuant to Section 20392.

3 (4) He or she is a temporary faculty member of the California
4 State University and meets one of the following conditions:

5 (A) He or she works two consecutive semesters or three
6 consecutive quarters at half-time or more, and is not otherwise
7 excluded pursuant to this article, in which case, membership shall
8 be effective with the start of the next consecutive semester or
9 quarter if the appointment requires service of half-time or more.

10 (B) He or she works two consecutive semesters or three
11 consecutive quarters at a minimum teaching load of six weighted
12 units, and is not otherwise excluded pursuant to this article, in
13 which case membership shall be effective at the start of the next
14 consecutive semester or quarter, but not earlier than July 1, 2004,
15 if the appointment requires service of six weighted units or more.
16 This subparagraph does not apply to faculty members unless
17 provided for in a memorandum of understanding agreed upon, on
18 or after January 1, 2003, pursuant to Chapter 12 (commencing
19 with Section 3560) of Division 4 of Title 1, or authorized by the
20 Trustees of the California State University for employees excluded
21 from collective bargaining.

22 (5) ~~He~~ *On or before January 1, 2012, he* or she is a member of
23 the Board of Prison Terms, the State Personnel Board, or the State
24 Air Resources Board and elects to become a member pursuant to
25 Section 20320.

26 (6) He or she is participating in partial service retirement,
27 pursuant to Article 1.7 (commencing with Section 19996.30) of
28 Chapter 7 of Part 2.6.

29 (7) He or she is included by specific provision of the board
30 relating to the exclusion of less than full-time employees.

31 (b) This section shall supersede any contract provision excluding
32 persons in any temporary or seasonal employment basis and shall
33 apply only to persons entering employment on and after January
34 1, 1975. Except as provided in Section 20502, no contract or
35 contract amendment entered into after January 1, 1981, shall
36 contain any provision excluding persons on an irregular
37 employment basis.

38 SEC. 5. Section 20308 is added to the Government Code, to
39 read:

1 20308. (a) Notwithstanding any other law, a person who is
2 appointed to any state board or commission, on and after January
3 1, 2012, shall not become a member of the system by virtue of that
4 service and shall not acquire any retirement right or benefit for
5 serving on that board or commission.

6 (b) This section shall not apply to a person who obtained
7 membership by virtue of being appointed to a state board or
8 commission prior to January 1, 2012, for so long as he or she holds
9 that position or shall be reappointed to that position.

10 SEC. 6. Section 20320 of the Government Code is amended
11 to read:

12 20320. (a) A person directly appointed by the Governor,
13 without the nomination of any officer or board, or directly
14 appointed by the Attorney General, Lieutenant Governor,
15 Controller, Secretary of State, Treasurer, or Superintendent of
16 Public Instruction *who is* exempt from civil service under Article
17 VII of the California Constitution, except those appointed pursuant
18 to subdivision (i) of Section 4 thereof, is excluded from
19 membership in this system unless he or she files with the board
20 an election in writing to become a member.

21 (b) Upon electing to become a member, the person may further
22 elect at any time prior to retirement to receive service credit for
23 his or her prior, excluded state service by making the contributions
24 as specified in Sections 21050 and 21051.

25 (c) *This section shall not apply to a person who is appointed to*
26 *a state board or commission on or after January 1, 2012.*

27 SEC. 7. Section 20890.4 is added to the Government Code, to
28 read:

29 20890.4. Notwithstanding any other law, a person described
30 in Section 20308 shall not be credited with service by virtue of
31 serving on that state board or commission.