

AMENDED IN ASSEMBLY APRIL 30, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1874

Introduced by Assembly Member Mansoor

February 22, 2012

An act to amend Sections 9355.4, 9355.41, 9355.45, ~~20320~~, and 20322 of, and to add Sections ~~20027.2 and 20286~~ 20027.2, 20286, and 20302 to, the Government Code, relating to ~~the Legislators' Retirement System~~ *public employees' retirement*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1874, as amended, Mansoor. ~~Legislators' Retirement System.~~ *Public employees' retirement: constitutional officers.*

The Legislators' Retirement Law (LRL) provides pension benefits based in part upon credited service. The LRL also authorizes the Insurance Commissioner and every legislative statutory officer and every elective officer of the state whose office is provided for by the California Constitution, except judges, to become a member of the Legislators' Retirement System (LRS).

This bill would prohibit anyone who first becomes, on or after January 1, 2013, the Insurance Commissioner, a legislative statutory officer, or an elective officer of the state whose office is provided for by the California Constitution from becoming a member of the LRS.

Existing law *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. Existing law provides optional membership in the Public Employees' Retirement System (PERS) to elective officers, as defined, as well as to specified*

appointed persons exempt from civil service by the California Constitution.

~~This bill would instead make membership in PERS compulsory for prohibit a person who first becomes, on or after January 1, 2013, the Governor, Lieutenant Governor, Insurance Commissioner, Secretary of State, Controller, Treasurer, Superintendent of Public Instruction, Attorney General, or any member of the Board of Equalization from becoming a member of PERS. The bill would also permit any officer of the Senate or Assembly who is elected by vote of the members of either or both of the houses of the Legislature on or after January 1, 2013, to opt to become a member of PERS. The bill would also prohibit those specified appointed persons who are first appointed on or after January 1, 2013, from becoming members of PERS.~~

The bill would also make related technical changes.

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 9355.4 of the Government Code is
2 amended to read:

3 9355.4. (a) Every elective officer of the state whose office is
4 provided for by the California Constitution, except judges, may
5 become a member of this system. Except for judges, every elective
6 officer in office at the time this section becomes effective may,
7 within 90 days after the effective date, file with the board a written
8 election to become a member of this system. Except for judges,
9 every elective officer elected after the effective date of this section
10 may file an election within 90 days after the commencement of
11 the first term of office for which he or she is elected. Upon the
12 filing of the election he or she becomes a member of this system
13 on the first day of the month following the filing of the election.

14 (b) This section shall not apply to any person who first becomes
15 an elective officer of the state on or after January 1, 2013.

16 SEC. 2. Section 9355.41 of the Government Code is amended
17 to read:

18 9355.41. (a) The Insurance Commissioner may become a
19 member of this system as provided in this section. An Insurance
20 Commissioner who is elected after January 1, 1994, may file an
21 election within 90 days after the commencement of the term of

1 office for which he or she is elected. Upon the filing of the election
2 he or she becomes a member of this system on the first day of the
3 month following the filing of the election.

4 (b) This section shall not apply to any person who first becomes
5 the Insurance Commissioner on or after January 1, 2013.

6 SEC. 3. Section 9355.45 of the Government Code is amended
7 to read:

8 9355.45. (a) Every legislative statutory officer may become
9 a member of this system. Every such officer in office at the time
10 this section becomes effective may, within 90 days after the
11 effective date, file with the board a written election to become a
12 member of this system. Every such officer, elected after the
13 effective date of this section, may file an election within 90 days
14 after the commencement of the first term of office for which he
15 or she is elected after attaining status as a legislative statutory
16 officer. Upon the filing of the election he or she becomes a member
17 of this system on the first day of the month following the filing of
18 the election.

19 (b) This section shall not apply to any person who first becomes
20 a legislative statutory officer on or after January 1, 2013.

21 SEC. 4. Section 20027.2 is added to the Government Code, to
22 read:

23 20027.2. "Elective officer" includes any officer of the Senate
24 or Assembly who is elected by vote of the members of either or
25 both of the houses of the Legislature, and any appointive officer
26 of a city or county occupying a fixed term of office, as well as
27 officers of the state or contracting agencies elected by the people,
28 and persons elected to a city council or a county board of
29 supervisors.

30 SEC. 5. Section 20286 is added to the Government Code, to
31 read:

32 20286. (a) An elective officer *who is* first elected on or after
33 January 1, 2013, ~~shall be~~ *may opt to become* a member of the
34 system.

35 (b) For the purposes of this section, "elective officer" ~~includes~~
36 *means* any officer of the Senate or Assembly who is elected by
37 vote of the members of either or both of the houses of the
38 Legislature.

39 SEC. 6. Section 20302 is added to the Government Code, to
40 read:

1 20302. *Notwithstanding any other law, on or after January 1,*
2 *2013, a person who first becomes the Governor, Lieutenant*
3 *Governor, Insurance Commissioner, Secretary of State, Controller,*
4 *Treasurer, Superintendent of Public Instruction, Attorney General,*
5 *or any member of the Board of Equalization shall not become a*
6 *member of the system by virtue of that service and shall not acquire*
7 *any retirement right or benefit for serving in that office.*

8 ~~SEC. 6. Section 20320 of the Government Code is amended~~
9 ~~to read:~~

10 ~~20320. (a) (1) A person directly appointed by the Governor,~~
11 ~~without the nomination of any officer or board, or directly~~
12 ~~appointed by the Attorney General, Lieutenant Governor,~~
13 ~~Controller, Secretary of State, Treasurer, or Superintendent of~~
14 ~~Public Instruction exempt from civil service under Article VII of~~
15 ~~the California Constitution, except those appointed pursuant to~~
16 ~~subdivision (i) of Section 4 thereof, is excluded from membership~~
17 ~~in this system unless he or she files with the board an election in~~
18 ~~writing to become a member.~~

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

23 ~~(b) A person who is, on or after January 1, 2013, directly~~
24 ~~appointed by the Governor, without the nomination of any officer~~
25 ~~or board, or directly appointed by the Attorney General, Lieutenant~~
26 ~~Governor, Controller, Secretary of State, Treasurer, or~~
27 ~~Superintendent of Public Instruction and who is exempt from civil~~
28 ~~service under Article VII of the California Constitution, except~~
29 ~~those appointed pursuant to subdivision (i) of Section 4 thereof,~~
30 ~~is excluded from membership in this system.~~

31 ~~SEC. 7. Section 20322 of the Government Code is amended~~
32 ~~to read:~~

33 ~~20322. (a) An elective officer is excluded from membership~~
34 ~~in this system unless the officer files with the board an election in~~
35 ~~writing to become a member. Upon electing to become a member,~~
36 ~~the officer may further elect at any time prior to retirement to~~
37 ~~receive service credit for his or her prior, excluded service by~~
38 ~~making the contributions as specified in Sections 21050 and 21051.~~

39 ~~(b) As used in this section, "elective officer" includes any officer~~
40 ~~of the Senate or Assembly who is elected by vote of the members~~

1 of either or both of the houses of the Legislature before January
2 1, 2013, and any appointive officer of a city or county occupying
3 a fixed term of office, as well as officers of the state or contracting
4 agencies elected by the people, and persons elected to a city council
5 or a county board of supervisors.

6 (c) Notwithstanding any other provision of subdivision (a) or
7 (b), elected or appointed officers of a county superintendent of
8 schools, school district, or community college district, or of a
9 contracting agency, who serve on public commissions, boards,
10 councils, or similar legislative or administrative bodies are
11 excluded from membership in this system. This exclusion shall
12 only apply to those elected or appointed officers, other than city
13 or county officers, who are first elected or appointed to an office
14 on or after July 1, 1994, or who are elected or appointed to a term
15 of office not consecutive with the term of office held on June 30,
16 1994. For city or county elected or appointed officers, this
17 exclusion shall only apply to those officers who are first elected
18 or appointed to an office on or after January 1, 1997, or who are
19 elected or appointed to a term of office not consecutive with the
20 term of office held on December 31, 1996. This exclusion shall
21 not apply to persons elected to a city council or county board of
22 supervisors.

23 (d) Any person holding the office of city attorney or the office
24 of assistant city attorney, whether employed, appointed, or elected,
25 is excluded from the definition of “elective officer” as defined in
26 subdivision (b). This subdivision shall apply only to persons first
27 employed, elected, or appointed on or after July 1, 1994, or
28 following any break in state service while serving in the office if
29 the office was held on June 30, 1994.

30 (e) In accordance with Section 20125, the board shall be the
31 sole judge of which elected or appointed positions qualify the
32 incumbent as an “elective officer” in this system under this section.

33 (f) Notwithstanding any other provision of law, with respect to
34 elective officers of contracting agencies, payment by a contracting
35 agency of employer contributions and any other amounts for
36 employer paid benefits under this system shall not be construed
37 as receipt of salary or compensation by the elective officer for
38 purposes of any statutory salary or compensation limitation.

- 1 (g) An elective officer first elected on or after January 1, 2013,
- 2 shall be a member of the system as provided in Section 20286.

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