

ASSEMBLY BILL

No. 2429

Introduced by Assembly Member Hagman

February 24, 2012

An act to add Sections 22119.6 and 22603 to the Education Code, and to amend Sections 20322, 22807, 31553, and 31641 of, and to add Sections 7514.51, 20302, 20890.5, 22926, 31553.5, 31641.5, 45310.2, 50805.5, and 53060.1 to, the Government Code, relating to public employee benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 2429, as introduced, Hagman. Public employee benefits: local appointed and elected officials.

Existing law authorizes the creation of retirement systems for public employees by counties, cities, and districts. Existing law creates the Public Employees' Retirement System and the State Teachers' Retirement System, 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. The California Constitution provides for the division of the state into counties and requires that a county have an elected sheriff, elected district attorney, elected assessor, and elected governing body. Existing law provides for the incorporation of cities in various forms and requires that certain city offices be filled pursuant to elections, as prescribed. Existing law provides for the creation of districts, the governing bodies of which may be elected.

This bill would prohibit a person who is appointed or publicly elected to a local office of any kind that is less than full time, as defined, on

and after January 1, 2013, from becoming a member of a retirement system by virtue of that service or acquiring any retirement right or benefit for serving in that elective office. The bill would except from this prohibition a person who obtained membership by virtue of holding an appointive or elective local public office prior to January 1, 2013, and remains in that office or is reappointed or reelected to it.

The Public Employees’ Medical and Hospital Care Act (PEMHCA) provides that an employee or annuitant is eligible to enroll in an approved health benefit plan, as specified. PEMHCA authorizes a contracting agency, as specified, to elect to become subject to the act, along with the agency’s employees and annuitants. PEMHCA authorizes a contracting agency to provide benefits to part-time permanent or regular employees who have an appointment of 6 months or longer.

The bill would prohibit a contracting agency to provide any benefits under PEMHCA to any person who is first appointed or publicly elected to a local office of any kind that is not full time, on and after January 1, 2013.

The bill would also prohibit the legislative body of a public or municipal corporation or district from providing specified benefits to a person who is first appointed or publicly elected to a local office of any kind that is not full time, on and after January 1, 2013, including retirement benefits, health insurance, allowances for a car or home office, and professional or other membership dues.

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 22119.6 is added to the Education Code,
- 2 to read:
- 3 22119.6. Notwithstanding any other law, “creditable service”
- 4 does not include service by a person described in Section 22603
- 5 performed in an elective or appointive local office.
- 6 SEC. 2. Section 22603 is added to the Education Code, to read:
- 7 22603. (a) Notwithstanding any other law, a person who is
- 8 appointed or publicly elected to a local office of any kind that is
- 9 less than full time, on and after January 1, 2013, shall not become
- 10 a member of a retirement system established under this chapter by
- 11 virtue of that service and shall not acquire any retirement right or
- 12 benefit for serving in that elective office. For purposes of this

1 section, “full time” means the elected or appointed official is
2 required to provide service to the state government, local
3 government, or special district for a minimum of five days and 40
4 hours a week, exclusive of holidays, or otherwise requires the
5 elected or appointed official to devote his or her entire time and
6 attention to the duties of the office and prohibits any outside
7 employment that would interfere with those duties. Designation
8 of an elective or appointive office as full time shall be enacted by
9 law.

10 (b) This section shall not apply to a person who obtained
11 membership by virtue of holding an elective or appointive local
12 public office prior to January 1, 2013, for so long as he or she
13 holds that office or is reelected or reappointed to that office.

14 SEC. 3. Section 7514.51 is added to the Government Code, to
15 read:

16 7514.51. (a) Notwithstanding any other law and except as
17 required or permitted by the California Constitution, a person who
18 is appointed or publicly elected to a local office of any kind that
19 is not full time, on and after January 1, 2013, shall not become a
20 member of any retirement system by virtue of that service and
21 shall not acquire any retirement right or benefit for serving in that
22 elective office. For purposes of this section, “full time” means the
23 elected or appointed official is required to provide service to the
24 state government, local government, or special district for a
25 minimum of five days and 40 hours a week, exclusive of holidays,
26 or otherwise requires the elected or appointed official to devote
27 his or her entire time and attention to the duties of the office and
28 prohibits any outside employment that would interfere with those
29 duties. Designation of an elective or appointive office as full time
30 shall be enacted by law.

31 (b) This section shall not apply to a person who obtained
32 membership by virtue of holding an elective or appointive local
33 public office prior to January 1, 2013, for so long as he or she
34 holds that office or is reelected or reappointed to that office.

35 SEC. 4. Section 20302 is added to the Government Code, to
36 read:

37 20302. (a) Notwithstanding any other law, a person who is
38 appointed or publicly elected to a local office of any kind that is
39 not full time, on and after January 1, 2013, shall not become a
40 member of the system by virtue of that service and shall not acquire

1 any retirement right or benefit for serving in that elective office.
2 For purposes of this section, “full time” means the elected or
3 appointed official is required to provide service to the state
4 government, local government, or special district for a minimum
5 of five days and 40 hours a week, exclusive of holidays, or
6 otherwise requires the elected or appointed official to devote his
7 or her entire time and attention to the duties of the office and
8 prohibits any outside employment that would interfere with those
9 duties. Designation of an elective or appointive office as full time
10 shall be enacted by law.

11 (b) This section shall not apply to a person who obtained
12 membership by virtue of holding an elective or appointive local
13 public office prior to January 1, 2013, for so long as he or she
14 holds that office or is reelected or reappointed to that office.

15 SEC. 5. Section 20322 of the Government Code is amended
16 to read:

17 20322. ~~(a)~~ *Except as otherwise provided in Section 20302:*

18 (a) An elective officer is excluded from membership in this
19 system unless the officer files with the board an election in writing
20 to become a member. Upon electing to become a member, the
21 officer may further elect at any time prior to retirement to receive
22 service credit for his or her prior, excluded service by making the
23 contributions as specified in Sections 21050 and 21051.

24 (b) As used in this part, “elective officer” includes any officer
25 of the Senate or Assembly who is elected by vote of the members
26 of either or both of the houses of the Legislature, and any
27 appointive officer of a city or county occupying a fixed term of
28 office, as well as officers of the state or contracting agencies elected
29 by the people, and persons elected to a city council or a county
30 board of supervisors.

31 (c) Notwithstanding any other provision of subdivision (a) or
32 (b), elected or appointed officers of a county superintendent of
33 schools, school district, or community college district, or of a
34 contracting agency, who serve on public commissions, boards,
35 councils, or similar legislative or administrative bodies are
36 excluded from membership in this system. This exclusion shall
37 only apply to those elected or appointed officers, other than city
38 or county officers, who are first elected or appointed to an office
39 on or after July 1, 1994, or who are elected or appointed to a term
40 of office not consecutive with the term of office held on June 30,

1 1994. For city or county elected or appointed officers, this
2 exclusion shall only apply to those officers who are first elected
3 or appointed to an office on or after January 1, 1997, or who are
4 elected or appointed to a term of office not consecutive with the
5 term of office held on December 31, 1996. This exclusion shall
6 not apply to persons elected to a city council or county board of
7 supervisors.

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

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

18 (f) Notwithstanding any other provision of law, with respect to
19 elective officers of contracting agencies, payment by a contracting
20 agency of employer contributions and any other amounts for
21 employer paid benefits under this system shall not be construed
22 as receipt of salary or compensation by the elective officer for
23 purposes of any statutory salary or compensation limitation.

24 SEC. 6. Section 20890.5 is added to the Government Code, to
25 read:

26 20890.5. Notwithstanding any other law, a person described
27 in Section 20302 shall not be credited with service by virtue of
28 serving in a local elective office.

29 SEC. 7. Section 22807 of the Government Code is amended
30 to read:

31 22807. (a) Notwithstanding subdivision (b) of Section 22772,
32 a contracting agency may, by resolution filed with the board, deem
33 all permanent or regular employees, except members of the State
34 Teachers’ Retirement Plan, who have an appointment of six months
35 or longer but are employed less than half-time, to be employees
36 subject to this part.

37 (b) Notwithstanding subdivision (b) of Section 22772, a
38 contracting agency with employees who are members of the State
39 Teachers’ Retirement Plan may, by resolution filed with the board,
40 deem any of the following to be employees subject to this part:

1 (1) Regular, permanent, probationary, or temporary employees
2 or substitutes who have an appointment for at least a semester, for
3 six months, or for half of the school year, but are employed less
4 than half-time.

5 (2) Substitutes who have an appointment for 100 days or more
6 in the school year.

7 (3) *This section shall not apply to any person who is first*
8 *appointed or publicly elected to a local office of any kind that is*
9 *not full time, on and after January 1, 2013.*

10 SEC. 8. Section 22926 is added to the Government Code, to
11 read:

12 22926. Notwithstanding any other law, a contracting agency
13 shall not offer coverage under this part to any person who is first
14 appointed or publicly elected to a local office of any kind that is
15 not full time, on and after January 1, 2013. For purposes of this
16 section, “full time” means the elected or appointed official is
17 required to provide service to the state government, local
18 government, or special district for a minimum of five days and 40
19 hours a week, exclusive of holidays, or otherwise requires the
20 elected or appointed official to devote his or her entire time and
21 attention to the duties of the office and prohibits any outside
22 employment that would interfere with those duties. Designation
23 of an elective or appointive office as full time shall be enacted by
24 law.

25 SEC. 9. Section 31553 of the Government Code is amended
26 to read:

27 31553. ~~Elective~~ *Except as provided in Section 31553.5, elective*
28 *officers become members of the retirement association on the first*
29 *day of the calendar month following the filing of a declaration*
30 *with the board to become a member, provided, however, that any*
31 *such elective officer may, within 60 days after the expiration of*
32 *the officer’s term of office or within 60 days after the officer ceases*
33 *to hold the office, rescind the declaration and withdraw from the*
34 *retirement association. In such cases, all contributions paid by the*
35 *member shall be refunded in the same manner as applicable to*
36 *members terminating service.*

37 SEC. 10. Section 31553.5 is added to the Government Code,
38 to read:

39 31553.5. (a) Notwithstanding any other law, a person who is
40 appointed or publicly elected to a local office of any kind that is

1 not full time, on and after January 1, 2013, shall not become a
2 member of a retirement system established under this chapter by
3 virtue of that service and shall not acquire any retirement right or
4 benefit for serving in that elective office. For purposes of this
5 section, “full time” means the elected or appointed official is
6 required to provide service to the state government, local
7 government, or special district for a minimum of five days and 40
8 hours a week, exclusive of holidays, or otherwise requires the
9 elected or appointed official to devote his or her entire time and
10 attention to the duties of the office and prohibits any outside
11 employment that would interfere with those duties. Designation
12 of an elective or appointive office as full time shall be enacted by
13 law.

14 (b) This section shall not apply to a person who obtained
15 membership by virtue of holding an elective or appointive local
16 public office prior to January 1, 2013, for so long as he or she
17 holds that office or is reelected or reappointed to that office.

18 SEC. 11. Section 31641 of the Government Code is amended
19 to read:

20 31641. ~~“Service”~~ *Except as provided in Section 31641.5,*
21 *“service”* means uninterrupted employment of any person
22 appointed or elected for that period of time:

23 (a) For which deductions are made from his *or her* earnable
24 compensation from the county or district for ~~such~~ *that* service
25 while he *or she* is a member of the retirement association.

26 (b) In military service for which the county or district or member
27 is authorized by other provisions of this chapter to make, and does
28 make, contributions.

29 (c) For which he *or she* receives credit for county service or for
30 public service or for both pursuant to the provisions of this article.

31 (d) Allowed for prior service.

32 SEC. 12. Section 31641.5 is added to the Government Code,
33 to read:

34 31641.5. Notwithstanding any other law, a person described
35 in Section 31553.5 shall not be credited with service by virtue of
36 serving in a local elective office.

37 SEC. 13. Section 45310.2 is added to the Government Code,
38 to read:

39 45310.2. (a) Notwithstanding any other law, a person who is
40 appointed or publicly elected to a local office of any kind that is

1 not full time, on and after January 1, 2013, shall not become a
 2 member of a retirement system established under this chapter by
 3 virtue of that service and shall not acquire any retirement right or
 4 benefit for serving in that elective office. For purposes of this
 5 section, “full time” means the elected or appointed official is
 6 required to provide service to the state government, local
 7 government, or special district for a minimum of five days and 40
 8 hours a week, exclusive of holidays, or otherwise requires the
 9 elected or appointed official to devote his or her entire time and
 10 attention to the duties of the office and prohibits any outside
 11 employment that would interfere with those duties. Designation
 12 of an elective or appointive office as full time shall be enacted by
 13 law.

14 (b) This section shall not apply to a person who obtained
 15 membership by virtue of holding an elective or appointive local
 16 public office prior to January 1, 2013, for so long as he or she
 17 holds that office or is reelected or reappointed to that office.

18 SEC. 14. Section 50805.5 is added to the Government Code,
 19 to read:

20 50805.5. (a) Notwithstanding any other law, a person who is
 21 appointed or publicly elected to a local office of any kind that is
 22 not full time, on and after January 1, 2013, shall not become a
 23 member of a retirement system established under this chapter by
 24 virtue of that service and shall not acquire any retirement right or
 25 benefit for serving in that elective office. For purposes of this
 26 section, “full time” means the elected or appointed official is
 27 required to provide service to the state government, local
 28 government, or special district for a minimum of five days and 40
 29 hours a week, exclusive of holidays, or otherwise requires the
 30 elected or appointed official to devote his or her entire time and
 31 attention to the duties of the office and prohibits any outside
 32 employment that would interfere with those duties. Designation
 33 of an elective or appointive office as full time shall be enacted by
 34 law.

35 (b) This section shall not apply to a person who obtained
 36 membership by virtue of holding an elective or appointive local
 37 public office prior to January 1, 2013, for so long as he or she
 38 holds that office or is reelected or reappointed to that office.

39 SEC. 15. Section 53060.1 is added to the Government Code,
 40 to read:

1 53060.1. (a) The legislative body of an public or municipal
2 corporation or district shall not provide any of the following
3 benefits to a person who is first appointed or publicly elected to a
4 local office of any kind that is not full time, on and after January
5 1, 2013:

6 (1) Retirement benefits, including, but not limited to, a service
7 pension, a disability pension, and postemployment health care
8 benefits.

9 (2) Health insurance.

10 (3) An allowance for a car or home office.

11 (4) Professional or other membership dues.

12 (b) For purposes of this section, “full time” means the elected
13 or appointed official is required to provide service to the state
14 government, local government, or special district for a minimum
15 of five days and 40 hours a week, exclusive of holidays, or
16 otherwise requires the elected or appointed official to devote his
17 or her entire time and attention to the duties of the office and
18 prohibits any outside employment that would interfere with those
19 duties. Designation of an elective or appointive office as full time
20 shall be enacted by law.