

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 523

Introduced by Senator Walters

(Coauthor: Senator Runner)

(Coauthors: Assembly Members Garrick, Grove, Harkey, Jeffries, and Mansoor)

February 17, 2011

An act to add Sections 22119.7 and 22605 to the Education Code, and to amend Sections 20322, 31553, and 31641 of, and to add Sections 7514.52, 20307, 20890.3, 31553.6, 31641.6, 45310.1, and 50808 to, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 523, as amended, Walters. Public employees' retirement: elected local 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 publicly elected to a local office of any kind, on and after January 1, 2012, from becoming a member of a retirement system by virtue of that service or from acquiring any retirement right or benefit for serving in that elective local office. The bill would also apply these prohibitions to a person who is appointed to fill the term of a person so elected, but would not apply them to a person who obtained membership by virtue of holding an elective local office prior to January 1, 2012, for so long as he or she holds that office or is reelected to that office.

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 22119.7 is added to the Education Code,
2 to read:

3 22119.7. Notwithstanding any other law, “creditable service”
4 does not include service by a person described in Section 22605
5 performed in an elective local office.

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 publicly elected to a local office of any kind, on and after January
9 1, 2012, shall not become a member of the retirement system
10 established under this chapter by virtue of that service and shall
11 not acquire any retirement right or benefit for serving in that
12 elective local office. This section shall apply equally to a person
13 who is appointed to fill the term of a person so elected.

14 (b) This section shall not apply to a person who obtained
15 membership by virtue of holding an elective local office prior to
16 January 1, 2012, for so long as he or she holds that office or is
17 reelected to that office.

18 SEC. 3. Section 7514.52 is added to the Government Code, to
19 read:

20 7514.52. (a) Notwithstanding any other law and except as
21 required or permitted by the California Constitution, a person who
22 is publicly elected to a local office of any kind, on and after January
23 1, 2012, shall not become a member of any retirement system by
24 virtue of that service and shall not acquire any retirement right or
25 benefit for serving in that elective local office. This section shall

1 apply equally to a person who is appointed to fill the term of a
2 person so elected.

3 (b) This section shall not apply to a person who obtained
4 membership by virtue of holding an elective local office prior to
5 January 1, 2012, for so long as he or she holds that office or is
6 reelected to that office.

7 SEC. 4. Section 20307 is added to the Government Code, to
8 read:

9 20307. (a) Notwithstanding any other law, a person who is
10 publicly elected to a local office of any kind, on and after January
11 1, 2012, shall not become a member of the system by virtue of that
12 service and shall not acquire any retirement right or benefit for
13 serving in that elective office. This section shall apply equally to
14 a person who is appointed to fill the term of a person so elected.

15 (b) This section shall not apply to a person who obtained
16 membership by virtue of holding an elective local office prior to
17 January 1, 2012, for so long as he or she holds that office or is
18 reelected to that office.

19 SEC. 5. Section 20322 of the Government Code is amended
20 to read:

21 20322. Except as otherwise provided in Section 20307, *the*
22 *following shall apply:*

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

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

36 (c) Notwithstanding any other provision of subdivision (a) or
37 (b), elected or appointed officers of a county superintendent of
38 schools, school district, or community college district, or of a
39 contracting agency, who serve on public commissions, boards,
40 councils, or similar legislative or administrative bodies are

1 excluded from membership in this system. This exclusion shall
2 only apply to those elected or appointed officers, other than city
3 or county officers, who are first elected or appointed to an office
4 on or after July 1, 1994, or who are elected or appointed to a term
5 of office not consecutive with the term of office held on June 30,
6 1994. For city or county elected or appointed officers, this
7 exclusion shall only apply to those officers who are first elected
8 or appointed to an office on or after January 1, 1997, or who are
9 elected or appointed to a term of office not consecutive with the
10 term of office held on December 31, 1996. This exclusion shall
11 not apply to persons elected to a city council or county board of
12 supervisors.

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

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

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

29 SEC. 6. Section 20890.3 is added to the Government Code, to
30 read:

31 20890.3. Notwithstanding any other law, a person described
32 in Section 20307 shall not be credited with service by virtue of
33 serving in that elective local office.

34 SEC. 7. Section 31553 of the Government Code is amended
35 to read:

36 31553. Except as provided in Section 31553.6, elective officers
37 become members of the retirement association on the first day of
38 the calendar month following the filing of a declaration with the
39 board to become a member, provided, however, that any elective
40 officer may, within 60 days after the expiration of the officer’s

1 term of office or within 60 days after the officer ceases to hold the
2 office, rescind the declaration and withdraw from the retirement
3 association. In these cases, all contributions paid by the member
4 shall be refunded in the same manner as applicable to members
5 terminating service.

6 SEC. 8. Section 31553.6 is added to the Government Code, to
7 read:

8 31553.6. (a) Notwithstanding any other law, a person who is
9 publicly elected to a local office of any kind, on and after January
10 1, 2012, shall not become a member of a retirement system
11 established under this chapter by virtue of that service and shall
12 not acquire any retirement right or benefit for serving in that
13 elective office. This section shall apply equally to a person who
14 is appointed to fill the term of a person so elected.

15 (b) This section shall not apply to a person who obtained
16 membership by virtue of holding an elective local office prior to
17 January 1, 2012, for so long as he or she holds that office or is
18 reelected to that office.

19 SEC. 9. Section 31641 of the Government Code is amended
20 to read:

21 31641. Except as provided in Section 31641.6, “service” means
22 uninterrupted employment of any person appointed or elected for
23 that period of time:

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

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

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

32 (d) Allowed for prior service.

33 SEC. 10. Section 31641.6 is added to the Government Code,
34 to read:

35 31641.6. Notwithstanding any other law, a person described
36 in Section 31553.6 shall not be credited with service by virtue of
37 serving in an elective local office.

38 SEC. 11. Section 45310.1 is added to the Government Code,
39 to read:

1 45310.1. (a) Notwithstanding any other law, a person who is
2 publicly elected to a local office of any kind, on and after January
3 1, 2012, shall not become a member of a retirement system
4 established under this chapter by virtue of that service and shall
5 not acquire any retirement right or benefit for serving in that
6 elective office. This section shall apply equally to a person who
7 is appointed to fill the term of a person so elected.

8 (b) This section shall not apply to a person who obtained
9 membership by virtue of holding an elective local office prior to
10 January 1, 2012, for so long as he or she holds that office or is
11 reelected to that office.

12 SEC. 12. Section 50808 is added to the Government Code, to
13 read:

14 50808. (a) Notwithstanding any other law, a person who is
15 publicly elected to a local office of any kind, on and after January
16 1, 2012, shall not become a member of a retirement system
17 established under this chapter by virtue of that service and shall
18 not acquire any retirement right or benefit for serving in that
19 elective office. This section shall apply equally to a person who
20 is appointed to fill the term of a person so elected.

21 (b) This section shall not apply to a person who obtained
22 membership by virtue of holding an elective local office prior to
23 January 1, 2012, for so long as he or she holds that office or is
24 reelected to that office.

25 SEC. 13. The provisions of this act are severable. If any
26 provision of this act or its application is held invalid, that invalidity
27 shall not affect other provisions or applications that can be given
28 effect without the invalid provision or application.