

Senate Bill No. 673

CHAPTER 244

An act to amend Sections 31468, 31529.9, 31557.3, and 31580.2 of, and to add Section 31522.9 to, the Government Code, relating to county employees' retirement.

[Approved by Governor August 22, 2014. Filed with
Secretary of State August 22, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 673, DeSaulnier. County employees' retirement: Contra Costa County.

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 their employees. The law defines a district for these purposes and includes specified county retirement systems within that definition. The law generally provides that the personnel of a county retirement system are county employees, but also authorizes the board of retirement in specified counties to appoint certain personnel who are designated employees of the retirement system.

This bill would make the Contra Costa County retirement system a district for purposes of the County Employees Retirement Law of 1937. The bill would authorize the board of retirement to appoint a retirement administrator and other personnel as required to accomplish the necessary work of the board and would authorize the administrator to make appointments on its behalf. The bill would provide that these employees are employees of the retirement system, not the county, and would except them from civil service provisions and merit system rules that would otherwise apply. The bill would make the retirement board a public agency for purposes of collective bargaining and provide that the compensation of the personnel so employed by the board is an expense of the system.

The bill would require the retirement system to retain, for a 90-day transition period, nonprobationary county employees employed at the retirement system's facilities who were covered by a memorandum of understanding, as specified. The bill would provide that, during the 90-day transition period, probationary employees would maintain only those rights they had pursuant to their employment with the county. The bill would require the retirement system to recognize as the exclusive representative of the former county employees who are retained, as specified, those recognized employee organizations that represented the employees when they were employed by the county, and would require that the initial terms and conditions for those employees be as previously established. The bill would make technical and conforming changes in relation to these provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 31468 of the Government Code is amended to read:

31468. (a) "District" means a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

(b) "District" also includes any institution operated by two or more counties, in one of which there has been adopted an ordinance placing this chapter in operation.

(c) "District" also includes any organization or association authorized by Chapter 26 of the Statutes of 1935, as amended by Chapter 30 of the Statutes of 1941, or by Section 50024, which organization or association is maintained and supported entirely from funds derived from counties, and the board of any retirement system is authorized to receive the officers and employees of that organization or association into the retirement system managed by the board.

(d) "District" also includes, but is not limited to, any sanitary district formed under Part 1 (commencing with Section 6400) of Division 6 of the Health and Safety Code.

(e) "District" also includes any city, public authority, public agency, and any other political subdivision or public corporation formed or created under the constitution or laws of this state and located or having jurisdiction wholly or partially within the county.

(f) "District" also includes any nonprofit corporation or association conducting an agricultural fair for the county pursuant to a contract between the corporation or association and the board of supervisors under the authority of Section 25905.

(g) "District" also includes the Regents of the University of California, but with respect only to employees who were employees of a county in a county hospital, who became university employees pursuant to an agreement for transfer to the regents of a county hospital or of the obligation to provide professional medical services at a county hospital, and who under that agreement had the right and did elect to continue membership in the county's retirement system established under this chapter.

(h) "District" also includes the South Coast Air Quality Management District, a new public agency created on February 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400) of Part 3 of Division 26 of the Health and Safety Code.

(1) Employees of the South Coast Air Quality Management District shall be deemed to be employees of a new public agency occupying new positions on February 1, 1977. On that date, those new positions are deemed not to have been covered by any retirement system.

(2) No retirement system coverage may be effected for an employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, unless and until the employee

shall have elected whether to become a member of the retirement association established in accordance with this chapter for employees of Los Angeles County or the retirement association established in accordance with this chapter for employees of San Bernardino County. The election shall occur before January 1, 1980. Any employee who fails to make the election provided for herein shall be deemed to have elected to become a member of the retirement association established in accordance with this chapter for the County of Los Angeles.

(3) The South Coast Air Quality Management District shall make application to the retirement associations established in accordance with this chapter for employees of Los Angeles County and San Bernardino County for coverage of employees of the South Coast Air Quality Management District.

(4) An employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, and who has not terminated employment before January 1, 1980, shall be covered by the retirement association elected by the employee pursuant to paragraph (2). That coverage shall be effected no later than the first day of the first month following the date of the election provided for in paragraph (2).

(5) Each electing employee shall receive credit for all service with the South Coast Air Quality Management District. However, the elected retirement association may require, as a prerequisite to granting that credit, the payment of an appropriate sum of money or the transfer of funds from another retirement association in an amount determined by an enrolled actuary and approved by the elected retirement association's board. The amount to be paid shall include all administrative and actuarial costs of making that determination. The amount to be paid shall be shared by the South Coast Air Quality Management District and the employee. The share to be paid by the employee shall be determined by good faith bargaining between the district and the recognized employee organization, but in no event shall the employee be required to contribute more than 25 percent of the total amount required to be paid. The elected retirement association's board may not grant that credit for that prior service unless the request for that credit is made to, and the required payment deposited with, the elected retirement association's board no earlier than January 1, 1980, and no later than June 30, 1980. The foregoing shall have no effect on any employee's rights to reciprocal benefits under Article 15 (commencing with Section 31830).

(6) An employee of the South Coast Air Quality Management District who commenced employment with the district after December 31, 1978, shall be covered by the retirement association established in accordance with this chapter for employees of San Bernardino County. That coverage shall be effected as of the first day of the first month following the employee's commencement date.

(7) Notwithstanding paragraphs (2) and (4) above, employees of the South Coast Air Quality Management District who were employed between

February 1, 1977, and December 31, 1978, and who terminate their employment between February 1, 1977, and January 1, 1980, shall be deemed to be members of the retirement association established in accordance with this chapter for the employees of Los Angeles County commencing on the date of their employment with the South Coast Air Quality Management District.

(i) “District” also includes any nonprofit corporation that operates one or more museums within a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, pursuant to a contract between the corporation and the board of supervisors of the county, and that has entered into an agreement with the board and the county setting forth the terms and conditions of the corporation’s inclusion in the county’s retirement system.

(j) “District” also includes any economic development association funded in whole or in part by a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, and that has entered into an agreement with the board of supervisors and the county setting forth the terms and conditions of the association’s inclusion in the county’s retirement system.

(k) “District” also includes any special commission established in the Counties of Tulare and San Joaquin as described by Section 14087.31 of the Welfare and Institutions Code, pursuant to a contract between the special commission and the county setting forth the terms and conditions of the special commission’s inclusion in the county’s retirement system with the approval of the board of supervisors and the board of retirement.

(l) (1) “District” also includes the retirement system established under this chapter in Orange County.

(2) “District” also includes the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

(3) “District” also includes the retirement system established under this chapter in Contra Costa County.

SEC. 2. Section 31522.9 is added to the Government Code, to read:

31522.9. (a) The board of retirement of a county may appoint a retirement administrator and other personnel as are required to accomplish the necessary work of the board. The board may authorize the administrator to make these appointments on its behalf. Notwithstanding any other law, the personnel so appointed shall not be county employees but shall become employees of the retirement system, subject to terms and conditions of employment established by the board of retirement, including those set forth in memoranda of understanding executed by the board of retirement and recognized employee organizations.

(b) Sections 31522.1 and 31522.2 shall not apply to a retirement system that appoints personnel pursuant to this section.

(c) The retirement system that appoints personnel pursuant to this section is a public agency for purposes of the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4).

(d) The compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2, except as provided in Sections 31529.5, 31529.9, and 31596.1.

(e) The board of retirement and the board of supervisors may enter into agreements as they determine are necessary and appropriate in order to carry out the provisions of this section.

(f) The retirement system, upon the effective date of this section, shall retain, for a 90-day transition employment period, nonprobationary employees who, upon the effective date of this section, were covered by a county memorandum of understanding and employed by the county at the retirement system's facilities, unless just cause exists to terminate the employees or legitimate grounds exist to lay off these employees. If during the 90-day period the retirement system determines that a layoff of these employees is necessary, the retirement system shall retain the employees by seniority within job classification. The terms and conditions of employment of the employees retained pursuant to this subdivision shall be subject to the terms and conditions established by the applicable memoranda of understanding executed by the board of retirement and the recognized employee organizations. During the 90-day transition period, probationary employees shall maintain only those rights they initially acquired pursuant to their employment with the county.

(g) Subject to the employees' rights under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4), the retirement system, upon the effective date of this section, shall recognize as the exclusive representative of the employees retained pursuant to subdivision (f) the recognized employee organizations that represented those employees when employed by the county. The initial terms and conditions for those employees shall be as previously established by the applicable memoranda of understanding executed by the county and recognized employee organizations.

(h) This section shall apply only in Contra Costa County.

SEC. 3. Section 31529.9 of the Government Code is amended to read:

31529.9. (a) In addition to the powers granted by Sections 31522.5, 31522.9, 31529, 31529.5, 31614, and 31732, the board of retirement and the board of investment may contract with the county counsel or with attorneys in private practice or employ staff attorneys for legal services.

(b) Notwithstanding Sections 31522.5, 31522.7, 31529.5, and 31580, the board shall pay, from system assets, reasonable compensation for the legal services.

(c) This section applies to any county of the 2nd class, 7th class, 9th class, 14th class, 15th class, or the 16th class as described by Sections 28020, 28023, 28028, 28030, 28035, 28036, and 28037.

(d) This section shall also apply to any other county if the board of retirement, by resolution adopted by majority vote, makes this section applicable in the county.

SEC. 4. Section 31557.3 of the Government Code is amended to read:

31557.3. On the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, any personnel appointed pursuant to Sections 31522.5, 31522.9, and 31529.9 who had previously been in county service shall continue to be members of the system without interruption in service or loss of credit. Thereafter, each person entering employment with the district shall become a member of the system on the first day of the calendar month following his or her entrance into service.

SEC. 5. Section 31580.2 of the Government Code is amended to read:

31580.2. (a) In counties in which the board of retirement, or the board of retirement and the board of investment, have appointed personnel pursuant to Section 31522.1, 31522.5, 31522.7, or 31522.9, the respective board or boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the retirement fund. The expense incurred in any year may not exceed the greater of either of the following:

(1) Twenty-one hundredths of 1 percent of the accrued actuarial liability of the retirement system.

(2) Two million dollars (\$2,000,000), as adjusted annually by the amount of the annual cost-of-living adjustment computed in accordance with Article 16.5 (commencing with Section 31870).

(b) Expenditures for computer software, computer hardware, and computer technology consulting services in support of these computer products shall not be considered a cost of administration of the retirement system for purposes of this section.