

Assembly Constitutional Amendment

No. 3

Introduced by Assembly Member Gallagher

February 26, 2015

Assembly Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending and adding subdivision (h) of Section 17 of Article XVI thereof, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

ACA 3, as introduced, Gallagher. Public employees' retirement.

Existing statutory law establishes various public agency retirement systems, including the Public Employees' Retirement System, the State Teachers' Retirement System, the Judges' Retirement System II, and various county retirement systems pursuant to the County Employees Retirement Law of 1937, among others, and these systems provide defined pension benefits to public employees based on age, service credit, and amount of final compensation. The California Constitution permits a city or county to adopt a charter for purposes of its governance that supersedes general laws of the state in regard to specified subjects, including compensation of city or county employees. The California Constitution establishes the University of California as a public trust with full powers of organization and government, subject only to specified limitations. Under their respective independent constitutional authority, charter cities and counties and the University of California may establish retirement systems. The California Public Employees Pension Reform Act of 2013 (PEPRA) generally requires the retirement systems to which it applies to modify their provisions to conform with its requirements. PEPRA excepts from its provisions retirement systems

established by charter cities and counties and the University of California. PEPPRA requires that any enhancement to a public employee's retirement formula or retirement benefit adopted on or after January 1, 2013, apply only to service performed on or after the operative date of the enhancement and prohibits its application to service performed prior to that date.

This measure would require, with respect to any public retirement systems, that any enhancement to a public employee's retirement formula or retirement benefit, adopted on or after the measure's effective date, apply only to service performed on and after the operative date of the enhancement and shall not be applied to any service performed prior to the operative date of the change. The measure would specify how changes in membership classification or changes in employment are to be applied in this context. The measure would provide that specified cost-of-living adjustments are not enhancements of retirement benefits.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2015–16 Regular
3 Session commencing on the first day of December, two-thirds of
4 the membership of each house concurring, hereby proposes to the
5 people of the State of California, that the Constitution of the State
6 be amended as follows:

7 First— That subdivision (h) of Section 17 of Article XVI
8 thereof is amended to read:

9 Sec. 17. ~~(h)~~*(i)* As used in this section, the term 'retirement
10 ~~board~~ board' shall mean the board of administration, board of
11 trustees, board of directors, or other governing body or board of
12 a public employees' pension or retirement system; provided,
13 however, that the term 'retirement ~~board~~ board' shall not be
14 interpreted to mean or include a governing body or board created
15 after July 1, 1991 which does not administer pension or retirement
16 benefits, or the elected legislative body of a jurisdiction which
17 employs participants in a public employees' pension or retirement
18 system.

19 Second— That subdivision (h) is added to Section 17 of Article
20 XVI thereof, to read:

21 Sec. 17. (h) (1) Any enhancement to a public employee's
22 retirement formula or retirement benefit, adopted on or after the

1 effective date of this subdivision, shall apply only to service
2 performed on and after the operative date of the enhancement and
3 shall not be applied to any service performed prior to the operative
4 date of the enhancement.

5 (2) If a change to a member's retirement membership
6 classification or a change in employment results in an enhancement
7 in the retirement formula or retirement benefit applicable to that
8 member, that enhancement shall apply only to service performed
9 on or after the operative date of the change and shall not be applied
10 to any service performed prior to the operative date of the change.

11 (3) For purposes of this subdivision "operative date" in a
12 collective bargaining agreement means one of the following:

13 (A) The date that the agreement is signed by the parties.

14 (B) A date agreed to by the parties that will occur after the date
15 that the agreement is signed by the parties.

16 (C) A date designated by the parties that occurred prior to the
17 date the agreement was signed if the most recent collective
18 bargaining contract was expired at the time of the agreement and
19 the date designated is not earlier than 12 months prior to the date
20 of the agreement or the day after the last day of the expired
21 bargaining contract, whichever occurred later.

22 (4) For purposes of this section, an increase to a retiree's annual
23 cost-of-living adjustment within existing statutory limits shall not
24 be considered to be an enhancement to a retirement benefit.