

AMENDED IN SENATE JUNE 20, 2016

AMENDED IN ASSEMBLY MAY 11, 2016

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1853

Introduced by Assembly Member Cooper

February 10, 2016

An act to amend Sections 31459.1, 31468, 31522.3, 31522.5, 31522.7, 31522.9, 31528, 31529.9, 31535, 31557.3, and 31580.2 of, and to add Section 31522.75 to, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1853, as amended, Cooper. County employees' retirement: districts: retirement system governance.

(1) The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to their employees. CERL defines a district for these purposes, includes specified county retirement systems within that definition, and permits a district to participate in CERL retirement systems. CERL generally provides that the personnel of a county retirement system are county employees, subject to county civil service provisions and salary ordinances, but also authorizes the boards of retirement in specified counties to adopt provisions providing for the appointment of personnel who are to be employees of the retirement system, as well as other administrative provisions that reflect the independence of the retirement system from the county.

The California Public Employees' Pension Reform Act of 2013 (PEPRA) requires a public retirement system, as defined, to modify its plan or plans to comply with the act and establishes new retirement formulas that a public employer offering a defined benefit pension plan for employees first hired on or after January 1, 2013, may not exceed. PEPRA authorizes individuals who were employed by any public employer before January 1, 2013, and who became employed by a subsequent public employer for the first time on or after January 1, 2013, to be subject to the retirement plan that would have been available to employees of the subsequent employer who were first employed by the subsequent employer on or before December 31, 2012, if the individual was subject to reciprocity, as specified.

This bill would authorize the retirement board of any retirement system operating under CERL to elect, by resolution, to be a district under the law. The bill would authorize a board to adopt, by resolution, specified administrative provisions that would classify various personnel of the retirement system as employees of the retirement system and not employees of the county. *The bill would require the retirement system to notify, and to meet and discuss with, participating employers in the retirement system, the employees of the system, and an employee organization of the retirement system's intent to exercise this authority at least 60 days before considering a resolution to make these provisions applicable. The bill would grant an employee organization representing people who work for the retirement system, and an unrepresented person who works for the retirement system, the right to elect to be employees of the retirement system, which would be irrevokable, except as specified, and the status of the affected employee positions would remain changed for successor employees.* In regard to county employees who would become retirement system employees, the bill would prescribe requirements in connection with their compensation and employment benefits and status. These provisions would include maintaining their county retirement benefits that would otherwise be reduced under PEPRA, keeping their employment classifications, and affording employees the opportunity to continue participation in group health and dental plans, among other plans and programs. *The bill would also prescribe requirements regarding labor negotiations and the continuity of labor agreements.* The bill would grant a retirement system electing these provisions the authority to adopt the regulations and enter into the agreements necessary to implement them. *The bill would require counties to cooperate and act in a timely manner to establish and*

implement agreements in this regard. The bill would authorize retirement systems currently operating under alternative administrative structures also to adopt these provisions. The bill would also extend this authorization and the associated provisions to a board of investment, as specified. The bill would make technical and conforming changes.

(2) CERL authorizes the retirement boards of 5 specified counties to appoint assistant administrators and chief investment officers who, following appointment, are outside county charter, civil service, and merit system rules, except as specified. CERL provides that these administrators and officers are employees of the county, as specified, while serving at the pleasure of the appointing boards, and they may be dismissed without cause.

This bill would remove the limitation on these provisions to certain counties, thereby making them applicable to all CERL retirement systems.

(2)

(3) Existing law permits a board of retirement operating under CERL to issue subpoenas and to compensate persons who are subpoenaed. Existing law permits a board to delegate its subpoena power to a referee or administrator who is appointed pursuant to specified authority.

This bill would authorize specified retirement systems operating as districts to delegate the subpoena power, as described above.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 31459.1 of the Government Code is
2 amended to read:

3 31459.1. (a) In a county in which a board of investments has
4 been established pursuant to Section 31520.2:

5 (1) As used in Sections 31453, 31453.5, 31454, 31454.1,
6 31454.5, 31472, 31588.1, 31589.1, 31591, 31592.3, 31594,
7 31595.1, 31595.9, 31596, 31596.1, 31601.1, 31607, 31610, 31611,
8 31612, 31613, 31616, 31618, 31621.11, 31625, 31639.26, 31784,
9 and 31872, "board" means board of investments.

10 (2) As used in the first paragraph of Section 31592.2 and the
11 first paragraph and subdivision (c) of the second paragraph of
12 Section 31595, "board" means a board of investments.

1 (3) Sections 31521, 31522, 31522.1, 31522.2, 31523, 31524,
 2 31525, 31528, 31529, 31529.5, 31535.1, 31580.2, 31614, 31680,
 3 and 31680.1, apply to both the board of retirement and board of
 4 investments, and “board” means either or both the board of
 5 retirement and board of investments.

6 (4) Subdivision (a) of Section 31526 and subdivisions (a) and
 7 (b) of the second paragraph of Section 31595 apply to both the
 8 board of retirement and board of investments, and “board” means
 9 either or both the board of retirement and board of investments.

10 (5) Paragraph (5) of subdivision (l) of Section 31468 and
 11 Sections ~~31522.5 and 31522.75~~ 31522.5, 31522.7, 31522.75, and
 12 31522.9 apply to both the board of retirement and board of
 13 investments. For these purposes, “board” means both the board of
 14 retirement and board of investments. “Board of retirement” also
 15 means both the board of retirement and board of investments.

16 (b) In Article 17 (commencing with Section 31880) of this
 17 chapter, “board” means the Board of Administration of the Public
 18 Employees’ Retirement System.

19 (c) In all other cases, “board” means the board of retirement.

20 (d) This section shall apply only in a county of the first class,
 21 as defined in Section 28020, as amended by Chapter 1204 of the
 22 Statutes of 1971, and Section 28022, as amended by Chapter 43
 23 of the Statutes of 1961.

24 SEC. 2. Section 31468 of the Government Code is amended
 25 to read:

26 31468. (a) “District” means a district, formed under the laws
 27 of the state, located wholly or partially within the county other
 28 than a school district.

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

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

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

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

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

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

20 (h) “District” also includes the South Coast Air Quality
21 Management District, a new public agency created on February
22 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400)
23 of Part 3 of Division 26 of the Health and Safety Code.

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

29 (2) No retirement system coverage may be effected for an
30 employee of the South Coast Air Quality Management District
31 who commenced employment with the district during the period
32 commencing on February 1, 1977, and ending on December 31,
33 1978, unless and until the employee shall have elected whether to
34 become a member of the retirement association established in
35 accordance with this chapter for employees of Los Angeles County
36 or the retirement association established in accordance with this
37 chapter for employees of San Bernardino County. The election
38 shall occur before January 1, 1980. Any employee who fails to
39 make the election provided for herein shall be deemed to have
40 elected to become a member of the retirement association

1 established in accordance with this chapter for the County of Los
2 Angeles.

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

8 (4) An employee of the South Coast Air Quality Management
9 District who commenced employment with the district during the
10 period commencing on February 1, 1977, and ending on December
11 31, 1978, and who has not terminated employment before January
12 1, 1980, shall be covered by the retirement association elected by
13 the employee pursuant to paragraph (2). That coverage shall be
14 effected no later than the first day of the first month following the
15 date of the election provided for in paragraph (2).

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

37 (6) An employee of the South Coast Air Quality Management
38 District who commenced employment with the district after
39 December 31, 1978, shall be covered by the retirement association
40 established in accordance with this chapter for employees of San

1 Bernardino County. That coverage shall be effected as of the first
2 day of the first month following the employee's commencement
3 date.

4 (7) Notwithstanding paragraphs (2) and (4) above, employees
5 of the South Coast Air Quality Management District who were
6 employed between February 1, 1977, and December 31, 1978, and
7 who terminate their employment between February 1, 1977, and
8 January 1, 1980, shall be deemed to be members of the retirement
9 association established in accordance with this chapter for the
10 employees of Los Angeles County commencing on the date of
11 their employment with the South Coast Air Quality Management
12 District.

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

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

28 (k) "District" also includes any special commission established
29 in the Counties of Tulare and San Joaquin as described by Section
30 14087.31 of the Welfare and Institutions Code, pursuant to a
31 contract between the special commission and the county setting
32 forth the terms and conditions of the special commission's
33 inclusion in the county's retirement system with the approval of
34 the board of supervisors and the board of retirement.

35 (l) (1) "District" also includes the retirement system established
36 under this chapter in Orange County.

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

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

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

5 (5) “District” also includes a retirement system established under
6 this chapter at the time that the board of retirement, by resolution,
7 makes this subdivision applicable to the retirement system in that
8 county.

9 (m) “District” also includes the Kern County Hospital Authority,
10 a public agency that is a local unit of government established
11 pursuant to Chapter 5.5 (commencing with Section 101852) of
12 Part 4 of Division 101 of the Health and Safety Code.

13 *SEC. 3. Section 31522.3 of the Government Code is amended*
14 *to read:*

15 31522.3. (a) In a county in which the board of retirement or
16 both the board of retirement and the board of investment have
17 appointed personnel pursuant to Section 31522.1, the respective
18 board or boards may elect to appoint assistant administrators and
19 chief investment officers as provided for in this section. The
20 positions of the assistant administrators and chief investment
21 officers designated by the retirement board shall not be subject to
22 county charter, civil service, or merit system rules. The persons
23 so appointed shall be county employees and shall be included in
24 the salary ordinance or salary resolution adopted by the board of
25 supervisors for the compensation of county officers and employees.
26 The assistant administrators and chief investment officers so
27 appointed shall be directed by, shall serve at the pleasure of, and
28 may be dismissed at the will of, the appointing board or boards.
29 Specific charges, a statement of reasons, or good cause shall not
30 be required as a basis for dismissal of the assistant administrators
31 and chief investment officers by the appointing board or boards.

32 (b) This section shall not apply to any person who was an
33 assistant administrator or a chief investment officer and was
34 included in the county civil service or was subject to merit system
35 rules on December 31, 1996.

36 ~~(c) This section shall only apply to a county of the third class,~~
37 ~~a county of the eighth class, a county of the 14th class, a county~~
38 ~~of the 15th class, or a county of the 18th class, as provided by~~
39 ~~Sections 28020, 28024, 28029, 28035, 28036, and 28039.~~

1 ~~SEC. 3.~~

2 *SEC. 4.* Section 31522.5 of the Government Code is amended
3 to read:

4 31522.5. (a) In a county in which the board of retirement has
5 appointed personnel pursuant to Section 31522.1, the board of
6 retirement may appoint an administrator, an assistant administrator,
7 a chief investment officer, senior management employees next in
8 line of authority to the chief investment officer, subordinate
9 administrators, senior management employees next in line of
10 authority to subordinate administrators, and legal counsel.

11 (b) Notwithstanding any other provision of law, the personnel
12 appointed pursuant to this section may not be county employees
13 but shall be employees of the retirement system, subject to terms
14 and conditions of employment established by the board of
15 retirement. Except as specifically provided in this subdivision, all
16 other personnel shall be county employees for purposes of the
17 county's employee relations resolution, or equivalent local rules,
18 and the terms and conditions of employment established by the
19 board of supervisors for county employees, including those set
20 forth in a memorandum of understanding.

21 (c) Except as otherwise provided by Sections 31529.9 and
22 31596.1, the compensation of personnel appointed pursuant to this
23 section shall be an expense of administration of the retirement
24 system, pursuant to Section 31580.2.

25 (d) The board of retirement and board of supervisors may enter
26 into any agreements as may be necessary and appropriate to carry
27 out the provisions of this section.

28 (e) Section 31522.2 is not applicable to any retirement system
29 that elects to appoint personnel pursuant to this section.

30 (f) This section shall apply in Orange County.

31 (g) This section shall apply to the retirement system established
32 under this chapter in San Bernardino County at such time as the
33 board of retirement, by resolution, makes this section applicable
34 in that county.

35 (h) This section shall apply to a retirement system established
36 under this chapter at the time that the board of retirement, by
37 resolution, makes this section applicable in that county.

38 *SEC. 5.* Section 31522.7 of the Government Code is amended
39 to read:

1 31522.7. (a) In addition to the authority provided pursuant to
 2 Section 31522.5, the board of retirement in the County of San
 3 ~~Bernardino~~ *Bernardino, or in any other county in which this section*
 4 *has been made applicable*, may appoint an administrator, an
 5 assistant administrator, a chief investment officer, senior
 6 management employees next in line of authority to the chief
 7 investment officer, subordinate administrators, senior management
 8 employees next in line of authority to subordinate administrators,
 9 supervisors and employees with specialized training and knowledge
 10 in pension benefit member services, investment reporting
 11 compliance, investment accounting, pension benefit tax reporting,
 12 pension benefit financial accounting, pension law, and legal
 13 counsel.

14 (b) Notwithstanding any other provision of law, the personnel
 15 appointed pursuant to this section may not be county employees
 16 but shall be employees of the retirement system, subject to terms
 17 and conditions of employment established by the board of
 18 retirement. Except as specifically provided in this subdivision, all
 19 other personnel shall be county employees for purposes of the
 20 county’s employee relations resolution, or equivalent local rules,
 21 and the terms and conditions of employment established by the
 22 board of supervisors for county employees, including those set
 23 forth in a memorandum of understanding.

24 (c) Except as otherwise provided by Sections 31529.9 and
 25 31596.1, the compensation of personnel appointed pursuant to this
 26 section shall be an expense of administration of the retirement
 27 system, pursuant to Section 31580.2.

28 (d) The board of retirement and board of supervisors may enter
 29 into any agreements as may be necessary and appropriate to carry
 30 out the provisions of this section.

31 (e) Section 31522.2 is not applicable if the retirement system
 32 elects to appoint personnel pursuant to this section.

33 (f) This section shall apply ~~only~~ to the retirement system
 34 established under this chapter in San Bernardino County at such
 35 time as the board of retirement, by resolution, makes this section
 36 applicable in that county.

37 ~~SEC. 4.~~

38 *SEC. 6.* Section 31522.75 is added to the Government Code,
 39 immediately following Section 31522.7, to read:

1 31522.75. (a) Any retirement system established under this
2 ~~chapter~~ chapter, including a retirement system that, at the time of
3 the enactment of this section, is operating pursuant to Section
4 31522.5, 31522.7, 31522.9, or 31522.10, may elect to make this
5 section, paragraph (5) of subdivision (l) of Section 31468, and
6 Section ~~31522.5~~ 31522.5, 31522.7, or 31522.9, applicable to the
7 retirement system upon adoption of a resolution by the board of
8 retirement.

9 (1) Before deciding upon a particular operating authority, a
10 retirement system that intends to make this section applicable shall
11 notify the participating employers in the retirement system, the
12 employees of the retirement system, and any employee organization
13 that represents those employees of its intent at least 60 days prior
14 to the board of retirement's consideration of a resolution making
15 this section applicable. During this period, the retirement system
16 shall meet with and discuss the proposed action with any of these
17 parties that wish to do so and shall make good faith efforts to
18 address any questions or concerns raised by these parties.

19 (2) (A) Prior to the adoption by the board of retirement of a
20 resolution making this section applicable, or at any time thereafter,
21 any employee organization that represents people who work at
22 the retirement system may advise the retirement system in writing
23 that the employees represented by the organization wish to cease
24 being county employees and wish to elect to become retirement
25 system employees under the terms of this section.

26 (B) Upon election by an employee organization that the
27 employees it represents will become retirement system employees,
28 the retirement system job classifications, positions, and future
29 retirement system employees represented by that employee
30 organization shall be retirement system employees.

31 (3) (A) Prior to the adoption by the board of retirement of a
32 resolution making this section applicable, or at any time thereafter,
33 any unrepresented employee of the retirement system, other than
34 those in positions appointed pursuant to Section 31522.2, 31522.3
35 or 31522.4, may advise the retirement system in writing that the
36 employee wishes to cease being a county employee and wishes to
37 elect to become a retirement system employee under the terms of
38 this section.

1 (B) Upon the election by an unrepresented employee to become
 2 a retirement system employee, that employee, and future employees
 3 in that position, shall be retirement system employees.

4 (4) An election to cease being a county employee and to become
 5 a retirement system employee, whether made by an employee
 6 organization on behalf of the employees it represents or by an
 7 unrepresented employee, shall be irrevocable, except that an
 8 employee who has elected to become a retirement system employee
 9 by virtue of this section who subsequently moves to a position,
 10 whether with the retirement system or with the county, that is not
 11 deemed a position of the retirement system, shall be a county
 12 employee unless and until the time as the employee elects to return
 13 to being a retirement system employee as that may be authorized
 14 by this section.

15 (5) The retirement system shall elect to make either Section
 16 31522.5, 31522.7 or 31522.9 applicable to the retirement system,
 17 as necessary, in order to allow the employees who elect to become
 18 retirement system employees, successor employees in those
 19 positions, and other appointed employees to have the status of
 20 employees of the retirement system.

21 (b) A board of retirement may elect to appoint personnel, or
 22 may authorize the retirement administrator to appoint personnel,
 23 to administer the system as provided in this section.

24 (c) (1) Notwithstanding any other law, the personnel appointed
 25 pursuant to this section ~~or Section 31522.5~~ and the sections
 26 referenced of subdivision (a) shall not be county employees, but
 27 shall be employees of the retirement system, subject to terms and
 28 conditions of employment established by the board of retirement
 29 and the provisions of this section.

30 (2) A county employee to whom the California Public
 31 Employees’ Pension Reform Act of 2013 (Article 4 (commencing
 32 with Section 7522) of Chapter 21 of Division 7 of Title 1) did not
 33 apply before becoming a retirement system employee shall
 34 maintain that status as an employee of the retirement system.

35 (3) For purposes of employment by a subsequent public
 36 employer, as described in paragraph (1) of subdivision (c) of
 37 Section 7522.02, the retirement system shall have the status of the
 38 county as a subsequent employer.

39 (4) With regard to an individual who was employed by the
 40 county before January 1, 2013, and who becomes a retirement

1 system employee and then changes employment positions as
2 described in paragraph (2) of subdivision (c) of Section 7522.02,
3 the retirement system shall have the former obligations of the
4 county to provide a defined benefit plan that otherwise would have
5 been available to the employee had he or she remained a county
6 employee.

7 (d) Any employees who were previously appointed to retirement
8 system personnel positions pursuant to Section 31522.2, 31522.3,
9 or 31522.4 shall cease to be county employees and shall become
10 retirement system employees at their existing or equivalent
11 classifications as of the date the board of retirement makes this
12 section applicable pursuant to subdivision (a), subject to any
13 subsequent revisions the retirement board may make pursuant to
14 regulations governing terms and conditions of ~~employment.~~
15 *employment, and when applicable, the provisions of a subsequent*
16 *memorandum of understanding or bargaining agreement covering*
17 *the employee.*

18 (e) *Any employees who were previously appointed to retirement*
19 *system personnel positions pursuant to Section 31522.1 and are*
20 *subsequently appointed as retirement system employees pursuant*
21 *to subdivision (a) shall cease to be county employees and shall*
22 *become retirement system employees at their existing or equivalent*
23 *classifications as of the date the board of retirement makes this*
24 *section applicable, subject to any subsequent revisions the*
25 *retirement board may make pursuant to regulations governing*
26 *terms and conditions of employment and, when applicable, the*
27 *provisions of a subsequent memorandum of understanding or*
28 *bargaining agreement covering the employee.*

29 (f) *A retirement system that elects to make this section applicable*
30 *shall recognize as the exclusive representative of those former*
31 *county employees who become retirement system employees the*
32 *employee organization that represented those employees, if any,*
33 *and shall honor the provisions in any memorandum of*
34 *understanding or bargaining agreement in effect on the date the*
35 *board of retirement makes this section applicable for the duration*
36 *of the memorandum of understanding or bargaining agreement.*

37 (g) *The following shall apply to those persons who become*
38 *retirement system employees pursuant to this section:*

39 (1) *Employment seniority of a retirement system employee,*
40 *including, but not limited to, an employee's continuous service*

1 *date used for purposes of retirement or other benefits, as calculated*
 2 *and used under the county system in effect before the date this*
 3 *section becomes applicable, shall be calculated and used in the*
 4 *same manner by the retirement system at the time the county*
 5 *employee becomes a retirement system employee, subject to any*
 6 *subsequent revisions the retirement board may make pursuant to*
 7 *regulations governing terms and conditions of employment, and*
 8 *when applicable, the provisions of a subsequent memorandum of*
 9 *understanding or bargaining agreement covering the employee.*

10 (2) *Retirement system employees shall have the same status they*
 11 *had as probationary, permanent, or regular employees under the*
 12 *county system in effect on the date this section becomes applicable,*
 13 *subject to any subsequent revisions the retirement board may make*
 14 *pursuant to regulations governing terms and conditions of*
 15 *employment, and when applicable, the provisions of a subsequent*
 16 *memorandum of understanding or bargaining agreement covering*
 17 *the employee.*

18 (3) *Retirement system employees shall receive their same salary*
 19 *rates, leaves of absence, leave accrual rates, including all related*
 20 *compensation rules and provisions applicable to those salary rates,*
 21 *leaves, and accrual rates as under the county system on the date*
 22 *this section becomes applicable, subject to any subsequent*
 23 *revisions the retirement board may make pursuant to regulations*
 24 *governing terms and conditions of employment, and when*
 25 *applicable, the provisions of a subsequent memorandum of*
 26 *understanding or bargaining agreement covering the employee.*

27 (e)

28 (4) (A) Retirement system employees shall be afforded the
 29 opportunity to participate in county benefit plans and programs,
 30 including, but not limited to, group health, dental and life insurance,
 31 workers' compensation, and deferred compensation that existed
 32 on the date this section becomes applicable, under the same terms
 33 and conditions as those programs were available to county
 34 employees. The retirement board shall contract with the county to
 35 administer the county benefit plans and programs for retirement
 36 system employees, under the same terms and conditions applicable
 37 to county employees, and shall provide the employer cost and
 38 reasonable administrative expenses for participation in the
 39 programs unless and until the retirement board chooses to provide

1 different benefits or different benefit levels through another
2 provider.

3 *(B) The participation of retirement system employees in county*
4 *benefit plans or programs, and the county's administration of*
5 *certain compensation or benefits for retirement employees pursuant*
6 *to this section, shall not create or be construed to create, a meet*
7 *and confer obligation between the county and any employee*
8 *organization recognized to represent retirement system employees.*

9 ~~(f)~~

10 *(h) The board of retirement and the county may shall enter into*
11 *any agreements necessary and appropriate to carry out this section.*
12 *The county shall cooperate fully, and act in a timely manner, to*
13 *establish and implement these agreements and any other measures*
14 *necessary to accomplish the objectives in this section. The*
15 *retirement system shall pay reasonable and appropriate*
16 *administrative expenses associated with implementing these*
17 *agreements and measures.*

18 ~~(g)~~

19 ~~(i) Sections 31522.1, 31522.2, 32522.3, and 32522.4~~ 31522.3,
20 *and 31522.4 shall no longer apply to a retirement system that has*
21 *made this section applicable.*

22 ~~(h)~~

23 *(j) Upon adoption of this section, the board of retirement may*
24 *make regulations consistent with this chapter, and the provisions*
25 *of Section 31525 that require approval of retirement board*
26 *regulations by the board of supervisors shall no longer apply.*

27 ~~(i)~~

28 *(k) The compensation of personnel appointed pursuant to this*
29 *section shall be an expense of administration of the retirement*
30 *system pursuant to Section 31580.2, except as provided in Section*
31 ~~31522.5.~~ *31522.5, 31522.7, or 31522.9, as those sections may*
32 *apply to a retirement system that has adopted them.*

33 ~~(j)~~

34 *(l) This section shall not be construed as to modify any authority,*
35 *or to require any subsequent action by, a retirement system that*
36 *has made paragraph (5) of subdivision (l) of Section 31468 and*
37 *Section 31522.5, 31522.7, 31522.9, or 31522.10 applicable to the*
38 *retirement system prior to the effective date of this section.*

39 *(m) A retirement system that has elected to make either Section*
40 *31522.5, 31522.7, 31522.9, or 31522.10 applicable upon adoption*

1 of a subsequent resolution by the board of retirement may make
2 a different section apply.

3 SEC. 7. Section 31522.9 of the Government Code is amended
4 to read:

5 31522.9. (a) The board of retirement of a county may appoint
6 a retirement administrator and other personnel as are required to
7 accomplish the necessary work of the board. The board may
8 authorize the administrator to make these appointments on its
9 behalf. Notwithstanding any other law, the personnel so appointed
10 shall not be county employees but shall become employees of the
11 retirement system, subject to terms and conditions of employment
12 established by the board of retirement, including those set forth in
13 ~~memoranda~~ a memorandum of understanding executed by the
14 board of retirement and recognized employee organizations.

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

17 (c) The retirement system that appoints personnel pursuant to
18 this section is a public agency for purposes of the
19 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
20 3500) of Division 4).

21 (d) The compensation of personnel appointed pursuant to this
22 section shall be an expense of administration of the retirement
23 system, pursuant to Section 31580.2, except as provided in Sections
24 31529.5, 31529.9, and 31596.1.

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

28 (f) The retirement system, upon the effective date of this section,
29 shall retain, for a 90-day transition employment period,
30 nonprobationary employees who, upon the effective date of this
31 section, were covered by a county memorandum of understanding
32 and employed by the county at the retirement system’s facilities,
33 unless just cause exists to terminate the employees or legitimate
34 grounds exist to lay off these employees. If during the 90-day
35 period the retirement system determines that a layoff of these
36 employees is necessary, the retirement system shall retain the
37 employees by seniority within job classification. The terms and
38 conditions of employment of the employees retained pursuant to
39 this subdivision shall be subject to the terms and conditions
40 established by the applicable ~~memoranda~~ memorandum of

1 understanding executed by the board of retirement and the
2 recognized employee organizations. During the 90-day transition
3 period, probationary employees shall maintain only those rights
4 they initially acquired pursuant to their employment with the
5 county.

6 (g) Subject to the employees' rights under the
7 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
8 3500) of Division 4), the retirement system, upon the effective
9 date of this section, shall recognize as the exclusive representative
10 of the employees retained pursuant to subdivision (f) the recognized
11 employee organizations that represented those employees when
12 employed by the county. The initial terms and conditions for those
13 employees shall be as previously established by the applicable
14 ~~memoranda~~ *memorandum* of understanding executed by the county
15 and recognized employee organizations.

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

17 (i) *This section shall apply to a retirement system established*
18 *under this chapter at the time that the board of retirement, by*
19 *resolution, makes this section applicable in that county.*

20 ~~SEC. 5:~~

21 *SEC. 8.* Section 31528 of the Government Code is amended
22 to read:

23 31528. (a) Unless permitted by this chapter, a member or
24 employee of the board shall not become an endorser, surety, or
25 obligor on, or have any personal interest, direct or indirect, in the
26 making of any investment for the board, or in the gains or profits
27 accruing from those investments. A member or employee of the
28 board shall not directly or indirectly, for himself or herself, or as
29 an agent or partner of others, borrow or use any of the funds or
30 deposits of the retirement system, except to make current and
31 necessary payments authorized by the board.

32 (b) A member or employee of the board shall not, directly or
33 indirectly, by himself or herself, or as an agent or partner or
34 employee of others, sell or provide any investment product that
35 would be considered an asset of the fund, to any retirement system
36 established pursuant to this chapter.

37 (c) An individual who held a position designated in Section
38 31522.3, 31522.4, 31522.5, or established pursuant to Section
39 31522.75, or was a member of the board or an administrator, shall
40 not, for a period of two years after leaving that position, for

1 compensation, act as agent or attorney for, or otherwise represent,
2 any other person except the county, by making any formal or
3 informal appearance before, or any oral or written communication
4 to, the retirement system, or any officer or employee thereof, if
5 the appearance or communication is made for the purpose of
6 influencing administrative or legislative action, or any action or
7 proceeding involving the issuance, amendment, awarding, or
8 revocation of a permit, license, grant, contract, or sale or purchase
9 of goods or property.

10 ~~SEC. 6.~~

11 *SEC. 9.* Section 31529.9 of the Government Code is amended
12 to read:

13 31529.9. (a) In addition to the powers granted by Sections
14 31522.5, 31522.75, 31522.9, 31529, 31529.5, 31614, and 31732,
15 the board of retirement and the board of investment may contract
16 with the county counsel or with attorneys in private practice or
17 employ staff attorneys for legal services.

18 (b) Notwithstanding Sections 31522.5, 31522.7, 31522.75,
19 31529.5, and 31580, the board shall pay, from system assets,
20 reasonable compensation for the legal services.

21 (c) This section applies to any county of the 2nd class, 7th class,
22 9th class, 14th class, 15th class, or the 16th class as described by
23 Sections 28020, 28023, 28028, 28030, 28035, 28036, and 28037.

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

27 ~~SEC. 7.~~

28 *SEC. 10.* Section 31535 of the Government Code is amended
29 to read:

30 31535. The board may issue subpoenas and subpoenas duces
31 tecum, and compensate persons subpoenaed. This power shall be
32 exercised and enforced in the same manner as the similar power
33 granted the board of supervisors in Article 9 (commencing with
34 Section 25170) of Chapter 1, Part 2, Division 2, except that the
35 power shall extend only to matters within the retirement board's
36 jurisdiction, and committees of the board shall not have this power.
37 Reasonable fees and expenses may be provided for by board
38 regulation for any or all of such witnesses regardless of which
39 party subpoenaed them.

1 Subpoenas shall be signed by the chairman or secretary of the
2 retirement board, except that the board may by regulation provide
3 for express written delegation of its subpoena power to any referee
4 it appoints pursuant to this chapter or to any administrator
5 appointed pursuant to Section 31522.2, 31522.5, 31522.7, 31522.9,
6 or 31522.10.

7 Any member of the board, the referee, or any person otherwise
8 empowered to issue subpoenas may administer oaths to, or take
9 depositions from, witnesses before the board or referee.

10 ~~SEC. 8.~~

11 *SEC. 11.* Section 31557.3 of the Government Code is amended
12 to read:

13 31557.3. On the date a district, as defined in subdivision (l) of
14 Section 31468, is included in the retirement system, any personnel
15 appointed pursuant to Sections 31522.5, 31522.9, 31522.10,
16 31522.7, 31522.75, and 31529.9 who had previously been in county
17 service shall continue to be members of the system without
18 interruption in service or loss of credit. Thereafter, each person
19 entering employment with the district shall become a member of
20 the system on the first day of the calendar month following his or
21 her entrance into service.

22 ~~SEC. 9.~~

23 *SEC. 12.* Section 31580.2 of the Government Code is amended
24 to read:

25 31580.2. (a) In counties in which the board of retirement, or
26 the board of retirement and the board of investment, have appointed
27 personnel pursuant to Section 31522.1, 31522.5, 31522.7,
28 31522.75, 31522.9, or 31522.10, the respective board or boards
29 shall annually adopt a budget covering the entire expense of
30 administration of the retirement system which expense shall be
31 charged against the earnings of the retirement fund. The expense
32 incurred in any year may not exceed the greater of either of the
33 following:

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

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

39 (b) Expenditures for computer software, computer hardware,
40 and computer technology consulting services in support of these

- 1 computer products shall not be considered a cost of administration
- 2 of the retirement system for purposes of this section.

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