

Assembly Bill No. 1853

Passed the Assembly August 24, 2016

Chief Clerk of the Assembly

Passed the Senate August 15, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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.

(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.

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

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

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

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

(2) As used in the first paragraph of Section 31592.2 and the first paragraph and subdivision (c) of the second paragraph of Section 31595, “board” means a board of investments.

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

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

(5) Paragraph (5) of subdivision (l) of Section 31468 and Sections 31522.5, 31522.7, 31522.75, and 31522.9 apply to both the board of retirement and board of investments. For these purposes, “board” means both the board of retirement and board

of investments. “Board of retirement” also means both the board of retirement and board of investments.

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

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

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

SEC. 2. 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.

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

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

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

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

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

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

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

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

(b) Notwithstanding any other provision of law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county's employee relations resolution, or equivalent local rules, and the terms and conditions of employment established by the

board of supervisors for county employees, including those set forth in a memorandum of understanding.

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

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

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

(f) This section shall apply in Orange County.

(g) This section shall apply to 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.

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

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

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

(b) Notwithstanding any other provision of law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county's employee relations resolution, or equivalent local rules,

and the terms and conditions of employment established by the board of supervisors for county employees, including those set forth in a memorandum of understanding.

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

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

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

(f) This section shall apply to 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.

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

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

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

(2) (A) Prior to the adoption by the board of retirement of a resolution making this section applicable, or at any time thereafter, any employee organization that represents people who work at the retirement system may advise the retirement system in writing that the employees represented by the organization wish to cease being

county employees and wish to elect to become retirement system employees under the terms of this section.

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

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

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

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

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

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

(c) (1) Notwithstanding any other law, the personnel appointed pursuant to this section and the sections referenced of subdivision

(a) shall not be county employees, but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement and the provisions of this section.

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

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

(4) With regard to an individual who was employed by the county before January 1, 2013, and who becomes a retirement system employee and then changes employment positions as described in paragraph (2) of subdivision (c) of Section 7522.02, the retirement system shall have the former obligations of the county to provide a defined benefit plan that otherwise would have been available to the employee had he or she remained a county employee.

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

(e) Any employees who were previously appointed to retirement system personnel positions pursuant to Section 31522.1 and are subsequently appointed as retirement system employees pursuant to subdivision (a) shall cease to be county employees and shall become retirement system employees at their existing or equivalent classifications as of the date the board of retirement makes this section applicable, subject to any subsequent revisions the retirement board may make pursuant to regulations governing terms and conditions of employment and, when applicable, the

provisions of a subsequent memorandum of understanding or bargaining agreement covering the employee.

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

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

(1) Employment seniority of a retirement system employee, including, but not limited to, an employee's continuous service date used for purposes of retirement or other benefits, as calculated and used under the county system in effect before the date this section becomes applicable, shall be calculated and used in the same manner by the retirement system at the time the county employee becomes a retirement system employee, subject to any subsequent revisions the retirement board may make pursuant to regulations governing terms and conditions of employment, and when applicable, the provisions of a subsequent memorandum of understanding or bargaining agreement covering the employee.

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

(3) Retirement system employees shall receive their same salary rates, leaves of absence, leave accrual rates, including all related compensation rules and provisions applicable to those salary rates, leaves, and accrual rates as under the county system on the date this section becomes applicable, subject to any subsequent revisions the retirement board may make pursuant to regulations governing terms and conditions of employment, and when applicable, the

provisions of a subsequent memorandum of understanding or bargaining agreement covering the employee.

(4) (A) Retirement system employees shall be afforded the opportunity to participate in county benefit plans and programs, including, but not limited to, group health, dental and life insurance, workers' compensation, and deferred compensation that existed on the date this section becomes applicable, under the same terms and conditions as those programs were available to county employees. The retirement board shall contract with the county to administer the county benefit plans and programs for retirement system employees, under the same terms and conditions applicable to county employees, and shall provide the employer cost and reasonable administrative expenses for participation in the programs unless and until the retirement board chooses to provide different benefits or different benefit levels through another provider.

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

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

(i) Sections 31522.2, 31522.3, and 31522.4 shall no longer apply to a retirement system that has made this section applicable.

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

(k) 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 Section

31522.5, 31522.7, or 31522.9, as those sections may apply to a retirement system that has adopted them.

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

(m) A retirement system that has elected to make either Section 31522.5, 31522.7, 31522.9, or 31522.10 applicable upon adoption of a subsequent resolution by the board of retirement may make a different section apply.

SEC. 7. Section 31522.9 of the Government Code is amended 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 a memorandum 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 memorandum 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 memorandum of understanding executed by the county and recognized employee organizations.

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

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

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

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

(b) A member or employee of the board shall not, directly or indirectly, by himself or herself, or as an agent or partner or

employee of others, sell or provide any investment product that would be considered an asset of the fund, to any retirement system established pursuant to this chapter.

(c) An individual who held a position designated in Section 31522.3, 31522.4, 31522.5, or established pursuant to Section 31522.75, or was a member of the board or an administrator, shall not, for a period of two years after leaving that position, for compensation, act as agent or attorney for, or otherwise represent, any other person except the county, by making any formal or informal appearance before, or any oral or written communication to, the retirement system, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

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

31529.9. (a) In addition to the powers granted by Sections 31522.5, 31522.75, 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, 31522.75, 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. 10. Section 31535 of the Government Code is amended to read:

31535. The board may issue subpoenas and subpoenas duces tecum, and compensate persons subpoenaed. This power shall be exercised and enforced in the same manner as the similar power granted the board of supervisors in Article 9 (commencing with Section 25170) of Chapter 1, Part 2, Division 2, except that the power shall extend only to matters within the retirement board's

jurisdiction, and committees of the board shall not have this power. Reasonable fees and expenses may be provided for by board regulation for any or all of such witnesses regardless of which party subpoenaed them.

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

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

SEC. 11. 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, 31522.10, 31522.7, 31522.75, 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. 12. 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, 31522.75, 31522.9, or 31522.10, 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.

Approved _____, 2016

Governor