

ASSEMBLY BILL

No. 2400

Introduced by Assembly Member Miller

February 16, 1996

An act to amend Section 22600 of the Education Code, to amend Sections 20303, 20305, and 20610 of, to add Section 20616.5 to, and to repeal Section 20616 of, the Government Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2400, as introduced, Miller. School employees: local retirement systems.

(1) Existing law provides that all teachers in the public schools are members of the State Teachers' Retirement System and that other school employees are members of the Public Employee's Retirement System. Existing law authorizes local agencies, including school districts, to establish pension trusts for the benefit of their officers and employees.

This bill would provide that members of a local system established under the pension trust provisions are excluded from the State Teachers' Retirement System and the Public Employees' Retirement System.

(2) The Public Employees' Retirement Law provides that county superintendents of schools do not have the authority to elect various optional benefits.

This bill would delete that exclusion thereby permitting election of optional benefits.

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

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

1 SECTION 1. Section 22600 of the Education Code is
2 amended to read:
3 22600. (a) Persons employed in a position requiring
4 membership in this system, but who are members of a
5 local system *established pursuant to Article 1.5*
6 *(commencing with Section 53215) of Chapter 2 of*
7 *Division 2 of Title 5 of the Government Code* or a county
8 retirement system are excluded from membership in the
9 system. A person so excluded shall retain the right to
10 receive a retirement allowance for nonlocal service that
11 is creditable in the system unless he or she withdraws his
12 or her contributions for that allowance.
13 (b) *Notwithstanding any other provision of law, this*
14 *chapter shall not be construed to authorize the board to*
15 *nullify, restrict, or negate the right of any person to*
16 *participate in a local system.*
17 SEC. 2. Section 20303 of the Government Code is
18 amended to read:
19 20303. (a) Persons who are members of any other
20 retirement or pension system supported wholly or in part
21 by funds of the United States government, any state
22 government or political subdivision thereof and who are
23 receiving credit in the other system for service are, as to
24 that service, excluded from this system.
25 (b) *If a public agency establishes or maintains a*
26 *retirement system pursuant to Article 1.5 (commencing*
27 *with Section 53215) of Chapter 2 of Title 5, the employees*
28 *who are members of that system shall be excluded from*
29 *this system. That exclusion shall not be affected by the*
30 *terms of any contract between this system and the*
31 *agency. For purposes of this section an employee shall be*
32 *deemed to be receiving credit for any period of*
33 *employment for which an employer is making*
34 *contributions to a Section 401(a) of Title 26 of the United*



1 *States Code tax qualified plan unless that exception is*
2 *provided for in this section.*

3 (c) *If an employee participating in this system*
4 *receives less than fifty percent of a year of service credit*
5 *in a fiscal year, and the employee is eligible for a*
6 *retirement system established or maintained by the*
7 *public agency pursuant to Article 1.5 (commencing with*
8 *Section 53215) of Chapter 2 of Title 5 the employee shall*
9 *participate in that system. That participation shall begin*
10 *in the first year following the fiscal year in which the*
11 *employee first receives less than 50 percent of a year of*
12 *service credit in this system and shall continue thereafter.*

13 ~~For~~

14 (d) *For the purpose of this section, persons who*
15 *merely are receiving pensions or retirement allowances,*
16 *or other payments, from any source whatever, on account*
17 *of service rendered to an employer other than the state*
18 *and while they were not in state service, are not, because*
19 *of that receipt, members of any other retirement or*
20 *pension system.*

21 ~~For~~

22 (e) *For the purposes of this section only, persons who*
23 *merely participate in a deferred compensation plan*
24 *established pursuant to Chapter 4 (commencing with*
25 *Section 19993) of Part 2.6 of Division 5 of Title 2 or*
26 *established pursuant to Article 1.1 (commencing with*
27 *Section 53212) of Chapter 2 of Part 1 of Division 2 of Title*
28 *5, are not, because of that participation, members of any*
29 *other retirement or pension system.*

30 ~~For~~

31 (f) *For the purposes of this section only, persons who*
32 *participate in a money purchase pension plan and trust*
33 *that meets the requirements of Section 401(a) of Title 26*
34 *of the United States Code are not, because of that*
35 *participation, members of any other retirement or*
36 *pension system, so long as the contracting agency has*
37 *received a ruling from the Internal Revenue Service*
38 *stating that the money purchase pension plan and trust*
39 *qualifies under Section 401(a) and furnishes proof*
40 *thereof upon request by the board.*



1 SEC. 3. Section 20305 of the Government Code is
2 amended to read:

3 20305. (a) An employee serving on a less than
4 full-time basis is excluded from this system unless:

5 (1) He or she is a member at the time he or she renders
6 less than full-time service and is not otherwise excluded
7 pursuant to this article or by a provision of a contract.

8 (2) His or her position requires regular, part-time
9 service for one year or longer for at least an average of 20
10 hours a week, or requires service that is equivalent to at
11 least an average of 20 hours a week, unless he or she elects
12 membership pursuant to Section 20325.

13 (3) His or her employment is, in the opinion of the
14 board, on a seasonal, limited-term, on-call, emergency,
15 intermittent, substitute, or other irregular basis, and is
16 compensated and meets one of the following conditions:

17 (A) The appointment or employment contract fixes a
18 term of full-time, continuous employment in excess of six
19 months or, if a term is not fixed, full-time employment
20 continues for longer than six months, in which case
21 membership shall be effective not later than the first day
22 of the first pay period of the seventh month of
23 employment.

24 (B) The person works more than 125 days, if employed
25 on a per diem basis or, if employed on other than a per
26 diem basis, 1,000 hours within the fiscal year, in which
27 case, membership shall be effective not later than the first
28 day of the first pay period of the month following the
29 month in which 125 days or 1,000 hours of service were
30 completed. For purposes of this subdivision, "day" means
31 each eight-hour period of employment worked by an
32 employee paid on a per diem basis so that membership is
33 effective after he or she has completed 1,000 hours of
34 compensated service in a fiscal year.

35 (C) The person is employed by the Department of
36 Forestry and Fire Protection in one of the positions that
37 provide state safety membership pursuant to Section
38 20400 or state peace officer/firefighter membership
39 pursuant to Section 20392.



1 (4) He or she is a temporary faculty member of the
2 California State University who works two consecutive
3 semesters or three consecutive quarters at half-time or
4 more and is not otherwise excluded pursuant to this
5 article, in which case, membership shall be effective with
6 the start of the next consecutive semester or quarter if the
7 appointment requires service of half-time or more.

8 (5) He or she is a member of the Board of Prison
9 Terms, the State Personnel Board, or the State Air
10 Resources Board and elects to become a member
11 pursuant to Section 20320.

12 (6) He or she is participating in partial service
13 retirement, pursuant to Article 1.7 (commencing with
14 Section 19996.30) of Chapter 7 of Part 2.6.

15 (7) He or she is included by specific provision of the
16 board relating to the exclusion of less than full-time
17 employees.

18 (b) This section shall supersede any contract provision
19 excluding persons in any temporary or seasonal
20 employment basis and shall apply only to persons
21 entering employment on and after January 1, 1975.
22 Except as provided in Section 20502, no contract or
23 contract amendment entered into after January 1, 1981,
24 shall contain any provision excluding persons on an
25 irregular employment basis.

26 *(c) This section shall not be construed to include*
27 *employees excluded from the system by the terms of a*
28 *public agency contract with this system, nor shall this*
29 *section supersede exclusions contained in Section 20303*
30 *or 20894.*

31 SEC. 4. Section 20610 of the Government Code is
32 amended to read:

33 20610. Every county superintendent of schools shall
34 enter into a contract with the board for the inclusion in
35 this system of (a) all of the employees of the office of
36 county superintendent whose compensation is paid from
37 the county school service fund other than employees
38 electing pursuant to Section 1313 of the Education Code
39 to continue in membership in a county system; and (b)
40 all of the employees of school districts and community



1 college districts existing on July 1, 1949, or thereafter
 2 formed, within his or her jurisdiction, other than school
 3 districts that are contracting agencies or that maintain a
 4 district, joint district, or other local retirement system
 5 *pursuant to Article 1.5 (commencing with Section 53215)*
 6 *of Chapter 2 of Division 2 of Title 5*, in respect to service
 7 rendered in a status in which they are not eligible for
 8 membership in the State Teachers' Retirement System.
 9 The effective date of each contract shall be not later than
 10 July 1, 1949. For the purposes of this part those school
 11 district employees shall be considered to be employees of
 12 the county superintendent of schools having jurisdiction
 13 over the school district by which they are employed and
 14 service to the district shall be considered as service to the
 15 county superintendent of schools.

16 SEC. 5. Section 20616 of the Government Code is
 17 repealed.

18 ~~20616. Sections 20469, 20470, 20502, 20512, 20570,~~
 19 ~~20571, and 20572 do not apply to contracts made pursuant~~
 20 ~~to this chapter. The county superintendent of schools~~
 21 ~~shall have no authority to exercise any election under any~~
 22 ~~provision of this part that applies to a contracting agency~~
 23 ~~only on its election to be subject to it.~~

24 SEC. 6. Section 20616.5 is added to the Government
 25 Code, to read:

26 20616.5. Notwithstanding any other provision of law,
 27 school districts may establish and maintain a district, joint
 28 district, or other local retirement system pursuant to
 29 Article 1.5 (commencing with Section 53215) of Chapter
 30 2 of Division of Title 5 or may designate the county
 31 superintendent of schools to enter into a contract on their
 32 behalf pursuant to Section 20610.

