

Introduced by Senator Correa

February 26, 2009

An act to amend Sections 31520.1, 31520.2, 31520.3, and 31520.5 of, to add Section 31523.1 to, and to repeal and add Section 31523 of, the Government Code, relating to county retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 414, as introduced, Correa. County employee retirement: boards.

(1) The County Employees Retirement Law of 1937 sets forth the membership composition for boards of retirement, as specified. Under that law, the retirement board in specified counties is comprised of 9 members and an alternate member who is the candidate for the 7th member from the group of safety members, under specified provisions, that is not represented by a board member who received the highest number of votes for all candidates in that group, except as specified. The alternate member has, unless prohibited by a resolution or regulation of the board, the same rights, privileges, responsibilities, and access to closed sessions as the 2nd, 3rd, 7th, and 8th member and the right to hold positions on committees of the board independent of the 2nd, 3rd, 7th, or 8th member and to participate in the deliberations of the board or its committees, as specified.

This bill would delete the authority of the board to prohibit, by a resolution or regulation of the board, a member from having the same rights, privileges, responsibilities, and access to closed sessions as the 2nd, 3rd, 7th, or 8th member, or from holding positions on committees of the board, and participating in board or committee deliberations, as described above. The bill would direct the board of supervisors to hold an election to fill a vacancy for the duration of the current term, except as specified, at the earliest possible date if there is a vacancy in the 2nd,

3rd, 7th, 8th, or alternate 7th member positions. It would limit candidacy to the 7th member and alternate member positions, as specified. The bill would require the board of supervisors to forego an election in specified circumstances when there is only one candidate. The bill would also make various changes in terminology and delete obsolete references.

(2) Existing law prescribes the manner of appointing an alternate retired member to the office of the 8th member of the board of retirement. If there is a vacancy with respect to the 8th member, existing law requires that the alternate retired member fill the vacancy until a successor qualifies. Existing law authorizes the alternate retired member to hold positions on committees of the board independent of the 8th member and to participate in the deliberations of the board or its committees regardless of whether the 8th member is present, unless prohibited by resolution or regulation of the board.

This bill would instead require the board of retirement to, by majority vote, appoint a replacement alternate member, in the same manner as prescribed for the initial appointment of an alternate retired member, who shall serve until the expiration of the current term of the current member. The alternate retired member would have the same rights, privileges, responsibilities, and access to closed sessions as the 8th member. The bill would also delete the authority of the board to prohibit the alternate retired member from holding positions on committees of the board or participating in the deliberations of the board or its committees, as described above. The bill would also make changes in terminology.

(3) Existing law permits the board of supervisors in a county in which the assets of the retirement system exceed \$800,000,000 to establish a board of investments, to consist of 9 members of specified classifications, which is responsible for the investments of the retirement system. Existing law prescribes the terms for the members of the board of investments.

This bill would prescribe a process for filling vacancies in specified positions on a board of investments, as described above. The bill would require the board of investments to hold an election to fill those vacancies at the earliest possible date, with a replacement member to serve for the duration of the current term, unless the remaining portion is 6 months or less, in which case concurrent elections would be authorized to be held for the vacant term position and the succeeding term position. The bill would require the board of supervisors to forego

an election in specified circumstances when there is only one candidate. The bill would also delete obsolete references and establish the initial term of a person appointed as a 9th member.

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 31520.1 of the Government Code is
2 amended to read:
3 31520.1. (a) In any county subject to Articles 6.8 (commencing
4 with Section 31639) and 7.5 (commencing with Section 31662.2),
5 the board of retirement shall consist of nine members and one
6 alternate, one of whom shall be the county treasurer. The second
7 and third members of the board shall be members of the
8 association, other than safety members, elected by those members
9 within 30 days after the retirement system becomes operative in
10 a manner determined by the board of supervisors. The fourth, fifth,
11 sixth, and ninth members shall be qualified electors of the county
12 who are not connected with the county government in any capacity,
13 except one may be a supervisor, and shall be appointed by the
14 board of supervisors. A supervisor appointed as a member of the
15 retirement board may not serve beyond his or her term of office
16 as supervisor. The seventh member shall be a safety member of
17 the association elected by the safety members. The eighth member
18 shall be a retired member elected by the retired members of the
19 association in a manner to be determined by the board of
20 supervisors. The alternate member shall be that candidate, if any,
21 for the seventh member from the group under Section 31470.2 or
22 31470.4, or any other eligible safety member in a county if there
23 is no eligible candidate from the groups under Sections 31470.2
24 and 31470.4, which is not represented by a board member who
25 received the highest number of votes of all candidates in that group,
26 *and shall be referred to as the alternate seventh member.* If there
27 is no eligible candidate there may not be an alternate *seventh*
28 member. The first person chosen as the second and fourth members
29 shall serve for a term of two years beginning with the date the
30 system becomes operative, the third and fifth members shall serve
31 for a term of three years beginning with that date, and the sixth,
32 seventh and alternate *seventh* members shall serve for a term of

1 two years beginning ~~January 1, 1952, or~~ on the date on which a
2 retirement system established by this chapter becomes operative;
3 ~~whichever is the later.~~ The eighth and ninth members shall take
4 office as soon as practicable for an initial term to expire concurrent
5 with the expiration of the longest remaining term of an elected
6 member. Thereafter, the terms of office of the elected, appointed,
7 and alternate *seventh* members are three years, *except as provided*
8 *in Section 31523.*

9 (b) The alternate *seventh* member provided for by this section
10 shall vote as a member of the board only if the second, third,
11 seventh, or eighth member is absent from a board meeting for any
12 cause, or if there is a vacancy with respect to the second, third,
13 seventh, or eighth member, the alternate *seventh* member shall fill
14 the vacancy until a successor qualifies. The alternate *seventh*
15 member shall sit on the board in place of the seventh member if a
16 member of the same service is before the board for determination
17 of his or her retirement.

18 ~~(c) Unless prohibited by a resolution or regulation of the board,~~
19 ~~the~~ The alternate *seventh* member shall be entitled to both of the
20 following:

21 (1) The alternate *seventh* member shall have the same rights,
22 privileges, responsibilities, and access to closed sessions as the
23 second, third, seventh, and eighth member.

24 (2) The alternate *seventh* member may hold positions on
25 committees of the board independent of the second, third, seventh,
26 or eighth member and may participate in the deliberations of the
27 board or its committees whether or not the second, third, seventh,
28 or eighth member is present.

29 ~~(d) The amendments to this section during the 1972 Regular~~
30 ~~Session do not affect the continuation on the board of retired~~
31 ~~members appointed by the board of supervisors until the expiration~~
32 ~~of the term for which they were appointed.~~

33 SEC. 2. Section 31520.2 of the Government Code is amended
34 to read:

35 31520.2. (a) In any county in which the assets of the retirement
36 system exceed eight hundred million dollars (\$800,000,000), the
37 board of supervisors may, by resolution, establish a board of
38 investments. The board shall consist of nine members, one of
39 whom shall be the county treasurer. The second and third members
40 shall be general members of the association elected by the general

membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1970 Regular Session, shall also be members of the board of retirement. The fourth member shall be a safety member elected by the safety membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1970 Regular Session, shall also be a member of the board of retirement. The eighth member shall be a retired member of the association elected by the retired membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1976 Regular Session, shall also be a member of the board of retirement. The fifth, sixth, seventh, and ninth members shall be qualified electors of the county who are not connected with county government in any capacity, and shall be appointed by the board of supervisors. They shall also have had significant experience in institutional investing, either as investment officer of a bank, or trust company; or as investment officer of an insurance company, or in an active, or advisory, capacity as to investments of institutional or endowment funds. The first person chosen as a fifth, sixth, or seventh member, shall serve for three years a three-year term, the second person chosen shall serve a four-year term, and the third person chosen shall serve a two-year term. The first person appointed as the ninth member shall be appointed for the balance of a term ending December 31, 1978. serve a one-year term. Thereafter, all terms of all appointed members shall be three years. The general members, the safety member, and the retired member shall serve on the board of investment until their current term as members of the board of retirement expires.

The

(b) The board of investment shall be responsible for all investments of the retirement system.

SEC. 3. Section 31520.3 of the Government Code is amended to read:

31520.3. (a) Notwithstanding Section 31520.1, the board of retirement of a county of the 16th class, as defined by Sections 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, may, by majority vote, appoint, from a list of nominees submitted by an organization consisting solely of retired members, an alternate retired member to the office of the eighth member,

1 who shall serve until the expiration of the current term of the
2 current eighth member and thereafter the alternate retired member
3 shall be elected by the retired members of the association in the
4 same manner and at the same time as the eighth member is elected.
5 The term of office of the alternate retired member shall run
6 concurrently with the term of office of the eighth member. The
7 alternate retired member shall vote as a member of the board only
8 in the event the eighth member is absent from a board meeting for
9 any cause. If there is a vacancy with respect to the eighth member,
10 the alternate retired member shall fill that vacancy ~~until a successor~~
11 ~~qualifies for the remainder of the eighth member's term of office.~~
12 *The alternate retired member shall be entitled to the same rights*
13 *and privileges and shall have the same responsibilities and access*
14 *to closed sessions as the eighth member. The alternate retired*
15 *member may hold positions on committees of the board*
16 *independent of the eighth member and may participate in the*
17 *deliberations of the board or its committees whether or not the*
18 *eighth member is present.* ~~The~~

19 *The* alternate retired member shall be entitled to the same
20 compensation as the eighth member for attending a meeting,
21 pursuant to Section 31521, whether or not the eighth member is
22 in attendance at those meetings. In the event that this section is
23 made applicable in any county, by the appointment of an alternate
24 eighth member, the alternate ~~safety seventh~~ member shall not sit
25 and act for the eighth member, except as described in subdivision
26 (b).

27 (b) If both the eighth member and the alternate retired member
28 are not attending a meeting, the alternate ~~safety seventh~~ member
29 may sit and act for the eighth member as described in Section
30 31520.1.

31 SEC. 4. Section 31520.5 of the Government Code is amended
32 to read:

33 31520.5. (a) Notwithstanding Section 31520.1, in any county
34 subject to Articles 6.8 (commencing with Section 31639) and 7.5
35 (commencing with Section 31662), the board of retirement may,
36 by majority vote, appoint, from a list of nominees submitted by a
37 qualified retiree organization, an alternate retired member to the
38 office of the eighth member, who shall serve until the expiration
39 of the current term of the current eighth member. Thereafter, the
40 alternate retired member shall be elected separately by the retired

1 members of the association in the same manner and at the same
2 time as the eighth member is elected. An organization shall be
3 deemed to be a “qualified retiree organization” for purposes of
4 this subdivision if a majority of the members of the organization
5 are retired members of the system.

6 (b) The term of office of the alternate retired member shall run
7 concurrently with the term of office of the eighth member. The
8 alternate retired member shall vote as a member of the board only
9 in the event the eighth member is absent from a board meeting for
10 any cause. If there is a vacancy with respect to the eighth member,
11 the alternate retired member shall fill that vacancy ~~until a successor~~
12 ~~qualifies. Except as provided in subdivision (c) and as otherwise~~
13 ~~provided in this subdivision,~~ *for the remainder of the eighth*
14 *member’s term of office.* The alternate retired member shall be
15 entitled to the same rights and privileges and shall have the same
16 responsibilities and access to closed sessions as the eighth member.

17 (c) The alternate retired member may hold positions on
18 committees of the board independent of the eighth member and
19 may participate in the deliberations of the board or its committees
20 whether or not the eighth member is present, ~~unless prohibited by~~
21 ~~resolution or regulation of the board.~~

22 (d) The alternate retired member shall be entitled to the same
23 compensation as the eighth member for attending a meeting,
24 pursuant to Sections 31521 and 31521.1, whether or not the eighth
25 member is in attendance at those meetings.

26 (e) (1) If this section is made applicable in any county, by the
27 appointment of an alternate eighth member, the alternate ~~safety~~
28 ~~seventh~~ member shall not sit and act for the eighth member, except
29 as described in paragraph (2).

30 (2) If both the eighth member and the alternate retired member
31 are not attending a meeting, the alternate ~~safety~~ *seventh* member
32 may sit and act for the eighth member as described in Section
33 31520.1.

34 SEC. 5. Section 31523 of the Government Code is repealed.

35 ~~31523. If a vacancy on the board occurs for any cause or on~~
36 ~~the expiration of the term of office of any member, a successor~~
37 ~~shall be chosen in the same manner as was his predecessor, except~~
38 ~~that if an election to fill a vacancy for the second, third, seventh~~
39 ~~or eighth member has been called and only one member has been~~
40 ~~duly nominated in accordance with the rules established for the~~

1 ~~holding of such election, the board of supervisors shall order that~~
2 ~~no election be held and shall direct the clerk to cast a unanimous~~
3 ~~ballot in favor of such nominated member.~~

4 SEC. 6. Section 31523 is added to the Government Code, to
5 read:

6 31523. (a) In the event of a vacancy in the second, third,
7 seventh, eighth, or alternate seventh member position on the board
8 of retirement, the board shall cause an election to fill the vacancy
9 to be held at the earliest possible date, except as provided in
10 Sections 31520.3 and 31520.5. The vacancy in the second, third,
11 or eighth member position on the board of retirement shall be filled
12 for the duration of the current term except that, if the remaining
13 portion of the current term is six months or less on the date of the
14 election, concurrent elections may be held to fill the vacancy for
15 the remainder of the current term and to fill the position for the
16 succeeding term. With respect to a vacancy in the seventh member
17 position, candidates shall be a safety member from a group which
18 is not represented by an incumbent alternate seventh member. With
19 respect to the alternate seventh member position, the candidates
20 shall be limited to the group under Sections 31470.2 or 31470.4,
21 or any other eligible safety member in a county if there is no
22 eligible candidate from the groups under Sections 31470.2 and
23 31470.4 that is not represented by an incumbent seventh board
24 member. The successful candidate shall serve for the duration of
25 the current term.

26 (b) If there is a vacancy with respect to the alternate retired
27 member, the board of retirement shall, by majority vote, appoint
28 a replacement alternate member in the same manner as prescribed
29 in Sections 31520.3 and 31520.5 for the initial appointment of an
30 alternate retired member, who shall serve until the expiration of
31 the current term of the current eighth member.

32 (c) If an election has been called on the expiration of the term
33 of office of any member or alternate member, or to fill a vacancy
34 for the second, third, seventh, eighth, or alternate seventh member
35 of a board of retirement, and only one candidate has been duly
36 nominated in accordance with the rules established for the holding
37 of that election, the board of supervisors shall order that no election
38 be held and shall direct the clerk to cast a unanimous ballot in
39 favor of the candidate.

1 SEC. 7. Section 31523.1 is added to the Government Code, to
2 read:

3 31523.1. (a) In the event of a vacancy in the second, third,
4 fourth, or eighth member position on a board of investments
5 established pursuant to Section 31520.2, an election shall be called
6 at the earliest possible date to fill the vacancy. The vacancy in the
7 second, third, fourth, or eighth member position shall be filled for
8 the duration of the current term except that, if the remaining portion
9 of the current term on the date of the election is six months or less,
10 concurrent elections may be held to fill the vacancy for the
11 remainder of the current term and to fill the position for the
12 succeeding term.

13 (b) If an election has been called on the expiration of the term
14 of office of any member, or to fill a vacancy for the second, third,
15 fourth, or eighth member position of a board of investments, and
16 only one candidate has been duly nominated in accordance with
17 the rules established for the holding of that election, the board of
18 supervisors shall order that no election be held and shall direct the
19 clerk to cast a unanimous ballot in favor of the candidate.