

ASSEMBLY BILL

No. 2428

Introduced by Assembly Member Hagman

February 24, 2012

An act to amend Section 20322 of, and to add Sections 20307 and 20890.3 to, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2428, as introduced, Hagman. Public employees' retirement: elected local officials.

Existing law creates the Public Employees' Retirement System (PERS) which provides a defined benefit to their members based on age at retirement, service credit, and final compensation. Existing law establishes the criteria for membership in PERS and may exclude certain employment classifications from membership. Existing law authorizes any public agency to make its employees members of PERS by contracting with the Board of Administration of PERS. The California Constitution provides for the division of the state into counties and requires that a county have an elected sheriff, elected district attorney, elected assessor, and elected governing body. Existing law provides for the incorporation of cities in various forms and requires that certain city offices be filled pursuant to elections, as prescribed. Existing law provides for the creation of districts, the governing bodies of which may be elected.

This bill would prohibit a person who is publicly elected to a local office of any kind, on and after January 1, 2013, from becoming a member of PERS by virtue of that service or from acquiring any retirement right or benefit for serving in that elective local office. The

bill would also apply these prohibitions to a person who is appointed to fill the term of a person so elected, but would not apply them to a person who obtained membership by virtue of holding an elective local office prior to January 1, 2013, for so long as he or she holds that office or is reelected to that office.

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 20307 is added to the Government Code,
2 to read:

3 20307. (a) Notwithstanding any other law, a person who is
4 publicly elected to a local office of any kind, on and after January
5 1, 2013, shall not become a member of the system by virtue of that
6 service and shall not acquire any retirement right or benefit for
7 serving in that elective office. This section shall apply equally to
8 a person who is appointed to fill the term of a person so elected.

9 (b) This section shall not apply to a person who obtained
10 membership by virtue of holding an elective local office prior to
11 January 1, 2013, for so long as he or she holds that office or is
12 reelected to that office.

13 SEC. 2. Section 20322 of the Government Code is amended
14 to read:

15 20322. ~~(a)~~ *Except as otherwise provided in Section 20307, the*
16 *following shall apply:*

17 (a) An elective officer is excluded from membership in this
18 system unless the officer files with the board an election in writing
19 to become a member. Upon electing to become a member, the
20 officer may further elect at any time prior to retirement to receive
21 service credit for his or her prior, excluded service by making the
22 contributions as specified in Sections 21050 and 21051.

23 (b) As used in this part, "elective officer" includes any officer
24 of the Senate or Assembly who is elected by vote of the members
25 of either or both of the houses of the Legislature, and any
26 appointive officer of a city or county occupying a fixed term of
27 office, as well as officers of the state or contracting agencies elected
28 by the people, and persons elected to a city council or a county
29 board of supervisors.

1 (c) Notwithstanding any other provision of subdivision (a) or
2 (b), elected or appointed officers of a county superintendent of
3 schools, school district, or community college district, or of a
4 contracting agency, who serve on public commissions, boards,
5 councils, or similar legislative or administrative bodies are
6 excluded from membership in this system. This exclusion shall
7 only apply to those elected or appointed officers, other than city
8 or county officers, who are first elected or appointed to an office
9 on or after July 1, 1994, or who are elected or appointed to a term
10 of office not consecutive with the term of office held on June 30,
11 1994. For city or county elected or appointed officers, this
12 exclusion shall only apply to those officers who are first elected
13 or appointed to an office on or after January 1, 1997, or who are
14 elected or appointed to a term of office not consecutive with the
15 term of office held on December 31, 1996. This exclusion shall
16 not apply to persons elected to a city council or county board of
17 supervisors.

18 (d) Any person holding the office of city attorney or the office
19 of assistant city attorney, whether employed, appointed, or elected,
20 is excluded from the definition of “elective officer” as defined in
21 subdivision (b). This subdivision shall apply only to persons first
22 employed, elected, or appointed on or after July 1, 1994, or
23 following any break in state service while serving in the office if
24 the office was held on June 30, 1994.

25 (e) In accordance with Section 20125, the board shall be the
26 sole judge of which elected or appointed positions qualify the
27 incumbent as an “elective officer” in this system under this section.

28 (f) Notwithstanding any other provision of law, with respect to
29 elective officers of contracting agencies, payment by a contracting
30 agency of employer contributions and any other amounts for
31 employer paid benefits under this system shall not be construed
32 as receipt of salary or compensation by the elective officer for
33 purposes of any statutory salary or compensation limitation.

34 SEC. 3. Section 20890.3 is added to the Government Code, to
35 read:

36 20890.3. Notwithstanding any other law, a person described
37 in Section 20307 shall not be credited with service by virtue of
38 serving in that elective local office.

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