

AMENDED IN ASSEMBLY APRIL 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2437

Introduced by Assembly Member Jeffries
(Principal coauthor: Assembly Member Cook)

February 24, 2012

~~An act to add Sections 22119.6 and 22603 to the Education Code, and to amend Sections 20322, 31553, and 31641 of, and to add Sections 7514.51, 20302, 20890.5, 31553.5, 31641.5, 45310.2, and 50805.5 to, the Government Code, relating to public employees' retirement. An act to add Section 21538.5 to the Government Code, relating to special death benefits.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2437, as amended, Jeffries. ~~Public employees' retirement: elected officials. Special death benefits: Riverside County.~~

The Public Employees' Retirement Law (PERL) requires the Public Employees' Retirement System to be liable for either a basic or special death benefit upon the death of a member, as specified. Among other circumstances, PERL authorizes the special death benefit to be payable when there is a qualifying survivor if the deceased was a patrol, state peace officer/firefighter, state safety, state industrial, or local safety member, if his or her death was industrial.

This bill would authorize the special death benefit to be payable if the deceased was a Riverside County Sheriff's Department Correctional Deputy or a Correctional Corporal, if his or her death occurred as a direct result of injury arising out of and in the course of his or her official duties with the Riverside County Sheriff's Department, and if there was a qualifying survivor.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Riverside.

~~Existing law authorizes the creation of retirement systems for public employees by counties, cities, and districts. Existing law creates the Public Employees' Retirement System and the State Teachers' Retirement System, which provide a defined benefit to their members based on age at retirement, service credit, and final compensation. Existing law establishes the criteria for membership in the various public employee retirement systems and may exclude certain employment classifications from membership. 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 public office of any kind that is less than full time, as defined, or who is elected as a city councilmember or a member of a county board of supervisors, on and after January 1, 2013, from becoming a member of a retirement system by virtue of that service or acquiring any retirement right or benefit for serving in that elective office. The bill would also apply these prohibitions to a person who is appointed to fill the term of a person so elected. The bill would except from this prohibition a sheriff, district attorney, clerk, assessor, or treasurer, and a person who obtained membership by virtue of holding an elective public office prior to January 1, 2013, and remains in that office or is reelected to it.~~

~~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 21538.5 is added to the Government Code,*
- 2 *to read:*
- 3 *21538.5. (a) The special death benefit is payable if the*
- 4 *deceased was a Riverside County Sheriff's Department*
- 5 *Correctional Deputy or a Correctional Corporal, if his or her*
- 6 *death occurred as a direct result of injury arising out of and in*
- 7 *the course of his or her official duties with the Riverside County*
- 8 *Sheriff's Department, and if there is a survivor who qualifies under*

1 subdivision (a) of Section 21541. The Workers' Compensation
2 Appeals Board, using the same procedures as in workers'
3 compensation hearings, shall, in disputed cases, determine whether
4 the death of the member occurred as a result of that injury.

5 (b) The jurisdiction of the Workers' Compensation Appeals
6 Board shall be limited solely to the issue of industrial causation,
7 and this section may not be construed to authorize the Workers'
8 Compensation Appeals Board to award costs against this system
9 pursuant to Section 4600 or 5811 or any other provision of the
10 Labor Code.

11 (c) This section shall not become operative unless and until a
12 memorandum of understanding has been agreed to by the County
13 of Riverside and the Riverside Sheriffs' Association making this
14 section applicable to those members described in subdivision (a).

15 SEC. 2. The Legislature finds and declares that a special law
16 is necessary and that a general law cannot be made applicable
17 within the meaning of Section 16 of Article IV of the California
18 Constitution because of the unique circumstances in the County
19 of Riverside with respect to death benefits.

20 SECTION 1. ~~Section 22119.6 is added to the Education Code,~~
21 ~~to read:~~

22 ~~22119.6. Notwithstanding any other law, "creditable service"~~
23 ~~does not include service by a person described in Section 22603~~
24 ~~performed in an elective office.~~

25 ~~SEC. 2. Section 22603 is added to the Education Code, to read:~~

26 ~~22603. (a) Notwithstanding any other law, a person who is~~
27 ~~publicly elected to an office of any kind that is less than full time,~~
28 ~~on and after January 1, 2013, shall not become a member of a~~
29 ~~retirement system established under this chapter by virtue of that~~
30 ~~service and shall not acquire any retirement right or benefit for~~
31 ~~serving in that elective office. This section shall apply equally to~~
32 ~~a person who is appointed to fill the term of a person so elected.~~
33 ~~For purposes of this section, "full time" means the elected or~~
34 ~~appointed official is required to provide service to the local~~
35 ~~government or special district for a minimum of five days and 40~~
36 ~~hours a week, exclusive of holidays, or otherwise requires the~~
37 ~~elected or appointed official to devote his or her entire time and~~
38 ~~attention to the duties of the office and prohibits any outside~~
39 ~~employment that would interfere with those duties. Designation~~

1 of an elective or appointive office as full time shall be enacted by
2 law:

3 ~~(b) This section shall not apply to a person who obtained~~
4 ~~membership by virtue of holding an elective public office prior to~~
5 ~~January 1, 2013, for so long as he or she holds that office or is~~
6 ~~reelected to that office.~~

7 SEC. 3.—Section 7514.51 is added to the Government Code, to
8 read:

9 7514.51. (a) (1) ~~Notwithstanding any other law and except~~
10 ~~as required or permitted by the California Constitution, a person~~
11 ~~described in paragraph (2) shall not become a member of any~~
12 ~~retirement system by virtue of that service and shall not acquire~~
13 ~~any retirement right or benefit for serving in that elective office.~~

14 ~~(2) This subdivision shall apply to all of the following:~~

15 ~~(A) A person who is publicly elected to a local public office of~~
16 ~~any kind that is not full time, on and after January 1, 2013, except~~
17 ~~as specified in subdivision (b). This subparagraph shall apply~~
18 ~~equally to a person who is appointed to fill the term of a person~~
19 ~~so elected.~~

20 ~~(B) An elected city councilmember or a member of a county~~
21 ~~board of supervisors.~~

22 ~~(b) Notwithstanding subparagraph (A) of paragraph (2) of~~
23 ~~subdivision (a), this section shall not apply to any of the following:~~

24 ~~(1) A person who obtained membership by virtue of holding an~~
25 ~~elective public office prior to January 1, 2013, for so long as he~~
26 ~~or she holds that office or is reelected to that office.~~

27 ~~(2) A sheriff, district attorney, clerk, assessor, or treasurer.~~

28 ~~(c) For purposes of this section, “full time” means the elected~~
29 ~~or appointed official is required to provide service to the local~~
30 ~~government or special district for a minimum of five days and 40~~
31 ~~hours a week, exclusive of holidays, or otherwise requires the~~
32 ~~elected or appointed official to devote his or her entire time and~~
33 ~~attention to the duties of the office and prohibits any outside~~
34 ~~employment that would interfere with those duties. Designation~~
35 ~~of an elective or appointive office as full time shall be enacted by~~
36 ~~law.~~

37 SEC. 4.—Section 20302 is added to the Government Code, to
38 read:

39 20302. (a) (1) ~~Notwithstanding any other law, a person~~
40 ~~described in paragraph (2) shall not become a member of any~~

1 retirement system by virtue of that service and shall not acquire
2 any retirement right or benefit for serving in that elective office.

3 (2) This subdivision shall apply to all of the following:

4 (A) A person who is publicly elected to a local public office of
5 any kind that is not full time, on and after January 1, 2013, except
6 as specified in subdivision (b). This subparagraph shall apply
7 equally to a person who is appointed to fill the term of a person
8 so elected.

9 (B) An elected city councilmember or a member of a county
10 board of supervisors.

11 (b) Notwithstanding subparagraph (A) of paragraph (2) of
12 subdivision (a), this section shall not apply to any of the following:

13 (1) A person who obtained membership by virtue of holding an
14 elective public office prior to January 1, 2013, for so long as he
15 or she holds that office or is reelected to that office.

16 (2) A sheriff, district attorney, clerk, assessor, or treasurer.

17 (c) For purposes of this section, “full time” means the elected
18 or appointed official is required to provide service to the local
19 government or special district for a minimum of five days and 40
20 hours a week, exclusive of holidays, or otherwise requires the
21 elected or appointed official to devote his or her entire time and
22 attention to the duties of the office and prohibits any outside
23 employment that would interfere with those duties. Designation
24 of an elective or appointive office as full time shall be enacted by
25 law.

26 SEC. 5. Section 20322 of the Government Code is amended
27 to read:

28 20322. Except as otherwise provided in Section 20302, the
29 following shall apply:

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

36 (b) As used in this part, “elective officer” includes any officer
37 of the Senate or Assembly who is elected by vote of the members
38 of either or both of the houses of the Legislature, and any
39 appointive officer of a city or county occupying a fixed term of
40 office, as well as officers of the state or contracting agencies elected

1 by the people, and persons elected to a city council or a county
2 board of supervisors.

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

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

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

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

36 ~~SEC. 6. Section 20890.5 is added to the Government Code, to~~
37 ~~read:~~

38 ~~20890.5. Notwithstanding any other law, a person described~~
39 ~~in Section 20302 shall not be credited with service by virtue of~~
40 ~~serving in a local public elective office.~~

1 ~~SEC. 7. Section 31553 of the Government Code is amended~~
2 ~~to read:~~

3 ~~31553. Except as provided in Section 31553.5, elective officers~~
4 ~~become members of the retirement association on the first day of~~
5 ~~the calendar month following the filing of a declaration with the~~
6 ~~board to become a member, provided, however, that any such~~
7 ~~elective officer may, within 60 days after the expiration of the~~
8 ~~officer's term of office or within 60 days after the officer ceases~~
9 ~~to hold the office, rescind the declaration and withdraw from the~~
10 ~~retirement association. In such cases, all contributions paid by the~~
11 ~~member shall be refunded in the same manner as applicable to~~
12 ~~members terminating service.~~

13 ~~SEC. 8. Section 31553.5 is added to the Government Code, to~~
14 ~~read:~~

15 ~~31553.5. (a) (1) Notwithstanding any other law, a person~~
16 ~~described in paragraph (2) shall not become a member of any~~
17 ~~retirement system by virtue of that service and shall not acquire~~
18 ~~any retirement right or benefit for serving in that elective office.~~

19 ~~(2) This subdivision shall apply to all of the following:~~

20 ~~(A) A person who is publicly elected to an office of any kind~~
21 ~~that is not full time, on and after January 1, 2013, except as~~
22 ~~specified in subdivision (b). This subparagraph shall apply equally~~
23 ~~to a person who is appointed to fill the term of a person so elected.~~

24 ~~(B) An elected member of a board of supervisors.~~

25 ~~(b) Notwithstanding subparagraph (A) of paragraph (2) of~~
26 ~~subdivision (a), this section shall not apply to any of the following:~~

27 ~~(1) A person who obtained membership by virtue of holding an~~
28 ~~elective public office prior to January 1, 2013, for so long as he~~
29 ~~or she holds that office or is reelected to that office.~~

30 ~~(2) A district attorney, sheriff, county clerk, county treasurer,~~
31 ~~or assessor.~~

32 ~~(c) For purposes of this section, "full time" means the elected~~
33 ~~or appointed official is required to provide service to the local~~
34 ~~government or special district for a minimum of five days and 40~~
35 ~~hours a week, exclusive of holidays, or otherwise requires the~~
36 ~~elected or appointed official to devote his or her entire time and~~
37 ~~attention to the duties of the office and prohibits any outside~~
38 ~~employment that would interfere with those duties. Designation~~
39 ~~of an elective or appointive office as full time shall be enacted by~~
40 ~~law.~~

1 SEC. 9. ~~Section 31641 of the Government Code is amended~~
2 ~~to read:~~

3 31641. ~~Except as provided in Section 31641.5, “service” means~~
4 ~~uninterrupted employment of any person appointed or elected for~~
5 ~~that period of time:~~

6 (a) ~~For which deductions are made from his earnable~~
7 ~~compensation from the county or district for such service while~~
8 ~~he is a member of the retirement association.~~

9 (b) ~~In military service for which the county or district or member~~
10 ~~is authorized by other provisions of this chapter to make, and does~~
11 ~~make, contributions.~~

12 (c) ~~For which he receives credit for county service or for public~~
13 ~~service or for both pursuant to the provisions of this article.~~

14 (d) ~~Allowed for prior service.~~

15 SEC. 10. ~~Section 31641.5 is added to the Government Code,~~
16 ~~to read:~~

17 31641.5. ~~Notwithstanding any other law, a person described~~
18 ~~in Section 31553.5 shall not be credited with service by virtue of~~
19 ~~serving in an elective office.~~

20 SEC. 11. ~~Section 45310.2 is added to the Government Code,~~
21 ~~to read:~~

22 45310.2. (a) (1) ~~Notwithstanding any other law and except~~
23 ~~as required or permitted by the California Constitution, a person~~
24 ~~described in paragraph (2) shall not become a member of any~~
25 ~~retirement system by virtue of that service and shall not acquire~~
26 ~~any retirement right or benefit for serving in that elective office.~~

27 (2) ~~This subdivision shall apply to all of the following:~~

28 (A) ~~A person who is publicly elected to an office of any kind~~
29 ~~that is not full time, on and after January 1, 2013, except as~~
30 ~~specified in subdivision (b). This subparagraph shall apply equally~~
31 ~~to a person who is appointed to fill the term of a person so elected.~~

32 (B) ~~An elected city councilmember.~~

33 (b) ~~Notwithstanding subparagraph (A) of paragraph (2) of~~
34 ~~subdivision (a), this section shall not apply to any of the following:~~

35 (1) ~~A person who obtained membership by virtue of holding an~~
36 ~~elective public office prior to January 1, 2013, for so long as he~~
37 ~~or she holds that office or is reelected to that office.~~

38 (2) ~~A city clerk, city treasurer, or city assessor.~~

39 (c) ~~For purposes of this section, “full time” means the elected~~
40 ~~or appointed official is required to provide service to the local~~

1 government or special district for a minimum of five days and 40
2 hours a week, exclusive of holidays, or otherwise requires the
3 elected or appointed official to devote his or her entire time and
4 attention to the duties of the office and prohibits any outside
5 employment that would interfere with those duties. Designation
6 of an elective or appointive office as full time shall be enacted by
7 law.

8 SEC. 12.— Section 50805.5 is added to the Government Code,
9 to read:

10 50805.5. (a) (1) Notwithstanding any other law, a person
11 described in paragraph (2) shall not become a member of any
12 retirement system by virtue of that service and shall not acquire
13 any retirement right or benefit for serving in that elective office.

14 (2) This subdivision shall apply to all of the following:

15 (A) A person who is publicly elected to an office of any kind
16 that is not full time, on and after January 1, 2013, except as
17 specified in subdivision (b). This subparagraph shall apply equally
18 to a person who is appointed to fill the term of a person so elected.

19 (B) A sheriff.

20 (b) For purposes of this section, “full time” means the elected
21 or appointed official is required to provide service to the local
22 government or special district for a minimum of five days and 40
23 hours a week, exclusive of holidays, or otherwise requires the
24 elected or appointed official to devote his or her entire time and
25 attention to the duties of the office and prohibits any outside
26 employment that would interfere with those duties. Designation
27 of an elective or appointive office as full time shall be enacted by
28 law.