

**Introduced by Senator Walters**

February 17, 2011

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An act to add Sections 22119.7 and 22605 to the Education Code, and to amend Sections 20322, 31553, and 31641 of, and to add Sections 7514.52, 20307, 20890.3, 31553.6, 31641.6, 45310.1, and 50808 to, the Government Code, relating to public employees' retirement.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 523, as introduced, Walters. Public employees' retirement: elected local officials.

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 office of any kind, on and after January 1, 2012, from becoming a member of a retirement system 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, 2012, 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 22119.7 is added to the Education Code,  
2 to read:

3 22119.7. Notwithstanding any other law, “creditable service”  
4 does not include service by a person described in Section 22605  
5 performed in an elective local office.

6 SEC. 2. Section 22605 is added to the Education Code, to read:

7 22605. (a) Notwithstanding any other law, a person who is  
8 publicly elected to a local office of any kind, on and after January  
9 1, 2012, shall not become a member of the retirement system  
10 established under this chapter by virtue of that service and shall  
11 not acquire any retirement right or benefit for serving in that  
12 elective local office. This section shall apply equally to a person  
13 who is appointed to fill the term of a person so elected.

14 (b) This section shall not apply to a person who obtained  
15 membership by virtue of holding an elective local office prior to  
16 January 1, 2012, for so long as he or she holds that office or is  
17 reelected to that office.

18 SEC. 3. Section 7514.52 is added to the Government Code, to  
19 read:

20 7514.52. (a) Notwithstanding any other law and except as  
21 required or permitted by the California Constitution, a person who  
22 is publicly elected to a local office of any kind, on and after January  
23 1, 2012, shall not become a member of any retirement system by  
24 virtue of that service and shall not acquire any retirement right or  
25 benefit for serving in that elective local office. This section shall  
26 apply equally to a person who is appointed to fill the term of a  
27 person so elected.

28 (b) This section shall not apply to a person who obtained  
29 membership by virtue of holding an elective local office prior to  
30 January 1, 2012, for so long as he or she holds that office or is  
31 reelected to that office.

SEC. 4. Section 20307 is added to the Government Code, to read:

20307. (a) Notwithstanding any other law, a person who is publicly elected to a local office of any kind, on and after January 1, 2012, shall not become a member of the system by virtue of that service and shall not acquire any retirement right or benefit for serving in that elective office. This section shall apply equally to a person who is appointed to fill the term of a person so elected.

(b) This section shall not apply to a person who obtained membership by virtue of holding an elective local office prior to January 1, 2012, for so long as he or she holds that office or is reelected to that office.

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

20322. *Except as otherwise provided in Section 20307:*

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

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

(c) Notwithstanding any other provision of subdivision (a) or (b), elected or appointed officers of a county superintendent of schools, school district, or community college district, or of a contracting agency, who serve on public commissions, boards, councils, or similar legislative or administrative bodies are excluded from membership in this system. This exclusion shall only apply to those elected or appointed officers, other than city or county officers, who are first elected or appointed to an office on or after July 1, 1994, or who are elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994. For city or county elected or appointed officers, this exclusion shall only apply to those officers who are first elected

1 or appointed to an office on or after January 1, 1997, or who are  
2 elected or appointed to a term of office not consecutive with the  
3 term of office held on December 31, 1996. This exclusion shall  
4 not apply to persons elected to a city council or county board of  
5 supervisors.

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

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

16 (f) Notwithstanding any other provision of law, with respect to  
17 elective officers of contracting agencies, payment by a contracting  
18 agency of employer contributions and any other amounts for  
19 employer paid benefits under this system shall not be construed  
20 as receipt of salary or compensation by the elective officer for  
21 purposes of any statutory salary or compensation limitation.

22 SEC. 6. Section 20890.3 is added to the Government Code, to  
23 read:

24 20890.3. Notwithstanding any other law, a person described  
25 in Section 20307 shall not be credited with service by virtue of  
26 serving in that elective local office.

27 SEC. 7. Section 31553 of the Government Code is amended  
28 to read:

29 31553. ~~Elective~~ *Except as provided in Section 31553.6, elective*  
30 *officers become members of the retirement association on the first*  
31 *day of the calendar month following the filing of a declaration*  
32 *with the board to become a member, provided, however, that any*  
33 *such elective officer may, within 60 days after the expiration of*  
34 *the officer’s term of office or within 60 days after the officer ceases*  
35 *to hold the office, rescind the declaration and withdraw from the*  
36 *retirement association. In* ~~such~~ *these cases, all contributions paid*  
37 *by the member shall be refunded in the same manner as applicable*  
38 *to members terminating service.*

39 SEC. 8. Section 31553.6 is added to the Government Code, to  
40 read:

1 31553.6. (a) Notwithstanding any other law, a person who is  
2 publicly elected to a local office of any kind, on and after January  
3 1, 2012, shall not become a member of a retirement system  
4 established under this chapter by virtue of that service and shall  
5 not acquire any retirement right or benefit for serving in that  
6 elective office. This section shall apply equally to a person who  
7 is appointed to fill the term of a person so elected.

8 (b) This section shall not apply to a person who obtained  
9 membership by virtue of holding an elective local office prior to  
10 January 1, 2012, for so long as he or she holds that office or is  
11 reelected to that office.

12 SEC. 9. Section 31641 of the Government Code is amended  
13 to read:

14 31641. ~~“Service”~~*Except as provided in Section 31641.6,*  
15 *“service”* means uninterrupted employment of any person  
16 appointed or elected for that period of time:

17 (a) For which deductions are made from his *or her* earnable  
18 compensation from the county or district for ~~such~~ *that* service  
19 while he *or she* is a member of the retirement association.

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

23 (c) For which he *or she* receives credit for county service or for  
24 public service or for both pursuant to the provisions of this article.

25 (d) Allowed for prior service.

26 SEC. 10. Section 31641.6 is added to the Government Code,  
27 to read:

28 31641.6. Notwithstanding any other law, a person described  
29 in Section 31553.6 shall not be credited with service by virtue of  
30 serving in an elective local office.

31 SEC. 11. Section 45310.1 is added to the Government Code,  
32 to read:

33 45310.1. (a) Notwithstanding any other law, a person who is  
34 publicly elected to a local office of any kind, on and after January  
35 1, 2012, shall not become a member of a retirement system  
36 established under this chapter by virtue of that service and shall  
37 not acquire any retirement right or benefit for serving in that  
38 elective office. This section shall apply equally to a person who  
39 is appointed to fill the term of a person so elected.

1 (b) This section shall not apply to a person who obtained  
2 membership by virtue of holding an elective local office prior to  
3 January 1, 2012, for so long as he or she holds that office or is  
4 reelected to that office.

5 SEC. 12. Section 50808 is added to the Government Code, to  
6 read:

7 50808. (a) Notwithstanding any other law, a person who is  
8 publicly elected to a local office of any kind, on and after January  
9 1, 2012, shall not become a member of a retirement system  
10 established under this chapter by virtue of that service and shall  
11 not acquire any retirement right or benefit for serving in that  
12 elective office. This section shall apply equally to a person who  
13 is appointed to fill the term of a person so elected.

14 (b) This section shall not apply to a person who obtained  
15 membership by virtue of holding an elective local office prior to  
16 January 1, 2012, for so long as he or she holds that office or is  
17 reelected to that office.

18 SEC. 13. The provisions of this act are severable. If any  
19 provision of this act or its application is held invalid, that invalidity  
20 shall not affect other provisions or applications that can be given  
21 effect without the invalid provision or application.