

Assembly Bill No. 1992

Passed the Assembly May 20, 2002

Chief Clerk of the Assembly

Passed the Senate June 20, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 31468 and 31580.2 of, and to add Sections 31522.5, 31557.3, 31585.2, and 31678.3 to, the Government Code, relating to county employees' retirement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1992, Correa. County employees' retirement: board of retirement: Orange County.

(1) Existing law authorizes boards of retirement of retirement systems subject to the County Employees Retirement Law of 1937 to appoint an administrator who shall not be subject to county civil service, who shall be a county employee, and who may be dismissed at will by the board, as specified.

This bill would authorize the board of retirement of the Orange County Employees Retirement System to appoint an administrator, assistant and subordinate administrators, legal counsel, an investment officer, and specified senior management employees. Those appointees would be employees of the retirement system, subject to terms of employment determined by the board of retirement.

(2) Under existing law, counties and districts, as defined, may provide retirement benefits to their employees pursuant to the County Employees Retirement Law of 1937.

This bill would include the Orange County Employees Retirement System within the definition of a "district" for purposes of providing retirement benefits to the system's employees. The bill would provide that when the system becomes a district, the employees of that district who had previously been in county service shall continue to be members of the system, without interruption in service or loss of credit, and all necessary appropriations and transfers of funds shall be charges against the funds of that district.

(3) The County Employees Retirement Law of 1937 authorizes a board of supervisors or governing body of a district, by resolution, to make any formula for calculation of benefits applicable to service credit earned prior to the date of the resolution and to require, subject to certain conditions, the affected



members to pay some or all of the contributions that would have been paid if the formula had been in effect during that designated period prior to the date of the resolution.

This bill would additionally authorize the board of supervisors or the governing body of a district in Orange County, by resolution adopted by majority vote and made pursuant to a memorandum of understanding, as specified, to make certain formulas for the calculation of benefits for general or safety members applicable to the employees of a bargaining unit comprised of general members, safety members, or employees of the Probation Services Unit and Probation Supervisory Management Unit, as specified. The bill would also require the affected members, subject to certain conditions, to pay some or all of those additional contributions, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 31468 of the Government Code is amended to read:

31468. (a) “District” means a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

(b) “District” also includes any institution operated by two or more counties, in one of which there has been adopted an ordinance placing this chapter in operation.

(c) “District” also includes any organization or association authorized by Chapter 26 of the Statutes of 1935, as amended by Chapter 30 of the Statutes of 1941, or by Section 50024, which organization or association is maintained and supported entirely from funds derived from counties, and the board of any retirement system is authorized to receive the officers and employees of that organization or association into the retirement system managed by the board.

(d) “District” also includes, but is not limited to, any sanitary district formed under Part 1 (commencing with Section 6400) of Division 6 of the Health and Safety Code.

(e) “District” also includes any city, public authority, public agency, and any other political subdivision or public corporation



formed or created under the Constitution or laws of this state and located or having jurisdiction wholly or partially within the county.

(f) “District” also includes any nonprofit corporation or association conducting an agricultural fair for the county pursuant to a contract between the corporation or association and the board of supervisors under the authority of Section 25905.

(g) “District” also includes the Regents of the University of California, but with respect only to employees who were employees of a county in a county hospital, who became university employees pursuant to an agreement for transfer to the regents of a county hospital or of the obligation to provide professional medical services at a county hospital, and who under that agreement had the right and did elect to continue membership in the county’s retirement system established under this chapter.

(h) “District” also includes the South Coast Air Quality Management District, a new public agency created on February 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400) of Part 3 of Division 26 of the Health and Safety Code.

(1) Employees of the South Coast Air Quality Management District shall be deemed to be employees of a new public agency occupying new positions on February 1, 1977. On that date, those new positions are deemed not to have been covered by any retirement system.

(2) No retirement system coverage may be effected for an employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, unless and until the employee shall have elected whether to become a member of the retirement association established in accordance with this chapter for employees of Los Angeles County or the retirement association established in accordance with this chapter for employees of San Bernardino County. The election shall occur before January 1, 1980. Any employee who fails to make the election provided for herein shall be deemed to have elected to become a member of the retirement association established in accordance with this chapter for the County of Los Angeles.

(3) The South Coast Air Quality Management District shall make application to the retirement associations established in



accordance with this chapter for employees of Los Angeles County and San Bernardino County for coverage of employees of the South Coast Air Quality Management District.

(4) An employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, and who has not terminated employment before January 1, 1980, shall be covered by the retirement association elected by the employee pursuant to paragraph (2). That coverage shall be effected no later than the first day of the first month following the date of the election provided for in paragraph (2).

(5) Each electing employee shall receive credit for all service with the South Coast Air Quality Management District. However, the elected retirement association may require, as a prerequisite to granting that credit, the payment of an appropriate sum of money or the transfer of funds from another retirement association in an amount determined by an enrolled actuary and approved by the elected retirement association's board. The amount to be paid shall include all administrative and actuarial costs of making that determination. The amount to be paid shall be shared by the South Coast Air Quality Management District and the employee. The share to be paid by the employee shall be determined by good faith bargaining between the district and the recognized employee organization, but in no event shall the employee be required to contribute more than 25 percent of the total amount required to be paid. The elected retirement association's board may not grant that credit for that prior service unless the request for that credit is made to, and the required payment deposited with, the elected retirement association's board no earlier than January 1, 1980, and no later than June 30, 1980. The foregoing shall have no effect on any employee's rights to reciprocal benefits under Article 15 (commencing with Section 31830).

(6) An employee of the South Coast Air Quality Management District who commenced employment with the district after December 31, 1978, shall be covered by the retirement association established in accordance with this chapter for employees of San Bernardino County. That coverage shall be effected as of the first day of the first month following the employee's commencement date.



(7) Notwithstanding paragraphs (2) and (4) above, employees of the South Coast Air Quality Management District who were employed between February 1, 1977, and December 31, 1978, and who terminate their employment between February 1, 1977, and January 1, 1980, shall be deemed to be members of the retirement association established in accordance with this chapter for the employees of Los Angeles County commencing on the date of their employment with the South Coast Air Quality Management District.

(i) “District” also includes any nonprofit corporation that operates one or more museums within a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, pursuant to a contract between the corporation and the board of supervisors of the county, and that has entered into an agreement with the board and the county setting forth the terms and conditions of the corporation’s inclusion in the county’s retirement system.

(j) “District” also includes any economic development association funded in whole or in part by a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, and that has entered into an agreement with the board of supervisors and the county setting forth the terms and conditions of the association’s inclusion in the county’s retirement system.

(k) “District” also includes any special commission established in the Counties of Tulare and San Joaquin as described by Section 14087.31 of the Welfare and Institutions Code, pursuant to a contract between the special commission and the county setting forth the terms and conditions of the special commission’s inclusion in the county’s retirement system with the approval of the board of supervisors and the board of retirement.

(l) “District” also includes the retirement system established under this chapter in Orange County.

SEC. 2. Section 31522.5 is added to the Government Code, to read:

31522.5. (a) In a county in which the board of retirement has appointed personnel pursuant to Section 31522.1, the board of retirement may appoint an administrator, an assistant administrator, a chief investment officer, senior management



employees next in line of authority to the chief investment officer, subordinate administrators, senior management employees next in line of authority to subordinate administrators, and legal counsel.

(b) Notwithstanding any other provision of law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county's Employee Relations Resolution, or equivalent local rules, and the terms and conditions of employment established by the board of supervisors for county employees, including those set forth in a memorandum of understanding.

(c) The compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2.

(d) The board of retirement and board of supervisors may enter into any agreements as may be necessary and appropriate to carry out the provisions of this section.

(e) Section 31522.2 is not applicable to any retirement system that elects to appoint personnel pursuant to this section.

(f) This section shall apply only in Orange County.

SEC. 3. Section 31557.3 is added to the Government Code, to read:

31557.3. On the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, any personnel appointed pursuant to Section 31522.5 who had previously been in county service shall continue to be members of the system without interruption in service or loss of credit. Thereafter, each person entering employment with the district shall become a member of the system on the first day of the calendar month following his or her entrance into service.

SEC. 4. Section 31580.2 of the Government Code is amended to read:

31580.2. In counties in which the board of retirement, or the board of retirement and the board of investment, have appointed personnel pursuant to Section 31522.1 or 31522.5, or both, the respective board or boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the



retirement fund. The expense incurred in any year may not exceed eighteen-hundredths of 1 percent of the total assets of the retirement system.

SEC. 5. Section 31585.2 is added to the Government Code, to read:

31585.2. On and after the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, the district's appropriations and transfers of funds made pursuant to Section 31585 shall be legal charges against the funds of the district and shall be part of the expense of administration of the retirement system pursuant to Section 31580.2.

SEC. 6. Section 31678.3 is added to the Government Code, to read:

31678.3. (a) Notwithstanding any other provision of this chapter, a resolution adopted by a board of supervisors to make any formula for calculation of retirement benefits described in this section applicable to the employees of the county does not apply to make that formula applicable to the employees of any district within the county. The governing body of a district may elect, by resolution adopted by majority vote, to make any formula for calculation of retirement benefits described in this section applicable to the employees of the district irrespective of whether the board of supervisors has made that election with respect to employees of the county.

(b) Notwithstanding any other provision of this chapter, the board of supervisors or the governing body of a district may, by resolution adopted by majority vote, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 2), do any or all of the following:

(1) Apply Section 31621.8, 31676.17, 31676.18, or 31676.19 for the calculation of retirement benefits for general members to the employees in a bargaining unit comprised of general members.

(2) Apply Section 31664.1 for the calculation of retirement benefits for safety members to the employees in a bargaining unit comprised of safety members.

(3) Apply Section 31664 for the calculation of retirement benefits for safety members to the employees of the Probation Services Unit and the Probation Supervisory Management Unit.



(c) Any nonrepresented employees within similar job classifications as employees in a bargaining unit described in subdivision (b) or supervisors and managers thereof shall be subject to the same formula for the calculation of retirement benefits applicable to the employees in that bargaining unit.

(d) A resolution adopted pursuant to subdivision (b) may require members to pay a portion of the contributions attributable to past service liability, that would have been required if the benefits specified in the resolution, as adopted by the board of supervisors or the governing body of the district, had been in effect during the period of time designated in the resolution. Any payments required of represented employees shall first be approved in a memorandum of understanding made under the Meyers-Milias-Brown Act and executed by the board of supervisors or the governing body of the district and the employee representatives. The contributions paid by a member pursuant to this subdivision shall become part of the accumulated contributions of the member.

(e) This section shall only be applicable to members who retire on or after the effective date of the resolution described in subdivision (b).

(f) The board of supervisors or the governing body of a district may not unilaterally implement a retirement formula for any of its bargaining units.

(g) This section shall apply only in Orange County.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that contracts negotiated and agreed to between Orange County and county employees become operative, it is necessary that this act take effect immediately.



Approved _____, 2002

Governor

