

## Senate Bill No. 777

### CHAPTER 369

An act to amend Sections 31468, 31486.3, 31490.5, 31494.3, and 31522.5 of, and to add Section 31678.4 to, the Government Code, relating to retirement.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 777, Soto. County employees' retirement.

(1) 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 retirement system established in San Bernardino County within the definition of a "district" for purposes of providing retirement benefits to those systems' employees, subject to resolution by the board of retirement making that provision applicable to the county.

(2) The County Employees Retirement Law of 1937 establishes noncontributory retirement plans for employees in specified counties. Existing law, upon approval by the county board of supervisors, authorizes members of noncontributory retirement plans in the Counties of Santa Barbara and Los Angeles to receive service credit for time that would not otherwise be recognized, upon payment by the member of specified contributions to the retirement fund.

This bill would clarify that the amount of those contributions payable by the member is the same as the amount payable by a member of the contributory plan, as specified. The bill would further make related and conforming changes with regard to previously purchased service.

(3) The County Employees Retirement Law of 1937 authorizes the board of retirement of Orange County to appoint specified management, investment, and legal personnel. These appointees are not classified as county employees and are therefore not subject to the civil service system, but are employees of that retirement system, subject to the terms of employment determined by the board of retirement.

This bill would authorize the board of retirement of San Bernardino County to adopt, by resolution, those provisions classifying specified personnel of their respective systems as employees of the retirement system.

(4) The County Employees Retirement Law of 1937 prescribes benefits for members of county and district retirement systems subject to the act. Those benefits are based, in part, on a calculation of the member's final

compensation, as defined. Management of each of those retirement systems is vested in a board of retirement, except in specified circumstances.

This bill would prohibit the governing bodies of retirement systems in Orange County and San Bernardino County from exercising specified authority to make a benefit formula applicable to employees of the retirement system unless the board of supervisors has made the formula applicable to personnel of the retirement system who are employees of the county.

*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) (1) "District" also includes the retirement system established under this chapter in Orange County.

(2) "District" also includes the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

SEC. 2. Section 31486.3 of the Government Code is amended to read:

31486.3. (a) An active member governed by the provisions of this article may elect, by written notice filed with the board, to make contributions and receive credit under this plan for service for which he or she would not otherwise be entitled to receive credit pursuant to this article.

(b) A member who elects to receive service credit pursuant to this section shall have the same purchase rights and shall contribute to the retirement fund the amount that a member in the contributory plan wishing to purchase the same service would have to contribute, based on the rates applicable to a member of the contributory plan with the same date of entry into membership. Payment shall be made by lump-sum payment or by installment payments over a period not to exceed 10 years, prior to the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.7.

(c) No member may receive any service credit under this section for which he or she has not completed payment pursuant to subdivision (b) before the effective date of his or her retirement or, if applicable, before the date provided in Section 31485.7. Subject to the limitations of federal law, a member who has elected to make payments in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(d) Any sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(e) As used in this section, the “contributory plan” means that contributory plan otherwise available to new members of the system on the election date.

(f) This section is not operative until the board of supervisors elects, by resolution adopted by a majority vote, to make this section operative in the county.

SEC. 3. Section 31490.5 of the Government Code is amended to read:

31490.5. (a) An active member governed by the provisions of this article may elect, by written notice filed with the board, to make contributions and receive credit under this plan for service for which he or she would not otherwise be entitled to receive credit pursuant to this article.

(b) Any member who elects to receive service credit pursuant to this section shall have the same purchase rights and shall contribute to the retirement fund the amount that a member in the contributory plan wishing to purchase the same service would have to contribute, based on the rates applicable to a member of the contributory plan with the same date of entry into membership. Payment shall be made by lump-sum payment or by installment payments over a period not to exceed 10 years, prior to the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.8.

(c) No member may receive any service credit under this section for which he or she has not completed payment pursuant to subdivision (b) before the effective date of his or her retirement or, if applicable, before

the date provided in Section 31485.8. Subject to the limitations of federal law, a member who has elected to make payments in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(d) Any sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(e) As used in this section, the “contributory plan” means that contributory plan otherwise available to new members of the system on the election date.

(f) This section is not operative until the board of supervisors elects, by resolution adopted by a majority vote, to make this section operative in the county.

SEC. 4. Section 31494.3 of the Government Code is amended to read:

31494.3. (a) Members who have elected to transfer under Section 31494.1 shall be provided within 90 days of the election date the cost of contributions required for that period of all creditable service with the employer prior to the month for which monthly contributions are to commence, as prescribed in subdivision (f) of Section 31494.1, and shall deposit in the retirement fund, the amount hereinafter provided in this subdivision, by lump sum, or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement or, if applicable, the date provided in Section 31485.8, the date of termination, or the date of death. The amount shall equal the sum of the contributions a member would have made to the retirement fund for that length of time as that for which the member shall receive credit as service, computed in accordance with the rate of contribution applicable to the member under the contributory plan, based upon entry age, and in the same manner as prescribed under the plan as if the plan had been in effect during the entire period of all creditable service, together with regular interest thereon.

(b) All service previously purchased by the member pursuant to Section 31490.5, if any, shall be recalculated in accordance with the rate of contribution applicable to the member under the contributory plan, based upon the entry age, and in the same manner as prescribed under the plan as if the contributory plan had been in effect during the entire period of all creditable service, together with regular interest thereon. All contributions paid by the member pursuant to Section 31490.5, if any, shall be credited toward the amount owed under subdivision (a) and all periods of service credited under the plan created by this article shall be transferred to the contributory plan upon completion of payment of that amount.

(c) Any member who applies for service credit under subdivision (e) of Section 31494.1 relating to federal and military service, shall be provided within 90 days of the election date the cost of contribution required for that service, and shall deposit in the retirement fund the amount hereinafter provided in this subdivision by lump sum, or regular monthly installments, or both, over the period of time determined by a resolution adopted by a

majority vote of the board of retirement, but in any event prior to the date of application for retirement, date of termination, or death. The amount shall equal the sum of twice the contributions the member would have made to the retirement fund for the length of time as that for which the member has elected to receive credit as service, computed by applying the rate of contribution applicable to the member under the contributory plan, based upon entry age, to the monthly compensation first earnable by the member as of the most recent date of entry into the retirement system, multiplied by the number of months for which the member has elected to receive credit, together with regular interest thereon.

(d) Any member who applies for service credit under subdivision (e) of Section 31494.1, relating to prior service as defined in the bylaws of the board, other than qualifying service under Section 31490.5, and public service other than military and federal service, shall be provided within 90 days of the election date the cost of contribution required for that service, and shall deposit in the retirement fund the amount hereinafter provided in this subdivision, by lump sum or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement or, if applicable, prior to the date provided in Section 31485.8, the date of termination, or the date of death. The amount shall equal that sum of contributions the member would have made to the retirement fund for the length of time as that for which the member has elected to receive credit as service, calculated in the same manner as prescribed in the bylaws of the board relating to credit for prior service, except that such contribution shall be computed by applying the rate of contribution applicable to the member under the contributory plan, based upon entry age.

(e) This section shall be operative in a county at such time or times as may be mutually agreed to in memoranda of understanding executed by the employer and employee representatives if the board of supervisors adopts, by majority vote, a resolution declaring that the section shall be operative in the county.

SEC. 5. Section 31522.5 of the Government Code is amended 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.

(g) This section shall apply to the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

SEC. 6. Section 31678.4 is added to the Government Code, to read:

31678.4. The governing body of a district as defined in subdivision (l) of Section 31468 shall not elect to make a formula for the calculation of retirement benefits applicable to the personnel of the district appointed pursuant to Section 31522.5 who are employees of the retirement system unless the board of supervisors has made that formula applicable to personnel of that retirement system who are employees of the county.