

AMENDED IN SENATE AUGUST 20, 2010
AMENDED IN SENATE SEPTEMBER 3, 2009
AMENDED IN SENATE JULY 23, 2009
AMENDED IN SENATE JUNE 26, 2009
AMENDED IN SENATE JUNE 16, 2009
AMENDED IN ASSEMBLY MAY 6, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 226

**Introduced by Assembly Member ~~Ruskin Torrico~~
(~~Coauthor: Assembly Member Saldana~~)**

February 4, 2009

~~An act to add Section 30821 to the Public Resources Code, relating to coastal resources. An act to add Sections 31485.18 and 31676.2 to the Government Code, relating to county employees' retirement.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 226, as amended, ~~Ruskin Torrico. Coastal resources: California Coastal Act of 1976: enforcement. County employees retirement: compensation.~~

Under existing law, counties and districts may provide retirement benefits to their employees pursuant to the County Employees Retirement Law of 1937 (CERL). CERL specifies the minimum ages and years of service that are required in order to become eligible for retirement. That law generally permits the board of supervisors of a county or the governing board of a district, by resolution adopted by majority vote and pursuant to a memorandum of understanding, as specified, to make

certain formulas for the calculation of benefits for its members based on their classification.

The bill would provide that compensation paid to a retiring member to restore compensation the member would have been entitled to receive pursuant to a collective bargaining agreement fully executed on or before July 1, 2010, that was subsequently deferred or otherwise modified as a result of a concessionary amendment executed prior to September 1, 2010, shall be considered compensation earnable and not be deemed to have been paid for the purpose of enhancing a member's retirement benefit.

This bill would authorize the board of supervisors of the County of Sacramento, by resolution, adopted by majority vote, as part of a negotiated memorandum of understanding with a bargaining unit that represents safety members to require safety employees of that bargaining unit and unrepresented safety employees, first hired after approval of the resolution, to receive a specified pension calculation that applies to safety members and that computes final compensation based upon the average annual compensation earnable during a specified 3-year period.

~~The California Coastal Act of 1976 requires a person undertaking development in the coastal zone to obtain a coastal development permit in accordance with prescribed procedures. Existing law authorizes the superior court to impose civil liability on a person who performs or undertakes development that is in violation of the act or that is inconsistent with a previously issued coastal development permit, and on a person who violates the act in any other manner and authorizes a person to maintain an action for recovery of these civil penalties.~~

~~This bill would provide that a person who violates the act is subject to an administrative civil penalty that may be imposed by the California Coastal Commission by a majority vote of the commissioners, upon consideration of various factors, in a public hearing, as specified, in an amount no less than \$5,000 and no more than \$50,000 for each violation.~~

~~This bill would provide that a person, as defined, shall not be subject to both monetary civil liability imposed by the commission and monetary civil liability imposed by the superior court for the same act or failure to act. In the event that a person who is assessed a penalty by the commission fails to pay the penalty, fails to comply with a restoration or cease and desist order, or challenges any of these actions in a court of law, the commission may maintain an action or otherwise engage in judicial proceedings to enforce those requirements and the court may~~

grant any relief, as specified. This bill would also allow the commission to record a lien on the property of a violator in the amount of the penalty assessed by the commission if the violator fails to pay the fine.

Vote: majority. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: no.

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

1 SECTION 1. Section 31485.18 is added to the Government
2 Code, to read:

3 31485.18. (a) Notwithstanding any other provision of this
4 chapter, in a county of the eighth class, as defined in Sections
5 28020 and 28025, as amended by Chapter 1204 of the Statutes of
6 1971, the board of supervisors may, by resolution adopted by
7 majority vote, as part of any negotiated memorandum of
8 understanding with a bargaining unit that represents safety
9 employees, require a safety employee of that bargaining unit, and
10 may also require an unrepresented safety employee, first hired
11 after approval of the resolution, to receive a pension calculation
12 provided in Section 31664.2, with a highest compensation period
13 determined pursuant to Section 31462, and with a
14 cost-of-living-adjustment provided in Section 31870.

15 (b) The resolution described in subdivision (a) may provide a
16 different formula or calculation of retirement benefits for new
17 safety members in one bargaining unit or new unrepresented safety
18 members than that provided for new safety members of other
19 bargaining units or new unrepresented safety members.

20 SEC. 2. Section 31676.2 is added to the Government Code, to
21 read:

22 31676.2. Notwithstanding any provision of this chapter,
23 compensation paid to a retiring member to restore payrate or
24 salary the member would have been entitled to receive pursuant
25 to a collective bargaining agreement fully executed on or before
26 July 1, 2010, that was subsequently deferred or otherwise modified
27 as a result of a concessionary amendment executed prior to
28 September 1, 2010, shall be considered compensation earnable
29 and not be deemed to have been paid for the purpose of enhancing
30 a member's retirement benefit.

31 SECTION 1. ~~Section 30821 is added to the Public Resources~~
32 ~~Code, to read:~~

1 30821. (a) In addition to any other penalties imposed pursuant
2 to this division, a person, including a landowner, who is in violation
3 of a provision of this division is subject to an administrative civil
4 penalty that may be imposed by the commission in an amount not
5 less than five thousand dollars (\$5,000) and not to exceed fifty
6 thousand dollars (\$50,000) for each violation.

7 (b) All penalties imposed pursuant to subdivision (a) shall be
8 imposed by majority vote of the commissioners present in a duly
9 noticed public hearing in compliance with the requirements of
10 Section 30810, 30811, or 30812.

11 (c) In determining the amount of civil liability, the commission
12 shall take into account the factors set forth in subdivision (c) of
13 Section 30820.

14 (d) A person shall not be subject to both monetary civil liability
15 imposed under this section and monetary civil liability imposed
16 by the superior court for the same act or failure to act. In the event
17 that a person who is assessed a penalty under this section fails to
18 pay the administrative penalty, otherwise fails to comply with a
19 restoration or cease and desist order issued by the commission in
20 connection with the penalty action, or challenges any of these
21 actions by the commission in a court of law, the commission may
22 maintain an action or otherwise engage in judicial proceedings to
23 enforce those requirements and the court may grant any relief as
24 provided under this chapter.

25 (e) If a person fails to pay a penalty imposed by the commission
26 pursuant to this section, the commission may record a lien on the
27 property in the amount of the penalty assessed by the commission.
28 This lien shall have the force, effect, and priority of a judgment
29 lien.

30 (f) In enacting this section, it is not the intent of the Legislature
31 that unintentional, minor violations that only cause de minimis
32 harm should lead to civil penalties, if the violator has acted
33 expeditiously to correct the violation consistent with this act.

34 (g) "Person," for the purpose of this section, does not include
35 a local government, a special district, or an agency thereof when
36 acting in a legislative or adjudicative capacity.