

ASSEMBLY BILL

No. 2341

Introduced by Assembly Member Huber

February 19, 2010

An act to add Section 20094.5 to the Government Code, relating to the Public Employees' Retirement System.

LEGISLATIVE COUNSEL'S DIGEST

AB 2341, as introduced, Huber. Public Employees' Retirement System: Board of Administration.

The California Constitution prescribes that, with regard to the retirement board of a public pension or retirement system that includes in its composition elected employee members, the number, terms, and method of selection or removal of members of the retirement board that were required by law or otherwise in effect on July 1, 1991, shall not be changed, amended, or modified by the Legislature unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.

The Public Employees' Retirement Law requires the Board of Administration of the Public Employees' Retirement System to administer the Public Employees' Retirement Law. Under that law, state employees and employees of local agencies that contract with the Board of Administration for retirement benefits are within the membership of the retirement system. That law, as in effect on July 1, 1991, requires the Board of Administration to consist of 13 members including 2 members elected from the membership of the retirement system by the members of the retirement system, one member elected from state membership by active state members, 2 members elected by

and from active local members, and one member elected by and from the retired members of the retirement system, among others. The law also provides, in the event of a vacancy, for a special election or the appointment of a new member, as specified.

The Trust Law provides for the removal of a trustee by the court under specified circumstances, including, but not limited to, when the trustee has committed a breach of the trust, or when the trustee is insolvent or otherwise unfit to administer the trust. The law provides that there is a vacancy in the office of trustee in specified circumstances, including, but not limited to, that the trustee resigns or is removed, or the trustee files a petition for adjudication of bankruptcy, as specified.

This bill similarly would provide for the removal of a member of the Board of Administration if the board member has committed a breach of his or her fiduciary duties to the system, or if the board member is insolvent or otherwise unfit to administer the system. The bill would provide that there is a vacancy in the office of member of the board in specified circumstances, including, but not limited to, that the board member resigns or is removed, or the board member files a petition for adjudication of bankruptcy, as specified. The bill would provide that these changes would take effect only when submitted to and approved by the voters, and would require its provisions to be submitted for approval by the voters.

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 20094.5 is added to the Government
- 2 Code, to read:
- 3 20094.5. (a) A member of the board may be removed by the
- 4 court on its own motion, or on petition of a member, retired
- 5 member, or their survivor or beneficiary.
- 6 (b) The grounds for removal of a board member by the court
- 7 include the following:
- 8 (1) If the board member has committed a breach of his or her
- 9 fiduciary duties to the system imposed pursuant to Article 3
- 10 (commencing with Section 20150).
- 11 (2) If the board member is insolvent or otherwise unfit to
- 12 administer the system.

1 (c) There is a vacancy in the office of member of the board in
2 any of the following circumstances:

3 (1) The person named as a board member cannot be identified
4 or does not exist.

5 (2) The board member resigns or is removed.

6 (3) The board member dies.

7 (4) The board member files a petition for adjudication of
8 bankruptcy or for approval of an arrangement, composition, or
9 other extension under the federal Bankruptcy Code, or a petition
10 filed against the board member for any of these purposes is
11 approved.

12 (d) Nothing in this section precludes a quo warranto action
13 pursuant to Section 803 of the Code of Civil Procedure.

14 SEC. 2. Section 1 of this act shall become effective only when
15 submitted to and approved by the voters. The Secretary of State
16 shall submit Section 1 of this act for approval by the voters at a
17 statewide election in accordance with Section 9040 of the Elections
18 Code.