

ASSEMBLY BILL

No. 2437

Introduced by Assembly Member Jeffries

February 24, 2012

An act to add Sections 22119.6 and 22603 to the Education Code, and to amend Sections 20322, 31553, and 31641 of, and to add Sections 7514.51, 20302, 20890.5, 31553.5, 31641.5, 45310.2, and 50805.5 to, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2437, as introduced, Jeffries. Public employees' retirement: elected 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 public office of any kind that is less than full time, as defined, or who is elected as a city councilmember or a member of a county board of

supervisors, on and after January 1, 2013, from becoming a member of a retirement system by virtue of that service or acquiring any retirement right or benefit for serving in that elective office. The bill would also apply these prohibitions to a person who is appointed to fill the term of a person so elected. The bill would except from this prohibition a sheriff, district attorney, clerk, assessor, or treasurer, and a person who obtained membership by virtue of holding an elective public office prior to January 1, 2013, and remains in that office or is reelected to it.

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 22119.6 is added to the Education Code,
2 to read:

3 22119.6. Notwithstanding any other law, “creditable service”
4 does not include service by a person described in Section 22603
5 performed in an elective office.

6 SEC. 2. Section 22603 is added to the Education Code, to read:

7 22603. (a) Notwithstanding any other law, a person who is
8 publicly elected to an office of any kind that is less than full time,
9 on and after January 1, 2013, shall not become a member of a
10 retirement system established under this chapter by virtue of that
11 service and shall not acquire any retirement right or benefit for
12 serving in that elective office. This section shall apply equally to
13 a person who is appointed to fill the term of a person so elected.
14 For purposes of this section, “full time” means the elected or
15 appointed official is required to provide service to the local
16 government or special district for a minimum of five days and 40
17 hours a week, exclusive of holidays, or otherwise requires the
18 elected or appointed official to devote his or her entire time and
19 attention to the duties of the office and prohibits any outside
20 employment that would interfere with those duties. Designation
21 of an elective or appointive office as full time shall be enacted by
22 law.

23 (b) This section shall not apply to a person who obtained
24 membership by virtue of holding an elective public office prior to
25 January 1, 2013, for so long as he or she holds that office or is
26 reelected to that office.

1 SEC. 3. Section 7514.51 is added to the Government Code, to
2 read:

3 7514.51. (a) (1) Notwithstanding any other law and except
4 as required or permitted by the California Constitution, a person
5 described in paragraph (2) shall not become a member of any
6 retirement system by virtue of that service and shall not acquire
7 any retirement right or benefit for serving in that elective office.

8 (2) This subdivision shall apply to all of the following:

9 (A) A person who is publicly elected to a local public office of
10 any kind that is not full time, on and after January 1, 2013, except
11 as specified in subdivision (b). This subparagraph shall apply
12 equally to a person who is appointed to fill the term of a person
13 so elected.

14 (B) An elected city councilmember or a member of a county
15 board of supervisors.

16 (b) Notwithstanding subparagraph (A) of paragraph (2) of
17 subdivision (a), this section shall not apply to any of the following:

18 (1) A person who obtained membership by virtue of holding an
19 elective public office prior to January 1, 2013, for so long as he
20 or she holds that office or is reelected to that office.

21 (2) A sheriff, district attorney, clerk, assessor, or treasurer.

22 (c) For purposes of this section, “full time” means the elected
23 or appointed official is required to provide service to the local
24 government or special district for a minimum of five days and 40
25 hours a week, exclusive of holidays, or otherwise requires the
26 elected or appointed official to devote his or her entire time and
27 attention to the duties of the office and prohibits any outside
28 employment that would interfere with those duties. Designation
29 of an elective or appointive office as full time shall be enacted by
30 law.

31 SEC. 4. Section 20302 is added to the Government Code, to
32 read:

33 20302. (a) (1) Notwithstanding any other law, a person
34 described in paragraph (2) shall not become a member of any
35 retirement system by virtue of that service and shall not acquire
36 any retirement right or benefit for serving in that elective office.

37 (2) This subdivision shall apply to all of the following:

38 (A) A person who is publicly elected to a local public office of
39 any kind that is not full time, on and after January 1, 2013, except
40 as specified in subdivision (b). This subparagraph shall apply

1 equally to a person who is appointed to fill the term of a person
2 so elected.

3 (B) An elected city councilmember or a member of a county
4 board of supervisors.

5 (b) Notwithstanding subparagraph (A) of paragraph (2) of
6 subdivision (a), this section shall not apply to any of the following:

7 (1) A person who obtained membership by virtue of holding an
8 elective public office prior to January 1, 2013, for so long as he
9 or she holds that office or is reelected to that office.

10 (2) A sheriff, district attorney, clerk, assessor, or treasurer.

11 (c) For purposes of this section, “full time” means the elected
12 or appointed official is required to provide service to the local
13 government or special district for a minimum of five days and 40
14 hours a week, exclusive of holidays, or otherwise requires the
15 elected or appointed official to devote his or her entire time and
16 attention to the duties of the office and prohibits any outside
17 employment that would interfere with those duties. Designation
18 of an elective or appointive office as full time shall be enacted by
19 law.

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

22 ~~20322. (a)~~

23 20322. *Except as otherwise provided in Section 20302, the*
24 *following shall apply:*

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

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

38 (c) Notwithstanding any other provision of subdivision (a) or
39 (b), elected or appointed officers of a county superintendent of
40 schools, school district, or community college district, or of a

1 contracting agency, who serve on public commissions, boards,
2 councils, or similar legislative or administrative bodies are
3 excluded from membership in this system. This exclusion shall
4 only apply to those elected or appointed officers, other than city
5 or county officers, who are first elected or appointed to an office
6 on or after July 1, 1994, or who are elected or appointed to a term
7 of office not consecutive with the term of office held on June 30,
8 1994. For city or county elected or appointed officers, this
9 exclusion shall only apply to those officers who are first elected
10 or appointed to an office on or after January 1, 1997, or who are
11 elected or appointed to a term of office not consecutive with the
12 term of office held on December 31, 1996. This exclusion shall
13 not apply to persons elected to a city council or county board of
14 supervisors.

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

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

25 (f) Notwithstanding any other provision of law, with respect to
26 elective officers of contracting agencies, payment by a contracting
27 agency of employer contributions and any other amounts for
28 employer paid benefits under this system shall not be construed
29 as receipt of salary or compensation by the elective officer for
30 purposes of any statutory salary or compensation limitation.

31 SEC. 6. Section 20890.5 is added to the Government Code, to
32 read:

33 20890.5. Notwithstanding any other law, a person described
34 in Section 20302 shall not be credited with service by virtue of
35 serving in a local public elective office.

36 SEC. 7. Section 31553 of the Government Code is amended
37 to read:

38 31553. ~~Elective~~ *Except as provided in Section 31553.5, elective*
39 *officers become members of the retirement association on the first*
40 *day of the calendar month following the filing of a declaration*

1 with the board to become a member, provided, however, that any
2 such elective officer may, within 60 days after the expiration of
3 the officer's term of office or within 60 days after the officer ceases
4 to hold the office, rescind the declaration and withdraw from the
5 retirement association. In such cases, all contributions paid by the
6 member shall be refunded in the same manner as applicable to
7 members terminating service.

8 SEC. 8. Section 31553.5 is added to the Government Code, to
9 read:

10 31553.5. (a) (1) Notwithstanding any other law, a person
11 described in paragraph (2) shall not become a member of any
12 retirement system by virtue of that service and shall not acquire
13 any retirement right or benefit for serving in that elective office.

14 (2) This subdivision shall apply to all of the following:

15 (A) A person who is publicly elected to an office of any kind
16 that is not full time, on and after January 1, 2013, except as
17 specified in subdivision (b). This subparagraph shall apply equally
18 to a person who is appointed to fill the term of a person so elected.

19 (B) An elected member of a board of supervisors.

20 (b) Notwithstanding subparagraph (A) of paragraph (2) of
21 subdivision (a), this section shall not apply to any of the following:

22 (1) A person who obtained membership by virtue of holding an
23 elective public office prior to January 1, 2013, for so long as he
24 or she holds that office or is reelected to that office.

25 (2) A district attorney, sheriff, county clerk, county treasurer,
26 or assessor.

27 (c) For purposes of this section, "full time" means the elected
28 or appointed official is required to provide service to the local
29 government or special district for a minimum of five days and 40
30 hours a week, exclusive of holidays, or otherwise requires the
31 elected or appointed official to devote his or her entire time and
32 attention to the duties of the office and prohibits any outside
33 employment that would interfere with those duties. Designation
34 of an elective or appointive office as full time shall be enacted by
35 law.

36 SEC. 9. Section 31641 of the Government Code is amended
37 to read:

38 31641. ~~"Service"~~ *Except as provided in Section 31641.5,*
39 *"service"* means uninterrupted employment of any person
40 appointed or elected for that period of time:

1 (a) For which deductions are made from his earnable
2 compensation from the county or district for such service while
3 he is a member of the retirement association.

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

7 (c) For which he receives credit for county service or for public
8 service or for both pursuant to the provisions of this article.

9 (d) Allowed for prior service.

10 SEC. 10. Section 31641.5 is added to the Government Code,
11 to read:

12 31641.5. Notwithstanding any other law, a person described
13 in Section 31553.5 shall not be credited with service by virtue of
14 serving in an elective office.

15 SEC. 11. Section 45310.2 is added to the Government Code,
16 to read:

17 45310.2. (a) (1) Notwithstanding any other law and except
18 as required or permitted by the California Constitution, a person
19 described in paragraph (2) shall not become a member of any
20 retirement system by virtue of that service and shall not acquire
21 any retirement right or benefit for serving in that elective office.

22 (2) This subdivision shall apply to all of the following:

23 (A) A person who is publicly elected to an office of any kind
24 that is not full time, on and after January 1, 2013, except as
25 specified in subdivision (b). This subparagraph shall apply equally
26 to a person who is appointed to fill the term of a person so elected.

27 (B) An elected city councilmember.

28 (b) Notwithstanding subparagraph (A) of paragraph (2) of
29 subdivision (a), this section shall not apply to any of the following:

30 (1) A person who obtained membership by virtue of holding an
31 elective public office prior to January 1, 2013, for so long as he
32 or she holds that office or is reelected to that office.

33 (2) A city clerk, city treasurer, or city assessor.

34 (c) For purposes of this section, “full time” means the elected
35 or appointed official is required to provide service to the local
36 government or special district for a minimum of five days and 40
37 hours a week, exclusive of holidays, or otherwise requires the
38 elected or appointed official to devote his or her entire time and
39 attention to the duties of the office and prohibits any outside
40 employment that would interfere with those duties. Designation

1 of an elective or appointive office as full time shall be enacted by
2 law.

3 SEC. 12. Section 50805.5 is added to the Government Code,
4 to read:

5 50805.5. (a) (1) Notwithstanding any other law, a person
6 described in paragraph (2) shall not become a member of any
7 retirement system by virtue of that service and shall not acquire
8 any retirement right or benefit for serving in that elective office.

9 (2) This subdivision shall apply to all of the following:

10 (A) A person who is publicly elected to an office of any kind
11 that is not full time, on and after January 1, 2013, except as
12 specified in subdivision (b). This subparagraph shall apply equally
13 to a person who is appointed to fill the term of a person so elected.

14 (B) A sheriff.

15 (b) For purposes of this section, “full time” means the elected
16 or appointed official is required to provide service to the local
17 government or special district for a minimum of five days and 40
18 hours a week, exclusive of holidays, or otherwise requires the
19 elected or appointed official to devote his or her entire time and
20 attention to the duties of the office and prohibits any outside
21 employment that would interfere with those duties. Designation
22 of an elective or appointive office as full time shall be enacted by
23 law.