

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1853**

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**Introduced by Assembly Member Cooper**

February 10, 2016

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An act to amend Sections *31459.1*, 31468, 31522.5, 31522.7, 31522.9, 31528, 31529.9, 31535, *31557.3*, and 31580.2 of, and to add Section 31522.75 to, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1853, as amended, Cooper. County employees' retirement: districts: retirement system governance.

The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to their employees. CERL defines a district for these purposes, includes specified county retirement systems within that definition, and permits a district to participate in CERL retirement systems. CERL generally provides that the personnel of a county retirement system are county employees, subject to county civil service provisions and salary ordinances, but also authorizes the boards of retirement in specified counties to adopt provisions providing for the appointment of personnel who are to be employees of the retirement system, as well as other administrative provisions that reflect the independence of the retirement system from the county.

The California Public Employees' Pension Reform Act of 2013 (PEPRA) requires a public retirement system, as defined, to modify its plan or plans to comply with the act and establishes new retirement formulas that a public employer offering a defined benefit pension plan

for employees first hired on or after January 1, 2013, may not exceed. PEPRAs authorizes individuals who were employed by any public employer before January 1, 2013, and who became employed by a subsequent public employer for the first time on or after January 1, 2013, to be subject to the retirement plan that would have been available to employees of the subsequent employer who were first employed by the subsequent employer on or before December 31, 2012, if the individual was subject to reciprocity, as specified.

This bill would authorize the retirement board of any retirement system operating under CERL to elect, by resolution, to be a district under the law. The bill would authorize a board to adopt, by resolution, specified administrative provisions that would classify various personnel of the retirement system as employees of the retirement system and not employees of the county. In regard to county employees who would become retirement system employees, the bill would prescribe requirements in connection with their compensation and employment benefits and status. These provisions would include maintaining their county retirement benefits that would otherwise be reduced under PEPRAs, keeping their employment classifications, and affording employees the opportunity to continue participation in group health and dental plans, among other plans and programs. The bill would also prescribe requirements regarding labor negotiations and the continuity of labor agreements. The bill would grant a retirement system electing these provisions the authority to adopt the regulations and enter into the agreements necessary to implement them. The bill would authorize retirement systems currently operating under alternative administrative structures also to adopt these provisions. *The bill would also extend this authorization and the associated provisions to a board of investment, as specified.* The bill would make various technical and conforming changes.

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

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

- 1     SECTION 1. Section 31459.1 of the Government Code is
- 2     amended to read:
- 3     31459.1. (a) In a county in which a board of investments has
- 4     been established pursuant to Section 31520.2:

1 (1) As used in Sections 31453, 31453.5, 31454, 31454.1,  
2 31454.5, 31472, 31588.1, 31589.1, 31591, 31592.3, 31594,  
3 31595.1, 31595.9, 31596, 31596.1, 31601.1, 31607, 31610, 31611,  
4 31612, 31613, 31616, 31618, 31621.11, 31625, 31639.26, 31784,  
5 and 31872, “board” means board of investments.

6 (2) As used in the first paragraph of Section 31592.2 and the  
7 first paragraph and subdivision (c) of the second paragraph of  
8 Section 31595, “board” means a board of investments.

9 (3) Sections 31521, 31522, 31522.1, 31522.2, 31523, 31524,  
10 31525, 31528, 31529, 31529.5, 31535.1, 31580.2, 31614, 31680,  
11 and 31680.1, apply to both the board of retirement and board of  
12 investments, and “board” means either or both the board of  
13 retirement and board of investments.

14 (4) Subdivision (a) of Section 31526 and subdivisions (a) and  
15 (b) of the second paragraph of Section 31595 apply to both the  
16 board of retirement and board of investments, and “board” means  
17 either or both the board of retirement and board of investments.

18 (5) *Paragraph (5) of subdivision (l) of Section 31468 and*  
19 *Sections 31522.5, 31522.7, 31522.75, and 31522.9 apply to both*  
20 *the board of retirement and board of investments. For these*  
21 *purposes, “board” means both the board of retirement and board*  
22 *of investments. “Board of retirement” also means both the board*  
23 *of retirement and board of investments.*

24 (b) In Article 17 (commencing with Section 31880) of this  
25 chapter, “board” means the Board of Administration of the Public  
26 Employees’ Retirement System.

27 (c) In all other cases, “board” means the board of retirement.

28 (d) This section shall apply only in a county of the first class,  
29 as defined in Section 28020, as amended by Chapter 1204 of the  
30 Statutes of 1971, and Section 28022, as amended by Chapter 43  
31 of the Statutes of 1961.

32 **SECTION 1.**

33 *SEC. 2.* Section 31468 of the Government Code is amended  
34 to read:

35 31468. (a) “District” means a district, formed under the laws  
36 of the state, located wholly or partially within the county other  
37 than a school district.

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

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

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

12 (e) "District" also includes any city, public authority, public  
13 agency, and any other political subdivision or public corporation  
14 formed or created under the constitution or laws of this state and  
15 located or having jurisdiction wholly or partially within the county.

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

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

28 (h) "District" also includes the South Coast Air Quality  
29 Management District, a new public agency created on February  
30 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400)  
31 of Part 3 of Division 26 of the Health and Safety Code.

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

37 (2) No retirement system coverage may be effected for an  
38 employee of the South Coast Air Quality Management District  
39 who commenced employment with the district during the period  
40 commencing on February 1, 1977, and ending on December 31,

1 1978, unless and until the employee shall have elected whether to  
2 become a member of the retirement association established in  
3 accordance with this chapter for employees of Los Angeles County  
4 or the retirement association established in accordance with this  
5 chapter for employees of San Bernardino County. The election  
6 shall occur before January 1, 1980. Any employee who fails to  
7 make the election provided for herein shall be deemed to have  
8 elected to become a member of the retirement association  
9 established in accordance with this chapter for the County of Los  
10 Angeles.

11 (3) The South Coast Air Quality Management District shall  
12 make application to the retirement associations established in  
13 accordance with this chapter for employees of Los Angeles County  
14 and San Bernardino County for coverage of employees of the South  
15 Coast Air Quality Management District.

16 (4) An employee of the South Coast Air Quality Management  
17 District who commenced employment with the district during the  
18 period commencing on February 1, 1977, and ending on December  
19 31, 1978, and who has not terminated employment before January  
20 1, 1980, shall be covered by the retirement association elected by  
21 the employee pursuant to paragraph (2). That coverage shall be  
22 effected no later than the first day of the first month following the  
23 date of the election provided for in paragraph (2).

24 (5) Each electing employee shall receive credit for all service  
25 with the South Coast Air Quality Management District. However,  
26 the elected retirement association may require, as a prerequisite  
27 to granting that credit, the payment of an appropriate sum of money  
28 or the transfer of funds from another retirement association in an  
29 amount determined by an enrolled actuary and approved by the  
30 elected retirement association's board. The amount to be paid shall  
31 include all administrative and actuarial costs of making that  
32 determination. The amount to be paid shall be shared by the South  
33 Coast Air Quality Management District and the employee. The  
34 share to be paid by the employee shall be determined by good faith  
35 bargaining between the district and the recognized employee  
36 organization, but in no event shall the employee be required to  
37 contribute more than 25 percent of the total amount required to be  
38 paid. The elected retirement association's board may not grant that  
39 credit for that prior service unless the request for that credit is  
40 made to, and the required payment deposited with, the elected

1 retirement association's board no earlier than January 1, 1980, and  
2 no later than June 30, 1980. The foregoing shall have no effect on  
3 any employee's rights to reciprocal benefits under Article 15  
4 (commencing with Section 31830).

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

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

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

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

36 (k) "District" also includes any special commission established  
37 in the Counties of Tulare and San Joaquin as described by Section  
38 14087.31 of the Welfare and Institutions Code, pursuant to a  
39 contract between the special commission and the county setting  
40 forth the terms and conditions of the special commission's

1 inclusion in the county’s retirement system with the approval of  
2 the board of supervisors and the board of retirement.

3 (l) (1) “District” also includes the retirement system established  
4 under this chapter in Orange County.

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

9 (3) “District” also includes the retirement system established  
10 under this chapter in Contra Costa County.

11 (4) “District” also includes the retirement system established  
12 under this chapter in Ventura County.

13 (5) “District” also includes a retirement system established under  
14 this chapter at the time that the board of retirement, by resolution,  
15 makes this ~~section~~ *subdivision* applicable to the retirement system  
16 in that county.

17 (m) “District” also includes the Kern County Hospital Authority,  
18 a public agency that is a local unit of government established  
19 pursuant to Chapter 5.5 (commencing with Section 101852) of  
20 Part 4 of Division 101 of the Health and Safety Code.

21 ~~SEC. 2.~~

22 *SEC. 3.* Section 31522.5 of the Government Code is amended  
23 to read:

24 31522.5. (a) In a county in which the board of retirement has  
25 appointed personnel pursuant to Section 31522.1, the board of  
26 retirement may appoint an administrator, an assistant administrator,  
27 a chief investment officer, senior management employees next in  
28 line of authority to the chief investment officer, subordinate  
29 administrators, senior management employees next in line of  
30 authority to subordinate administrators, and legal counsel.

31 (b) Notwithstanding any other provision of law, the personnel  
32 appointed pursuant to this section may not be county employees  
33 but shall be employees of the retirement system, subject to terms  
34 and conditions of employment established by the board of  
35 retirement. Except as specifically provided in this subdivision, all  
36 other personnel shall be county employees for purposes of the  
37 county’s employee relations resolution, or equivalent local rules,  
38 and the terms and conditions of employment established by the  
39 board of supervisors for county employees, including those set  
40 forth in a memorandum of understanding.

1 (c) Except as otherwise provided by Sections 31529.9 and  
2 31596.1, the compensation of personnel appointed pursuant to this  
3 section shall be an expense of administration of the retirement  
4 system, pursuant to Section 31580.2.

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

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

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

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

15 (h) This section shall apply to a retirement system established  
16 under this chapter at the time that the board of retirement, by  
17 resolution, makes this section applicable in that county.

18 ~~SEC. 3.~~

19 *SEC. 4.* Section 31522.7 of the Government Code is amended  
20 to read:

21 31522.7. (a) In addition to the authority provided pursuant to  
22 Section 31522.5, the board of retirement in the County of San  
23 Bernardino, or in any other county in which this section has been  
24 made applicable, may appoint an administrator, an assistant  
25 administrator, a chief investment officer, senior management  
26 employees next in line of authority to the chief investment officer,  
27 subordinate administrators, senior management employees next  
28 in line of authority to subordinate administrators, supervisors and  
29 employees with specialized training and knowledge in pension  
30 benefit member services, investment reporting compliance,  
31 investment accounting, pension benefit tax reporting, pension  
32 benefit financial accounting, pension law, and legal counsel.

33 (b) Notwithstanding any other provision of law, the personnel  
34 appointed pursuant to this section may not be county employees  
35 but shall be employees of the retirement system, subject to terms  
36 and conditions of employment established by the board of  
37 retirement. Except as specifically provided in this subdivision, all  
38 other personnel shall be county employees for purposes of the  
39 county's employee relations resolution, or equivalent local rules,  
40 and the terms and conditions of employment established by the

1 board of supervisors for county employees, including those set  
2 forth in a memorandum of understanding.

3 (c) Except as otherwise provided by Sections 31529.9 and  
4 31596.1, the compensation of personnel appointed pursuant to this  
5 section shall be an expense of administration of the retirement  
6 system, pursuant to Section 31580.2.

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

10 (e) Section 31522.2 is not applicable if the retirement system  
11 elects to appoint personnel pursuant to this section.

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

16 (g) This section shall apply to a retirement system established  
17 under this chapter at the time that the board of retirement, by  
18 resolution, makes this section applicable in that county.

19 ~~SEC. 4.~~

20 *SEC. 5.* Section 31522.75 is added to the Government Code,  
21 immediately following Section 31522.7, to read:

22 31522.75. (a) Any retirement system established under this  
23 chapter, including a retirement system that, at the time of the  
24 enactment of this section, is operating pursuant to Section 31522.5,  
25 31522.7, or 31522.9, may elect to make this section, *paragraph*  
26 *(5) of subdivision (l) of* Section 31468, and Section 31522.5,  
27 31522.7, or 31522.9, applicable to the retirement system upon  
28 adoption of a resolution by the board of retirement.

29 (b) A board of retirement may elect to appoint personnel, or  
30 may authorize the retirement administrator to appoint personnel,  
31 to administer the system as provided in this section.

32 (c) (1) Notwithstanding any other law, the personnel appointed  
33 pursuant to this section and the sections referenced in subdivision  
34 (a) shall not be county employees, but shall be employees of the  
35 retirement system, subject to terms and conditions of employment  
36 established by the board of retirement and the provisions of this  
37 section.

38 (2) A county employee to whom the California Public  
39 Employees' Pension Reform Act of 2013 (~~Article 4, commencing~~  
40 ~~4 (commencing~~ with Section ~~7522~~ 7522) of Chapter 21 of Division

1 7 of Title 1) did not apply before becoming a retirement system  
2 employee shall maintain that status as an employee of the  
3 retirement system.

4 (3) For purposes of employment by a subsequent public  
5 employer, as described in paragraph (1) of subdivision (c) of  
6 Section 7522.02, the retirement system shall have the status of the  
7 county as a subsequent employer.

8 (4) With regard to an individual who was employed by the  
9 county before January 1, 2013, and who becomes a retirement  
10 system employee and then changes employment positions as  
11 described in paragraph (2) of subdivision (c) of Section 7522.02,  
12 the retirement system shall have the former obligations of the  
13 county to provide a defined benefit plan that otherwise would have  
14 been available to the employee had he or she remained a county  
15 employee.

16 (d) Any employees who were previously appointed to retirement  
17 system personnel positions pursuant to Section ~~31522.2 or 31522.3~~  
18 ~~31522.2, 31522.3, or 31522.4~~ shall cease to be county employees  
19 and shall become retirement system employees at their existing or  
20 equivalent classifications as of the date the board of retirement  
21 makes this section applicable pursuant to subdivision (a), subject  
22 to any subsequent revisions the retirement board may make  
23 pursuant to regulations governing terms and conditions of  
24 employment, and when applicable, the provisions of a subsequent  
25 ~~memoranda~~ memorandum of understanding or bargaining  
26 agreement covering the employee.

27 (e) Any employees who were previously appointed to retirement  
28 system personnel positions pursuant to Section 31522.1 and are  
29 subsequently appointed as retirement system employees pursuant  
30 to subdivision (a) shall cease to be county employees and shall  
31 become retirement system employees at their existing or equivalent  
32 classifications as of the date the board of retirement makes this  
33 section ~~applicable~~. *applicable, subject to any subsequent revisions*  
34 *the retirement board may make pursuant to regulations governing*  
35 *terms and conditions of employment and, when applicable, the*  
36 *provisions of a subsequent memorandum of understanding or*  
37 *bargaining agreement covering the employee.*

38 (f) A retirement system that elects to make this section  
39 applicable shall recognize as the exclusive representative of those  
40 former county employees who become retirement system

1 employees the employee organization that represented those  
2 employees, if any, and shall honor the provisions in any  
3 ~~memoranda~~ *memorandum* of understanding or bargaining  
4 agreement in effect on the date the board of retirement makes this  
5 section applicable for the duration of the ~~memoranda~~ *memorandum*  
6 of understanding or bargaining agreement.

7 (g) The following shall apply to those persons who become  
8 retirement system employees pursuant to this section:

9 (1) Employment seniority of a retirement system employee,  
10 including, but not limited to, an employee's continuous service  
11 date used for purposes of retirement or other benefits, as calculated  
12 and used under the county system in effect before the date this  
13 section becomes applicable, shall be calculated and used in the  
14 same manner by the retirement system at the time the county  
15 employee becomes a retirement system employee, subject to any  
16 subsequent revisions the retirement board may make pursuant to  
17 regulations governing terms and conditions of employment, and  
18 when applicable, the provisions of a subsequent ~~memoranda~~  
19 *memorandum* of understanding or bargaining agreement covering  
20 the employee.

21 (2) Retirement system employees shall have the same status  
22 they had as probationary, permanent, or regular employees under  
23 the county system in effect on the date this section becomes  
24 applicable, subject to any subsequent revisions the retirement board  
25 may make pursuant to regulations governing terms and conditions  
26 of employment, and when applicable, the provisions of a  
27 subsequent ~~memoranda~~ *memorandum* of understanding or  
28 bargaining agreement covering the employee.

29 (3) Retirement system employees shall receive their same salary  
30 rates, leaves of absence, leave accrual rates, including all related  
31 compensation rules and provisions applicable to those salary rates,  
32 leaves, and accrual rates as under the county system on the date  
33 this section becomes applicable, subject to any subsequent revisions  
34 the retirement board may make pursuant to regulations governing  
35 terms and conditions of employment, and when applicable, the  
36 provisions of a subsequent ~~memoranda~~ *memorandum* of  
37 understanding or bargaining agreement covering the employee.

38 (4) (A) Retirement system employees shall be afforded the  
39 opportunity to participate in county benefit plans and programs,  
40 including, but not limited to, group health, dental and life insurance,

1 workers' compensation, and deferred compensation that existed  
2 on the date this section becomes applicable, under the same terms  
3 and conditions as those programs were available to county  
4 employees. The retirement board shall contract with the county to  
5 administer the county benefit plans and programs for retirement  
6 system employees, under the same terms and conditions applicable  
7 to county employees, and shall provide the employer cost for  
8 participation in the programs unless and until the retirement board  
9 chooses to provide different benefits or different benefit levels  
10 through another provider.

11 (B) The participation of retirement system employees in county  
12 benefit plans or programs, and the county's administration of  
13 certain compensation or benefits for retirement employees pursuant  
14 to this section, shall not create or be construed to create, a meet  
15 and confer obligation between the county and any employee  
16 organization recognized to represent retirement system employees.

17 (h) The board of retirement and the county may enter into any  
18 agreements necessary and appropriate to carry out this section.

19 (i) Sections 31522.1, ~~31522.2 and 31522.3~~ 31522.2, 32522.3,  
20 *and* 32522.4 shall no longer apply to a retirement system that has  
21 made this section applicable.

22 (j) Upon adoption of this section, the board of retirement may  
23 make regulations consistent with this chapter, and the provisions  
24 of Section 31525 that require approval of retirement board  
25 regulations by the board of supervisors shall no longer apply.

26 (k) The compensation of personnel appointed pursuant to this  
27 section shall be an expense of administration of the retirement  
28 system pursuant to Section 31580.2, except as provided in Section  
29 31522.5, 31522.7, or 31522.9, as those sections may apply to a  
30 retirement system that has adopted them.

31 (l) This section shall not be construed as to modify any authority,  
32 or to require any subsequent action by, a retirement system that  
33 has made *paragraph (5) of subdivision (l) of* Section 31468 and  
34 Section 31522.5, 31522.7, 31522.9, or 31522.10 applicable to the  
35 retirement system prior to the effective date of this section.

36 (m) Any retirement system that has elected to make either  
37 Section 31522.5, 31522.7, or 31522.9 applicable upon adoption  
38 of a subsequent resolution by the board of retirement may make  
39 a different section apply.

1 ~~SEC. 5.~~

2 *SEC. 6.* Section 31522.9 of the Government Code is amended  
3 to read:

4 31522.9. (a) The board of retirement of a county may appoint  
5 a retirement administrator and other personnel as are required to  
6 accomplish the necessary work of the board. The board may  
7 authorize the administrator to make these appointments on its  
8 behalf. Notwithstanding any other law, the personnel so appointed  
9 shall not be county employees but shall become employees of the  
10 retirement system, subject to terms and conditions of employment  
11 established by the board of retirement, including those set forth in  
12 ~~memoranda~~ a memorandum of understanding executed by the  
13 board of retirement and recognized employee organizations.

14 (b) Sections 31522.1 and 31522.2 shall not apply to a retirement  
15 system that appoints personnel pursuant to this section.

16 (c) The retirement system that appoints personnel pursuant to  
17 this section is a public agency for purposes of the  
18 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section  
19 3500) of Division 4).

20 (d) The compensation of personnel appointed pursuant to this  
21 section shall be an expense of administration of the retirement  
22 system, pursuant to Section 31580.2, except as provided in Sections  
23 31529.5, 31529.9, and 31596.1.

24 (e) The board of retirement and the board of supervisors may  
25 enter into agreements as they determine are necessary and  
26 appropriate in order to carry out the provisions of this section.

27 (f) The retirement system, upon the effective date of this section,  
28 shall retain, for a 90-day transition employment period,  
29 nonprobationary employees who, upon the effective date of this  
30 section, were covered by a county memorandum of understanding  
31 and employed by the county at the retirement system's facilities,  
32 unless just cause exists to terminate the employees or legitimate  
33 grounds exist to lay off these employees. If during the 90-day  
34 period the retirement system determines that a layoff of these  
35 employees is necessary, the retirement system shall retain the  
36 employees by seniority within job classification. The terms and  
37 conditions of employment of the employees retained pursuant to  
38 this subdivision shall be subject to the terms and conditions  
39 established by the applicable ~~memoranda~~ memorandum of  
40 understanding executed by the board of retirement and the

1 recognized employee organizations. During the 90-day transition  
2 period, probationary employees shall maintain only those rights  
3 they initially acquired pursuant to their employment with the  
4 county.

5 (g) Subject to the employees’ rights under the  
6 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section  
7 3500) of Division 4), the retirement system, upon the effective  
8 date of this section, shall recognize as the exclusive representative  
9 of the employees retained pursuant to subdivision (f) the recognized  
10 employee organizations that represented those employees when  
11 employed by the county. The initial terms and conditions for those  
12 employees shall be as previously established by the applicable  
13 ~~memoranda~~ memorandum of understanding executed by the county  
14 and recognized employee organizations.

15 (h) This section shall apply in Contra Costa County.

16 (i) This section shall apply to a retirement system established  
17 under this chapter at the time that the board of retirement, by  
18 resolution, makes this section applicable in that county.

19 ~~SEC. 6.~~

20 *SEC. 7.* Section 31528 of the Government Code is amended  
21 to read:

22 31528. (a) Unless permitted by this chapter, a member or  
23 employee of the board shall not become an endorser, surety, or  
24 obligor on, or have any personal interest, direct or indirect, in the  
25 making of any investment for the board, or in the gains or profits  
26 accruing from those investments. A member or employee of the  
27 board shall not directly or indirectly, for himself or herself, or as  
28 an agent or partner of others, borrow or use any of the funds or  
29 deposits of the retirement system, except to make current and  
30 necessary payments authorized by the board.

31 (b) A member or employee of the board shall not, directly or  
32 indirectly, by himself or herself, or as an agent or partner or  
33 employee of others, sell or provide any investment product that  
34 would be considered an asset of the fund, to any retirement system  
35 established pursuant to this chapter.

36 (c) An individual who held a position designated in Section  
37 31522.3, 31522.4, 31522.5, or established pursuant to Section  
38 31522.75, or was a member of the board or an administrator, shall  
39 not, for a period of two years after leaving that position, for  
40 compensation, act as agent or attorney for, or otherwise represent,

1 any other person except the county, by making any formal or  
2 informal appearance before, or any oral or written communication  
3 to, the retirement system, or any officer or employee thereof, if  
4 the appearance or communication is made for the purpose of  
5 influencing administrative or legislative action, or any action or  
6 proceeding involving the issuance, amendment, awarding, or  
7 revocation of a permit, license, grant, contract, or sale or purchase  
8 of goods or property.

9 ~~SEC. 7.~~

10 *SEC. 8.* Section 31529.9 of the Government Code is amended  
11 to read:

12 31529.9. (a) In addition to the powers granted by Sections  
13 31522.5, 31522.75, 31522.9, 31529, 31529.5, 31614, and 31732,  
14 the board of retirement and the board of investment may contract  
15 with the county counsel or with attorneys in private practice or  
16 employ staff attorneys for legal services.

17 (b) Notwithstanding Sections 31522.5, 31522.7, 31522.75,  
18 31529.5, and 31580, the board shall pay, from system assets,  
19 reasonable compensation for the legal services.

20 (c) This section applies to any county of the 2nd class, 7th class,  
21 9th class, 14th class, 15th class, or the 16th class as described by  
22 Sections 28020, 28023, 28028, 28030, 28035, 28036, and 28037.

23 (d) This section shall also apply to any other county if the board  
24 of retirement, by resolution adopted by majority vote, makes this  
25 section applicable in the county.

26 ~~SEC. 8.~~

27 *SEC. 9.* Section 31535 of the Government Code is amended  
28 to read:

29 31535. The board may issue subpoenas and subpoenas duces  
30 tecum, and compensate persons subpoenaed. This power shall be  
31 exercised and enforced in the same manner as the similar power  
32 granted the board of supervisors in Article 9 (commencing with  
33 Section 25170) of Chapter 1, Part 2, Division 2; except that the  
34 power shall extend only to matters within the retirement board's  
35 jurisdiction, and committees of the board shall not have this power.  
36 Reasonable fees and expenses may be provided for by board  
37 regulation for any or all of such witnesses regardless of which  
38 party subpoenaed them.

39 Subpoenas shall be signed by the chairman or secretary of the  
40 retirement board, except that the board may by regulation provide

1 for express written delegation of its subpoena power to any referee  
2 it appoints pursuant to this chapter or to any administrator  
3 appointed pursuant to Section 31522.2, 31522.5, 31522.7, 31522.9,  
4 or 31522.10.

5 Any member of the board, the referee, or any person otherwise  
6 empowered to issue subpoenas may administer oaths to, or take  
7 depositions from, witnesses before the board or referee.

8 *SEC. 10. Section 31557.3 of the Government Code is amended*  
9 *to read:*

10 31557.3. On the date a district, as defined in subdivision (l) of  
11 Section 31468, is included in the retirement system, any personnel  
12 appointed pursuant to Sections 31522.5, 31522.9, 31522.10,  
13 31522.7, 31522.75, and 31529.9 who had previously been in county  
14 service shall continue to be members of the system without  
15 interruption in service or loss of credit. Thereafter, each person  
16 entering employment with the district shall become a member of  
17 the system on the first day of the calendar month following his or  
18 her entrance into service.

19 ~~SEC. 9.~~

20 *SEC. 11. Section 31580.2 of the Government Code is amended*  
21 *to read:*

22 31580.2. (a) In counties in which the board of retirement, or  
23 the board of retirement and the board of investment, have appointed  
24 personnel pursuant to Section 31522.1, 31522.5, 31522.7,  
25 31522.75, 31522.9, or 31522.10, the respective board or boards  
26 shall annually adopt a budget covering the entire expense of  
27 administration of the retirement system which expense shall be  
28 charged against the earnings of the retirement fund. The expense  
29 incurred in any year may not exceed the greater of either of the  
30 following:

31 (1) Twenty-one hundredths of 1 percent of the accrued actuarial  
32 liability of the retirement system.

33 (2) Two million dollars (\$2,000,000), as adjusted annually by  
34 the amount of the annual cost-of-living adjustment computed in  
35 accordance with Article 16.5 (commencing with Section 31870).

36 (b) Expenditures for computer software, computer hardware,  
37 and computer technology consulting services in support of these

- 1 computer products shall not be considered a cost of administration
- 2 of the retirement system for purposes of this section.

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