Date of Hearing: August 16, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
SB 548 (Niello) – As Amended June 29, 2023

Policy Committee: Public Employment and Retirement Vote: 7 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill authorizes a county and a county trial court that have a joint contract with the California Public Employees Retirement System (CalPERS) for the provision of retirement benefits for their employees to jointly and voluntarily separate the contract into two individual contracts.

Specifically, this bill prescribes a process for this separation and requires CalPERS to perform a one-time separate computation of the assets and liabilities, as determined by the actuary, for a county and county trial court that voluntarily elect to separate their joint contract into individual contracts. In addition, this bill requires, following the separation of the joint contract, any plan under separate contract that has less than 100 members, or otherwise meets applicable CalPERS criteria, to participate in a risk pool.

FISCAL EFFECT:

1) One-time special fund (PERF) costs as high as $350,000 to CalPERS for staff to complete the actuarial reports required by this bill. Actual costs would depend on the number of counties and county trial courts opting to separate their joint contracts. These costs would be partially offset by the $300 fee charged to an employer for each actuarial report, (CalPERS estimates an offset of between $22,200 and $44,400.) The state has 37 counties and county trial courts to which this bill would apply.

2) One-time GF costs as high as $66,000 to CalPERS for staff to process as many as 37 county and county trial court contract splits.

3) Potential, unknown state GF costs to fund CalPERS contributions for county trial court employees who might otherwise have had their pension obligations reduced by county pension contributions absent this bill. This point is discussed in more detail below.

COMMENTS:

1) **Purpose.** According to the State Association of County Auditors, the sponsor of this bill:

> In 1997, the State took action to move all facets of the "courts" from the purview of the counties and separate them operationally, financially, and organizationally. The very last piece that has yet to be separated from the county is the court employees' presence in the county's CalPERS retirement plans which includes the related pension

> liability…SB 548 would simply provide a mechanism for those counties/courts, who are interested, to move forward with completing the work that began in the late 1990's. It is voluntary and permissive; and would only be triggered when there are willing participants at the local level. SB 548 is necessary to direct how the separation will work and the separation is not possible without new Code.

2) **Background.** AB 233 (Escutia), Chapter 850, Statutes of 1997, shifted responsibility for financing county trial court operations from counties to the state. As a result, county trial court employees are no longer considered county or state employees, but instead employees of their respective county trial courts. In the 37 counties that enrolled their employees in CalPERS at the time AB 233 was enacted, state law requires the county and the county trial court in that county to have a joint contract with CalPERS to provide retirement benefits to both county and county trial court employees. (County trial courts located within a county not contracting with CalPERS at that time are eligible to independently contract with CalPERS for retirement benefits.)

   According to the bill's proponents, the joint contract requirement placed on counties and county trial courts has had cost implications for some counties. Specifically, counties that wish to issue pension obligation bonds at the county level or pre-fund their CalPERS pension obligations in other ways cannot apply pre-payments to county employees only—they must also apply the pre-payments to county trial court employees, and in the same proportion. To address this cost to counties, some counties and county trial courts have entered into memoranda of understanding (MOU) such that a county trial court reimburses a county for its pension pre-payments. However, counties indicate this MOU process is burdensome.

   This bill allows a county and county trial court to separate its joint contract with CalPERS.

3) **Cost Concerns.** Policy committee analyses of this bill note concerns that since the state is responsible for funding county trial court pension obligations, this bill could raise state GF costs since small county trial courts would be subject to greater actuarial risk for being in a smaller risk pool. This bill, however, requires any plan that has under 100 members, or meets other criteria, to participate in a CalPERS risk pool to address this concern.

   In addition, SB 733 (Aansestad), of the 2004-05 Legislative Session, would have allowed Butte and Solano counties to separate their county and county trial court CalPERS contracts. This committee held the bill and noted potential state GF costs to pay for increased employer contribution costs a county would otherwise subsidize for their counties' county trial court employees. SB 548 could result in similar costs to the state. However, this assumes a county pre-pays pension obligations and does not have an MOU with its county trial court to reimburse these costs already.

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