
UNFINISHED BUSINESS

Bill No: SB 548
Author: Niello (R)
Amended: 9/6/23
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/19/23
AYES: Cortese, Wilk, Durazo, Laird, Smallwood-Cuevas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: 80-0, 9/11/23 - See last page for vote

SUBJECT: Public employees' retirement: joint county and trial court contracts

SOURCE: State Association of County Auditors

DIGEST: This bill authorizes a county and the trial court located within the county to jointly elect to separate their joint CalPERS contract into individual contracts if the county and the trial court both make that election voluntarily, as specified.

Assembly Amendments

- Make the parties election to separate the joint contract irrevocable and make the parties ineligible to reestablish a joint contract.

- Clarify the method, timing, responsibilities, and the adjustment process of CalPERS' computation of the separation of the parties' joint contract.
- Make a conforming change in the Government Code regulating counties to reference the option to elect separation of the joint contract.

ANALYSIS:

Existing law:

- 1) Requires a trial court and a county in which the trial court is located to jointly participate in CalPERS by joint contract for all counties that contract with CalPERS for retirement benefits and authorizes all other counties and trial courts to elect such joint participation. (Government Code (GC) § 20460.1)
- 2) Provides that a county shall not be responsible for the required employer or employee contributions due on behalf of trial court employees, nor shall a trial court be responsible for the required employer or employee contributions due on behalf of county employees. (GC § 20460.1)
- 3) Establishes under the California Public Employees' Pension Reform Act of 2013 (PEPRA) a statewide retirement plan formula and requires public employers to offer the PEPRA formula to new employees first hired into public service after January 1, 2013, as defined. (GC § 7522 et seq.)
- 4) Allows a classic member (i.e., a public employee who first became a member of a public retirement system prior to 2013) to move between public employers or retirement systems, as specified, and be "grandfathered" under the plans that existed on December 31, 2012, prior to implementation of PEPRA. (GC 7522.02)
- 5) Allows a new public employer, established through a joint powers agreement by existing public agencies who offered the classic pension formula, to offer the classic pension formula to classic members as specified. (GC § 7522.05)

This bill:

- 1) Authorizes a county and the trial court located within the county to jointly elect to separate their joint CalPERS contract into individual contracts if the county and the trial court both make that election voluntarily, as specified.
- 2) Permits a county and trial court that separate their joint contract into individual contracts, to provide employees on or after January 1, 2024, the defined benefit

plan or formula that those employees received from their respective employers prior to the exercise of the option to separate if the employee subsequently does not otherwise meet the definition of a new employee under PEPRRA.

- 3) Requires a county and a trial court that voluntarily elect to separate the joint contract into individual contracts to do so by ordinance or resolution adopted by both the affirmative majority vote of the governing body of a county and the presiding officer of the trial court. However, to be effective, the parties must adopt their respective resolutions within 30 days of each other.
- 4) Prohibits the separation from being a cause for the modification of retirement benefits. This bill also prohibits the parties from modifying retirement benefit levels provided to employees under the joint contract until after an existing memorandum of understanding (MOU) has expired or a period of 24 months, whichever is longer, unless the county and its recognized employee organizations or the trial court and its recognized employee organizations mutually agree to a modification.
- 5) Requires any plan under a separate contract following the separation of the joint contract that has less than 100 members or otherwise meets applicable CalPERS criteria to participate in a risk pool.
- 6) Makes an election to separate the joint contract irrevocable and the parties ineligible to reestablish a joint contract.
- 7) Requires CalPERS to perform a separate computation, as specified, of the assets and liabilities for the parties that elect to separate their joint contract; requires the trial court to enter a separate contract upon completion of the computation; and requires CalPERS to move the trial court's assets and liabilities to its individual contract.
- 8) Requires CalPERS to forward the computation to the parties, as specified, whereupon the parties have 30 days to review it and provide any additional information required for clarification or correction or to revoke their election to separate the joint contract; allows CalPERS to consider only information that both separating parties jointly confirm; and gives CalPERS 180 days to amend the computation after the deadline to provide CalPERS the required information for correction.

Related/Prior Legislation

SB 431 (Aanestad and Wiggins, Chapter 256, Statutes of 2007) required CalPERS to prepare a one-time separate pension fund computation for trial court and all other members in Butte and Solano Counties.

SB 733 (Aanestad, 2005) would have allowed Butte and Solano counties to separate the assets and liabilities of the county from those of the trial courts within those counties to establish separate employer contribution rates under CalPERS. The Assembly Appropriations Committee held the bill on suspense.

SB 2140 (Burton, Chapter 1010, Statutes of 2000) designated courts as independent employers and made trial court staff employees of the courts. Prior to SB 2140, trial court staff were county employees. The bill also required trial courts to participate in CalPERS for retirement benefits through joint contracts with their county in those counties that were already contracting with CalPERS for retirement benefits.

Proposition 220 (Adopted in November 1998) authorized the voluntary unification of each county's superior and municipal courts into a one-tier trial court system.

AB 233 (Escutia, Chapter 850, Statutes of 1997) shifted the primary responsibility of financing trial courts from the counties to the state.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee:

- 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.

SUPPORT: (Verified 9/11/23)

State Association of County Auditors (source)
California State Association of Counties
County of Humboldt
County of Monterey
County of Placer
Solano County Board of Supervisors

OPPOSITION: (Verified 9/11/23)

None received

ARGUMENTS IN SUPPORT: According to the sponsor, State Association of County Auditors:

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. This entanglement in the same retirement plan:

- a) Prevents counties (and courts) from prepaying pension liabilities for their respective employees, which would benefit all parties involved;
- b) Requires CalPERS counties to enter into MOUs with the courts to ensure the courts are paying their fair share of unfunded pension liability, especially when compensation and benefits are being negotiated, new laws are enacted and when new accounting standards are implemented;
- c) Hinders the counties ability to issue pension obligation bonds.

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.

ASSEMBLY FLOOR: 80-0, 9/11/23

AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy

Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

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