

AB 868 (Oberholte)
Public Employees Retirement System:
contracting agencies:
transfer of membership – bill as enrolled
and Assembly Committee Analysis

Attachment 7

Assembly Bill No. 868

Passed the Assembly May 7, 2015

Chief Clerk of the Assembly

Passed the Senate June 25, 2015

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 2015, at ____ o'clock ____ M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 20588 and 31657 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 868, Obernolte. Public Employees' Retirement System: contracting agencies: transfer of membership.

Existing law authorizes public agencies to contract with the Board of Administration of the Public Employees' Retirement System to have their employees become members of the Public Employees' Retirement System (PERS). Existing law, with respect to the Counties of Kern, Los Angeles, and Orange, permits the board to enter into an agreement with the contracting agency's board of retirement for termination of the contracting agency's participation in PERS and inclusion of the agency's employees in the retirement system of the city or county, if specified requirements are met, with respect to certain safety members, including firefighters. The County Employees Retirement Law of 1937 establishes a corresponding authority for accepting these people as members for retirement systems created pursuant to its provisions, and granting them service credit for their service credited by PERS.

This bill would expand the application of the provisions described above to the County of San Bernardino.

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

SECTION 1. Section 20588 of the Government Code is amended to read:

20588. (a) Notwithstanding any other provision of this article, the board may, pursuant to this section and Section 31657, enter into an agreement with the board of retirement of a county maintaining a county retirement system, for termination of participation of a public agency whose contract has been in effect for at least five years in this system or the state with respect to certain safety members who have ceased to be employed by the public agency or the state and have been employed by a county,

fire authority, or district as a result of a transfer of firefighting or law enforcement functions from the public agency or the state to the county, fire authority, or district and inclusion of the former public agency employees in that county retirement system.

(b) The agreement shall contain provisions the board finds necessary to protect the interests of this system, including provisions for determination of the amount, time, and manner of transfer of cash or securities, or both, to be transferred to the county system representing the actuarial value of the interests in the retirement fund of the public agency or the state and the transferred employees by reason of accumulated contributions credited to that public agency or the state and the employees transferred. The agreement may also contain any other provisions that the board deems necessary to address issues related to the transfer, including, but not limited to, benefits subject to an outstanding domestic relations order and benefits subject to a lien. The agreement shall apply only to employees who are employed by the county or district on the effective date of the agreement.

(c) All liability of this system with respect to the members transferred under that agreement shall cease and shall become the liability of the county retirement system as of the date of transfer specified in the agreement. Liability of the county retirement system shall be for payment of benefits to transferred employees in accordance with Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3.

(d) Any member transferred who becomes a member of a county retirement system upon that transfer date shall be subject to provisions of this part and of Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 extending rights to a member or subjecting him or her to limitations because of membership in another retirement system to the same extent that he or she would have been had he or she been a member of the county retirement system during his or her membership in this system.

(e) This section shall apply only in the Counties of Kern, Los Angeles, Orange, and San Bernardino.

SEC. 2. Section 31657 of the Government Code is amended to read:

31657. Subject to Section 20588, whenever, as a result of the assumption by a county, fire authority, or district of firefighting

or law enforcement functions performed by a public agency or the state subject to the Public Employees' Retirement Law, any person ceases to be employed by a public agency or the state and is employed by a county, fire authority, or district in which this chapter has become operative, that person shall become a member of the retirement system of a county immediately upon entering county service. That member of the county retirement system shall be entitled to service credit in the county retirement system for the service for which he or she was entitled to credit in the Public Employees' Retirement System at the time of cessation of employment by the public agency or the state, without necessity of payment of any additional contributions in respect to that service, when and if all of the following occur:

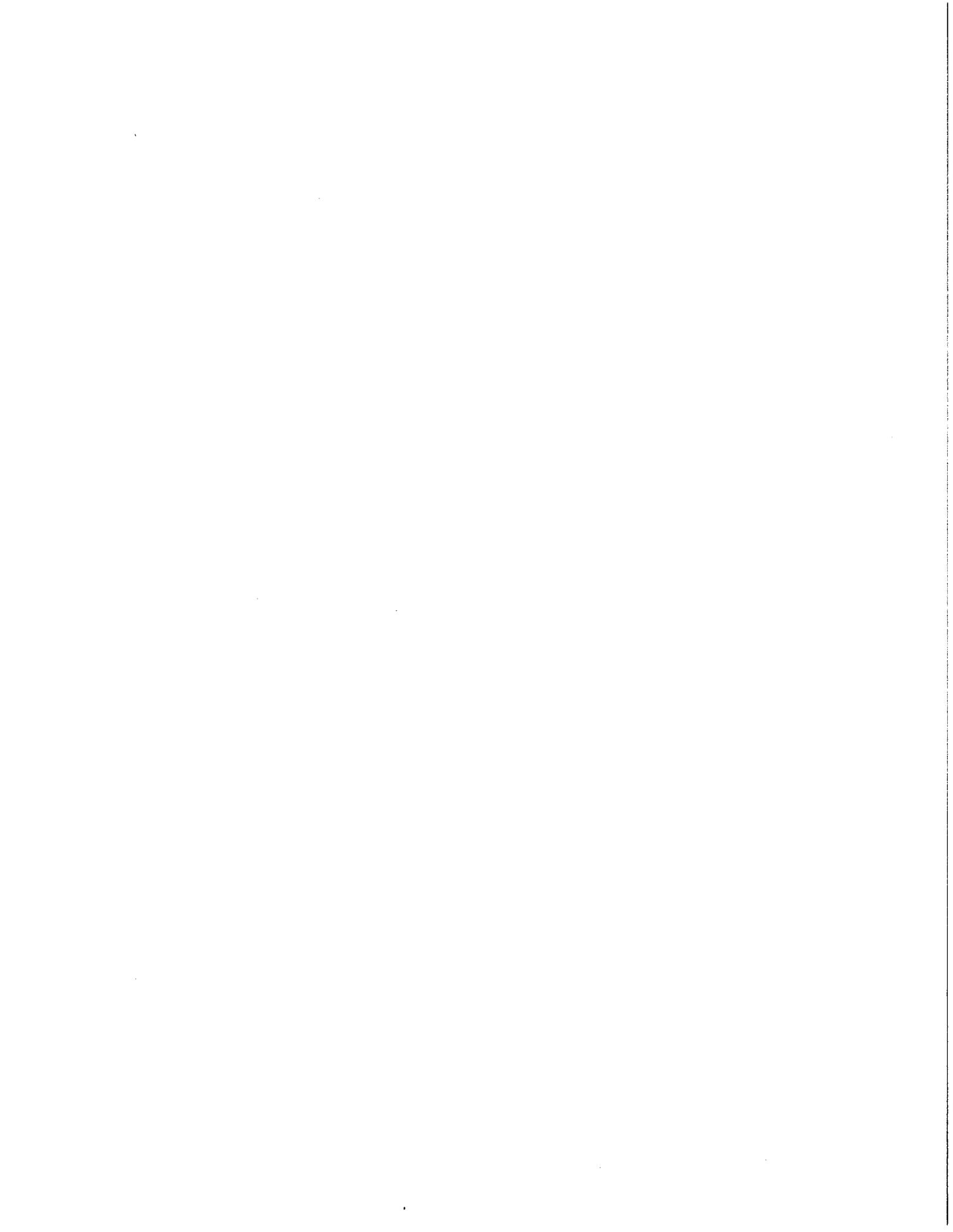
(a) The board of retirement receives certification from the Board of Administration of the Public Employees' Retirement System of the service with which the person was entitled to be credited by the Public Employees' Retirement System at the time of cessation of his or her public agency or state employment.

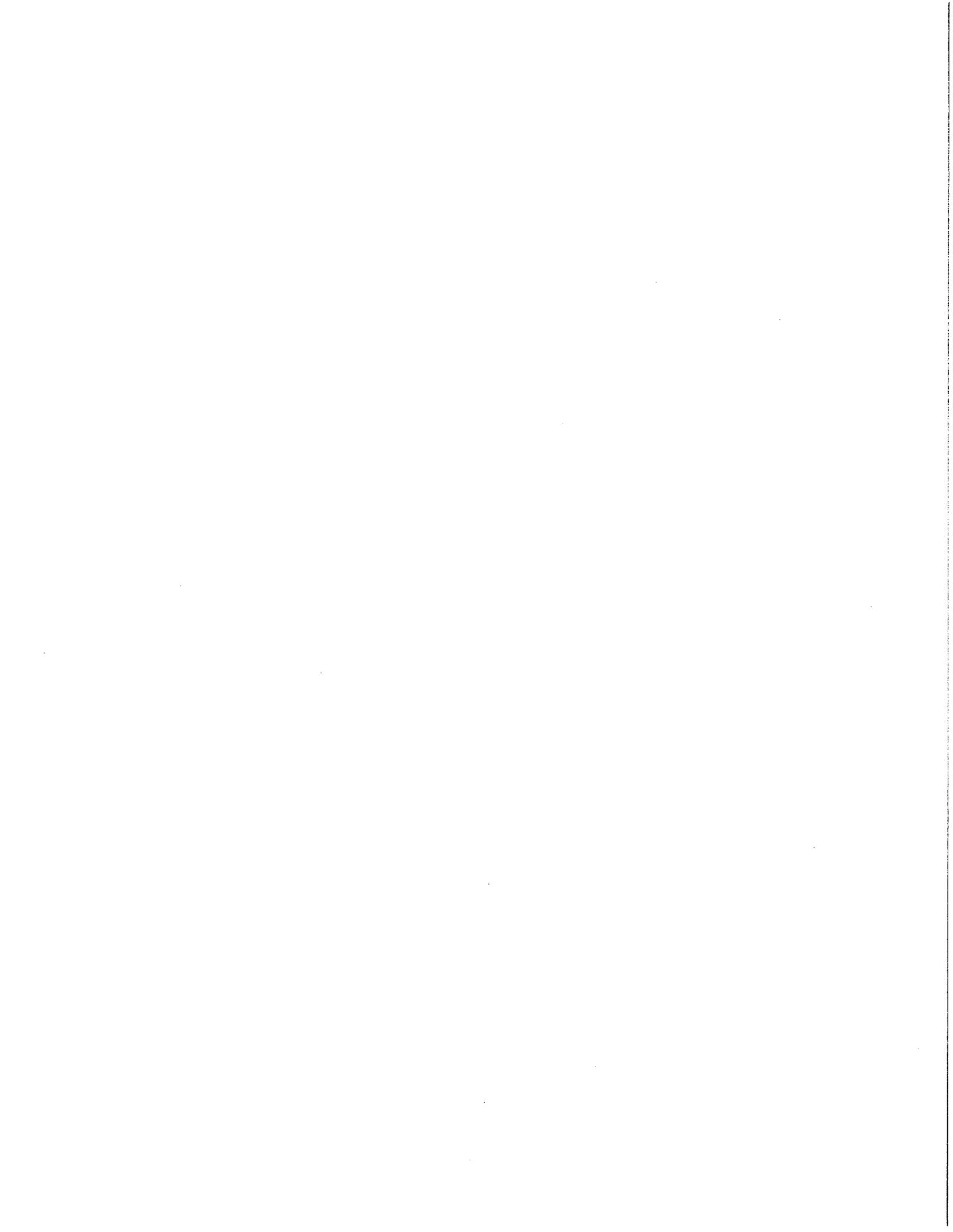
(b) There is paid into the county retirement fund of the county, an amount equal to the normal contributions of the person to the Public Employees' Retirement System, together with all interest credited thereto, which amount shall be credited to the individual account of the member in the county retirement system, and shall thereafter for all purposes be deemed to be the member's contribution to the county retirement system with respect to the service so certified.

(c) There is paid to the retirement system of the county an amount equal to all contributions of the public agency or the state made to the Public Employees' Retirement System on account of service rendered by the person together with interest credited to the public agency or the state thereto.

(d) The board of retirement elects to apply this section as a prudent means of mitigating against potential adverse financial impact upon the county retirement system from the cost of disability retirements that may be applied for in the future by persons injured while being employed by the county, fire authority, or district after ceasing to be employed by a public agency or the state as a result of the assumption by a county, fire authority, or district of firefighting or law enforcement functions.

This section shall apply in a county of the first, the second, the seventh, or the fourteenth class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, and Sections 28023, 28028, and 28035, as amended by Chapter 1204 of the Statutes of 1971.





Approved _____, 2015

Governor

Date of Hearing: April 22, 2015

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYEES, RETIREMENT, AND SOCIAL
SECURITY

Rob Bonta, Chair

AB 868 (Obernolte) – As Introduced February 26, 2015

SUBJECT: Public Employees' Retirement System: contracting agencies: transfer of membership

SUMMARY: Adds San Bernardino County to the list of counties authorized to transfer its firefighting or law enforcement functions from the California Public Employees' Retirement System (CalPERS) to a county, fire authority, or district that participates in a retirement system established under the County Employees' Retirement Law of 1937 ('37 Act), as specified. Specifically, **this bill:**

- 1) Authorizes CalPERS to enter into an agreement with the Board of Retirement for the San Bernardino County Employees' Retirement Association (SBCERA) for the transfer of service credit and associated assets and liabilities for specified safety employees. The decision to enter into the agreement must be agreed to by both CalPERS and SBCERA.
- 2) Permits such an agreement for safety employees of a public agency or the state who have ceased to be employed by that public agency or the state as a result of the transfer of firefighting or law enforcement functions to a local agency that participates in the SBCERA.
- 3) Specifies that the agreement must provide for the termination of participation in the CalPERS System for the public agency transferring employees.
- 4) Specifies the eligible public agencies must have been contracted with CalPERS for at least five years.
- 5) Empowers CalPERS to require provisions it finds necessary in the agreement related to the transfer of assets and accumulated contributions and benefits subject to an outstanding domestic relations order or benefits subject to a lien.
- 6) Specifies that the agreement applies only to employees of the public agency on the effective date of the agreement.
- 7) Specifies that once transferred from CalPERS to the county system, SBCERA would assume all the liability for the payment of benefits for the transferred members.
- 8) Specifies that the transferred members would have the same rights and limitations as if they had been members of the county retirement system during their membership in CalPERS.

EXISTING LAW: Allows the Counties of Los Angeles, Kern, and Orange, in specified instances, for the service credit and associated assets and liabilities of active members in a CalPERS safety plan to be transferred to a county retirement system in cases where firefighting or law enforcement functions are transferred from the state or an agency participating in CalPERS to an agency participating in a county retirement system. The significant advantage of

this provision is that the transfer of eligible active members of a CalPERS safety plan pursuant to this section is not subject to withdrawal liability because the liability of accrued benefits is transferred entirely to the county retirement system.

FISCAL EFFECT: Unknown.

COMMENTS: According to information provided to the Committee, in June of 2012, the boards of the Big Bear City Community Services District (City) and the Big Bear Lake Fire Protection District (Lake) acted to establish a Joint Powers Authority creating the Big Bear Fire Authority (Fire Authority). Since that time, the fire department administration has been consolidated, jurisdictional boundaries have been removed, and standard operational policies and procedures have been implemented. The Fire Authority is now set to manage its own financial responsibilities and is now functioning in almost every aspect as one department.

Currently, all employees remain employed by their respective agencies. Under those employment arrangements, employees of the City are enrolled in a California Public Employees Retirement System (CalPERS) retirement plan and employees of the Lake are enrolled in a San Bernardino County Employees Retirement Association (SBCERA) retirement plan.

According to the author, "The only issue standing in the way of full consolidation is the matter of pension alignment. Currently, if the Fire Authority decides to transfer one set of employees to a different pension system, it would incur costly withdrawal liabilities."

The author concludes that AB 868 would add San Bernardino County to provisions of existing law that will permit, but not mandate, the transfer of City employees from CalPERS to SBCERA without triggering withdrawal liability.

AB 2819 (Epple), Chapter 419, Statutes of 1990, enabled CalPERS and the Los Angeles County Employees' Retirement Association (LACERA) to agree to transfer the service credit and member contributions from CalPERS to the LACERA for local safety members who are transferred from a CalPERS covered city to Los Angeles County when a city transfers its fire or police function to the county.

AB 355 (Morrissey), Chapter 832, Statutes of 1997, allowed CalPERS and the Orange County Employees Retirement System to agree to transfer the service credit and employee and employer assets to the Orange County Employees Retirement System on behalf of local public agency and state employees who are transferred to Orange County Employees Retirement System covered employment.

AB 1683 (PER&SS Committee), Chapter 793, Statutes of 2001, among its several provisions, allowed CalPERS and the Kern County Employees' Retirement Association to agree to transfer the service credit and employee and employer assets to the Kern County Retirement System on behalf of local public agency and state employees who are transferred to Kern County Retirement System covered employment.

REGISTERED SUPPORT / OPPOSITION:

Support

Big Bear Fire Authority (Sponsor)
Big Bear City Community Services District
Big Bear Lake Fire Protection District

Opposition

None on file.

Analysis Prepared by: Karon Green / P.E.,R., & S.S. / (916) 319-3957