
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT**Senator Dave Cortese, Chair****2021 - 2022 Regular**

Bill No: AB 761**Hearing Date:** June 7, 2021**Author:** Chen**Version:** March 18, 2021**Urgency:** No**Fiscal:** No**Consultant:** Glenn Miles**SUBJECT:** County employees' retirement: personnel: Orange County**KEY ISSUE**

Should the Legislature authorize the Orange County Employees Retirement System (OCERS) Board of Retirement to appoint an expanded number of personnel who are exempt from the Orange county civil service?

ANALYSIS**Existing law:**

1. Establishes the County Employees Retirement Law of 1937 (CERL or '37 Act), which governs twenty independent county retirement associations, including the Orange County Employees Retirement System (OCERS). (Government Code § 31451 et seq.)
2. Provides that the board of retirement and both the board of retirement and the board of investment (where a system uses the dual board structure) of a county retirement system may appoint such administrative, technical, and clerical staff personnel as are required to accomplish the necessary work of the boards. The existing statute requires the retirement board(s) to make appointments from eligible lists created in accordance with the civil service or merit system rules of the county in which the retirement system governed by the boards is situated. Current law also requires, in general, that the personnel shall be county employees and shall be subject to the county civil service or merit system rules and shall be included in the salary ordinance or resolution adopted by the board of supervisors for the compensation of county officers and employees. (GC § 31522.2)
3. Authorizes the OCERS board of retirement to appoint specified non-civil service employees that shall not be county employees but rather OCERS employees, including the following:
 - an administrator,
 - an assistant administrator
 - a chief investment officer
 - senior management employees next in line of authority to the chief investment officer
 - subordinate administrators
 - senior management employees next in line of authority to subordinate administrators
 - legal counsel. (GC § 31522.5)
4. Defines districts formed under the law of the state, located wholly or partially within a county, and provides that the districts are public employers whose employees are eligible to participate in their respective '37 Act county retirement associations. (GC §31468)

5. Defines OCERS as a district within Orange County and the statutory employer for purposes of determining OCERS employees' compensation and benefits. (GC §31468(l)(1))

This bill:

- 1) Authorizes the OCERS board of retirement to appoint an expanded number of non-civil service employees, including the following:
 - An additional assistant administrator
 - An additional subordinate investment officer next in line of authority to the chief investment officer (i.e., deputy chief investment officer)
- 2) Changes the reporting relationship of senior management employees in the investment office so that they would report to the subordinate investment officers next in line of authority to the chief investment officer (i.e., to the deputy chief investment officers) instead of directly to the chief investment officer.

COMMENTS**1. Need for this bill?**

According to the author, existing law (which limits the authority of the OCERS retirement board to appoint non-civil service employees to only one assistant administrator and requires all personnel of the OCERS Investment Division to report directly to the OCERS Chief Investment Officer) no longer meets the organizational needs of OCERS. The bill would “allow for more efficient use of existing personnel” by allowing the OCERS board to appoint “two assistant administrators instead of one and to appoint a level of management personnel between the OCERS Chief Investment Officer and the other personnel in the OCERS Investment Division. This will allow OCERS to restructure the Investment Division with existing personnel, and without increasing headcount.”

Committee staff notes that, of course, OCERS could fill the intended positions through the regular civil service process but then the board would be constrained by the county's civil service and compensation regulations. Under the county's civil service process, the employees' compensation and benefits would be limited to the county's salary ordinance and the employees would not serve at-will to the OCERS board. This bill would permit OCERS to offer higher compensation for and more directly control the intended positions, in line with the existing positions that the new employees would presumably supervise.

2. Proponent Arguments

According to OCERS,

AB 761 would allow the OCERS Board to appoint two assistant administrators as part of its long term succession planning, and to restructure the OCERS Investment Division by appointing, from existing personnel, a level of management personnel between the OCERS Chief Investment Officer and the other personnel in the OCERS Investment

Division.

According to the California Professional Firefighters,

AB 761 would provide necessary flexibility in hiring and reporting to OCERS by permitting the board of the retirement system to appoint an additional assistant administrator as well as appointing a management position between the Chief Investment Officer and the rest of the Investment Division. These modifications to the administrative structure of OCERS will allow for the retirement system to function effectively and manage both staff and the investment portfolio as efficiently as possible.

3. Opponent Arguments:

None on file.

4. Prior Legislation:

Chapter 223, Statutes of 2015 (Assembly Bill 1291, Williams) established specific appointing authority for certain positions for Ventura County Employees' Retirement Association.

Chapter 244, Statutes of 2014 (Senate Bill 673, DeSaulnier) established specific appointing authority for certain positions for the Contra Costa County Employees' Retirement Association.

Chapter 74, Statutes of 2002 (AB 1992, Correa) made OCERS an independent district employer within Orange County for purposes of employee compensation and retirement benefits and provided the OCERS board of retirement the authority to appoint certain non-civil service employees, as specified. The bill also authorized enhanced safety member pension benefit formulas.

SUPPORT

Orange County Employees Retirement System (*Sponsor*)
California Professional Firefighters

OPPOSITION

None received.

-- END --