Senate Bill No. 11

CHAPTER 9

An act to add Sections 68220, 68221, and 68222 to the Government Code, relating to judges.

[Approved by Governor February 20, 2009. Filed with Secretary of State February 20, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 11, Steinberg. Judges: employment benefits.

The California Constitution requires the Legislature to prescribe compensation for judges of courts of record. Existing law authorizes a county to deem judges and court employees as county employees for purposes of providing employment benefits. These provisions were held unconstitutional as an impermissible delegation of the obligation of the Legislature to prescribe the compensation of judges of courts of record.

This bill would provide that judges who received supplemental judicial benefits provided by a county or court, or both, as of July 1, 2008, shall continue to receive supplemental benefits from the county or court then paying the benefits on the same terms and conditions as were in effect on that date. The bill would authorize a county to terminate its obligation to provide benefits upon providing 180 days' written notice to the Administrative Director of the Courts and the impacted judges, but that termination would not be effective as to any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office. The bill also would authorize the county to elect to provide benefits for all judges in that county. The bill would require the Judicial Council to report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and both the Senate and Assembly Committees on Judiciary on or before December 31, 2009, analyzing the statewide benefits inconsistencies.

This bill would provide that no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided to a judge under the official action of a governmental entity prior to the effective date of the bill on the ground that those benefits were not authorized under law.

This bill would provide that nothing in its provisions shall require the Judicial Council to increase funding to a court for the purpose of paying judicial benefits or obligate the state or the Judicial Council to pay for benefits previously provided by the county, city and county, or the court.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature to address the decision of the Court of Appeal in Sturgeon v. County of Los Angeles (2008) 167 Cal.App.4th 630, regarding county-provided benefits for judges.

(b) These county-provided benefits were considered by the Legislature in enacting the Lockyer-Isenberg Trial Court Funding Act of 1997, in which counties could receive a reduction in the county's maintenance of effort obligations if counties elected to provide benefits pursuant to paragraph (*l*) of subdivision (c) of Section 77201 of the Government Code for trial court judges of that county.

(c) Numerous counties and courts established local or court supplemental benefits to retain qualified applicants for judicial office, and trial court judges relied upon the existence of these longstanding supplemental benefits provided by the counties or the court.

SEC. 2. Section 68220 is added to the Government Code, to read:

68220. (a) Judges of a court whose judges received supplemental judicial benefits provided by the county or court, or both, as of July 1, 2008, shall continue to receive supplemental benefits from the county or court then paying the benefits on the same terms and conditions as were in effect on that date.

(b) A county may terminate its obligation to provide benefits under this section upon providing the Administrative Director of the Courts and the impacted judges with 180 days' written notice. The termination shall not be effective as to any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office. The county is also authorized to elect to provide benefits for all judges in the county.

SEC. 3. Section 68221 is added to the Government Code, to read:

68221. To clarify ambiguities and inconsistencies in terms with regard to judges and justices and to ensure uniformity statewide, the following shall apply for purposes of Sections 68220 to 68222, inclusive:

(a) "Benefits" and "benefit" shall include federally regulated benefits, as described in Section 71627, and deferred compensation plan benefits, such as 401(k) and 457 plans, as described in Section 71628, and may also include professional development allowances.

(b) "Salary" and "compensation" shall have the meaning as set forth in Section 1241.

SEC. 4. Section 68222 is added to the Government Code, to read:

68222. Nothing in this act shall require the Judicial Council to increase funding to a court for the purpose of paying judicial benefits or obligate the state or the Judicial Council to pay for benefits previously provided by the county, city and county, or the court.

SEC. 5. Notwithstanding any other law, no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided

to a judge under the official action of a governmental entity prior to the effective date of this act on the ground that those benefits were not authorized under law.

SEC. 6. The Judicial Council shall report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and both the Senate and Assembly Committees on Judiciary on or before December 31, 2009, analyzing the statewide benefits inconsistencies.

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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