

SUPREME COURT OF THE STATE OF
CALIFORNIA
No. S184059

SUPREME COURT COPY

RETIRED EMPLOYEES ASSOCIATION OF ORANGE COUNTY,

Petitioner,

vs.

COUNTY OF ORANGE,

Respondent.

SUPREME COURT
FILED

NOV 29 2010

Frederick K. Onitich, Clerk

Deputy

After Order Of This Court Accepting Certification Of Question From The
United States Court of Appeals For The Ninth Circuit

PETITIONER'S REQUEST FOR JUDICIAL NOTICE;

[PROPOSED] ORDER

G. SCOTT EMBLIDGE, State Bar No. 121613
RACHEL J. SATER, State Bar No. 147976
MICHAEL P. BROWN, State Bar No. 183609
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Attorneys for Petitioner

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Attorneys for Petitioner

Pursuant to Evidence Code section 459 and Rule of Court 8.520(g) and 8.252(a), Petitioner Retired Employees Association of Orange County hereby submits this Request for Judicial Notice in support of its Reply Memorandum in the above-captioned case. These documents are judicially noticeable because they constitute the legislative history of a statute that Respondent County of Orange asserts as a defense in this action, Government Code section 31691. (*Ste. Marie v. Riverside County Regional Park and Open-Space District* (2009) 46 Cal.4th 282, 290-91.)

Attached hereto as Exhibit A is a true and correct of the February 22, 1961 version of Assembly Bill 1859 (the bill that would become Government Code section 31691). In this version of the bill, both “counties” and “districts” were authorized to invoke the provisions of the statute “by ordinance or resolution.”

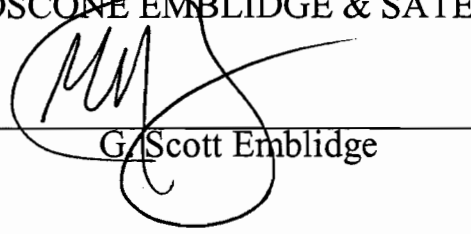
Attached hereto as Exhibit B is a true and correct copy of the April 12, 1961 amendment to Assembly Bill 1859, which reflects that the draft statute was revised to require counties to invoke the statute’s provisions “by ordinance” while “districts” were authorized to invoke the statute’s provisions “by ordinance or resolution.” The amended language appears in italics. The language as it appears in the final, enacted statute is the amended language of April 12, 1961.

Dated: November 29, 2010

Respectfully Submitted,

MOSCONE EMBLIDGE & SATER LLP

By:



A handwritten signature in black ink, appearing to read 'G. Scott Emblidge', is written over a horizontal line. The signature is stylized and overlaps the line.

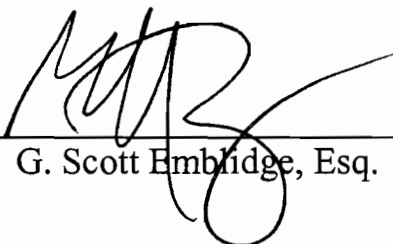
G. Scott Emblidge

SUPPORTING DECLARATION OF SCOTT EMBLIDGE

1. I am an attorney licensed to practice law in all the courts of the State of California and a partner at the law firm Moscone Emblidge & Sater LLP, counsel for Petitioner in this case. I have personal knowledge of the facts stated herein and if called upon could testify thereto.
2. Attached hereto as Exhibit A is a true and correct copy of the February 22, 191 draft version of Assembly Bill 1859.
3. Attached hereto as Exhibit B is a true and correct copy of the April 12, 1961 amendment to Assembly Bill 1859, reflecting language that would be included in the final enacted version of the bill.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29th day of November, 2010 at San Francisco,
California.



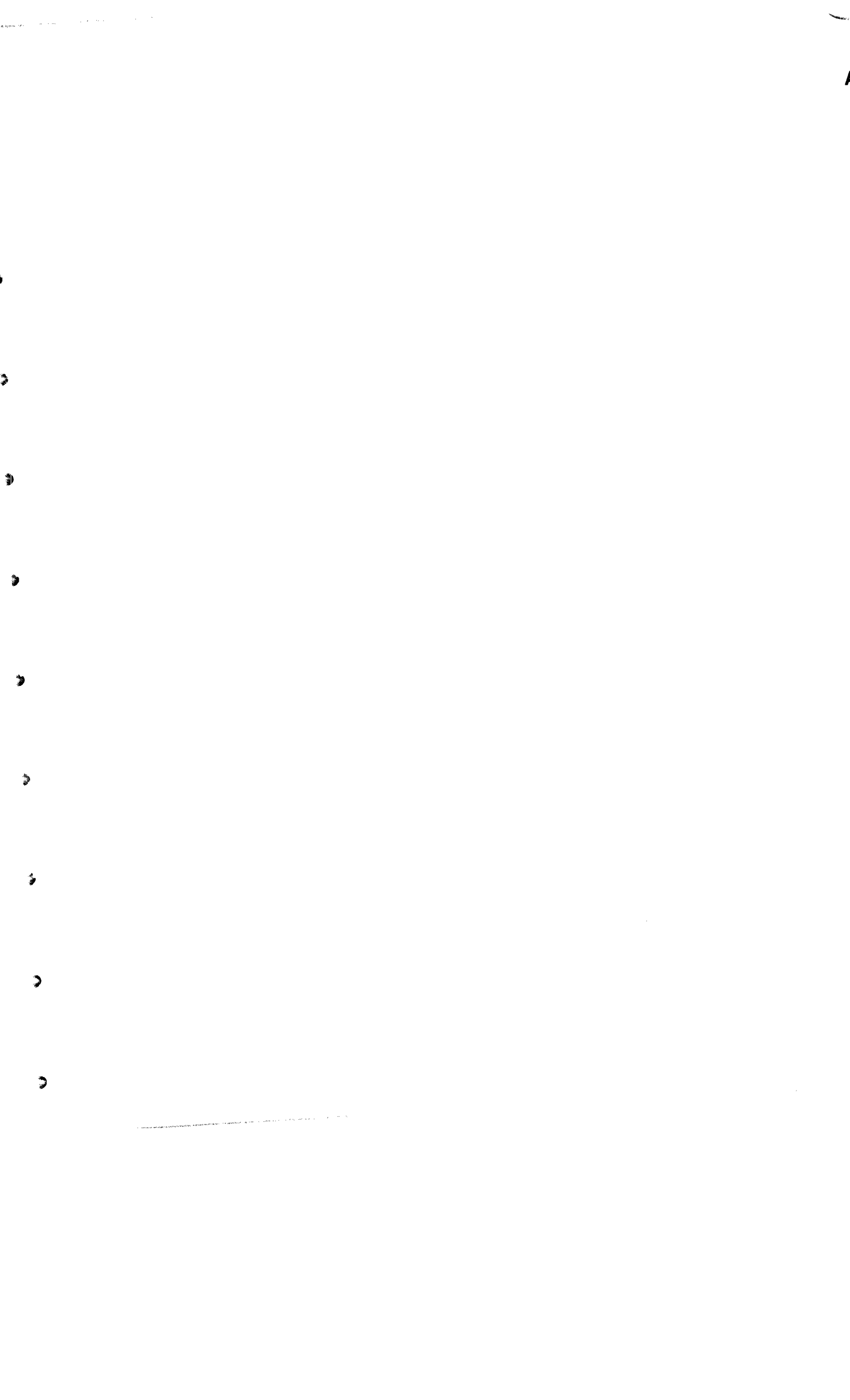
G. Scott Emblidge, Esq.

[PROPOSED] ORDER

Petitioner's Request for Judicial Notice is hereby granted and this Court takes judicial notice of the following documents: the February 22, 1961 draft of Assembly Bill 1859, attached as Exhibit A to Petitioner's Request, and the April 12, 1961 amended version of Assembly Bill 1859, attached as Exhibit B to Petitioner's Request.

IT IS SO ORDERED.

Ronald M. George, Chief Justice



Introduced by Mr. Waldie

February 22, 1961

REFERRED TO COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

An act to add Article 8.5 (commencing with Section 31691) to Chapter 3, Part 3, Division 4, Title 3 of the Government Code, relating to County Employees Retirement Law.

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

1 SECTION 1. Article 8.5 (commencing with Section 31691)
2 is added to Chapter 3, Part 3, Division 4, Title 3 of the Gov-
3 ernment Code, to read:

4
5 Article 8.5. Group Insurance

6
7 31691. The board of supervisors of any county or the gov-
8 erning body of any district may by ordinance or resolution
9 provide for the contribution by the county or district from its
10 funds and not from the retirement fund toward the payment
11 of all or a portion of the premiums on a policy or certificate of
12 group life insurance or group disability insurance issued by
13 an admitted insurer, or toward the payment of all or part of
14 the consideration for any nonprofit hospital service or medical
15 service corporation group contract, or for any combination
16 thereof, for the benefit of any member heretofore or hereafter
17 retired or his dependents.

LEGISLATIVE COUNSEL'S DIGEST

A.B. 1859, as introduced, Waldie (Mun. & C.G.). County Employees Retirement Law.

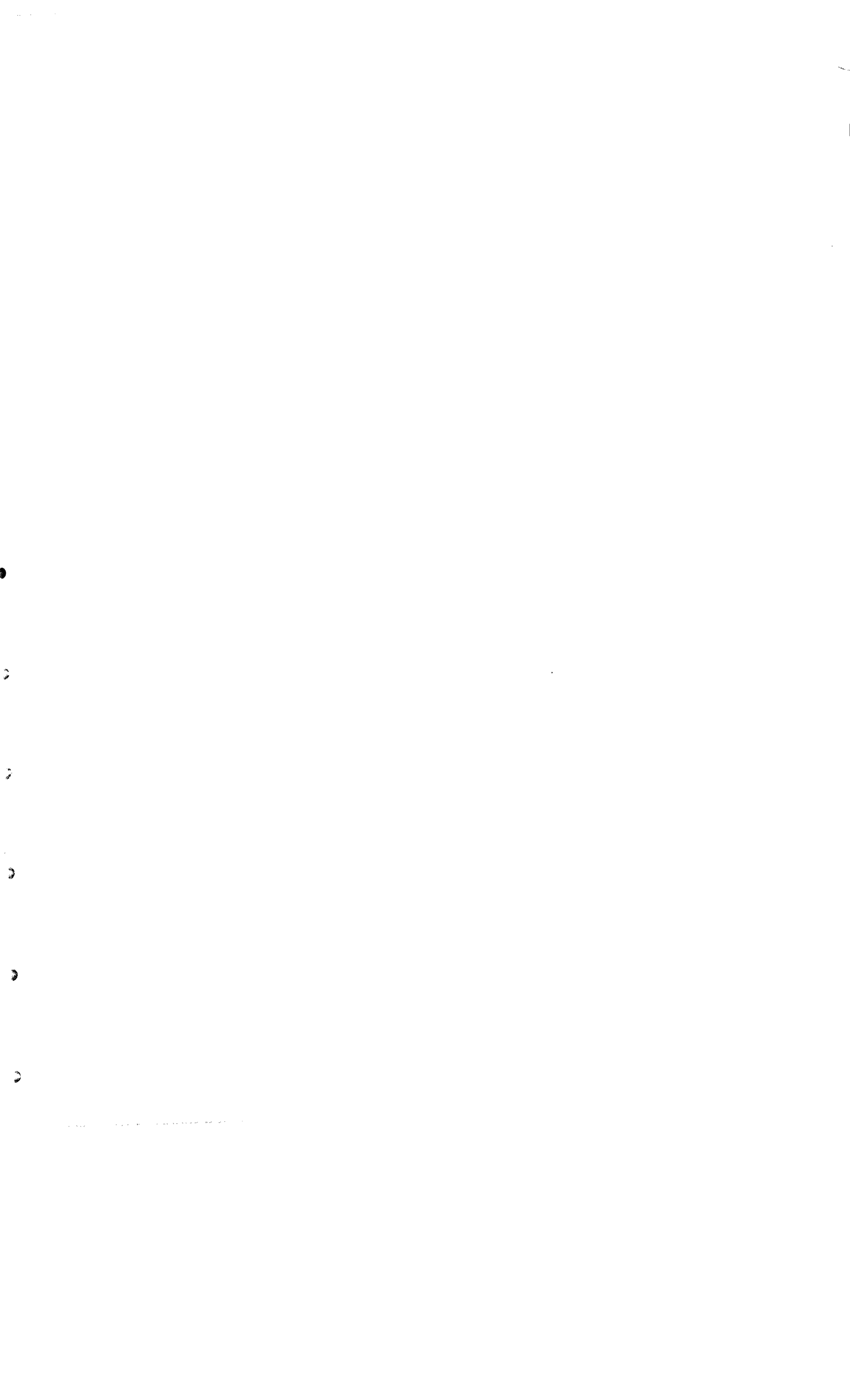
Adds Art. 8.5 (commencing with Section 31691), Ch. 3, Pt. 3, Div. 4, Title 3, Gov.C.

Authorizes the board of supervisors of any county or the governing board of any district to pay all or part of the premium or consideration for a group life or disability insurance policy or hospital or medical service contract for the benefit of members of the system heretofore or hereafter retired.

Permits the board or governing body to alter or repeal at any time the ordinance or resolution granting such benefits.

1 The benefits provided by this section are in addition to any
2 other benefits provided by this chapter (commencing with
3 Section 31450).
4 31692. The adoption of an ordinance or resolution pursuant
5 to Section 31691 shall give no vested right to any member or
6 retired member, and the board of supervisors or the governing
7 body of the district may amend or repeal the ordinance or reso-
8 lution at any time except that as to any member who is re-
9 tired at the time of such an amendment or repeal, the amend-
10 ment or repeal shall not be operative until ninety (90) days
11 after the board or governing body notifies the member in
12 writing of the amendment or repeal.

0



AMENDED IN ASSEMBLY APRIL 12, 1961

CALIFORNIA LEGISLATURE, 1961 REGULAR (GENERAL) SESSION

ASSEMBLY BILL

No. 1859

Introduced by Mr. Waldie

February 22, 1961

REFERRED TO COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

An act to add Article 8.5 (commencing with Section 31691) to Chapter 3, Part 3, Division 4, Title 3 of the Government Code, relating to County Employees Retirement Law.

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

1 SECTION 1. Article 8.5 (commencing with Section 31691)
2 is added to Chapter 3, Part 3, Division 4, Title 3 of the Gov-
3 ernment Code, to read:

4
5 Article 8.5. Group Insurance
6

7 31691. The board of supervisors of any county *by ordi-*
8 *nance* or the governing body of any district *under the County*
9 *Employees Retirement Law* may by ordinance or resolution
10 provide for the contribution by the county or district from its
11 funds and not from the retirement fund toward the payment
12 of all or a portion of the premiums on a policy or certificate of
13 group life insurance or group disability insurance issued by
14 an admitted insurer, or toward the payment of all or part of
15 the consideration for any ~~nonprofit~~ hospital service or medical
16 service corporation group contract, or for any combination
17 thereof, for the benefit of any member heretofore or hereafter
18 retired or his dependents.

19 The benefits provided by this section are in addition to any
20 other benefits provided by this chapter (commencing with
21 Section 31450).

22 31692. The adoption of an ordinance or resolution pursuant
23 to Section 31691 shall give no vested right to any member or
24 retired member, and the board of supervisors or the governing

1 body of the district may amend or repeal the ordinance or reso-
2 lution at any time except that as to any member who is re-
3 tired at the time of such an amendment or repeal, the amend-
4 ment or repeal shall not be operative until ninety (90) days
5 after the board or governing body notifies the member in
6 writing of the amendment or repeal.

0

I, JUSTINE CHMIELEWSKI, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. I am employed with Moscone Emblidge & Sater LLP, 220 Montgomery Street, Suite 2100, San Francisco, CA 94104.

On November 29, 2010, I served:

**PETITIONER'S REQUEST FOR JUDICIAL NOTICE;
[PROPOSED] ORDER**

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows and served the named document in the manner(s) indicated below:

Arthur Hartinger
Jennifer Nock
MEYERS NAVE RIBACK
SILVER & WILSON LLP
555 12th Street, Suite 1500
Oakland, CA 94607
Counsel for Respondent County of Orange

Nicholas S. Chrisos
Teri L. Maksoudian
Office of County Counsel
333 W. Santa Ana Blvd., Suite
407
Santa Ana, CA 92702-1379
Counsel for Respondent County of Orange

- MAIL:** I caused true and correct cop(ies) of the above documents to be placed and sealed in envelope(s) addressed to the addressee(s) named above and, following ordinary business practices, placed said envelope(s) at the Law Offices of Moscone Emblidge & Sater LLP, 220 Montgomery, Ste. 2100, San Francisco, California, 94104, for collection and mailing with the United States Postal Service and there is delivery by United States Post Office at said address(es). In the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed November 29, 2010, at San Francisco, California.



JUSTINE CHMIELEWSKI

