

AMENDED IN SENATE MAY 17, 2004

SENATE BILL

No. 1439

Introduced by Senators Speier and Soto

February 19, 2004

An act to ~~add Section 632.5 to the Unemployment Insurance Code, relating to unemployment compensation.~~ *amend Section 21224 of the Government Code, relating to public employees' retirement.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1439, as amended, Speier. ~~Unemployment compensation: excluded services—Public employees' retirement:~~ state retired annuitants.

Existing law authorizes a retired member of the Public Employees' Retirement System to work for a state agency or other employer under the system for up to 960 in any calendar year, without reinstatement from retirement or loss or interruption of retirement benefits, if certain conditions exist.

This bill would prohibit any state agency or other employer under the system from hiring a retired member of the system if the agency or employer determines that, within the prior 365 days, any retired member hired by the agency or employer received unemployment insurance compensation following the termination of his or her appointment with that agency or employer. The bill would make related findings and declarations.

~~Existing law provides for the payment of unemployment insurance and disability compensation to certain employees who become unemployed or disabled. For that purpose, existing law defines employment, but excludes certain services performed by individuals from that definition.~~

~~This bill would also exclude services performed for the state by persons retired under the Public Employees' Retirement System, for service or disability, who are serving without reinstatement from retirement or any loss or interruption of benefits provided by the Public Employees' Retirement System.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 ~~SECTION 1.~~ Section 632.5 is added to the Unemployment
2 SECTION 1. The Legislature finds and declares as follows:
3 (a) Existing provisions of the Public Employees' Retirement
4 Law authorize retired members of the Public Employees'
5 Retirement System to return to work for limited appointments, of
6 up to 960 hours in a calendar year, with one or more state agencies
7 or other employers under the system, without reinstatement from
8 retirement or loss or interruption of benefits.
9 (b) This provision of existing law provides state agencies and
10 other public employers with the ability to utilize the unique skills
11 of those retired members and to address emergency workflow
12 situations for a limited time. This provision also provides an
13 advantage to retired members in that a retired member may return
14 to work, receive compensation for that work, and continue to
15 receive his or her retirement allowance.
16 (c) Administration of this program has, in the past, been subject
17 to abuse. Among these abuses has been the practice, by certain
18 retired members, of collecting unemployment insurance
19 compensation after the retired member has worked 960 hours in a
20 calendar year. As a result, in a given year, a retired member of the
21 system may collect three public stipends: a retirement allowance,
22 a salary for up to 960 hours of work in a calendar year, and
23 unemployment insurance compensation after that 960-hour limit
24 has been reached. The Legislature believes that this "triple
25 dipping" process is inappropriate and a violation of the public
26 trust.
27 (d) It is the intent of the Legislature that managers of state
28 agencies and departments and other public employers shall be
29 responsible for this abuse by retired members of the system.
30 Appointing powers of state agencies and other employers under



1 *the Public Employees' Retirement System, whose retired*
2 *appointees have abused the system, should not be permitted to*
3 *appoint any retired members in the immediate term.*

4 *SEC. 2. Section 21224 of the Government Code is amended to*
5 *read:*

6 21224. (a) A retired person may serve without reinstatement
7 from retirement or loss or interruption of benefits provided by this
8 system upon appointment by the appointing power of a state
9 agency or any other employer either during an emergency to
10 prevent stoppage of public business or because the retired
11 employee has skills needed in performing work of limited
12 duration. These appointments ~~shall~~ *may* not exceed a total for all
13 employers of 960 hours in any calendar year, and the rate of pay
14 for the employment ~~shall~~ *may* not be less than the minimum, nor
15 exceed that paid by the employer to other employees ma
16 performing comparable duties.

17 (b) *An appointing power of a state agency or any other*
18 *employer may appoint a retired person pursuant to this section*
19 *only if the appointing power or other employer determines that,*
20 *within the 365 days prior to the appointment, no retired person*
21 *appointed by the appointing power has received unemployment*
22 *insurance compensation as a result of the termination of that*
23 *appointment.*

24 ~~Insurance Code, to read:~~

25 ~~632.5. "Employment" does not include services performed~~
26 ~~for the state by a person who has been retired under the Public~~
27 ~~Employees' Retirement System, for service or for disability, and~~
28 ~~who is serving without reinstatement from retirement or loss or~~
29 ~~interruption of benefits provided by the Public Employees'~~
30 ~~Retirement System in accordance with Article 8 (commencing~~
31 ~~with Section 21220) of Chapter 12 of Part 3 of Division 5 of Title~~
32 ~~2 of the Government Code.~~

33 ~~It is the intent of the Legislature that this section not affect any~~
34 ~~unemployment insurance benefits earned by an individual from~~
35 ~~employment unrelated to work or services performed for a state~~
36 ~~agency as a retired annuitant.~~

