

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN SENATE MAY 17, 2004

SENATE BILL

No. 1439

Introduced by Senators Speier and Soto

February 19, 2004

An act to amend Section 21224 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1439, as amended, Speier. Public employees' retirement: state retired annuitants.

Existing law ~~authorizes~~ *generally requires* a retired member of the Public Employees' Retirement System to ~~work for~~ *reinstate from retirement if he or she is reemployed by a state agency or other employer under the system. However, existing law also authorizes a retired member 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 make that authorization inapplicable to a retired member who is employed by an employer under the system and who, within 12 months prior to that employment, received unemployment insurance compensation following the termination of his or her an appointment with that agency or the same employer. The retired member would not be reinstated from retirement~~

but, instead, would be required to terminate that employment and would be ineligible for that employment for a period of at least 12 months. The bill would make related findings and declarations.

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. The Legislature finds and declares as follows:

2 (a) Existing provisions of the Public Employees’ Retirement
3 Law authorize retired members of the Public Employees’
4 Retirement System to return to work for limited appointments, of
5 up to 960 hours in a calendar year, with one or more state agencies
6 or other employers under the system, without reinstatement from
7 retirement or loss or interruption of benefits.

8 (b) This provision of existing law provides state agencies and
9 other public employers with the ability to utilize the unique skills
10 of those retired members and to address emergency workflow
11 situations for a limited time. This provision also provides an
12 advantage to retired members in that a retired member may return
13 to work, receive compensation for that work, and continue to
14 receive his or her retirement allowance.

15 (c) Administration of this program has, in the past, been subject
16 to abuse. Among these abuses has been the practice, by certain
17 retired members, of collecting unemployment insurance
18 compensation after the retired member has worked 960 hours in
19 a calendar year. As a result, in a given year, a retired member of
20 the system may collect three public stipends: a retirement
21 allowance, a salary for up to 960 hours of work in a calendar year,
22 and unemployment insurance compensation after that 960-hour
23 limit has been reached. The Legislature believes that this “triple
24 dipping” process is inappropriate and a violation of the public
25 trust.

26 (d) It is the intent of the Legislature that managers of state
27 agencies and departments and other public employers shall be
28 responsible for this abuse by retired members of the system.
29 Appointing powers of state agencies and other employers under
30 the Public Employees’ Retirement System, whose retired
31 appointees have abused the system, should not be permitted to
32 appoint any retired members in the immediate term.



1 SEC. 2. Section 21224 of the Government Code is amended
2 to read:

3 21224. (a) A retired person may serve without reinstatement
4 from retirement or loss or interruption of benefits provided by this
5 system upon appointment by the appointing power of a state
6 agency or any other employer either during an emergency to
7 prevent stoppage of public business or because the retired
8 employee has skills needed in performing work of limited
9 duration. These appointments ~~may~~ shall not exceed a total for all
10 employers of 960 hours in any calendar year, and the rate of pay
11 for the employment ~~may~~ shall not be less than the minimum, nor
12 exceed that paid by the employer to other employees ma
13 performing comparable duties.

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

21 *(b) (1) This section shall not apply to any retired person*
22 *otherwise eligible if during the 12-month period prior to an*
23 *appointment described in this section the retired person received*
24 *any unemployment insurance compensation arising out of prior*
25 *employment subject to this section with the same employer.*

26 *(2) A retired person who accepts an appointment after*
27 *receiving unemployment insurance compensation as described in*
28 *this subdivision shall terminate that employment on the last day of*
29 *the current pay period and shall not be eligible for reappointment*
30 *subject to this section for a period of 12 months following the last*
31 *day of employment. The retired person shall not be subject to*
32 *Section 21202 or subdivision (b) of Section 21220.*

