

Introduced by Senator MaldonadoFebruary 16, 2005

An act to amend Section 19816.20 of the Government Code, relating to public employment, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 336, as introduced, Maldonado. Public Employees' Retirement System: safety category.

The Public Employees Retirement Law establishes the Public Employees' Retirement System, and sets forth the provisions for its administration and the delivery of benefits to its members. Member contributions are made to the Public Employees' Retirement Fund, which is a continuously appropriated fund. Existing law includes in the state safety membership category, among others, state employees excluded from the Ralph C. Dills Act and officers or employees of the executive branch of state government who are not members of the civil service system who meet specified criteria, if the Department of Personnel Administration approves of their inclusion. Existing law prohibits the department from approving safety membership for any class or position that has not been determined to meet all of the criteria as specified.

This bill would require the department to grant safety retirement to these state employees if they meet the elements of the criteria for the state safety category of membership in the Public Employees' Retirement System. This bill would also prohibit the department from approving safety membership for any class or position that has not been determined to meet any one, rather than all, of the specified criteria. Because this bill would enlarge the class of state employees who would be granted safety retirement and thereby increase the member contributions into the Public Employees' Retirement Fund, this bill would make an appropriation.

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

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

- 1 SECTION 1. Section 19816.20 of the Government Code is
 2 amended to read:
- 3 19816.20. Notwithstanding Section 18717, this section shall
 4 apply to state employees in state bargaining units that have
 5 agreed to these provisions in a memorandum of understanding
 6 between the state employer and the recognized employee
 7 organization, as defined in Section 3513, state employees who
 8 are excluded from the definition of “state employee” in
 9 paragraph (c) of Section 3513, and officers or employees of the
 10 executive branch of state government who are not members of
 11 the civil service.
- 12 (a) The department shall determine which classes or positions
 13 meet the elements of the criteria for the state safety category of
 14 membership in the Public Employees’ Retirement System. An
 15 employee organization or employing agency requesting a
 16 determination from the department shall provide the department
 17 with information and written argument supporting the request.
- 18 (b) The department may use the determination findings in
 19 subsequent negotiations with the exclusive representatives.
- 20 (c) The department shall not approve safety membership for
 21 any class or position that has not been determined to meet ~~at~~ *any*
 22 *one* of the following criteria:
- 23 (1) In addition to the defined scope of duties assigned to the
 24 class or position, the member’s ongoing responsibility includes
 25 *the criteria listed in subparagraph (A), subparagraph (B), or*
 26 *subparagraphs (A) and (B):*
- 27 (A) The protection and safeguarding of the public and of
 28 property.
- 29 (B) The control or supervision of, or a regular, substantial
 30 contact with one of the following:
- 31 (i) Inmates or youthful offenders in adult or youth correctional
 32 facilities.
- 33 (ii) Patients in state mental facilities that house Penal Code
 34 offenders.

1 (iii) Clients charged with a felony who are in a locked and
2 controlled treatment facility of a developmental center.

3 (2) The conditions of employment require that the member be
4 capable of responding to emergency situations and provide a
5 level of service to the public such that the safety of the public and
6 of property is not jeopardized.

7 (d) For classes or positions that are found to meet this criteria,
8 the department may agree to provide safety membership by a
9 memorandum of understanding reached pursuant to Section
10 3517.5 if the affected employees are subject to collective
11 bargaining, ~~or by departmental approval for~~. *For* state employees
12 who are either excluded from the definition of “state employee”
13 in subdivision (c) of Section 3513 or are officers or employees of
14 the executive branch of state government who are not members
15 of the civil service *and who meet the criteria, the department*
16 *shall grant safety retirement*. The department shall notify the
17 retirement system of its determination, as prescribed in Section
18 20405.1.

19 (e) The department shall provide the Legislature an annual
20 report that lists the classes or positions which were found to be
21 eligible for safety membership under this section.