AMENDED IN ASSEMBLY JUNE 1, 2010

AMENDED IN ASSEMBLY APRIL 29, 2010

AMENDED IN ASSEMBLY APRIL 15, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

# ASSEMBLY BILL No. 1987

**Introduced by Assembly Member Ma**
**(Principal coauthor: Assembly Member Buchanan)**
(Principal coauthors: Senators Correa and Simitian)
**(Coauthors: Assembly Members ~~Furutani, Harkey,~~ *Furutani* and Torrico)**
(Coauthor: Senator DeSaulnier)

February 17, 2010

An act to amend Sections 31460 and 31461 of, to add Sections 7500.5, 31460.2, 31461.8, 31539.5, 31540, 31541, 31569, 31680.10, 45309.6, 45309.7, 50871.6, and 50871.7 to, and to repeal and add Section 31539 of, the Government Code, relating to public retirement systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 1987, as amended, Ma. Public retirement: final compensation: computation: retirees.

The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to its members based on age at retirement, service credit, and final compensation. PERL defines "final compensation" for purposes of calculating a member's retirement allowance. The State Teachers' Retirement Law, which applies to specified school employees, and the retirement laws for county employees and city employees also provide for a defined benefit based on age at retirement, service credit, and final compensation.

This bill would generally provide, effective July 1, 2011, that any change in salary, compensation, or remuneration principally for the purpose of enhancing a member's benefits would not be included in the calculation of a member's final compensation for purposes of determining that member's defined benefit. The bill would require the board of each state and local public retirement system to establish, by regulation, accountability provisions that would include an ongoing audit process to ensure that a change in a member's salary, compensation, or remuneration is not made principally for the purpose of enhancing a member's retirement benefits. This bill would limit the calculation of a member's final compensation to an amount not to exceed the average increase in compensation received within the final compensation period and the 2 preceding years by employees in the same or a related group as that member. This bill would also require a board of each state and local public retirement system to establish, by regulation, a requirement that a retired person may not perform services for any employer covered by a state or local retirement system until that person has been separated from service for a period of at least 180 days. This bill would provide for the implementation of the changes under the applicable retirement laws that apply to counties and cities.

This bill includes legislative findings expressing the public purpose that would be served by the enactment of this bill.

This bill would, except as otherwise specified, provide that its provisions would become operative on July 1, 2011. This bill would further provide that its provisions would not become operative unless SB 1425 of the 2009–10 Regular Session is also enacted and takes effect on or before January 1, 2011.

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

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

SECTION 1. (a) The Legislature finds and declares that:

(1) State and local public retirement boards have been authorized under the law to administer retirement systems that provide adequate, secure retirement benefits to participants who dedicate their life's work to public service, and their beneficiaries.

(2) Employees partner with their public agency employers to fund this benefit.

(3) Any manipulation of those benefits creates harm for the employees, beneficiaries, employers, and taxpayers and should not be permitted.

(b) The Legislature further finds and declares that:

(1) The efficacy of the retirement systems is threatened by the behavior of those who seek to unfairly and unjustifiably enhance or "spike" their pensions.

(2) Neither the Legislature nor the courts ever anticipated a circumstance where the application of the retirement law would result in a method that permits inequitable application of compensation rules in order to enhance an individual's retirement allowance.

(3) It is the responsibility of the Legislature to provide guidance to every retirement system so that each system can determine the proper elements that go into calculating a member's retirement benefit as recognized by the laws governing each retirement system.

(4) Retirement systems must employ sound principles that provide consistent treatment of compensation earnable throughout a member's career and consistent treatment of compensation among all classes of employees.

(5) In order to provide consistent treatment across the retirement systems, the reporting procedures used by each retirement system and its participating employers must be sufficiently precise so as to enable the retirement system to distinguish between items of remuneration that are and are not properly included in a member's final compensation.

(c) The Legislature further finds and declares that consistent administration of state and local public retirement systems is a matter of statewide concern.

(d) The Legislature further finds and declares that the procedures contained in this act provide the appropriate method for resolving the inequitable application of compensation rules, and therefore, provide for the consistent administration of state and local retirement systems that is in the public's best interest.

SEC. 2. Section 7500.5 is added to the Government Code, to read:

7500.5. (a) In order to safeguard the integrity and soundness of public retirement systems, ensure prompt delivery of benefits and related services to the participants and their beneficiaries, and minimize employer expenses, state and local public retirement systems shall administer retirement benefits in accordance with the principles articulated in this section. Nothing in this section shall be construed to limit the Legislature's authority to adopt more restrictive benefit provisions applicable to a state or local public retirement system.

(b) The board of each state and local public retirement system shall establish, by statute or regulation, accountability provisions that shall include an audit process to ensure compliance with the principles articulated in the provisions of this section. The accountability provisions shall be enforceable by the imposition of monetary penalties or fees, including, but not limited to, untimely or inaccurate submissions of any information that the board may require in the administration of the system.

(c) Any payrate, salary, special compensation, or other remuneration determined by the board of a state or local public retirement system to have been paid for the principal purpose of enhancing a member's retirement benefits under that system shall not be included in compensation earnable. Where the board of a state or local public retirement system determines that payrate, salary, special compensation, or other remuneration was paid for the principal purpose of enhancing a member's benefit, the member or the employer may present evidence to the contrary. Upon receipt of sufficient evidence to the contrary, a board may reverse its determination that payrate, salary, special compensation, or other remuneration was paid for the principal purpose of enhancing a member's retirement benefits.

(d) Cash conversions of accrued employee benefits in amounts that exceed the amount that is both earned and payable to the member during the member's applicable final compensation measurement period shall not be credited to, or included in, compensation earnable by any state or local public retirement system.

(e) Final settlement pay or any similar payment that is received by a member upon retirement or separation from employment, shall not be included in compensation earnable by any state or local public retirement system.

(f) A retired person, who has not reinstated following retirement, shall have a separation in service for a period of at least 180 days before performing service for any employer covered by the state or local retirement system from which he or she retired, whether as an employee, through a third party, or as an independent contractor. This requirement shall apply to all persons who retire on and after January 1, 2011.

(g) Any increase in compensation earnable for an employee who is not in a group or class shall not exceed, during the final compensation period as well as two years immediately preceding the final compensation period, the average increase in compensation earnable during the same period for all similarly situated members in the closest related group or class of that same employer.

(h) For the purposes of implementing this section, all state or local public retirement systems shall have terms or definitions consistent with the following:

(1) "A group or class" means a number of employees of the same employer considered together because they share job similarities, work location, collective bargaining unit, or other logical work grouping. Under no circumstance shall one employee be considered a group or class.

(2) "Payrate" or "salary" means the normal monthly rate of pay or monthly base pay of the member paid in cash and pursuant to publicly available pay schedules to similarly situated members of the same group or class for services rendered on a full-time basis during normal working hours.

(3) "Payrate" or "salary" for a member who is not in a group or class means the monthly rate of pay or monthly base pay, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of subdivision (g).

(4) "Special compensation" includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(5) "Compensation earnable" includes payrate, salary, special compensation, or other remuneration, or any combination of the foregoing, of the member.

SEC. 3. Section 31460 of the Government Code is amended to read:

31460. (a) "Compensation" means the remuneration paid out of funds controlled by the county or district in payment for the member's services performed during normal working hours or for time during which the member is excused from work because of any of the following:

(1) Sick leave.

(2) Industrial disability leave, during which benefits are payable pursuant to Section 4850 of the Labor Code.

(3) Vacation.

(4) Compensatory time off.

(5) Leave of absence.

(b) When compensation is reported to the board, the county or district shall identify the pay period in which the compensation was earned regardless of when reported or paid. Compensation shall be reported in accordance with Section 31461 and shall not exceed compensation earnable, as defined in Section 31461.

(c) Compensation shall not include the monetary value of board, lodging, fuel, laundry, or other advantages furnished to a member.

(d) The board may assess a reasonable amount to cover the cost of audit, adjustment, or correction, where it determines that a county or district knowingly failed to comply with subdivision (b). A county or district will be found to have knowingly failed to comply with subdivision (b) if the board determines that the employer either:

(1) Knew or should have known that the compensation reported was not compensation earnable, as defined in Section 31461.

(2) Failed to identify the pay period in which compensation earnable was earned as required.

(e) A county or district shall not pass on to an employee any costs assessed pursuant to subdivision (d).

SEC. 4. Section 31460.2 is added to the Government Code, to read:

31460.2. "Labor policy or agreement" means any written policy, agreement, memorandum of understanding, legislative action of the board of supervisors or the district board, or any other document used by the county or district to specify the payrate, special compensation, and benefits of represented and unrepresented employees.

SEC. 5. Section 31461 of the Government Code is amended to read:

31461. (a) "Compensation earnable" by a member means the payrate and special compensation of the member, as defined by subdivisions (b) and (c).

(b) (1) "Payrate" means the normal monthly rate of pay or monthly base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. "Payrate" for a member who is not in a group or class means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours. "Payrate" includes:

(A) Any amount deducted from a member's salary for any of the following:

(i) Participation in a deferred compensation plan established pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5.

(ii) Payment for participation in a retirement plan that meets the requirements of Section 457 of the Internal Revenue Code.

(iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of the Internal Revenue Code.

(iv) Participation in a flexible benefits program.

(B) Any payment in cash by the member's employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan that meets the requirements of Section 403(b) of the Internal Revenue Code.

(C) ~~Employer "pick up" of member~~ *Member* contributions that ~~meets~~ *meet* the requirements of Section 414(h)(2) of the Internal Revenue Code.

(D) Any disability or workers' compensation payments to safety members in accordance with Section 4850 of the Labor Code.

(2) The computation for any leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(3) The computation for time prior to entering county or district service shall be based on the compensation earnable by him or her in the position first held by him or her in that service.

(c) (1) “Special compensation” of a member includes any payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) “Special compensation” shall be limited to that cash remuneration in addition to payrate received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law to similarly situated members of a group or class of employment. If an individual is not part of a group or class, “special compensation” shall be limited to that cash remuneration, in addition to payrate, that the board determines is received by similarly situated members in the closest related group or class, subject to the limitations of paragraph (2) of subdivision (e).

(3) “Special compensation” shall be for services rendered during normal working hours and, when reported to the board, the county or district shall identify the pay period in which the special compensation was earned and shall report special compensation separately from payrate.

(4) The monetary value of any service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this chapter, shall not be “special compensation” unless regulations promulgated by the board specifically determine that value to be “special compensation.”

(5) (A) The board shall promulgate regulations that delineate more specifically what shall be excluded from “special compensation” as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under the Fair Labor Standards Act (29 U.S.C. ~~Secs. 201 to 219, inclusive)~~ *Sec. 201 et seq.)* and those items of remuneration identified by the board and consistent with Ventura County Deputy Sheriffs’ Assn. v. Board of Retirement (1997) 16 Cal.4th 483 and In re Retirement Cases (2003) 110 Cal.App.4th 426 and any settlement agreements thereto, shall be included as “special compensation.”

(B) This paragraph shall not be construed to prevent a ~~modification of the term “special compensation,” to the extent that term includes~~ *county or district and a recognized bargaining unit from agreeing, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing* *with Section 3500) of Division 4 of Title 1), to eliminate, as "special compensation"* those items of remuneration *as previously* identified by the board, consistent with Ventura County Deputy Sheriffs' Assn. v. Board of Retirement (1997) 16 Cal.4th 483 and In re Retirement Cases (2003) 110 Cal.App.4th 426 and any settlement agreements ~~thereto, by a resolution adopted by a majority vote of the board, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1).~~ *thereto.*

(6) "Special compensation" does not include any of the following:

(A) Final settlement pay.

(B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.

(C) Payments that exceed that which is earned and payable in a 12-month period for unused vacation, annual leave, personal leave, sick leave, or compensatory time off whether paid in lump sum or otherwise.

(D) Any other payments the board has affirmatively determined to be excluded from "special compensation."

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) (1) As used in this part, "group or class of employment" means a number of employees considered together because they share job similarities, work location, collective bargaining unit, or other logical work-related grouping. Under no circumstances shall one employee be considered a group or class.

(2) Increases in compensation earnable granted to any employee who is not in a group or class shall be limited during the final compensation period applicable to the employee, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all similarly situated members in the closest related group or class who are in the same membership classification.

(f) (1) As used in this part, "final settlement pay" means any pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with a separation from employment. The board shall promulgate regulations to the extent necessary to delineate more specifically what constitutes final settlement pay consistent with the decision of the court in Ventura County Deputy Sheriffs' Assn. v. Board of Retirement (1997) 16 Cal.4th 483 and In re Retirement Cases (2003) 110 Cal.App.4th 426, and any settlement agreements thereto.

(2) This subdivision shall not be construed to prevent a ~~modification of the term "final settlement pay," to the extent that term includes~~ *county or district and a recognized bargaining unit from agreeing, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1), to further eliminate, as "special compensation" those* items of final settlement pay as *previously* delineated by the board, consistent with the decisions in Ventura County Deputy Sheriffs' Assn. v. Board of Retirement (1997) 16 Cal.4th 483 and In re Retirement Cases (2003) 110 Cal.App.4th 426 and any ~~settlement agreements thereto, by a resolution adopted by a majority vote of the board, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1).~~ *settlement agreements thereto.*

SEC. 6. Section 31461.8 is added to the Government Code, to read:

31461.8. (a) If the compensation of a member is a factor in any computation to be made under this chapter, there shall be excluded from those computations any compensation based on overtime put in by a member whose service retirement allowance is a fixed percentage of final compensation for each year of credited service. For the purposes of this chapter, overtime is the aggregate service performed by an employee as a member in all categories of employment in excess of the hours of work considered normal for employees on a full-time basis, and for which monetary compensation is paid.

(b) If a member concurrently renders service in two or more positions, one or more of which is full time, service in the part-time position shall constitute overtime. If two or more positions are permanent and full time, the position with the highest payrate or base pay shall be reported to the retirement system. This provision shall apply only to service rendered on or after January 1, 2011.

SEC. 7. Section 31539 of the Government Code is repealed.

SEC. 8. Section 31539 is added to the Government Code, to read:

31539. (a) The obligations of the retirement system to its members continue throughout their respective memberships, and the obligations of the retirement system to and in respect to retired members continue throughout the lives of the respective retired members, and thereafter until all obligations to their respective beneficiaries under optional settlements have been discharged. The obligations of the county or district to the retirement system in respect to members employed by them, respectively, continue throughout the memberships of the respective members, and the obligations of the county or district to the retirement system in respect to retired members formerly employed by them, respectively, continue until all of the obligations of the retirement system in respect to those retired members, respectively, have been discharged. The obligations of any member to the retirement system continue throughout his or her membership, and thereafter until all of the obligations of the retirement system to or in respect to him or her have been discharged.

(b) For the purposes of payments into or out of the retirement fund for adjustment of errors or omissions, the period of limitation of actions shall be three years, and shall be applied as follows:

(1) In cases in which the retirement system makes an erroneous payment to a member or beneficiary, the system's right to collect shall expire three years from the date of payment.

(2) In cases in which the retirement system owes money to a member or beneficiary, the period of limitations shall not apply.

(c) Notwithstanding subdivision (b), in cases in which payment is erroneous because of the death of the retired member or beneficiary or because of the remarriage of the beneficiary, the period of limitation shall be 10 years and that period shall commence with the discovery of the erroneous payment.

(d) Notwithstanding subdivision (b), where any payment has been made as a result of fraudulent reports for compensation made, or caused to be made, by a member for his or her own benefit or the member causing his or her final compensation to be improperly increased or otherwise overstated at the time of retirement, the period of limitation shall be 10 years and that period shall commence either from the date of payment or upon discovery of the fraudulent reporting, whichever date is later.

(e) The board shall determine the applicability of the period of limitations in any case, and its determination with respect to the running of any period of limitation shall be conclusive and binding for purposes of correcting the error or omission.

SEC. 9. Section 31539.5 is added to the Government Code, to read:

31539.5. (a) Subject to subdivisions (c) and (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any active or retired member, or any beneficiary of an active or retired member, if all of the following facts exist:

(1) The request, claim, or demand to correct the error or omission is made by the party seeking correction within a reasonable time after discovery of the right to make the correction, which in no case shall exceed six months after discovery of this right.

(2) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

(3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.

Failure by a member or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable under this section.

(b) Subject to subdivisions (c) and (d), the board shall correct all actions taken as a result of errors or omissions of the county or district, or this system.

(c) The duty and power of the board to correct mistakes, as provided in this section, shall terminate upon the expiration of obligations of this system to the party seeking correction of the error or omission, as those obligations are defined by Section 31539.

(d) The party seeking correction of an error or omission pursuant to this section has the burden of presenting documentation or other evidence to the board establishing the right to correction pursuant to subdivisions (a) and (b).

(e) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any of the other provisions of this section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in subdivisions (a) and (b) as of the time that the correction actually takes place if the board finds any of the following:

(1) That the correction cannot be performed in a retroactive manner.

(2) That even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a) and (b) cannot be adjusted to be the same that they would have been if the error or omission had not occurred.

(3) That the purposes of this part will not be effectuated if the correction is performed in a retroactive manner.

SEC. 10. Section 31540 is added to the Government Code, to read:

31540. (a) Each county or district, and the chief administrative officer of the county or district, or any other person who its governing body may designate shall report to the Retirement Board in writing, in a manner prescribed by the board, within 30 days of any of the following events:

(1) A new pay item is created.

(2) There has been a change in either an existing pay item or the conditions under which the pay item is computed, accrued, or paid.

(3) A change in status of any member resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal, or death.

(4) Any other change that may impact the payrate or special compensation of any member resulting from an agreement pursuant to a memorandum of understanding between a county or district and any of its recognized employee organizations, or a resolution adopted by its board of supervisors with respect to nonrepresented employees.

(5) Information concerning any member in the administration of this system as requested by the board, or the services of the county or district's officer and departments that the board may request in connection with claims by members against this system.

(b) Upon notification pursuant to subdivision (a), the board shall determine, within 90 days, whether the pay item is included in compensation as defined in Section 31460 and compensation earnable as defined in Section 31461. Any determination by the board regarding an item of compensation may be appealed by the county, district, or member.

(c) The board may assess a reasonable fee upon the county or district that fails to provide information, as required by this section, within applicable time limits.

SEC. 11. Section 31541 is added to the Government Code, to read:

31541. ~~(a)~~ The board, during the course of an audit, may require a county or district to provide information or make available for examination or copying at a specified time and place, or both, books, papers, any data, or records, including, but not limited to, personnel and payroll records, as deemed necessary by the board to determine the correctness of retirement benefits, reportable compensation, and enrollment in and reinstatement to this system.

~~(b) Data filed with the board by the county or district or any member or beneficiary is confidential, and no individual record shall be divulged by any official or employee having access to it to any person other than the member to whom the information relates or his or her authorized representative or the county or district by which he or she is employed. The information shall be used by the board for the sole purpose of carrying into effect the provisions of this part. Any information that is requested for retirement purposes by any public agency shall be treated as confidential by the agency.~~

~~(c) For purposes of this section, "authorized representative" includes the spouse or beneficiary of a member when no contrary appointment has been made and when, in the opinion of the board, the member is prevented from appointing an authorized representative because of mental or physical incapacity or death.~~

SEC. 12. Section 31569 is added to the Government Code, to read:

31569. Any county or district that fails to enroll an employee into membership when he or she becomes eligible, or within 90 days thereof, when the employer knows or can reasonably be expected to have known of that eligibility shall be required to pay all arrears costs for member contributions and administrative costs of five hundred dollars ($500) per member as a reimbursement to the system's current year budget.

SEC. 13. Section 31680.10 is added to the Government Code, to read:

31680.10. *(a)* Except as provided in Section 31680.1, any person, who has been retired for service on or after January 1, 2011, as a member of a county retirement system established under this chapter, may not be reemployed in any capacity either as an employee, an independent contractor, or an employee of a third party without reinstatement by a district or county operating a county retirement system established under this chapter unless at least 180 days have elapsed since the person's date of retirement.

*(b) A retired person whose employment, without reinstatement, is authorized by this article shall not acquire service credit or retirement rights under this part with respect to that employment.*

*(c) Any retired member employed in violation of this article shall:*

*(1) Reimburse the retirement system for any retirement allowance received during the period or periods of employment that are in violation of law.*

*(2) Pay to the retirement system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment, plus interest thereon.*

*(3) Contribute toward the reimbursement of the retirement system for administrative expenses incurred in responding to a violation of this article, to the extent the member is determined by the executive officer to be at fault.*

*(d) Any county or district that employs a retired member in violation of this article shall:*

*(1) Pay to the retirement system an amount of money equal to employer contributions that would otherwise have been paid for the period or periods of time that the member is employed in violation of this article, plus interest thereon.*

*(2) Contribute toward the reimbursement of the retirement system for administrative expenses incurred in responding to a violation of this article, to the extent the county or district is determined by the executive officer of this system to be at fault.*

SEC. 14. Section 45309.6 is added to the Government Code, to read:

45309.6. (a) A city retirement board established pursuant to this chapter shall be in full compliance with the provisions of Section 7500.5 by July 1, 2011.

(b) A city retirement system established pursuant to this chapter shall adopt any regulations necessary to implement the requirements of Section 7500.5.

SEC. 15. Section 45309.7 is added to the Government Code, to read:

45309.7. (a) A city retirement board established pursuant to this chapter may adopt regulations regarding the employment of retirees who were members of a retirement system established pursuant to this chapter.

(b) Notwithstanding subdivision (a), on or after January 1, 2011, a person who has been retired under a retirement system established pursuant to this chapter may not be employed in any capacity by the city establishing that retirement system unless one of the following events has occurred:

(1) He or she has been reinstated from retirement.

(2) At least 180 days have elapsed since his or her retirement date.

SEC. 16. Section 50871.6 is added to the Government Code, to read:

50871.6. (a) A retirement board established pursuant to this chapter shall be in full compliance with the provisions of Section 7500.5 by July 1, 2011.

(b) A retirement system established pursuant to this chapter shall adopt any regulations necessary to implement the requirements of Section 7500.5.

SEC. 17. Section 50871.7 is added to the Government Code, to read:

50871.7. (a) A retirement board established pursuant to this chapter may adopt regulations regarding the employment of retirees who were members of a retirement system established pursuant to this chapter.

(b) Notwithstanding subdivision (a), on or after January 1, 2011, a person who has been retired under a retirement system established pursuant to this chapter may not be employed in any capacity by the city establishing that retirement system unless one of the following events has occurred:

(1) He or she has been reinstated from retirement.

(2) At least 180 days have elapsed since his or her retirement date.

SEC. 18. Except as otherwise specifically provided, the provisions of this act shall become operative on July 1, 2011.

SEC. 19. This bill shall become operative only if Senate Bill 1425 of the 2009–10 Regular Session is enacted and takes effect on or before January 1, 2011.

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