

Introduced by Senator TorresFebruary 20, 2014

An act to amend Sections 19144 and 21202 of, and to repeal and add Article 8 (commencing with Section 21220) of Chapter 12 of Part 3 of Division 5 of Title 2 of, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1219, as introduced, Torres. Public employees' retirement: service after retirement.

Existing law, the California Public Employees' Pension Reform Act of 2013 (PEPRA) establishes various limits on retirement benefits generally applicable to a public employee retirement system in the state, except as specified, and among other things, prescribes limits on service after retirement without reinstatement into the applicable retirement system. The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to specified public employees. PERS is subject to the limits established by PEPRA, and PERL also prescribes limits on service after retirement without reinstatement that have been superceded by PEPRA.

The bill would repeal the superceded provisions in the PERL described above and would add provisions limiting service after retirement without reinstatement that conform with the requirements of PEPRA, with certain additions. The bill would specify that a retired person appointed without reinstatement, under those limitations, is prohibited from receiving any benefit, incentive, or compensation in lieu of benefits. The bill would add similar provisions specifically addressing service by academic staff of the California State University. The bill would

require that a person who has not attained normal retirement age have a bona fide separation from employment, as specified, before working after retirement. The bill would prescribe the consequences for working without reinstatement in violation of these prohibitions, which would include reinstatement in PERS, reimbursement of retirement allowance received, and additional contributions to the system, as specified. The bill would except from the restrictions on service without reinstatement specified judicial officers, judges, and elective officers. The bill would require the suspension of a retirement allowance of certain elective officers whose allowances are based on service in that office, which allowances would then resume after the office is vacated.

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 19144 of the Government Code is
- 2 amended to read:
- 3 19144. Subject to ~~Sections 21223 and 21224~~, Article 8
- 4 (commencing with Section 21220) of Chapter 12 of Part 3, a person
- 5 who has retired from state civil service may be employed
- 6 temporarily in a civil service position at any time following
- 7 retirement, provided that the position is either:
- 8 (a) In the class in which the person had permanent or
- 9 probationary status or a career executive assignment appointment
- 10 at the time of retirement.
- 11 (b) In another class to which the person could have been
- 12 permanently transferred, reinstated, or demoted at the time of
- 13 retirement.
- 14 SEC. 2. Section 21202 of the Government Code is amended
- 15 to read:
- 16 21202. A person employed in violation of Section ~~21220~~ 21221
- 17 shall be reinstated to membership in the category in which, and
- 18 on the date on which, the unlawful employment occurred.
- 19 SEC. 3. Article 8 (commencing with Section 21220) of Chapter
- 20 12 of Part 3 of Division 5 of Title 2 of the Government Code is
- 21 repealed.
- 22 SEC. 4. Article 8 (commencing with Section 21220) is added
- 23 to Chapter 12 of Part 3 of Division 5 of Title 2 of the Government
- 24 Code, to read:

1 Article 8. Employment After Retirement

2
3 21220. This article shall be deemed to comply with Article 4
4 (commencing with Section 7522) of Chapter 21 of Division 7 of
5 Title 1, known as the California Public Employees' Pension Reform
6 Act of 2013, and shall be considered to further its purposes,
7 including, but not limited to, the purposes of Sections 7522.56 and
8 7522.57.

9 21221. (a) This section shall apply to any person who is
10 receiving a pension benefit from this system.

11 (b) A retired person shall not serve, be employed by, or be
12 employed through a contract directly by, a public employer in this
13 system if the retiree receives the benefit without reinstatement
14 from retirement, except as permitted by this article.

15 (c) A person who retires from a public employer in this system
16 may serve without reinstatement from retirement or loss or
17 interruption of benefits provided by this system upon appointment
18 by the appointing power or the governing body of a public
19 employer either during an emergency to prevent stoppage of public
20 business or because the retired person has skills needed to perform
21 work of limited duration.

22 (d) (1) Appointments of the person authorized under this section
23 shall not exceed a total for all employers in this system of 960
24 hours in a fiscal year. The monthly rate of pay for the employment
25 shall not be less than the minimum, nor exceed the maximum, paid
26 by the employer to other employees performing comparable duties,
27 divided by 173.333 to equal an hourly rate. A retired person
28 appointed pursuant to this section shall not receive any benefit,
29 incentive, compensation in lieu of benefits, or other form of
30 compensation in addition to the hourly pay rate. A retired person
31 whose employment without reinstatement is authorized by this
32 section shall acquire no service credit or retirement rights under
33 this section with respect to the employment unless he or she
34 reinstates from retirement.

35 (2) Appointments of the person authorized under this section
36 as a member of the academic staff of the California State University
37 shall not exceed a total for all employers in this system of 960
38 hours in a fiscal year or 50 percent of the hours the member worked
39 during the last fiscal year of service prior to retirement, whichever
40 is less. The monthly rate of pay for the employment shall not be

1 less than the minimum, nor exceed the maximum, paid by the
2 employer to other employees performing comparable duties,
3 divided by 173.333 to equal an hourly rate. A retired person
4 appointed pursuant to this section shall not receive any benefit,
5 incentive, compensation in lieu of benefits, or other form of
6 compensation in addition to the hourly pay rate. A retired person
7 whose employment without reinstatement is authorized by this
8 section shall acquire no service credit or retirement rights under
9 this section with respect to the employment unless he or she
10 reinstates from retirement.

11 (e) (1) Notwithstanding subdivision (c), any retired person shall
12 not be eligible to serve or be employed by a public employer in
13 this system if, during the 12-month period prior to an appointment
14 described in this section, the retired person received any
15 unemployment insurance compensation arising out of prior
16 employment subject to this article with a public employer. A retiree
17 shall certify in writing to the employer upon accepting an offer of
18 employment that he or she is in compliance with this requirement.

19 (2) A retired person who accepts an appointment after receiving
20 unemployment insurance compensation as described in this
21 subdivision shall terminate that employment on the last day of the
22 current pay period and shall not be eligible for reappointment
23 subject to this section for a period of 12 months following the last
24 day of employment.

25 21222. (a) A retired person shall not be eligible to be employed
26 pursuant to this article for a period of 180 days following the date
27 of retirement unless he or she meets one of the following
28 conditions:

29 (1) The public employer certifies the nature of the employment
30 and that the appointment is necessary to fill a critically needed
31 position before 180 days has passed and the appointment has been
32 approved by the governing body of the employer in a public
33 meeting. The appointment may not be placed on a consent calendar.

34 (2) The state employer certifies the nature of the employment
35 and that the appointment is necessary to fill a critically needed
36 state employment position before 180 days has passed and the
37 appointment has been approved by the Department of Human
38 Resources. The department may establish a process to delegate
39 appointing authority to individual state agencies, but shall audit
40 the process to determine if abuses of the system occur. If necessary,

1 the department may assume an agency’s appointing authority for
2 retired workers and may charge the department an appropriate
3 amount for administering that authority.

4 (3) The retiree is eligible to participate in the Faculty Early
5 Retirement Program pursuant to a collective bargaining agreement
6 with the California State University that existed prior to January
7 1, 2013, or has been included in subsequent agreements.

8 (4) The retiree is a public safety officer or firefighter hired to
9 perform a function or functions regularly performed by a public
10 safety officer or firefighter.

11 (b) A retired person who accepted a retirement incentive upon
12 retirement shall not be eligible to be employed pursuant to this
13 section for a period of 180 days following the date of retirement
14 and subdivision (a) shall not apply.

15 21223. A retired person who has not attained the normal
16 retirement age shall have a bona fide separation in service to the
17 extent required by the Internal Revenue Code, and the regulations
18 promulgated thereunder, before working after retirement pursuant
19 to this article. The board shall establish, by regulation, the criteria
20 under which a bona fide separation is satisfied.

21 21224. (a) A person employed in violation of this article shall
22 be reinstated to membership in the category in which, and on the
23 date on which, the unlawful employment occurred.

24 (b) Upon reinstatement, the retired member employed in
25 violation of this article shall:

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

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

33 (3) Contribute toward reimbursement of this system for
34 administrative expenses incurred in responding to this situation,
35 to the extent the member is determined by the executive officer to
36 be at fault.

37 (c) Any public employer in this system that employs a retired
38 member in violation of this article shall, upon reinstatement of the
39 retired member:

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

5 (2) Contribute toward reimbursement of this system for
6 administrative expenses incurred in responding to this situation,
7 to the extent the employer is determined by the executive officer
8 of this system to be at fault.

9 (d) This section shall not apply to violations under subdivision
10 (e) of Section 21221.

11 21225. (a) This section shall apply to any retired person who
12 is receiving a pension benefit from a public retirement system and
13 is first appointed on or after January 1, 2013, to a salaried position
14 on a state board or commission.

15 (b) A person who is retired from a public retirement system
16 may serve without reinstatement from retirement or loss or
17 interruption of benefits provided that appointment is to a part-time
18 state board or commission. A retired person whose employment
19 without reinstatement is authorized by this subdivision shall acquire
20 no benefits, service credit, or retirement rights with respect to the
21 employment. Unless otherwise defined in statute, for the purpose
22 of this section, a part-time appointment shall mean an appointment
23 with a salary of no more than sixty thousand dollars (\$60,000)
24 annually, which shall be increased in any fiscal year in which a
25 general salary increase is provided for state employees. The amount
26 of the increase provided by this section shall be comparable to,
27 but shall not exceed, the percentage of the general salary increases
28 provided for state employees during that fiscal year.

29 (c) A person who is retired from the Public Employees'
30 Retirement System shall not serve on a full-time basis on a state
31 board or commission without reinstatement unless that person
32 serves as a nonsalaried member of the board or commission and
33 receives only per diem authorized to all members of the board or
34 commission. A person who serves as a nonsalaried member of a
35 board or commission shall not earn any service credit or benefits
36 in the Public Employees' Retirement System or make contributions
37 with respect to the service performed.

38 (d) A person retired from a public retirement system other than
39 the Public Employees' Retirement System who is appointed on a

1 full-time basis to a state board or commission shall choose one of
2 the following options:

3 (1) The person may serve as a nonsalaried member of the board
4 or commission and continue to receive his or her retirement
5 allowance, in addition to any per diem authorized to all members
6 of the board or commission. The person shall not earn service
7 credit or benefits in the Public Employees' Retirement System and
8 shall not make contributions with respect to the service performed.

9 (2) (A) The person may suspend his or her retirement allowance
10 or allowances and instate as a new member of the Public
11 Employees' Retirement System for the service performed on the
12 board or commission. The pensionable compensation earned
13 pursuant to this paragraph shall not be eligible for reciprocity with
14 any other retirement system or plan.

15 (B) Upon retiring for service after serving on the board or
16 commission, the appointee shall be entitled to reinstatement of any
17 suspended benefits, including employer provided retiree health
18 benefits, that he or she was entitled to at the time of being
19 appointed to the board or commission.

20 (e) Notwithstanding subdivisions (c) and (d), a person who
21 retires from a public employer may serve without reinstatement
22 from retirement or loss or interruption of benefits provided by the
23 retirement system upon appointment to a full-time state board
24 pursuant to Section 5075 of the Penal Code.

25 21230. A retired person may serve without reinstatement from
26 retirement or loss or interruption of benefits provided by this
27 system, as follows:

28 (a) (1) As a subordinate judicial officer whose position, upon
29 retirement, is converted to a judgeship pursuant to Section 69615,
30 and he or she returns to work in the converted position, and the
31 employer is a trial court.

32 (2) As a retiree who takes office as a judge of a court of record
33 pursuant to Article VI of the California Constitution or a retiree
34 of the Judges' Retirement System I or the Judges' Retirement
35 System II who is appointed to serve as a retired judge.

36 (b) (1) As an elective officer.

37 (2) If a retired person serves without reinstatement from
38 retirement in an elective office and part or all of his or her
39 retirement allowance is based on service in that elective office,
40 the portion of the allowance based on service in that elective office

1 shall be suspended during incumbency in that elective office. The
2 entire retirement allowance shall be paid for time on and after the
3 person vacates the elective office in the monthly amount payable
4 had the allowance not been suspended. The governing body of
5 every employer other than the state shall cause immediate notice
6 to be given to this system of the election of any retired person to
7 an office of the employer.

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