

**ASSEMBLY BILL**

**No. 2028**

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**Introduced by Assembly Member Cooper**

February 16, 2016

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An act to add Section 20969.3 to the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2028, as introduced, Cooper. School and safety employees: wrongful termination: service credit.

Existing law, the Public Employees' Retirement Law (PERL), creates the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to state employees and employees of contracting agencies and prescribes the rights and duties of members of the system and their beneficiaries. PERS provides defined benefits to members based on final compensation, credited service, and age at retirement, subject to certain variations.

Under PERL, time during which a member is absent from service without compensation is generally not considered in computing service for the purposes of those benefits. However, as an exception to this general rule, PERL provides that, for all retirement purposes of local safety members or employees of specified local educational entities, if the employee is subject to a mandatory furlough, the employee's credit for service and compensation earnable includes the amount of service that would have been credited and the compensation earnable that would have been reported had the employee not been subject to the mandatory furlough, as specified.

This bill, for an employee specified above who is wrongfully terminated, as defined, would require the employee's credit for service

and compensation earnable to include the amount of service that would have been credited and the compensation earnable that would have been reported had the employee not been wrongfully terminated. The bill would require the employer of the wrongfully terminated employee to notify the board of the final decision ordering reinstatement of the employee and would further require the employer to provide the board with any additional information as the board may require, as specified. By requiring local government employers to provide this notification and information, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- 1 SECTION 1. Section 20969.3 is added to the Government
- 2 Code, to read:
- 3 20969.3. (a) For all retirement purposes, including benefit
- 4 eligibility and calculations of retirement allowances under this part
- 5 for a person employed by a county office of education, a school
- 6 district, a school district that is a contracting agency, a community
- 7 college district, or a local safety member, as defined in Section
- 8 20420, who was wrongfully terminated, the employee’s credit for
- 9 service and compensation earnable shall include the amount of
- 10 service that would have been credited and the compensation
- 11 earnable that would have been reported had the employee not been
- 12 wrongfully terminated.
- 13 (b) An employer of an employee described in subdivision (a)
- 14 shall notify the board of the final decision ordering reinstatement
- 15 within five days of the date the decision becomes final. The
- 16 notification shall include the date of wrongful termination and the
- 17 date on which the employee was reinstated after the decision. The
- 18 employer shall provide any additional information as the board
- 19 may require to implement this section.

1 (c) For purposes of this section, the following terms have the  
2 following meanings:

3 (1) “Wrongful termination” means any termination action by  
4 an employer that has been reversed or modified by a final decision  
5 ordering reinstatement.

6 (2) “Final decision ordering reinstatement” means a final  
7 decision of the employer, a court, an administrative agency, a  
8 personnel commission, or an arbitrator, that orders the  
9 reinstatement of the employee to employment with the employer.

10 SEC. 2. If the Commission on State Mandates determines that  
11 this act contains costs mandated by the state, reimbursement to  
12 local agencies and school districts for those costs shall be made  
13 pursuant to Part 7 (commencing with Section 17500) of Division  
14 4 of Title 2 of the Government Code.