

Assembly Bill No. 2028

CHAPTER 794

An act to add Section 20969.3 to the Government Code, relating to public employees' retirement, and making an appropriation therefor.

[Approved by Governor September 29, 2016. Filed with
Secretary of State September 29, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2028, Cooper. Public employees' retirement: involuntary termination: reinstatement.

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. PERL requires a person who has retired under PERS following an involuntary termination of his or her employment to be reinstated to membership in that system, effective as of the date from which salary is awarded, if the person is reinstated to employment pursuant to an administrative or judicial proceeding and certain other conditions are met, as specified. PERL also requires the assets of the system, including, but not limited to, employee contributions, employer contributions, and investment income, to be deposited into the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would additionally require the reinstatement in PERS of a member, without regard to retirement status, who is involuntarily terminated on or after January 1, 2017, and subsequently reinstated to that employment pursuant to an administrative, arbitral, or judicial proceeding. The bill would require contributions to be made to the system for any period for which salary is awarded in the proceeding and would provide the member with service credit for that period and reinstatement of benefits effective as of the date from which salary is awarded, as specified. The bill would require an employer of the involuntarily terminated employee to notify the board of the final decision ordering the member's reinstatement, as specified. By increasing contributions to be deposited into the Public Employees' Retirement Fund, a continuously appropriated fund, the bill would make an appropriation. 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.

Appropriation: yes.

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

SECTION 1. Section 20969.3 is added to the Government Code, to read:

20969.3. (a) A member who was involuntarily terminated and who is subsequently reinstated to that employment, pursuant to an administrative, arbitral, or judicial proceeding, shall be reinstated with all retirement benefits that the member otherwise would have accrued. Administrative proceedings also include proceedings before the governing board of a school district, a charter school, a county office of education, or a community college district.

(b) Reinstatement of benefits shall be effective as of the date from which salary is awarded in the administrative, arbitral, or judicial proceedings. Contributions shall be made for any period for which salary is awarded in the administrative, arbitral, or judicial proceedings in the amount that the member would have contributed had his or her employment not been terminated, and he or she shall receive credit as state service, as defined in Section 20069, for the period for which salary is awarded and contributions are received.

(c) This section shall apply to members who were subject to an involuntary termination effective on or after January 1, 2017.

(d) An employer of the member described in subdivision (a) shall notify the board of the final decision ordering the member’s reinstatement to employment within five days of the date the decision becomes final. The notification shall include the date of involuntary termination and the date on which the member was reinstated to employment after the decision.

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