

Senate Bill No. 294

CHAPTER 707

An act to amend Sections 19780, 20997, 21024, and 21029 of the Government Code, relating to public employment.

[Approved by Governor September 27, 2016. Filed with Secretary of State September 27, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 294, Pan. Public employment: military service: credit.

The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS) for the purpose of providing pension and other benefits to public employees, which are funded by employee and employer contributions and investment returns. PERS provides defined benefits to its members based on their final compensation, credited service, and age at retirement, subject to certain variations. Existing law provides a member with an absence due to military service or service with the uniformed services with the right to receive credit for service for the period of that absence and requires the member's employer to contribute both the employee and employer contributions for that period if specified conditions are met.

This bill would require the Board of Administration of the Public Employees' Retirement System to provide a separate and unique form to be used by a member to receive credit for his or her military service and would require the form to clearly state that the member has no obligation to pay for any portion of the employer contribution if eligibility is determined pursuant to certain provisions, as specified. The bill would require employers to both provide the member with that form and inform the member of his or her rights to receive that credit with employer-paid contributions within 30 days of the member's return to state service and until April 1, 2017, would further require state appointing authorities to provide letters or electronic communications to all employees informing them of those rights.

Existing law authorizes a member to elect at any time prior to retirement, in accordance with regulations of the Board of Administration of the Public Employees' Retirement System, to receive credit for public service, in addition to his or her current and prior service credit.

This bill would require an employer to inform a new employee at the time of hire of his or her rights to purchase service credit for certain active service, prior to the person's first employment with that employer or entrance into the retirement system, in the Armed Forces of the United States or in the Merchant Marine of the United States, as specified.

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

SECTION 1. Section 19780 of the Government Code is amended to read:

19780. (a) Except as provided in Section 19781, a permanent, probationary, or exempt employee who begins active duty within 90 calendar days from the effective date of his or her long-term military leave or within 10 calendar days from the effective date of his or her short-term or emergency military leave and who returns to state service within six months after termination of military service under his or her long-term military leave or within 10 days after termination of military service under his or her short-term or emergency military leave shall be reinstated to his or her former position. Reinstatement to an employee's former exempt position under this section or Section 19783 shall reestablish the employee's tenure and civil service reinstatement rights, if any, as they existed immediately prior to his or her military leave pursuant to this section or resignation pursuant to Section 19783. For the purpose of this section any period of rehabilitation afforded by the United States or the state following active duty shall be considered as military service and termination of the state military emergency by the Governor shall be considered termination of military service.

(b) Within 30 days of the employee's return to state service, the appointing authority shall inform the employee of his or her rights pursuant to Section 20997, and provide the member with the form provided pursuant to subdivision (f) of that section.

(c) Prior to April 1, 2017, every appointing authority shall provide a letter or electronic communication to all employees informing them of the rights provided by Section 20997.

SEC. 2. Section 20997 of the Government Code is amended to read:

20997. (a) Notwithstanding any other provision of this part, for each member other than a National Guard member absent without compensation due to military service pursuant to Section 20990, the employer shall contribute an amount equal to the contributions that would have been made by the employer and the employee during the absence. The employer's contribution pursuant to this section shall be based upon the member's compensation earnable and the contribution rates in effect at the commencement of the absence, if any of the following apply:

(1) The member returns to state service within six months after receiving a discharge from military service other than dishonorable.

(2) The member returns to state service within six months after completion of any period of rehabilitation offered by the United States government, except that for purposes of this section, rehabilitation solely for education purposes shall not be considered.

(3) The member is granted a leave of absence from the state employer as of the same date the member was reinstated to that employment from military service, provided that the member returns to state service at the conclusion of the leave.

(4) The member is placed on a state civil service reemployment list within six months after receiving a discharge from military service other than dishonorable and returns to state service upon receipt of an offer of reemployment.

(5) The member retires from this system for service or disability during the course of an absence from state service for military service.

(6) The member dies during the course of an absence from state service for military service.

(b) Any member on leave from state service for military service who elects to continue contributing to this system shall be entitled to a refund of those contributions upon request.

(c) Any member who withdrew contributions during or in contemplation of his or her military service is entitled to the benefits of this section irrespective of whether the contributions are redeposited. The rate for future contributions for the member shall be based upon the member's age at the time the member commenced a leave of absence from state service for service in the military.

(d) The employer's contribution pursuant to this section may be made either in lump sum, or it may be included in its monthly contribution as adjusted by inclusion of the amount due in the employer rate at the valuation most near in time to the event causing the employer's liability for those contributions. The employer's contributions pursuant to this section shall be used solely for the purpose of paying retirement and death benefits and shall not be paid to the member whose contributions are refunded to him or her pursuant to Section 20735.

(e) Within 30 days of the member's return to state service, the employer shall inform the member of his or her rights pursuant to this section, and provide the employee with the form provided pursuant to subdivision (f).

(f) The board shall provide a separate and unique form to be used by the member to receive credit for his or her military service. The form shall clearly state that the member has no obligation to pay for any portion of the employer contribution if eligibility is determined pursuant to this section.

SEC. 3. Section 21024 of the Government Code is amended to read:

21024. (a) "Public service" with respect to a local member, other than a school member, also means active service with the Armed Forces or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the member's first employment by the employer under this section in which he or she was a member.

(b) Any member electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service under this section shall not include military service (1) in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990) or (2) to the extent that total credit under this section would exceed four years.

(d) Notwithstanding Section 21034, a member may select which of two or more periods of service entitles him or her to receive public service under this section.

(e) This section shall apply to a member only if he or she elects to receive credit while he or she is in state service in the employment of one employer on or after the date of the employer's election to be subject to this section.

(f) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or in the case of contracts made after this section takes effect, by express provision in the contract making the contracting agency subject to this section. The amendments to this section made during the second year of the 1999–2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

(g) An employer shall inform a new employee at the time of hire of his or her rights to purchase service credit under this section.

SEC. 4. Section 21029 of the Government Code is amended to read:

21029. (a) "Public service" with respect to a state member or a school member or with respect to a retired former state employee or a retired former school employee, who retired on or after December 31, 1981, also means active service, prior to entering this system as a state member or as a school member, of not less than one year in the Armed Forces of the United States, or, active service, prior to entering this system as a state or school member, of not less than one year in the Merchant Marine of the United States prior to January 1, 1950. Public service credit shall not be granted if the service described above terminated with a discharge under dishonorable conditions. The public service credit to be granted for that service shall be on the basis of one year of credit for each year of credited state service, but shall not exceed a total of four years of public service credit regardless of the number of years of either that service or subsequent state service. A state member or a school member or a retired former state employee or a retired former school employee electing to receive a credit for that public service shall have been credited with at least one year of state service on the date of election or the date of retirement.

(b) An election by a state member or a school member with respect to public service under this section may be made only while the member is in state, university, or school employment, and a retired former employee shall have retired immediately following service as a state member or as a school member. The retirement allowance of a retired former state employee or a retired former school employee, who elects to receive public service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election. For the purposes of this section, a member as described in subdivision (d) of Section 20776, shall also mean

a former state employee or a former school employee, who retired on or after December 31, 1981.

(c) A member or retired former employee who elects to become subject to this section shall make the contributions as specified in Sections 21050 and 21052.

(d) The board has no duty to locate or notify any eligible former member who is currently retired or to provide the name or address of any such retired person, agency, or entity for the purpose of notifying those persons.

(e) An employer shall inform a new employee at the time of hire of his or her rights to purchase service credit under this section.