



SB-1379 Public Employees' Retirement Law: reinstatement: County of Solano. (2023-2024)

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Senate Bill No. 1379

CHAPTER 992

An act to amend, repeal, and add Sections 7522.56 and 21224 of the Government Code, relating to public retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2024. Filed with Secretary of State September 29, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1379, Dodd. Public Employees' Retirement Law: reinstatement: County of Solano.

The Public Employees' Retirement Law creates the Public Employees' Retirement System (PERS), which provides pension and other benefits to members of the system and prescribes limitations on the service that retired members may perform, without the member reinstating in the system, for employers that participate in the system. The California Public Employees' Pension Reform Act of 2013 (PEPRA) also prescribes limitations on the activities of retired members of these retirement systems, which supersede the provisions of PERS with which they conflict. Under both PERS and PEPRA, a retired member is generally subject to a limit of 960 hours of employment within a calendar or fiscal year, depending on the administrator of the system, for specified employers without reinstating in the system.

This bill would create an exception from the above-described limit for hours worked by a retired person in an appointment by the Solano County Sheriff's Office to perform a function or functions regularly performed by a deputy sheriff, evidence technician, or communications operator, subject to meeting certain requirements. The bill would limit the number of appointments made under these provisions to 20. The bill would repeal these provisions on January 1, 2027.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Solano.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7522.56 of the Government Code is amended to read:

7522.56. (a) This section shall apply to any person who is receiving a pension benefit from a public retirement system and shall supersede any other provision in conflict with this section.

(b) A retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retired person receives the benefit without reinstatement from retirement, except as permitted by this section.

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

(d) Appointments of a person authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending on the administrator of the system. The rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. A retired person whose employment without reinstatement is authorized by this section shall acquire no service credit or retirement rights under this section with respect to the employment unless the retired person reinstates from retirement.

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

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

(f) A retired person shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement unless the retired person meets one of the following conditions:

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

(2) (A) Except as otherwise provided in this paragraph, for state employees, the state employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed state employment position before 180 days have passed and the appointment has been approved by the Department of Human Resources. The department may establish a process to delegate appointing authority to individual state agencies, but shall audit the process to determine if abuses of the system occur. If necessary, the department may assume an agency's appointing authority for retired workers and may charge the department an appropriate amount for administering that authority.

(B) For legislative employees, the Senate Committee on Rules or the Assembly Rules Committee certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

(C) For employees of the California State University, the Trustees of the California State University certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

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

(4) A retired person is a public safety officer or firefighter hired to perform a function or functions regularly performed by a public safety officer or firefighter.

(g) A retired person who accepted a retirement incentive upon retirement shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement and subdivision (f) shall not

apply.

(h) This section shall not apply to a person who is retired from the State Teachers' Retirement System, and who is subject to Section 24214, 24214.5, or 26812 of the Education Code.

(i) This section shall not apply to (1) a subordinate judicial officer whose position, upon retirement, is converted to a judgeship pursuant to Section 69615, and the judicial officer returns to work in the converted position, and the employer is a trial court, or (2) a retired person of the Judges' Retirement System or the Judges' Retirement System II who is assigned to serve in a court pursuant to Section 68543.5.

(j) The 960-hour limit set forth in subdivision (d) shall not apply to hours worked in an appointment by the Solano County Sheriff's Office to perform a function or functions regularly performed by a deputy sheriff, evidence technician, or communications operator provided the Solano County Board of Supervisors certifies, by resolution at a public meeting, that the appointment satisfies the following conditions:

(1) The retired person has undergone and passed a preemployment background investigation.

(2) The retired person is not subject to decertification or under investigation for decertification by the Commission on Peace Officer Standards and Training.

(3) The County of Solano has posted a position for recruitment of an active member for not less than six continuous months to perform the same function or functions to be performed by the retired person, prior to appointing the retired person to perform the function or functions and no qualified applicant either applied to the position or was available for hire.

(4) Notwithstanding the rate of pay described in subdivision (d), the rate of pay for the retired person shall not exceed the average rate of pay of all positions in the same class of the position as filled by active members, divided by 173.333 to equal an hourly rate.

(5) Subject to the limitation in paragraph (4), the rate of pay upon appointment of the retired person shall not exceed the higher of either the retired person's last rate of pay as an active member or the rate of pay of the entry step on the publicly available pay schedule for the class. However, the retired person shall be eligible for reasonable and regular adjustments to the rate of pay that apply generally to positions in the same class, if the rate of pay after the adjustment meets the requirement in paragraph (4).

(6) The appointment may not be placed on a consent calendar.

(7) The maximum aggregate number of appointments made pursuant to this subdivision and subdivision (c) of Section 21224 shall not exceed 20.

(8) Pay a fee to the system in the amount of two hundred dollars (\$200) for each month the retired person worked.

(k) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 2. Section 7522.56 is added to the Government Code, to read:

7522.56. (a) This section shall apply to any person who is receiving a pension benefit from a public retirement system and shall supersede any other provision in conflict with this section.

(b) A retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retired person receives the benefit without reinstatement from retirement, except as permitted by this section.

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

(d) Appointments of the person authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending on the administrator of the system. The rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. A retired person whose employment without reinstatement is authorized by this section

shall acquire no service credit or retirement rights under this section with respect to the employment unless the retired person reinstates from retirement.

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

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

(f) A retired person shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement unless the retired person meets one of the following conditions:

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

(2) (A) Except as otherwise provided in this paragraph, for state employees, the state employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed state employment position before 180 days have passed and the appointment has been approved by the Department of Human Resources. The department may establish a process to delegate appointing authority to individual state agencies, but shall audit the process to determine if abuses of the system occur. If necessary, the department may assume an agency's appointing authority for retired workers and may charge the department an appropriate amount for administering that authority.

(B) For legislative employees, the Senate Committee on Rules or the Assembly Rules Committee certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

(C) For employees of the California State University, the Trustees of the California State University certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

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

(4) A retired person is a public safety officer or firefighter hired to perform a function or functions regularly performed by a public safety officer or firefighter.

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

(h) This section shall not apply to a person who is retired from the State Teachers' Retirement System, and who is subject to Section 24214, 24214.5, or 26812 of the Education Code.

(i) This section shall not apply to (1) a subordinate judicial officer whose position, upon retirement, is converted to a judgeship pursuant to Section 69615, and the judicial officer returns to work in the converted position, and the employer is a trial court, or (2) a retired person of the Judges' Retirement System or the Judges' Retirement System II who is assigned to serve in a court pursuant to Section 68543.5.

(j) This section shall become operative on January 1, 2027.

SEC. 3. Section 21224 of the Government Code is amended to read:

21224. (a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or public agency employer either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration. These appointments shall not exceed a combined total of 960 hours for all employers each fiscal year. The compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule divided by 173.333 to equal an hourly rate. A retired person appointed pursuant to this section shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate. A retired person appointed pursuant to this section shall not work more than 960 hours each fiscal year, regardless of whether the retired person works for one or more employers.

(b) (1) This section shall not apply to any retired person otherwise eligible if during the 12-month period prior to an appointment described in this section the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

(c) The 960-hour limit set forth in subdivision (a) shall not apply to hours worked in an appointment by the Solano County Sheriff's Office to perform a function or functions regularly performed by a deputy sheriff, evidence technician, or communications operator provided the Solano County Board of Supervisors certifies, by resolution at a public meeting, that appointment satisfies the following conditions:

(1) The retired person has undergone and passed a preemployment background investigation.

(2) The retired person is not subject to decertification or under investigation for decertification by the Commission on Peace Officer Standards and Training.

(3) The County of Solano has posted a position for recruitment of an active member for not less than six continuous months to perform the same function or functions to be performed by the retired person, prior to appointing the retired person to perform the function or functions and no qualified applicant either applied to the position or was available for hire.

(4) Notwithstanding the rate of pay described in subdivision (d), the rate of pay for the retired person shall not exceed the average rate of pay of all positions in the same class of the position as filled by active members, divided by 173.333 to equal an hourly rate.

(5) Subject to the limitation in paragraph (4), the compensation upon appointment of the retired person shall not exceed the higher of either the retired person's last monthly base salary paid as an active member or the monthly base salary at the entry step on the publicly available pay schedule for the class. However, the retired person shall be eligible for reasonable and regular adjustments to the base salary that apply generally to positions in the same class, if the rate of pay after the adjustment meets the requirement in paragraph (4).

(6) The appointment may not be placed on a consent calendar.

(7) The maximum aggregate number of appointments made pursuant to this subdivision and subdivision (j) of Section 7522.56 shall not exceed 20.

(8) Pay a fee to the system in the amount of two hundred dollars (\$200) for each month the retired person worked.

(d) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 4. Section 21224 is added to the Government Code, to read:

21224. (a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or public agency employer either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration. These appointments shall not exceed a combined total of 960 hours for all employers each fiscal year. The compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule divided by 173.333 to equal an hourly rate. A retired person appointed pursuant to this

section shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate. A retired person appointed pursuant to this section shall not work more than 960 hours each fiscal year regardless of whether the retired person works for one or more employers.

(b) (1) This section shall not apply to any retired person otherwise eligible if during the 12-month period prior to an appointment described in this section the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

(c) This section shall become operative on January 1, 2027.

SEC. 5. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the urgent substantial understaffing of the City of Vallejo Police Department that constitutes a risk to public health and safety.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

The urgent substantial understaffing of the City of Vallejo Police Department constitutes a risk to public health and safety, as the Vallejo City Council declared a state of emergency pertaining to the major staffing shortage in that city and requires the immediate assistance of the Solano County Sheriff's Office.