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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 5. PERSONNEL [18000 - 22980] (Division 5 added by Stats. 1945, Ch. 123.)

PART 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716] (Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2.)

CHAPTER 12. Retirement from Employment [21060 - 21233] (Chapter 12 added by Stats. 1995, Ch. 379, Sec. 2.)

ARTICLE 7. Reinstatement from Retirement [21190 - 21203] (Article 7 added by Stats. 1995, Ch. 379, Sec. 2.)

21190. A person who has been retired under this system for service may be reinstated from retirement by the board as provided in this article, and thereafter may be employed by the state or by a contracting agency in accordance with the laws governing that service, in the same manner as a person who has not been so retired.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21191. Subject to Sections 21197 and 21201, notwithstanding any other provision of law to the contrary, a person who has been retired under this system for industrial disability shall be reinstated from retirement pursuant to this article, upon his or her application to the board, if, upon reinstatement, he or she will be employed by the state or any contracting agency as a state or local miscellaneous member.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21192. The board, or in case of a local safety member, other than a school safety member, the governing body of the employer from whose employment the person was retired, may require any recipient of a disability retirement allowance under the minimum age for voluntary retirement for service applicable to members of his or her class to undergo medical examination, and upon his or her application for reinstatement, shall cause a medical examination to be made of the recipient who is at least six months less than the age of compulsory retirement for service applicable to members of the class or category in which it is proposed to employ him or her. The board, or in case of a local safety member, other than a school safety member, the governing body of the employer from whose employment the person was retired, shall also cause the examination to be made upon application for reinstatement to the position held at retirement or any position in the same class, of a person who was incapacitated for performance of duty in the position at the time of a prior reinstatement to another position. The examination shall be made by a physician or surgeon, appointed by the board or the governing body of the employer, at the place of residence of the recipient or other place mutually agreed upon. Upon the basis of the examination, the board or the governing body shall determine whether he or she is still incapacitated, physically or mentally, for duty in the state agency, the university, or contracting agency, where he or she was employed and in the position held by him or her when retired for disability, or in a position in the same classification, and for the duties of the position with regard to which he or she has applied for reinstatement from retirement.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21193. If the determination pursuant to Section 21192 is that the recipient is not so incapacitated for duty in the position held when retired for disability or in a position in the same classification or in the position with regard to which he or she has applied for reinstatement and his or her employer offers to reinstate that employee, his or her disability retirement allowance shall be canceled immediately, and he or she shall become a member of this system.

If the recipient was an employee of the state or of the university and is so determined to be not incapacitated for duty in the position held when retired for disability or in a position in the same class, he or she shall be reinstated, at his or her option, to that position. However, in that case, acceptance of any other position shall immediately terminate any right to reinstatement. A recipient who is found to continue to be incapacitated for duty in his or her former position and class, but not incapacitated for duty in another position for which he or she has applied for reinstatement and who accepts employment in the other position, shall upon subsequent

discontinuance of incapacity for service in his or her former position or a position in the same class, as determined by the board under Section 21192, be reinstated at his or her option to that position.

If the recipient was an employee of a contracting agency other than a local safety member, with the exception of a school safety member, the board shall notify it that his or her disability has terminated and that he or she is eligible for reinstatement to duty. The fact that he or she was retired for disability does not prejudice any right to reinstatement to duty which he or she may claim.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21194. A person who has been partially retired under this system pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or pursuant to Sections 21110 through 21115 may be reinstated from partial retirement by the board as provided in this article, and thereafter may continue to be employed on a full-time basis by the state, in the same manner as a person who has not been so retired.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21195. (a) Notwithstanding any other section in Article 6 (commencing with Section 21150) or in this article, the Department of Human Resources may reinstate a person who has retired for industrial disability pursuant to Section 21410, within 12 months after the effective date of retirement, if it has identified an available position with duties that the employee is able to perform. Upon reinstatement, the person shall become entitled to benefits under the partial disability retirement program pursuant to Section 21160.

(b) This section shall not apply to any job-related or job-incurred illness or injury that occurs on or after January 1, 2000.

(Amended by Stats. 2012, Ch. 665, Sec. 130. (SB 1308) Effective January 1, 2013.)

21196. The board may reinstate a person from retirement upon (a) his or her application to the board for reinstatement and (b) the determination of the board that his or her age at the date of application for reinstatement is at least six months less than the age of compulsory retirement for service applicable to members of the class or category in which it is proposed to employ him or her. The provisions of clause (b) of this section shall apply only to patrol, state peace officer/firefighters, and safety members. The effective date of reinstatement for purposes of this article shall be the first day of compensated employment following approval of reinstatement.

(Added by renumbering Section 21101 by Stats. 1996, Ch. 906, Sec. 135. Effective January 1, 1997.)

21197. The board may reinstate a person from industrial disability retirement to a miscellaneous member position upon all of the following:

(a) His or her application to the board for reinstatement.

(b) The determination of the board, based upon medical examination, that he or she is not incapacitated for the duties to be assigned to him or her.

(c) The determination of the board that the employer from whose employment the person was retired for industrial disability has been furnished a notice of intent to reinstate that person, that contains information that he or she may be entitled to resume an industrial disability retirement allowance using the salaries earnable under the miscellaneous member position upon termination of the miscellaneous member employment.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21198. A person who has been retired under this system for service following an involuntary termination of his or her employment, and who is subsequently reinstated to that employment pursuant to an administrative or judicial proceeding, shall be reinstated from retirement. The requirements of Section 21196 shall not apply to that reinstatement. Reinstatement shall be effective as of the date from which salary is awarded in the administrative or judicial proceedings, and his or her rights and obligations shall be as specified in this article. However, amounts paid to the person during retirement for any period after the date from which salary is awarded, shall be repaid by him or her to this system, and contributions shall be made for any period for which salary is awarded in the administrative or judicial proceedings in the amount that he or she would have contributed had his or her employment not been terminated, and he or she shall receive credit as state service for the period for which salary is awarded.

(Amended by Stats. 1996, Ch. 906, Sec. 142. Effective January 1, 1997.)

21199. A person who has been retired under this system for service may be reinstated from retirement pursuant to this article, without regard to the requirements of Section 21196, upon his or her application to the board, if, upon reinstatement, he or she will be appointed by the Governor to any state office or employment.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21200. When any person is reinstated from retirement under this article, his or her retirement allowance shall be canceled immediately, and he or she shall become a member of this system as of the date of reinstatement. His or her individual account shall be credited with an amount that is the actuarial equivalent of his or her annuity at the date of reinstatement, not to exceed the amount of his or her accumulated contributions as it was at the date of retirement. His or her future rate of contributions and his or her retirement allowance upon subsequent retirement shall be determined in accordance with Chapter 8 (commencing with Section 20670) and Chapter 13 (commencing with Section 21250), respectively.

The actuarial equivalent under this section shall be adjusted by the board every 10 years, or more frequently, to agree with the interest rate and mortality tables in effect at the commencement of each such 10-year or succeeding interval.

(Amended by Stats. 1996, Ch. 906, Sec. 143. Effective January 1, 1997.)

21201. When any person is reinstated from industrial disability retirement under Sections 21191 and 21197, his or her retirement allowance shall be canceled immediately, and he or she shall become a member of this system as of the date of reinstatement. His or her individual account shall be credited with an amount that is the actuarial equivalent of his or her annuity at the date of reinstatement, not to exceed the amount of his or her accumulated contributions as it was at the date of retirement. Upon subsequent retirement, the board shall resume the payment of his or her previous industrial disability retirement allowance using the highest compensation earnable during any period of membership, notwithstanding Section 20036, to recalculate the industrial disability retirement allowance. The member shall receive, in addition to the disability retirement allowance from the employment in which he or she was granted the industrial disability retirement, an annuity purchased with his or her accumulated normal contributions made in respect to other employment covered by this system. If the member is qualified for service retirement, he or she shall receive his or her service retirement allowance, in lieu of the industrial retirement allowance, if the service retirement allowance is greater.

(Amended by Stats. 1999, Ch. 785, Sec. 7. Effective January 1, 2000.)

21202. A person employed in violation of Section 21220 may be reinstated to membership in the category in which, and on the date on which, the unlawful employment occurred.

(Amended by Stats. 2021, Ch. 136, Sec. 1. (SB 411) Effective January 1, 2022.)

21203. A person who has been retired under this system for service may be reinstated from retirement pursuant to this article, without regard to the requirements of Section 21196, upon his or her application to the board if both of the following conditions occur:

- (a) Upon reinstatement, he or she will be appointed by a state board or commission to the position to which the board or commission is entitled to appoint an employee exempt from civil service under the provisions of Article VII of the California Constitution.
- (b) In the judgment of the board or commission he or she has special knowledge, experience and qualifications respecting the activities of the board or commission.

(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)