



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-1309 Employment without reinstatement: failure to enroll or report: fee. (2017-2018)

SHARE THIS:  

Date Published: 09/25/2017 09:00 PM

Assembly Bill No. 1309

CHAPTER 261

An act to amend Section 21220 of the Government Code, relating to public employees' retirement, and making an appropriation therefor.

[Approved by Governor September 23, 2017. Filed with Secretary of State September 23, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1309, Cooley. Employment without reinstatement: failure to enroll or report: fee.

The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System, which provides defined benefits to its members based on age at retirement, service credit, and final compensation. Existing law permits a retired person to serve without reinstatement from retirement or loss or interruption of benefits provided by the system if certain conditions are met. If a retired person is employed without reinstatement without meeting those conditions, PERL requires the retired person to reimburse the system for any retirement allowance received and requires both the retired person and the employer to make contributions due and, to the extent each is determined to be at fault, contribute toward reimbursement of the system for administrative expenses incurred. Existing law requires fees and other amounts received by the Board of Administration of the Public Employees' Retirement System pursuant to PERL to be credited to the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would authorize the board to assess an employer that fails to enroll, solely for the administrative recordkeeping purposes of the system, a retired member employed without reinstatement within 30 days after the effective date of hire, or that fails to report the pay rate and number of hours worked by the retired member within 30 days of the last day of the pay period in which the retired member worked, a \$200 fee per month, as specified. The bill would prohibit an employer from passing those fees on to an employee. By authorizing increased deposits into a continuously appropriated fund, the bill would make an appropriation.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 21220 of the Government Code is amended to read:

21220. (a) A person who has been retired under this system, for service or for disability, may not be employed in any capacity thereafter by the state, the university, a school employer, or a contracting agency, unless the employment qualifies for service credit in the University of California Retirement Plan or the State Teachers' Retirement Plan, unless he or she has first been reinstated from retirement pursuant to this chapter, or unless the employment, without reinstatement, is authorized by this article. A retired person whose employment without reinstatement is authorized by this article shall acquire no service credit or retirement rights under this part with respect to the employment.

(b) Any retired member employed in violation of this article shall:

- (1) Reimburse this system for any retirement allowance received during the period or periods of employment that are in violation of law.
- (2) Pay to this system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment, plus interest thereon.
- (3) Contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the member is determined by the executive officer to be at fault.

(c) Any public employer that employs a retired member in violation of this article shall:

- (1) Pay to this system an amount of money equal to employer contributions that would otherwise have been paid for the period or periods of time that the member is employed in violation of this article, plus interest thereon.
- (2) Contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the employer is determined by the executive officer of this system to be at fault.

(d) If an employer fails to enroll, solely for the administrative recordkeeping purposes of the system, a retired member employed in any capacity, without reinstatement, within 30 days of the effective date of hire, the board may assess the employer a fee of two hundred dollars (\$200) per retired member per month until the retired member is enrolled in those administrative aspects of the system.

(e) If an employer fails to report the pay rate and number of hours worked of a retired member employed in any capacity, without reinstatement, within 30 days following the last day of the pay period in which the retired member worked, the board may assess the employer a fee of two hundred (\$200) per retired member per month until the information is reported.

(f) An employer shall not pass on to an employee any fees assessed pursuant to subdivisions (d) and (e).