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AB-1487 Public Employees' Retirement System: limited term appointments. (2017-2018)

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Assembly Bill No. 1487

CHAPTER 229

An act to add Section 20480 to the Government Code, relating to public employees' retirement, and making an appropriation therefor.

[Approved by Governor September 11, 2017. Filed with Secretary of State September 11, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1487, Rodriguez. Public Employees' Retirement System: limited term appointments.

The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS), which provides a defined benefit to members of the system, based on final compensation, credited service, and age at retirement, subject to certain variations. PERL vests the Board of Administration of PERS with management and control of the system, and authorizes the board to employ certain managerial staff including an executive officer. PERL authorizes a public agency and a school employer to contract to make their employees members of PERS. PERL establishes the compensation earnable by members of the system, defined as the member's payrate and special compensation, which includes out-of-class pay for state members. Existing law requires fees and other amounts received by the Board of Administration of PERS pursuant to PERL to be credited to the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would prohibit an out-of-class appointment by a contracting agency or school employer from exceeding 960 hours each fiscal year. The bill would define "out-of-class appointment" to mean an appointment to an upgraded position or higher classification by an employer or governing board or body in a vacant position for a limited duration. The bill would require employers to track hours worked in these positions and report them to the system within 30 days after the end of the fiscal year. The bill would specify that compensation for a limited duration position under these circumstances would be pursuant to a collective bargaining agreement or publicly available pay schedule. The bill would require an employer who violates this provision to make payments to the system for treble the amount of money that otherwise would have been paid in the form of employee and employer contributions, as specified, and to provide reimbursement for administrative expenses, as determined by the executive officer. By depositing new moneys in a continuously appropriated fund, this 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 20480 is added to the Government Code, to read:

20480. (a) An out-of-class appointment by a contracting agency employer or a school employer shall not exceed a total of 960 hours in each fiscal year.

(b) A contracting agency employer or school employer shall track the hours worked by an employee serving in an out-of-class appointment and report that service to the system no later than 30 days following the end of each fiscal year.

(c) The compensation for an appointment described in subdivision (a) shall be pursuant to a collective bargaining agreement or a publicly available pay schedule.

(d) (1) An employer who violates this section shall pay penalties to the system according to the following:

(A) An amount of money equal to three times the employee and employer contributions that would otherwise be paid to the system for the difference between the compensation paid for an appointment described in subdivision (a) and the compensation paid and reported to the system for the member's permanent position, for the entire period or periods the member serves in an out-of-class appointment.

(B) Reimbursement for administrative expenses incurred in responding to this situation.

(2) Penalties paid to the system pursuant to this subdivision are not normal contributions or additional contributions that would stand to the credit of a member's individual account.

(e) The member shall bear no liability, obligations, or expense as a result of the unlawful actions of the employer with respect to this section.

(f) For purposes of this section, "out-of-class appointment" means an appointment of an employee to an upgraded position or higher classification by the employer or governing board or body in a vacant position for a limited duration.

(g) For purposes of this section, "vacant position" refers to a position that is vacant during recruitment for a permanent appointment. "Vacant position" does not refer to a position that is temporarily available due to another employee's leave of absence.