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AB-845 Disability retirement: COVID-19: presumption. (2021-2022)

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Assembly Bill No. 845

CHAPTER 122

An act to add and repeal Article 5 (commencing with Section 7523) of Chapter 21 of Division 7 of Title 1 of the Government Code, relating to retirement.

[Approved by Governor July 23, 2021. Filed with Secretary of State July 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 845, Rodriguez. Disability retirement: COVID-19: presumption.

Existing law, until 2023, defines "injury" for purposes of workers' compensation insurance to include illness or death resulting from the 2019 novel coronavirus disease (COVID-19) under specified circumstances, and creates a disputable presumption, as specified, that the injury arose out of the course of employment and is compensable. This presumption is applicable to specified public safety, firefighter, and medical occupation, among others, as specified.

Existing law prescribes various requirements for the organization and administration of public retirement systems, which typically provide pension, disability, and death benefits to their members. These systems are governed by their boards of administration, to which the California Constitution grants the sole and exclusive responsibility to administer the system in a manner that will ensure prompt delivery of benefits and related services.

Existing law provides that participants in certain membership categories may be entitled to special benefits if death or disability arises in the course of employment. The California Public Employees' Pension Reform Act of 2013 (PEPRA) generally requires a public retirement system, as defined, to modify its plan or plans to comply with that act and establishes, among other things, limits on defined benefit formulas and caps on pensionable compensation.

This bill, until January 1, 2023, would create a presumption, applicable to the retirement systems that PEPRA regulates and to specified members in those systems, that would be applied to disability retirements on the basis, in whole or in part, of a COVID-19-related illness. In this circumstance, the bill would require that it be presumed the disability arose out of, or in the course of, the member's employment. The bill would authorize the presumption to be rebutted by evidence to the contrary, but unless controverted, the applicable governing board of a public retirement system would be required to find in accordance with the presumption. The bill would apply this presumption to members employed in specified firefighter, public safety officer, and health care job classifications, or their functional equivalents, and to members in other job classifications who test positive for COVID-19 during an outbreak of the disease at their places of employment, as defined.

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

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

SECTION 1. Article 5 (commencing with Section 7523) is added to Chapter 21 of Division 7 of Title 1 of the Government Code, to read:

Article 5. COVID-19 Disability Retirement Presumption

7523. For purposes of this article:

(a) "COVID-19" means the 2019 novel coronavirus disease.

(b) (1) "Member" means a member of a public retirement system who meets either of the following:

(A) Whose job classification is either described in subdivision (a) of Section 3212.87 of the Labor Code or is the functional equivalent of a job classification described in that subdivision.

(B) Whose job classification is neither described in subdivision (a) of Section 3212.87 nor is the functional equivalent of a job classification described in that subdivision, but who tests positive during an outbreak at the member's specific place of employment. The definitions set forth in subdivision (m) of Section 3212.88 of the Labor Code shall apply to this subparagraph.

(2) Paragraph (1) shall only apply to a member of a public retirement system, as defined pursuant to subdivision (c).

(c) "Public retirement system" means any public employee retirement system that is subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522)).

7523.1. (a) For purposes of a member who retires for disability on the basis, in whole or in part, of a COVID-19-related illness, it shall be presumed that the disability arose out of, or in the course of, the member's employment.

(b) The presumption described in subdivision (a) may be rebutted by evidence to the contrary, but unless controverted, the applicable governing board of a public retirement system shall be bound to find in accordance with the presumption.

7523.2. This article shall remain in effect only until January 1, 2023, and as of that date is repealed.