



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

**SB-411 Public Employees' Retirement System: employment without reinstatement.** (2021-2022)

SHARE THIS:  

Date Published: 07/26/2021 02:00 PM

**Senate Bill No. 411**

**CHAPTER 136**

An act to amend Sections 21202 and 21220 of the Government Code, relating to public employees' retirement.

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

**LEGISLATIVE COUNSEL'S DIGEST**

SB 411, Cortese. Public Employees' Retirement System: employment without reinstatement.

Existing law, the Public Employees' Retirement Law (PERL), creates the Public Employees' Retirement System (PERS), which provides pension and disability benefits to its members and prescribes their rights and duties. Existing law, the Public Employees' Pension Reform Act of 2013 (PEPRA), prescribed various limitations on public employees, employers, and retirement systems concerning, among other things, work after retirement. PERL generally prohibits retired PERS members from working for an agency participating in the system without reinstatement in the system, unless that employment is otherwise specifically authorized. PEPRA also prohibits retirees from serving or being employed directly, or through a contract, with a public employer, as defined, in the same retirement system from which they receive their benefits, except as expressly permitted. Both PERL and PEPRA generally prescribe limits on the manner and duration that retired members may be employed without reinstatement. PERL requires a person who is employed in violation of its reinstatement requirements to be reinstated in the member category previously held and on the date on which the unlawful employment occurred. In these circumstances, PERL requires that a retired member reimburse the system for the person's allowance received during the periods of the unlawful employment, to pay to the system employee contributions that otherwise should have been paid, and to contribute for associated administrative expenses, as specified. PERL requires employers in these circumstances to pay to the system the employer contributions that otherwise should have been paid and to contribute for associated administrative expenses, as specified.

This bill would eliminate the above-described requirement that a person employed without reinstatement in a manner other than authorized by PERL be reinstated, instead providing that reinstatement is permissive. The bill would limit the circumstances pursuant to which retired members and employers are obligated to pay employee and employer contributions, which would have otherwise been paid, plus interest, to apply only to specified reinstatements. The bill would make conforming changes and make specific reference to the duties of employees and employers regarding reinstatement after retirement in violation of PEPRA.

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

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

**SECTION 1.** Section 21202 of the Government Code is amended to read:

**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.

**SEC. 2.** 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 the person 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, Section 7522.56, or Section 7522.57 shall:

- (1) Reimburse this system for any retirement allowance received during the period or periods of employment that are in violation of law.
- (2) Only if reinstated pursuant to Section 21202, 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, Section 7522.56, or Section 7522.57 shall:

- (1) Only if reinstated pursuant to Section 21202, 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).