
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT

Senator Dave Cortese, Chair

2021 - 2022 Regular

Bill No:	SB 411	Hearing Date:	April 19, 2021
Author:	Cortese		
Version:	April 13, 2021		
Urgency:	No	Fiscal:	Yes
Consultant:	Glenn Miles		

SUBJECT: Public Employees' Retirement System: employment without reinstatement

KEY ISSUE

Should PEPRA's mandate that CalPERS reinstate to active membership those retirees who work more than the 960-hour limit in CalPERS covered positions be made permissive to allow CalPERS discretion to address violations in a manner that does not impose harsh financial terms on retirees?

ANALYSIS

Existing law:

1. Establishes the California Public Employees' Pension Reform Act of 2013 (PEPRA), a comprehensive reform of public pension law designed to stabilize public pension systems while preserving the objective of ensuring that public employees who dedicate a lifetime of service to California receive retirement security in their old age (Government Code § 7522 et seq.).
2. Prohibits a person retired from a public retirement system from working for a public employer in the same public retirement system from which the retiree receives the retirement benefit without reinstatement, as specified (Government Code § 7522.56).
3. Prohibits a person retired from a public retirement system from serving on a state board or commission, as specified, without reinstatement (Government Code § 7522.57).
4. Prohibits a person retired under CalPERS from working in any capacity except as specified for the state, university, a school employer, or a contracting agency unless the person first reinstates from retirement (Government Code § 21220).
5. Requires that a CalPERS retiree in violation of the post-retirement employment (or working after retirement) rules shall do the following:
 - a) Reimburse CalPERS for any retirement allowance received during the period or periods of employment that are in violation of the law.
 - b) Pay to CalPERS the employee contributions they would have otherwise paid during the period, plus interest.
 - c) Reimburse CalPERS for related administrative expenses (Government Code § 21220(b)).

6. Requires that a CalPERS employer in violation of the post-retirement employment rules shall pay to CalPERS the employer contributions they would have otherwise paid during the period, plus interest, and reimburse CalPERS for related administrative expenses (Government Code § 21220(c)).
7. Authorizes CalPERS to charge the employer a fee of \$200 per retired member per month that the employer fails to enroll a retired annuitant employed in any capacity for CalPERS' administrative recordkeeping purposes, as specified, or fails to report the retired annuitant's pay rate and hours worked, as specified. The employer may not pass these fees onto the employee (Government Code § 21220(d)-(f)).
8. Requires CalPERS to reinstate into membership a person employed in violation of the post-retirement employment rules, as specified (Government Code § 21202).

This bill:

1. Allows CalPERS not to require the person in violation of the post-retirement employment rules to reinstate into membership.
2. Eliminates the requirement, if CalPERS does not reinstate the retired annuitant, that a person violating the post-retirement employment rules must pay the employee contributions that otherwise would have been due to CalPERS for the employment period or periods.
3. Eliminates the requirement, if CalPERS does not reinstate the retired annuitant, that the employer of a person in violation of the post-retirement employment rules must pay the employer contributions that otherwise would have been due to CalPERS for the employment period or periods.

COMMENTS**1. Need for this bill?**

According to the author,

Some retirees are currently facing significant fines and penalties for inadvertently going over the statutory limitation of 960 hours per year if they want to work for a CalPERS agency after retirement. Many retirees were not aware of the limitation, while others may have been misinformed by their employers. In some cases, retirees were misinformed that their position as a substitute does not apply to those limitations.

2. Proponent Arguments

According to the sponsor, this bill is necessary “to mitigate the assessment of penalties for retirees who inadvertently went over the allowed limitation for working after retirement within the California Public Employee Retirement System (CalPERS).”

3. Opponent Arguments:

None on file.

4. Prior Legislation:

AB 2365 (Rodriguez, 2019) was substantially identical to this bill. The bill died in the Senate Labor, Public Employment and Retirement Committee.

SUPPORT

California School Employees Association (Sponsor)
California Teachers Association
Peace Officers Research Association of California
Retiree Public Employees Association

OPPOSITION

None received.

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