



## District Business & Advisory Services

Nimrat Johal: Director- DBAS: 408-453-6599

Bulletin: 14-025

Date: January 28, 2014

From: Nghia Do, Advisor, DBAS

Re: California Public Employees' Retirement System (CalPERS) Circular Letter 200-002-14  
Post Service Retirement Employment Requirements: Public Employees' Pension Reform Act of 2013  
(PEPRA, Assembly Bill 341), Senate Bill 1021 & Senate Bill 13

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The purpose of this bulletin is to circulate and communicate the information included in CalPERS Circular Letter 200-002-14 dated on January 14, 2014.

This Circular Letter's intent is to inform all CalPERS employers of the current requirements for post-retirement employment of CalPERS retirees on service retirement only and to provide an overview of the laws governing post-retirement employment and the consequences of unlawful employment to retirees and employers.

### **Summary of Current Requirements:**

- Retirees can be hired into retired annuitant positions to perform work of limited duration. The work a retiree performs should supplement the work of regular staff.
- Retired annuitants can perform this limited duration work for up to a maximum of 960 hours per fiscal year, can be paid up to the maximum hourly rate paid to employees doing similar work without any other compensation or benefit, and must have the skill set needed to perform the retired annuitant work.
- Before beginning post-retirement work, a new retiree must meet the bona fide separation in service requirement of Government Code (GC) 21220.5 if the retiree is under normal retirement age. Additionally, a new retiree is also subject to a 180 day wait period before beginning post-retirement work. The bona fide break and the 180 day wait period can be met concurrently.
- A retiree who receives unemployment insurance payments for retired annuitant work with any public employer within the previous 12 months is barred from retired annuitant work with any CalPERS employer for 12 months.

### **Mandatory Reinstatement for Unlawful Employment:**

An unlawfully employed retiree is subject to mandatory reinstatement from retirement as follows:

- The retiree is reinstated from retirement by CalPERS and becomes the active employee in the position in which unlawfully employed and as of the date the unlawful employment began
- Both the now active employee and employer must pay retroactive contributions plus interest for the period of unlawful employment via retroactive payroll reporting

- The now active employee must reimburse CalPERS the entire amount of retirement allowance he or she received during the period of unlawful employment
- The member and employer may be required to reimburse CalPERS for administrative expenses incurred in responding to the investigation and resolution of the unlawful employment

Attached is the letter in its entirety for your convenience; however, the information can also be found at the CalPERS website at <http://www.calpers.ca.gov/eip-docs/employer/cir-ltrs/2014/200-002-14.pdf>

Please distribute the Circular Letter within your District as deemed appropriate.



California Public Employees' Retirement System  
P.O. Box 942709  
Sacramento, CA 94229-2709  
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Reference No.:  
Circular Letter No.: 200-002-14  
Distribution: IV, V, VI, X, XII, XVI  
Special:

## Circular Letter

January 14, 2014

TO: **ALL CALPERS EMPLOYERS**

SUBJECT: **POST SERVICE RETIREMENT EMPLOYMENT REQUIREMENTS:  
PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013 (PEPRA,  
ASSEMBLY BILL 340), SENATE BILL 1021 & SENATE BILL 13**

The purpose of this Circular Letter is to inform you of the current requirements for post-retirement employment of CalPERS retirees on service retirement only.

These changes are the result of amendments and additions to the Government Code by Senate Bill (SB) 1021, Assembly Bill (AB) 340, the Public Employees' Pension Reform Act of 2013 (PEPRA), and Senate Bill (SB) 13.

This letter provides an overview of the laws governing post-retirement employment and the consequences of unlawful employment to retirees and employers. Attached to this letter is a quick reference guide, the **EMPLOYER CHECKLIST FOR HIRING CalPERS RETIREES**, to aid in the hiring process.

To provide some background, PEPRA added sections 7522.56 and 7522.57 to the Government Code (GC) effective January 1, 2013 which set forth post-retirement employment requirements applicable to all retirees who are employed by CalPERS employers on or after January 1, 2013. To the extent that provisions under the Public Employees' Retirement Law (PERL) dealing with employment after retirement (GC sections 21220 through 21230) are not in conflict with the aforementioned PEPRA post-retirement employment provisions, the PERL provisions also apply.

Public Agency and School employers must enroll retirees in the myCalPERS system; State employers must enroll retirees in Personnel Information Management System (PIMS). CalPERS employers have enrolled more than 13,200 retirees since the launch of the myCalPERS system. While enrolling retirees allows CalPERS to track compliance with applicable statutes, it is the responsibility of both the retiree and the employer to ensure compliance with all applicable statutes.

## **SUMMARY OF CURRENT REQUIREMENTS**

Retirees can be hired into retired annuitant<sup>1</sup> positions to perform work of limited duration. Limited duration means the appointment is not for an indefinite period of time and that it is not an appointment to a part-time regular staff position. The work a retiree performs should supplement the work of regular staff (e.g., it is extra help work such as elimination of backlog, special project work, or to help with work in excess of that which regular staff can do) or should be authorized "during an emergency to prevent stoppage of public business" such as in the case of floods, earthquakes, etc.. Retired annuitants can perform this limited duration work for up to a maximum of 960 hours per fiscal year, can be paid up to the maximum hourly rate paid to employees doing similar work without any other compensation or benefits, and must have the skill set needed to perform the retired annuitant work. In sum, retired annuitants should neither be considered a permanent solution to business needs nor should retired annuitants be allowed to work indefinitely.

As previously, before beginning post-retirement work all new retirees must meet the bona fide separation in service requirement of GC section 21220.5 if the retiree is under normal retirement age. Additionally, all new retirees are now subject to a 180 day wait period before beginning post-retirement work. These two requirements, the bona fide break and the 180 day wait period, can be met concurrently. There are four exceptions (see page 4 of this Circular Letter) to the 180 day wait period, but a retiree who receives a Golden Handshake or any other retirement-related incentive is disqualified from any exception and must meet the 180 day wait period. A retiree who receives unemployment insurance payments for retired annuitant work with any public employer within the previous 12 months is barred from retired annuitant work with any CalPERS employer for 12 months. The following sections give more information about the various types of retired annuitant appointments and the specific requirements for each.

## **GENERAL REQUIREMENTS**

Generally, if the position in which a retiree will work is one that is subject to CalPERS membership where an active employee would earn CalPERS service credit, i.e. there is an employer-employee relationship, then a retiree hired to work in that position is subject to the retirement law requirements.

The common law employment test is used by the courts and CalPERS Board of Administration to determine "employee" or "independent contractor" status under the PERL. Under this test, a position title or characterization of the services performed is not the only determining factor of employee / independent contractor status. Just because a retiree is retained for a position that is called an independent contractor, consultant or third-party employer position, does not necessarily mean employment in that position is exempt from the retired annuitant requirements. Therefore, a retiree retained to work as an "independent contractor", "consultant", or through a "third party employer" in any position that would meet the common law employment test may be

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<sup>1</sup> CalPERS retirees employed by CalPERS employers are known as "retired annuitants" or "rehired annuitants".

subject to mandatory reinstatement from retirement if the employment does not otherwise meet the retirement law requirements.

- 1) 960-Hour per Fiscal Year Limit: A retired annuitant may be employed up to a maximum of 960 hours per fiscal year for all CalPERS employers, without exception. There is no provision in the law to allow a retired annuitant to "volunteer" hours while employed. Retired annuitants who work more than the 960 hour maximum per fiscal year under any circumstances are out of compliance with statute and subject to mandatory reinstatement.

CSU retired academics, hired under Government Code section 21227, are limited to 960 hours in a fiscal year or 50 percent of the hours the member was employed during the last fiscal year of service prior to retirement, whichever is less.

- 2) Retiree Compensation: The compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 hours per month, to equal an hourly rate. Retirees cannot receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate.
- 3) Limited Duration Appointment: Retirees cannot be hired into vacant permanent or regular staff positions except as an interim appointment under GC section 21221(h) appointment (as discussed below), regardless of whether the positions are part-time or full-time. Retirees should be hired into retired annuitant-designated positions only. A retired annuitant appointment should have a beginning date and an end date. A retiree can be hired to perform work of limited duration, meaning extra help work such as the elimination of a backlog, to perform special project work, or to perform work in excess of that which regular staff can do. Limited duration work does not mean an indefinite appointment to a permanent part-time position.
- 4) Retiree Skills<sup>2</sup>: There should be some showing in the retiree's work history that he or she has previous experience and the skill set needed to perform the desired work. Some examples include: the skill set and previous experience as a police officer to perform extra help law enforcement work, prior janitorial experience to perform similar services, or prior engineer experience, and so forth.

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<sup>2</sup> Though specific retiree skills may not be a prerequisite during an emergency to prevent stoppage of public business, there must be a true emergency in order to fall within this category. Otherwise, the retiree skills are required.

**INTERIM APPOINTMENT – APPLICABLE PORTIONS OF GOVERNMENT CODE  
section 21221(h)**

The governing bodies of contracting agencies are authorized by the applicable provisions of GC section 21221(h) to appoint a retiree to fill a vacant position on an interim basis during the recruitment to permanently fill the vacant position. Contracting agencies for this purpose are public agencies and county offices of education.

- 1) Interim Appointment by Governing Body: These appointments must be made by the governing body of the employer and are generally used for single or unique positions such as interim city manager, police chief, director, or other managerial and executive positions.
- 2) Open Recruitment for a Permanent Replacement Required: An open recruitment to permanently fill the vacant position is required in order to appoint a retiree. A retiree hired as an interim appointment without an open recruitment could be subject to mandatory reinstatement. A retiree hired as a permanent appointment is subject to mandatory reinstatement.
- 3) Limited Duration Appointment: A retiree can be appointed only once to the position, thus the employment terms must specify an end date and cannot be amended to extend the appointment term. A retiree appointed more than once is subject to mandatory reinstatement.

**180 DAY WAIT PERIOD**

GC section 7522.56 provides that a retiree is eligible for post-retirement employment 180 days following his or her retirement date. This requirement applies to retiree employment that begins after January 1, 2013. There are four exceptions to the 180 day wait period including, (a) firefighter or public safety officer (which status is determined in accordance with the definition set forth in CCR<sup>3</sup> 579.25) hired to perform a function or functions regularly performed by a public safety officer or firefighter, (b) Public agency or school employer provides a resolution certifying the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days has passed; (c) State agency employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed state employment position before 180 days has passed and submits the information to California Department of Human Resources (CalHR) to obtain approval; CalHR then provides the approval and documentation to CalPERS, and (d) the retiree participates in a qualifying California State Universities (CSU) Faculty Early Retirement Program (FERP). Additional information about these exceptions can be found in the Employer Checklist for Hiring CalPERS Retirees. However, if a retiree receives a Golden Handshake or any other retirement-related incentive, the 180 day wait period applies without exception.

Please note, if a retiree is employed without meeting the 180 day wait period and without an allowable exception, he or she is subject to immediate reinstatement from

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<sup>3</sup> California Code of Regulations

retirement. There is no provision in the retirement law to retroactively remedy a violation of the 180 day wait period.

### **BONA FIDE SEPARATION IN SERVICE**

All service retirees must meet the bona fide separation in service requirement of GC section 21220.5 if the retiree is under normal retirement age at retirement, even if an exception to the 180 day wait period applies. This is a federal tax law requirement with which CalPERS must comply in order to maintain its tax-deferred status.

### **UNEMPLOYMENT INSURANCE PAYMENTS**

GC section 7522.56 provides that a retiree cannot be appointed as a retired annuitant if he or she received unemployment insurance payments for retired annuitant work for any public employer within the 12 months prior to the appointment date. The retiree is required to certify to the employer, in writing, that he or she is in compliance with this requirement. If a retired annuitant is subsequently discovered to have violated this requirement, his or her employment must be terminated on the last day of the current pay period and he or she will not be eligible for reappointment by any CalPERS employer for 12 months following that last day of employment.

### **INDEPENDENT CONTRACTORS / CONSULTANTS / CONTRACT EMPLOYEES**

Generally, retirees engaged as true independent contractors, consultants or retained through third party employers, whose employment does not meet the California common law employment test, are not subject to the retirement law requirements. If, however, the employment constitutes a California common law employment (employer-employee) relationship, the employment is subject to the retirement law requirements regardless of its characterization. As noted above, a retiree retained to work as an "independent contractor," consultant," or through a "third-party employer" in any position that would meet the common law employment test may be subject to mandatory reinstatement from retirement if the employment does not otherwise meet the retirement law requirements. It is therefore critical that employers consider the common law employment test factors when considering the use of a retired annuitant.

### **MANDATORY REINSTATEMENT FOR UNLAWFUL EMPLOYMENT**

An unlawfully employed retiree is subject to mandatory reinstatement from retirement as follows:

- The retiree is reinstated from retirement by CalPERS. Upon appointment by the employer, he or she becomes the active employee and contributing CalPERS member of that employer, in the position in which unlawfully employed, and as of the date the unlawful employment began.
- The now active employee must pay retroactive member contributions plus interest for the period of unlawful employment and, likewise, the employer will

pay employer contributions plus interest on the employee's behalf for the period of unlawful employment via retroactive payroll reporting.

- The now active employee must reimburse CalPERS the entire amount of retirement allowance he or she received during the period of unlawful employment.
- The member and employer, to the extent each is determined to be at fault, may be required to reimburse CalPERS for administrative expenses incurred in responding to the investigation and resolution of the unlawful employment.

If you have any questions, please call our CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

ANTHONY SUINE, Chief  
Benefit Services Division

Attachment: Employer Checklist



# EMPLOYER CHECKLIST FOR HIRING CalPERS RETIREES

## Effective January 1, 2013

### POST-RETIREMENT EMPLOYMENT BASICS:

Generally, if the position in which a retiree will work is one that is subject to CalPERS membership where an active employee would earn CalPERS service credit, i.e. there is an employer-employee relationship, then a retiree hired to work in that position is subject to the retirement law requirements.

The common law employment test is used by the courts and CalPERS Board of Administration to determine "employee" or "independent contractor" status under the PERL. Under this test, a position title or characterization of the services performed is not the only determining factor of employee / independent contractor status. Just because a retiree is retained for a position that is called an independent contractor, consultant or third-party employer position, does not necessarily mean employment in that position is exempt from the retired annuitant requirements. Therefore, a retiree retained to work as an "independent contractor", "consultant", or through a "third party employer" in any position that would meet the common law employment test may be subject to mandatory reinstatement from retirement if the employment does not otherwise meet the retirement law requirements.

A retiree hired as an independent contractor, consultant, or contract employee through a third party employer to work in any position that would meet the common law employment control test would be inappropriately appointed under the retirement law and could be subject to mandatory reinstatement from retirement if the employment does not otherwise meet the retirement law requirements.

- **RETIRED ANNUITANT APPOINTMENTS:** CalPERS retirees cannot be hired into permanent or regular staff positions without reinstatement from retirement. Retirees should be hired into retired annuitant-designated positions only. These appointments are authorized during an emergency to prevent stoppage of public business or because the retiree has skills needed to perform work of limited duration. Since emergencies that would cause stoppage of public business are rare, e.g., disasters such as floods, earthquakes, etc., these appointments are generally those requiring skills needed to perform work of limited duration.
- **INDEPENDENT CONTRACTORS, CONSULTANTS AND CONTRACT EMPLOYEES THROUGH THIRD PARTY EMPLOYERS:** If you, the employer, hire a CalPERS retiree as an independent contractor, consultant or through a third party employer and the employment constitutes a common law employment (employer-employee) relationship, the employment is subject to the retirement law requirements and he or she must be enrolled as a retired annuitant in the myCalPERS system. If the employment is truly an independent contractor or consultant or is truly as an employee of a third party employer, i.e., a common law employer-employee relationship does not exist with the CalPERS employer, then the employment is exempt from the post-retirement employment requirements.

## **EMPLOYER CHECKLIST FOR HIRING CalPERS RETIREES** **Effective January 1, 2013**

- **POST-RETIREMENT EMPLOYMENT AUDIT REVIEW:** The CalPERS Office of Audit Services (OAS) Public Agency Audit Program reviews the hiring and employment of CalPERS retirees at all employers to ensure compliance with the requirements prescribed by the applicable sections of the California Government Code.
- **ENROLLMENT AS A RETIRED ANNUITANT:** The retiree must be enrolled as a retired annuitant in the my|CalPERS system, either directly in my|CalPERS or, for state agencies, through the Personnel Information Management System (PIMS).

### **ELIGIBILITY REQUIREMENTS BEFORE HIRING A RETIREE:**

#### **1. BONA FIDE SEPARATION IN SERVICE REQUIREMENT:**

All Retirees: If a retiree is under normal retirement age at retirement, he or she cannot be hired for post-retirement employment without a bona fide separation from employment. The normal retirement age is the highest benefit formula age, e.g., age 55 for the 2% @ 55 formula. If there is more than one formula applicable to the retirement, e.g., the allowance has service based on both the 2% @ 55 and the 2% at 60 formula, the normal retirement age is the highest benefit formula age, or age 60, in this example. Members and retirees can look up their benefit formulas through their my|CalPERS online account or on their most recent CalPERS Annual Member Statement.

A bona fide separation must meet both of the following conditions:

- **There is no pre-determined agreement:** Prior to retirement, there was no agreement, written or verbal, between the employer and the member to work after retirement.
- **There is a 60 day separation from employment:** There is a period of 60 calendar days between the retirement date and the post-retirement employment date.

This requirement is a federal tax law and we, CalPERS, must comply with it to maintain our tax-deferred status.

#### **2. UNEMPLOYMENT INSURANCE PAYMENT QUALIFICATION:**

Upon accepting an offer of employment, every retiree must certify in writing to the employer that he or she did not receive any unemployment insurance payments within the 12 months prior to this appointment for previous retired annuitant work with any CalPERS employer.

If after hiring a retiree, you, the employer, discover the retiree did receive unemployment insurance payments, as above, within the 12 months prior to the current appointment date, you must terminate the employment on the last day of the current

## **EMPLOYER CHECKLIST FOR HIRING CalPERS RETIREES**

### **Effective January 1, 2013**

pay period and that retiree is not eligible for reappointment by any CalPERS employer for 12 months following the last day of employment.

#### **3. 180 DAY WAIT PERIOD BETWEEN RETIREMENT DATE & HIRE DATE:**

All retirees must wait 180 days after their retirement date before he or she is eligible to begin post-retirement employment. This means a retiree cannot begin employment until the 181<sup>st</sup> day after his or her retirement date. There are four exceptions to the 180 day wait period requirement:

##### 180 Day Wait Period Exceptions:

- **Firefighter or public safety officer:** The retiree is a firefighter or public safety officer, as determined in accordance with the definition set forth in California Code of Regulations 579.25, hired to perform a function or functions regularly performed by a public safety officer or firefighter.
- **Public agency or school employer certification and resolution:** The public agency or school employer must certify the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days has passed and, the appointment must be approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.

For school employers, the school district's county office of education is the governing body that must pass this resolution.

The certification and resolution should be received by CalPERS prior to the retiree's hire date. Email the certification and resolution to the mailbox [BNSD\\_Post\\_Retirement\\_Administration@calpers.ca.gov](mailto:BNSD_Post_Retirement_Administration@calpers.ca.gov) or mail it to Post Retirement Administration, Benefit Services Division, PO Box 942711, Sacramento, CA 94229-2711.

- Sample resolutions with instructions are available online at [www.calpers.ca.gov](http://www.calpers.ca.gov).
- **State agency certification and resolution:** State agencies must obtain approval from CalHR via the Personnel Management Liaisons (PML) Memorandum titled Retired Annuitants Hiring Exception Procedure, Reference No. 2013-001. CalHR submits the approval to CalPERS prior to the retiree's hire date.
- **California State Universities (CSU) FERP exception:** The retiree may participate, if eligible, in the Faculty Early Retirement Program (FERP) pursuant to a collective bargaining agreement that existed prior to January 1, 2013, or has been included in subsequent agreements.

## **EMPLOYER CHECKLIST FOR HIRING CalPERS RETIREES** **Effective January 1, 2013**

### Disqualification for an Exception to the 180-day wait period:

- If a retiree accepts a Golden Handshake or any other employer incentive related to retirement, he or she must serve the 180-day wait period regardless of whether he or she would qualify for any of the exceptions above.

### **POST-RETIREMENT EMPLOYMENT RETIRED ANNUITANT REQUIREMENTS:**

#### **GC SECTION 7522.56:**

- **Limited Duration Work & Retiree Skills:**

A CalPERS retiree can be appointed by the appointing power of the employer without reinstatement or loss of retirement benefits either during an emergency to prevent stoppage of public business or because the retiree has skills needed to perform work of limited duration. Since emergencies, e.g., disasters such as floods or earthquakes, etc., that would cause actual stoppage of public business are rare, these appointments are generally those requiring skills needed to perform work of limited duration. There should be some showing in the retiree's work history that he or she has previous experience and the skill set needed to perform the desired work.

- Is this a limited duration position, e.g., extra help work such as elimination of a backlog, work on a special project, or work in excess of what your permanent or regular staff employees can do and, it is not a permanent or regular staff position?
  - Retiree Skills: Is there some showing in the retiree's work history that he or she has previous experience and the skill set needed to perform the required work?
- **960 Hour Limit per Fiscal Year:**
    - A retiree is limited to working a maximum of 960 hours per fiscal year for all CalPERS employers. There is no exception to this limit. Retirees can be employed for more than one fiscal year as long as the employment continues to meet all of the requirements otherwise.
    - CSU academic retirees are limited to 960 hours per fiscal year or 50% of the hours employed during the last fiscal year of service prior to retirement, whichever is less. There is no exception to this limit.

## **EMPLOYER CHECKLIST FOR HIRING CaIPERS RETIREES** **Effective January 1, 2013**

- **Rate of Pay Requirement:**
  - The compensation paid to any retiree must be within the monthly rate of pay range, i.e., cannot be less than the minimum nor exceed the maximum monthly base salary, paid to other employees performing comparable duties, divided by 173.333 hours to equal an hourly rate.
  - No other benefit, incentive, compensation in lieu of benefits, or other form of compensation can be paid in addition to this hourly pay rate.
  
- **Enrollment in the my|CaIPERS system:**
  - For public agency and school employers, the retiree must be enrolled as a retired annuitant and payrate with hours worked reported in the my|CaIPERS system. No retirement contributions are reported by the employer or member for retired annuitants. For state agencies and CSU employers, the retiree must be enrolled as a retired annuitant in PIMS.

### **GC SECTION 21221(h) POSITIONS – SPECIFIC REQUIREMENTS:**

This section applies to public agency and school employers. The governing body for a school district is its county office of education.

#### **Limited Duration Work & Retiree Skills:**

- **Single interim appointment to a vacant position:** The governing body of a public agency or the county office of education of a school employer can appoint a retiree to work in a vacant position during the recruitment to permanently fill the vacancy or during an emergency to prevent stoppage of public business. This section is used to hire retirees on an interim basis to vacant managerial, executive or other unique positions, such as city manager, CIO, CFO, police chief, director, department heads, etc. Since emergencies that would cause the actual stoppage of public business, e.g., disasters such as floods or earthquakes, etc., are rare, these appointments are generally to provide a retiree with the needed skill set to work in the unique position during the recruitment to permanently fill the vacancy. The governing body's appointment should explain the need for the particular retiree's hire and there must be documentation that the governing body made the appointment in the form of a resolution, board minutes, etc.

There must be an open recruitment to permanently fill the position in place to hire a retiree. The retiree can be appointed only once to this position, thus, the employment agreement, contract, or appointment document must specify the end date of the appointment. There should be a showing in the retiree's work history that he or she has the previous experience and the skill set to perform the work of the position.

## **EMPLOYER CHECKLIST FOR HIRING CalPERS RETIREES**

### **Effective January 1, 2013**

- Is this an interim appointment, i.e., the retiree is not being hired as the permanent employee?
- There must be an open recruitment to permanently fill the vacant position before the retiree is appointed. Is there an open recruitment to permanently fill the vacant position?
- The retiree can be appointed only once to this position. Does the employment agreement, contract, or appointment document, etc., specify the end date for the appointment?
- Is there some showing in the retiree's work history that he or she has previous experience and the skill set needed to perform the work required?
- Was this appointment made and duly documented by this employer's governing body?
- **960 Hour Limit per Fiscal Year:**
  - The retiree is limited to working a maximum of 960 hours per fiscal year for all CalPERS employers. There is no exception to this limit.
- **Rate of Pay Requirement:**
  - The rate of pay range for GC section 21221(h) appointments is the monthly rate of pay range for the vacant position. The compensation paid to the retiree must be within the monthly rate of pay range, i.e., cannot be less than the minimum nor exceed the maximum monthly base salary, divided by 173.333 hours to equal an hourly rate.
  - No other benefit, incentive, compensation in lieu of benefits, or other form of compensation can be paid in addition to this hourly pay rate.
- **Enrollment in the my|CalPERS system:**
  - The retiree must be enrolled as a retired annuitant and payrate with hours worked reported in the my|CalPERS system. No retirement contributions are reported by the employer or member for retired annuitants.

## **EMPLOYER CHECKLIST FOR HIRING CalPERS RETIREES** **Effective January 1, 2013**

### **SERVICE AFTER RETIREMENT ON STATE BOARDS AND COMMISSIONS:**

GC section 7522.57 provides the following conditions and limitations for service on any salaried state board or state commission by a retiree receiving a pension from a public retirement system who is first appointed on or after January 1, 2013:

**Part-time state board or commission appointment:** A retiree may serve without reinstatement or loss of retirement benefits upon appointment to a part-time state board or commission provided the salary received does not exceed \$60,000 annually. This salary shall be increased in any fiscal year in which a general salary increase is provided for state employees and such increase shall not exceed the general salary increases provided for state employees. The retiree shall acquire no benefits, service credit, or retirement rights with respect to this employment.

### **Full-time state board or commission appointment:**

- A CalPERS retiree may serve on a full-time basis without reinstatement from retirement if he or she serves as a nonsalaried member and shall receive only the per diem authorized to all members of that board or commission. The retiree shall not earn any CalPERS service credit or benefits or make contributions with respect to the service performed. If a CalPERS retiree elects to receive the salary applicable to the board or commission, they must reinstate from retirement.
- A retiree from a public pension system other than CalPERS may serve on a full-time basis by choosing one of the following options:
  - The retiree may serve as a nonsalaried member and continue to receive his or her retirement allowance in addition to any per diem authorized to all members of that board or commission. The retiree shall not earn any CalPERS service credit or benefits or make contributions with respect to the service performed.
  - The retiree may suspend his or her retirement allowance or allowances, if receiving more than one, and enroll as a new member of CalPERS for the service performed on the board or commission. The pensionable compensation earned from this position shall not be eligible for reciprocity with any other retirement system or plan.

# EMPLOYER CHECKLIST FOR HIRING CalPERS RETIREES

## Effective January 1, 2013

### POST-RETIREMENT EMPLOYMENT RESOURCES:

Public Agency & Schools Reference Guide

<http://www.calpers.ca.gov/index.jsp?bc=/about/forms-pubs/er-pubs/manuals/pas-ref-guide.xml>

State Reference Guide

<http://www.calpers.ca.gov/index.jsp?bc=/about/forms-pubs/er-pubs/manuals/state-ref-guide.xml>

Employment after Retirement (Member publication 33)

<http://www.calpers.ca.gov/eip-docs/about/pubs/member/employment-after-retire.pdf>

Reinstatement from Retirement (Member publication 37)

<http://www.calpers.ca.gov/eip-docs/about/pubs/member/reinstatement-retirement.pdf>

CalPERS Benefit Services Division for post-retirement employment questions only:

Email: [BNSD\\_Post\\_Retirement\\_Administration@calpers.ca.gov](mailto:BNSD_Post_Retirement_Administration@calpers.ca.gov)

Fax: (916) 795-0701