

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

Proposed Adoption of Article 4, Section 574 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations

Definition of Full-Time Employment

This document explains the purpose of the amendments to the proposed regulation that were made available after the 30-day comment period conducted from April 13, 2018 through May 28, 2018, and during the 15-day comment period conducted from November 30, 2018 to December 14, 2018.

PURPOSE

The purpose of the changes and reorganization of the proposed regulation text were made to provide clarity. The section titled “Necessity” provides an explanation of the reason for the changes. The changes made to the proposed regulation text are as follows:

The following language was added:

- The minimum number of hours for each type of reporting schedule: 67 hours bi-weekly, 72 hours semi-monthly, 133 hours quadri-weekly, and 144 hours monthly.
- Language to clarify “full-time” employment for classified members and to direct school employers to report compensation earnable and pensionable compensation to CalPERS for those members.

The following language was removed:

- The example of a sixty-eight hour work week.
- Language stating that “This regulation does not apply to the extent it conflicts with a provision in the Public Employees’ Retirement Law (e.g., Government Code section 20636.1(b)(1)).”
- Language requiring employers to submit a request for exemption including what the employer considers the normal work week for full-time employment for its employees.

The following language was clarified:

- Changed “what” to “the number of hours.”
- Replaced “within the meaning of the Public Employees’ Retirement Law such as by department or duties and not by individual employees” with “within the meaning of the Public Employees’ Retirement Law and the regulations thereunder.”

NECESSITY

Section 574(a):

More precise language was needed to clarify that “what” means “the number of hours” in the context of a normal work period for full-time employment.

Requiring that employers establish work periods for all employees in the same group or class of employment ensures equity between employees performing the same duties. Currently, the term “group or class of employment” is defined in Government Code section 20636(e)(1) for non-school members, Government Code section 20636.1(e)(1) for school members, and section 571.1(a)(2)(A) of Article 4 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations for new members under Government Code section 7522.04(f). We used the phrase “within the meaning of the Public Employees’ Retirement Law and the regulations thereunder” to refer to these definitions. The general reference to the Public Employees’ Retirement Law and the regulations thereunder will ensure that any future modifications to these definitions and any new statutory or regulatory definitions of “group or class of employment” will be covered by this regulation. Because the phrase “within the meaning of the Public Employees’ Retirement Law and the regulations thereunder” comprehensively refers to the statutory and regulatory definitions of “group or class of employment,” the phrase “such as by department or duties and not by individual employees” is not necessary and was removed.

Language stating that “This regulation does not apply to the extent it conflicts with a provision in the Public Employees’ Retirement Law (e.g., Government Code section 20636.1(b)(1))” was removed because section 574(c) now incorporates the definition of “full-time” employment for classified members contained in Government Code section 20636.1(b)(1), as explained further below.

Section 574(b):

The addition of reporting schedules equivalent to 34 hours per calendar week provides employers with more clear guidance on what “full-time” employment means for the purposes of determining CalPERS membership eligibility, reporting overtime positions, and determining compensation earnable and pensionable compensation. The hours are consistent with Government Code section 20962 regarding service credit granted for full-time employment for persons employed on an hourly basis. Government Code section 20962 provides in part that “[o]ne year of service credit shall be granted for service rendered and compensated in a fiscal year in full-time employment for . . . [o]ne thousand seven hundred twenty hours of service after June 30, 1951.” CalPERS calculated 34 hours per calendar week (and the other pay period types) by dividing 1720 hours by the number of reporting periods in a year (i.e., 52 reporting periods for a weekly payroll reporting schedule, 26 reporting periods for a bi-weekly payroll reporting schedule, 24 reporting periods for a semi-monthly payroll reporting schedule, 13 reporting periods for a quadri-weekly payroll reporting schedule, and 12 reporting periods for a monthly payroll reporting schedule) and rounding up to the next full hour.

The existing example of a sixty-eight hour work week is no longer needed in the regulation text because the reporting schedules equivalent to 34 hours per calendar week are now listed in the regulation text.

Section 574(c):

The sentences requiring employers to submit a request for exemption for a normal work week schedule that does not conform to the minimum hours of 34 hours have been removed from the regulation text. The proposed regulation sets 34 hours as the

minimum number of hours per week for a full-time employment work period, and under the current Board resolution upon which this minimum is based, CalPERS has not received a request for an exemption to establish a full-time employment work period of less than 34 hours per week. Therefore, the exemption option is not necessary.

Language was added to clarify “full-time” employment for classified members and to direct school employers to report compensation earnable and pensionable compensation to CalPERS for those members. Section 574(c) defines “classified members” as set forth in Government Code section 20636.1. These additional provisions ensure that school employers will continue to report compensation earnable and pensionable compensation to CalPERS in a manner that is consistent with Government Code section 20636.1.